

At a meeting of the REGULATORY COMMITTEE held in the CIVIC CENTRE on MONDAY, 25th JUNE, 2012 at 2.00 p.m.

Present:-

Councillor Wilson in the Chair

Councillors Emerson, Farthing, P. Gibson, Macknight, D. Richardson, D. Smith and Thompson.

Declarations of Interest

There were no declarations of interest made.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors Bell, Bonallie, Dixon, Errington, Mordey Waller and Wiper.

Minutes of the Last Ordinary Meeting of the Committee held on 28th May, 2012 and of the Extraordinary Meeting held on 6th June, 2012

1. RESOLVED that the minutes of the last Ordinary meeting of the Committee held on 28th May, 2012 and of the Extraordinary Meeting held on 6th June, 2012 Part I (copy circulated) be confirmed and signed as correct records.

Local Government (Access to Information) (Variation) Order 2006

2. RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during consideration of the remaining business as it was considered likely to include the disclosure of exempt information relating to an individual and the financial or business affairs of a particular person (including the Authority holding that information). (Local Government Act 1972, Schedule 12A, Part I, Paragraphs 1 and 3).

(Signed) A. WILSON,
Chairman.

Note:-

The above minutes comprise only those relating to items during which the meeting was open to members of the public.

Additional minutes in respect of further items are included in Part II.

**SUNDERLAND STADIUM OF LIGHT- RENEWAL OF SAFETY
CERTIFICATE FOR SEASON 2012/2013**

Report of the Deputy Chief Executive

1.0 PURPOSE OF THE REPORT

- 1.1** The purpose of this report is to recommend to Committee the approval of the application by Sunderland Association Football Club for the renewal of the General Safety Certificate for Season 2012/2013

2.0 BACKGROUND

- 2.1** The Safety of Sports Grounds Act 1975 makes provision for the review and renewal of the General Safety Certificate for the Sunderland Stadium of Light.
- 2.2** Since the grant of the last Certificate no changes affecting stadium capacity have been carried out. It is therefore recommended that the approved capacity of the Stadium remains unaltered.
- 2.3** The other matter for consideration is the fee payable for the Certificate. In this regard Committee is reminded that when the Stadium opened in 1997 the fee was set at £10000. It was then raised to £12250 from the start of the 2000/2001 season. As there has been no additional officer involvement in the work necessary to bring this report to Committee and measures have been introduced to effect efficiencies into the process it is recommended that the fee remains at the existing level.

3.0 RECOMMENDATIONS

3.1 Committee is recommended:

- i) To approve the grant of a General Safety Certificate for the Sunderland Stadium of Light for the season 2012/2013 for capacities of 48900 (non segregated match) and 48656 (segregated match) on the same terms as in the current Safety Certificate.
- (ii) Not to increase the fee payable for the Certificate.

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

REGULATORY COMMITTEE–23 JULY 2012

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 APPLICATION FOR GRANT OF CONSENT TO TRADE IN A DESIGNATED AREA

FORECOURT SITUATED ON HAY STREET BETWEEN ITS JUNCTIONS WITH BROOKE STREET AND BACK STOBART STREET, SHEEPFOLDS, SUNDERLAND

Ms. Gemma Muncaster

1.0 PURPOSE OF THE REPORT

- 1.1 To consider an application received from Gemma Muncaster for grant of consent to trade in a designated area in respect of a site on a forecourt, situated on Hay Street between its junctions with Brooke Street and Back Stobart Street, Sheepfolds, Sunderland.

2.0 DESCRIPTION OF DECISION (RECOMMENDATION)

- 2.1 The Committee is recommended to give consideration to the grant or refusal of Ms Muncaster's application for grant of consent to trade in a designated area as described in paragraph 1.1 above, under the terms of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 INTRODUCTION/BACKGROUND

- 3.1 The street in question has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council has discretion to grant such consent "if it thinks fit".
- 3.2 The Committee has previously granted consent to trade at this location. This consent expired on 30 January 2012, and was not renewed by the previous applicant.
- 3.3 This application is to trade any day upon which a football game is to be played at the Stadium of Light. The proposed hours of trading commence three hours before kick off and end one hour after the end of the game.
- 3.4 The applicant has indicated that she intends to use the site for the sale of hot food, hot and cold drinks from a trailer measuring 4.5 metres long and 2.5 metres wide.

4.0 CURRENT POSITION

- 5.1 No objections have been received in respect of this application.

5.0 REASONS FOR THE DECISION

- 5.1 Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to grant consent if it sees fit to do so. The Council may impose conditions upon the consent.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS

- 7.1 No objections have been received in respect of this application. However, even in the absence of objections, a decision on this matter may be made only by the Committee.
- 7.2 A map showing the location of the site is attached as Appendix 1.

8.0 GLOSSARY

- 8.1 None.

9.0 APPENDICIES

- 9.1 Appendix 1 – Plan showing the location of the proposed site.

10.0 BACKGROUND PAPERS

- 10.1 None.

Appendix 1



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REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

REGULATORY COMMITTEE–23 JULY 2012

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 APPLICATION FOR GRANT OF CONSENT TO TRADE IN A DESIGNATED AREA

ON THE FOOTPATH TO THE SOUTH EAST SIDE OF HAY STREET WITH THE JUNCTION OF MILLENNIUM WAY, SHEEPFOLDS, SUNDERLAND

Mr. Duncan Stuart Francis

1.0 PURPOSE OF THE REPORT

- 1.1 To consider an application received from Duncan Stuart Francis for grant of consent to trade in a designated area in respect of a site situated on the footpath to the south east side of Hay Street with the junction of Millennium Way, Sheepfolds, Sunderland.

2.0 DESCRIPTION OF DECISION (RECOMMENDATION)

- 2.1 The Committee is recommended to give consideration to the grant or refusal of Mr Francis's application for grant of consent to trade in a designated area as described in paragraph 1.1 above, under the terms of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 INTRODUCTION/BACKGROUND

- 3.1 The street in question has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council has discretion to grant such consent "if it thinks fit".
- 3.2 The application is to trade any day upon which a football game is to be played at the Stadium of Light. The proposed hours of trading commence three hours before kick off and end one hour after the end of the game.
- 3.3 The applicant has indicated that she intends to use the site for the sale of sweets, soft drinks, candy floss, chocolate and water from a trailer measuring 3.0 metres long and 1.9 metres wide.

4.0 CURRENT POSITION

- 4.1 An objection to the application has been received as detailed in paragraph 7.0 below. Consequently the application requires the consideration of the Regulatory Committee.

5.0 REASONS FOR THE DECISION

- 5.1 Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to grant consent if it sees fit to do so. The Council may impose conditions upon the consent.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS

- 7.1 The following comments have been received from the Council's Networks Operations Section concerning your application: -

'Networks Operations cannot support this application. The objection is based on the following:

The area is subject of waiting, loading and unloading restrictions around the junction. These prohibit vehicles from parking on the footway as they extend from the roadway to the wall at the back of the footway. The footways are for the use of pedestrians and any vehicle or trailer parked at this location would cause an unnecessary obstruction. On match days the area is extremely busy and very congested and any queuing at the food outlet would encourage patrons to stand on the roadway, which will be open to traffic. This will cause a serious conflict and likely to put pedestrians, many of whom may be children, in danger of being struck by a vehicle. I strongly recommend that this application be refused'.

- 7.2 Northumbria Police object to this application in so far as days upon which high risk matches are played at the Stadium of Light. They advise that they make use of barriers pre- and post-match in this area so restricting access.
- 7.3 The above-mentioned comments have been forwarded to the applicant. He has advised, that despite the objections listed above, he wishes his application to be considered by the Committee.

8.0 APPEARANCE BEFORE COMMITTEE

- 8.1 Mr Francis has been advised that he may appear before the Committee should he so wish.

9.0 GLOSSARY

- 9.1 None.

10.0 APPENDICIES

10.1 Appendix 1 – Plan showing the location of the proposed site.

11.0 BACKGROUND PAPERS

11.1 None.

Appendix 1



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REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

LICENSING COMMITTEE–23 JULY 2012

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 APPLICATION FOR CONSENT TO TRADE IN A DESIGNATED AREA BANDSTAND, ROKER PARK, ROKER PARK ROAD, SUNDERLAND

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to request the Committee to consider an application for the granting of an application for street trading consent made by the Council's Culture and Tourism Section. The location for which the consent is requested is the flat standing area beside the bandstand in Roker Park.

2.0 DESCRIPTION OF DECISION

- 2.1 The Committee is recommended to consider the application for street trading consent in the designated area as described in paragraph 1.1 above under the terms of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 INTRODUCTION/BACKGROUND

- 3.1 The proposed site is located in an area which has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council has discretion to grant such consent 'if it thinks fit'.
- 3.2 On 3 March 2008 the Committee delegated to officers the power to grant applications for short term street trading consent (up to one month) subject to there being no objections to the application.

4.0 CURRENT POSITION

- 4.1 The application relates to a location in Roker Park, Roker Park Road, Sunderland identified as the flat standing area next to the band stand, identified on a map of the park attached as Appendix 1. The applicant has indicated this area is intended to be used for the sale of hot and cold snacks, gifts and souvenirs during the Roker Park Illuminations.
- 4.2 The application relates to the period commencing 27 September 2012 until 12 November 2012 during the following times:
- Monday to Friday – 17:00 to 21:30
Saturday and Sunday – 13:00 to 21:30
- 4.3 No objections have been received in respect of this application. However, as the requested trading period is longer than a month, the matter is required to be decided by the Committee.

5.0 REASONS FOR THE DECISION

- 5.1 Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 allows the Council to grant consent if it seem fit to do so. The Council May also impose conditions upon the consent.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS

- 7.1 None.

8.0 GLOSSARY

- 8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICIES

- 9.1 Appendix 1 – map showing the location of the requested site.

10.0 BACKGROUND PAPERS

- 10.1 None.

Appendix 1



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REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

REGULATORY COMMITTEE – 23 JULY 2012

STREET COLLECTION PERMITS WITHIN THE VICINITY OF THE SUNDERLAND STADIUM OF LIGHT

1.0 PURPOSE OF THE REPORT

- 1.1 To request that the Committee agrees the format of a draw with the purpose of allocating street collection permits within the vicinity of the Sunderland Stadium of Light during the 2012/13 season and that the Chair subsequently undertakes this draw.

2.0 DESCRIPTION OF THE DECISION (RECOMMENDATION)

- 2.1 That the Committee agrees the format of a draw with the purpose of allocating street collection permits within the vicinity of the Sunderland Stadium of Light during the 2012/13 season and that the Chair subsequently undertakes this draw.

3.0 INTRODUCTION/BACKGROUND

- 3.1 For a number of years, the Committee has granted permits to collect in the streets surrounding the Stadium of Light on match days to a single organization each time. Additionally, the Football Club has allowed these organizations to collect on their land (usually just outside the stadium's turnstiles).
- 3.2 On 24 May 2010, the Committee agreed the following procedure for the processing of applications for street collection permits within the vicinity of the Sunderland Stadium of Light on match days:-
 - i) Applications for a street collection permit at the Sunderland Stadium of Light for match days received on or before a date to be specified by officers (normally the third Monday in June) would be considered eligible to enter a draw to be conducted by the Chair of the Regulatory Committee at its next available meeting.
 - ii) The initial entries into the draw will consist solely of applications from organizations who did not receive a permit in the previous season.
 - iii) An initial nineteen entries (or other number equivalent to the number of scheduled league fixtures to be played by Sunderland AFC) will be drawn and allocated to each fixture in chronological order. A further ten entries should be drawn for a reserve list to which will be allocated, in order of being drawn, any other fixture which may become available e.g. a cup match or a re-scheduled league game which was previously abandoned.

- iv) In the event that less than twenty nine initially qualifying organizations apply (or other number equivalent to the number of scheduled league fixtures to be played by Sunderland AFC plus ten), those organizations receiving a permit in the previous season who have re-applied for the subsequent season would enter the draw after the initial allocation.
 - v) Any organizations successful in the draw which later attract an objection from the Police will be referred to the Regulatory Committee.
- 3.3 In the two years since this policy was determined by the Committee, the SAFC Foundation (i.e. the Club's own charity) have requested permits to collect, both in the street and on their own land, on the days of five fixtures of their choice. On each occasion the Committee granted this request.

4.0 CURRENT POSITION

- 4.1 The SAFC Foundation again requests permits to collect in the vicinity of the Stadium of Light on five match days of their choice. The fixtures desired by the Foundation are as follows:

Reading FC – 25 August 2012
Liverpool FC – 15 September 2012
Chelsea FC – 8 December 2012
Manchester United FC – 30 March 2013
Southampton FC – 12 May 2013

- 4.2 It is therefore requested that the Committee considers the request of the Foundation, that they be allocated street collection permits in respect of the five above-mentioned fixtures.
- 4.3 It is also suggested, in line with Police advice, that no permits are granted for matches involving Newcastle United FC or Middlesbrough FC (N.B. it is possible that Sunderland AFC may draw Middlesbrough FC in a cup competition).
- 4.4 Should the Committee be minded to agree to the requests of the Foundation and the Police outlined above, this will leave thirteen fixtures to be allocated to organizations entering the draw.
- 4.5 One of the applications received is from a school for children with special needs (No 27 in the draw). They have requested that, if they are successful in the draw, they are allocated a fixture either early or late in the season in order to avoid, in so far as possible, inclement weather as some of the children who will be accompanying the collectors will be using wheel chairs or have other mobility issues.

- 4.6 Should the Committee be minded to agree to this request, it suggested that, should the application of this school be drawn in respect of a fixture between 1 August and 31 October 2012 or between 1 March and 31 May 2013, they be allocated the fixture as normal. However, should their application be drawn in respect of a fixture between 1 November 2012 and 28 February 2013, it is suggested that they should be allocated the penultimate fixture of the season (assuming the Committee grants the final fixture, against Southampton FC, to the Foundation as they request).
- 4.7 A children's football club has submitted six applications, each in respect of one of the club's various age-groups, e.g. "under-11s". The Committee is requested to decide whether the club should be allowed six entries into the draw or one entry. The Club Chairman has been invited to attend the meeting to answer any questions the Committee may wish to put to him.
- 4.8 If the Committee is minded to allow a single entry only from this club it is suggested that the policy outlined at paragraph 3.2 above is amended to allow organizations (including those submitted under individual team name names) a single entry only into future draws.

5.0 REASONS FOR THE DECISION

- 5.1 To allocate street collection permits to organizations wishing to collect within the vicinity of the Sunderland Stadium of Light in a fair and transparent manner.

5.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

6.0 RELEVANT CONSIDERATIONS

- 7.1 None.

7.0 GLOSSARY

- 8.1 No acronyms or abbreviations have been used in this report.

9.0 APPENDICIES

- 9.1 None.

10.0 BACKGROUND PAPERS

- 10.1 None.

REPORT OF THE EXECUTIVE DIRECTOR OF CITY SERVICES

REGULATORY COMMITTEE – 23 JULY 2012

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

A CONSULTATION PAPER BY THE LAW COMMISSION

1.0 PURPOSE OF THE REPORT

- 1.1** To advise the Committee of a consultation document issued by the Law Commission with regard to the proposed reform of the law relating to taxi and private hire services in England and Wales.

2.0 DESCRIPTION OF DECISION

- 2.1** The Committee is requested to receive a presentation upon the implications of the above-mentioned document.

3.0 INTRODUCTION/BACKGROUND

- 3.1** On 10 May 2012 the Law Commission published a consultation document outlining their proposals as to how to reform the law on taxi and private hire services in England and Wales. The stated aim of the reform is to review the law relating to the regulation of taxis and private hire vehicles with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing the burdens on business and increasing economic efficiency. A copy of their summary of this document is attached as Appendix 1.

4.0 CURRENT POSITION

- 4.1** The Law Commission have set a closing date for the submission of comments in respect of this document of 10 September 2012.
- 4.2** Councillors from this Committee and officers attended a consultation event organized by the Law Commission on 16 July 2012. Officers will advise the Committee of the outcome of that event. A further report will be submitted to the Committee at its next meeting in order to enable a response to the consultation document to be determined.

5.0 REASONS FOR THE DECISION

- 5.1** To assist the Committee in considering a consultation document.

6.0 ALTERNATIVE OPTIONS

- 6.1** None submitted.

7.0 RELEVANT CONSIDERATIONS

7.1 None.

8.0 GLOSSARY

8.1 None.

9.0 APPENDICIES

9.1 Appendix 1 – Summary of the Law Commission Consultation Document.

10.0 BACKGROUND PAPERS

10.1 None.

Appendix 1



Reforming the law of taxi and private hire services



May 2012

Law Commission

REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES

Summary

This paper is a summary of the full Consultation Paper, Reforming the Law of Taxi and Private Hire Services, Law Com 203, available at our website at www.lawcom.gov.uk (A-Z of project > Taxi and Private Hire Services).

THE LAW COMMISSION: HOW WE CONSULT

About the Commissions: The Law Commission was set up by section 1 of the Law Commissions Act 1965. The Commission has the purpose of promoting reform of the law.

The Law Commissioners are: The Rt Hon Lord Justice Munby (Chairman), Professor Elizabeth Cooke, Mr David Hertzell, Professor David Ormerod and Frances Patterson QC. The Chief Executive is Elaine Lorimer.

Topic: This consultation covers the reform of the law on taxi and private hire services.

Geographical scope: England and Wales

An impact assessment is available on our website.

Duration of the consultation: 10 May to **10 August 2012**.

How to respond

Send your responses either –

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission,
Steel House, 11 Tothill Street, London SW1H 9LJ
Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).

After the consultation: We plan to publish a final report with a draft Bill in November 2013. It will be for Parliament to decide whether to change the law.

Freedom of information: We will treat all responses as public documents. We may attribute comments and publish a list of respondents' names. If you wish to submit a confidential response, it is important to read our Freedom of Information Statement on the next page.

Availability: You can download this consultation paper and the other documents free of charge from our website at:

<http://www.lawcom.gov.uk> (See A–Z of projects > Taxi and Private Hire Services)

SUMMARY

INTRODUCTION

- 1.1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. The project was proposed by the Department for Transport, but when we work on a project, the Law Commission is independent of the Government. This paper summarises our full consultation paper, which is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services). It reviews the law, and makes provisional proposals for reform. We now seek your comments and views on our provisional proposals and questions.
- 1.2 This summary is split into three main sections:
- (1) an introduction and outline of key proposed changes;
 - (2) the case for reform and a brief discussion of the main themes and impact assessment; and
 - (3) a full list of our provisional proposals and questions.

WHAT THIS PROJECT IS ABOUT

- 1.3 In England and Wales, both taxis and private hire vehicles must be licensed. There is a fundamental legal distinction between taxi and private hire services. Taxis, referred to as “hackney carriages” in much of the legislation, can be hailed on the street or work at a rank for immediate hire. Only taxis can do this, which is referred to in law as “plying for hire”. Alternatively, taxis can be booked in advance either directly with the driver or through a third party without the need for an additional licence. By contrast private hire vehicles cannot “ply for hire” and can only be booked in advance. Private hire drivers cannot take bookings directly and can only take passengers that have booked through a licensed operator. A person engaging in any of these activities without the correct licence is committing a criminal offence.

Consultation

- 1.4 It is of primary importance that the views expressed in our consultation documents are only provisional, so that they can form the basis of a discussion on consultation. We are not firmly wedded to any of these proposals. Indeed, experience suggests that our final report is likely to differ substantially from the provisional proposals we now make.
- 1.5 This consultation period will be our main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After this consultation we will analyse responses and reconsider our proposals. We aim to produce a report with our final proposals and a draft Bill by November 2013.
- 1.6 The opportunity to discuss the issues with interested parties is always most helpful. We would therefore welcome invitations to attend or present at relevant conferences, seminars, workshops or other events during the consultation period.

Our approach

- 1.7 Our terms of reference require us to give due regard to the potential advantages of deregulation. This does not require us to blindly pursue deregulation at all costs. Nor does it mean the removal of all or even most regulation. Rather, it means that we must look at each element of the existing regulatory system to ensure that it does not impose unnecessary costs on the industry, and that it is structured in the right way to accomplish its supposed ends.
- 1.8 We have applied this view of the right regulatory approach in the provisional proposals and questions we ask in this review. The overall effect is of a moderate reform programme, which retains much of the existing structure of regulation, while seeking to improve and simplify it.

OUTLINE OF KEY PROPOSED CHANGES

- 1.9 The main changes that might follow from our provisional proposals include:
 - (1) National minimum safety standards for both taxis and private hire vehicles.
 - (2) Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
 - (3) It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Sub-contracting would be allowed, as is already the case in London.
 - (4) London would be regulated under the same flexible framework as the rest of England and Wales.
 - (5) Licensing authorities could no longer limit the number of taxi licences.
 - (6) More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
 - (7) Disability awareness training for drivers.
 - (8) Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
 - (9) Weddings and funeral cars would no longer be exempted through primary legislation.
 - (10) Allowing leisure use of taxis and private hire vehicles.
 - (11) Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State

and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.

- (12) Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- (13) Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

1.10 We also ask questions about the following:

- (1) a new category of wheelchair accessible vehicles;
- (2) extending operator licensing to taxi radio circuits;
- (3) possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;
- (4) reintroducing a (revised) contract exemption;
- (5) improving the enforcement powers of licensing officers; and
- (6) a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.

1.11 This list only provides simplified, headline points and does not include all the changes we propose. Some of the provisional proposals would not give rise to change in London, such as allowing sub-contracting and leisure use of vehicles.

THE NEED FOR REFORM

1.12 The law on taxis and private hire vehicles is fragmented, complex, and out of touch with 21st century life. The oldest taxi legislation that still applies dates from 1831 and the regime has been extended, amended and adapted ever since. Private hire vehicle legislation was not introduced until 1976 (1998 in London), in response to growth in the unlicensed trade, and many regard it as hastily constructed and ill thought out.

1.13 Both taxi and private hire services are highly regulated. The pre-booked market is reasonably competitive. Customers can shop around for the provider they prefer and negotiate on price. A customer who is unhappy with the service given by a company can choose a different firm in the future. They may tell their friends to avoid that firm. The same competitive forces do not apply in respect of taxis. Ranking and hailing are not competitive markets. The customer has little choice but to take the taxi hailed or the first taxi at the rank. This can affect the justification for the level of regulation in each market.

1.14 Safety is a key justification for the licensing system as a whole yet there are no national minimum safety standards for drivers and vehicles. Licensing officers have limited enforcement powers which makes it hard for them to make sure the rules are complied with. Disability groups have highlighted significant problems in ensuring accessibility and the safety of disabled passengers.

1.15 There are aspects of the current system, including quantity restrictions on taxi

licences and restrictions on cross-border activity, which can also hinder effective competition. Not only can this make taxi and private hire services more expensive than they need to be, but it also has a restrictive effect on business. Our proposals are aimed at simplifying and streamlining the legal framework and removing unnecessary and burdensome regulation.

- 1.16 The complexity of the regulatory regime, which is based on numerous pieces of legislation, and the piecemeal way in which it has been put together, have left many key concepts and distinctions unclear and difficult to apply. There are many grey areas about what can count as a taxi (can it cover pedicabs for example?) or a private hire vehicle (do child minders and volunteers need a private hire operator licence where they drive as part of their work?). The rules restricting operators to inviting or accepting bookings only within their licensing area do not fit easily with technological developments such as internet and mobile phone bookings. These apparently basic questions have no clear answer and different approaches are taken in different parts of England and Wales.

THE MAIN THEMES OF REFORM

A new statute for taxi and private hire services

- 1.17 Our aim is to clarify and simplify the existing law on taxis and private hire vehicles and to promote more consistency in bottom-line safety standards across England and Wales, including better provision for disabled passengers. The other key aim of this review is to deregulate aspects not linked to protecting public safety in order to encourage more competitive services. We propose to do so by recommending a new Act of Parliament for taxi and private hire services.
- 1.18 We are not proposing major changes to the way in which licensing is administered and enforced. As now, local authorities would be responsible for issuing licences, and for taking action (with the police) against those who break the law. In respect of taxis, local authorities would continue to have a standard-setting role, over and above the national minimum safety standards. Matters such as topographical knowledge, fares and local requirements (such as the turning circle requirement in London) could continue to apply.

Retaining a two tier system

- 1.19 We think that the legal differences between taxis and private hire vehicles (often known as mini-cabs) are worth keeping. This is sometimes referred to as the two tier system. The alternative, a so-called one tier system, would have a unified category of licensed vehicle doing all (or most) of the same work – pre-booked, hailing and ranking. We accept that the differences between taxis and private hire vehicles are not always well understood by the public, and that this provides an argument for a single tier. But our provisional view is that the distinction between taxis and private hire allows for more targeted regulation. Traditionally taxis can have regulated fares and local requirements like topographical knowledge can be very important. By contrast, private hire services work much more like a free market and recognising the legal distinction means both sides of the trade can work better.

London

- 1.20 There is currently a different legal framework for London. We recognise the

important differences which apply to London but also think that our provisional proposals are sufficiently flexible to allow for these differences given the powers we propose for the Secretary of State and Transport for London (as the relevant licensing authority). We believe this can be done without affecting the distinctive and iconic London black cab.

- 1.21 We propose that our reforms should apply throughout England and Wales including London. We also invite views about how London may be affected differently in respect of all of our provisional proposals and questions.

Welsh devolution

- 1.22 We think the same system should apply in Wales as in England, but, in light of devolution, Welsh Ministers would have the powers that the Secretary of State has in England.

Taxis and the local connection

- 1.23 We provisionally propose only moderate changes to the regulation of taxis apart from removing licensing authorities' ability to limit taxi numbers. We suggest retaining the local link with the setting of taxi conditions and fare regulation, licensing and enforcement. We consider the legal definition of "plying for hire", which covers hailing and ranking, but do not propose radical change.
- 1.24 We do, however, provisionally propose that the Secretary of State and Welsh Ministers should set national *minimum* safety standards. We think all consumers of taxi services should be entitled to the same minimum safety standards, even if local licensing authorities wish to impose higher standards in their area. And establishing national minimum standards, which match the national standards for private hire vehicles (see below), will remove incentives for drivers to try to play the system by being licensed in areas with lower standards. It will also help with the enforcement of conditions across each country.

Taxis and quantity restrictions

- 1.25 We also provisionally propose that the power to limit the number of taxis which can be licensed in a licensing area should be removed. We accept that there are some good arguments for retaining the power (although not on the existing basis of a bureaucratic assessment of unmet demand), but provisionally consider that on balance quantity regulation is not justified. Transport for London does not have the power to limit the number of taxi licences, so our provisional proposal makes no change for the capital.

Private hire and national standards

- 1.26 Our provisional proposals are more far-reaching in respect of private hire licensing. We think that the Secretary of State and Welsh Ministers should set national standards for private hire vehicles, drivers and operators, and that licensing authorities should not have the power to impose higher standards. This reflects our view that the pre-booked market works reasonably well as a competitive market, and so there is no need for rules and regulations to guarantee quality or control fares. We ask if there should be an exception to allow local standard setting about signage. Local licensing authorities would continue to issue licences and to be responsible for enforcement. We also look at whether

operator licensing should be extended to cover, for example, taxi radio circuits.

- 1.27 We propose that the national standards for private hire vehicles should be set at the same level as the minimum standards for taxis. Both in respect of taxis and in respect of private hire vehicles, the power to set standards would allow for different standards to be set for different descriptions of vehicles.

Cross-border

- 1.28 Our provisional proposals aim to clarify the ability of private hire operators to work cross-border. We suggest that operators should no longer have to use drivers and vehicles all licensed with the same authority, enhancing the ability of business to work more efficiently, as well as permitting sub-contracting (adopting the current position in London). The location where a booking is accepted would no longer be critical, which would fit better with technological developments in mobile technology and the internet.
- 1.29 Our provisional proposals in respect of more effective enforcement and common bottom-line safety standards could help reduce incentives for drivers to seek taxi licences in locations far away from where they actually intend to work on a purely pre-booked basis (akin to a private hire vehicle). We do not propose to introduce a return-to-area requirement for vehicles dropping off customers outside their licensing area.

Increased enforcement powers

- 1.30 We make provisional proposals to improve enforcement of conditions. We suggest improving licensing officers' powers; and ask about the effectiveness of tougher sanctions such as impounding vehicles.
- 1.31 The existence of national standards for private hire and minimum standards for taxis should itself make enforcement easier, particularly cross-border enforcement (that is, enforcement by an officer of a licensing authority other than that which licenses the taxi or private hire vehicle).
- 1.32 We also make proposals designed to improve cross-border enforcement, and look at the extent to which enforcement officers' powers could be strengthened.

Equality and accessibility

- 1.33 Taxis and private hire vehicles provide vital transport links for many older or disabled persons as well as people with reduced mobility. Providers of transport services have a legal obligation not to discriminate against disabled people, and local authorities are subject to a duty to promote equality in the exercise of their functions.
- 1.34 We consider how to promote safety for disabled passengers through, perhaps, introducing a separate licence category for wheelchair accessible vehicles and vehicles adapted for other disabilities. We considered the merits of introducing national quotas of accessible taxis but suggest that such a system does not appear workable. Our provisional proposals include compulsory disability discrimination training for taxi and private hire drivers.
- 1.35 This is only an extremely short account of our provisional proposals, which cover

a number of other detailed areas, including hearings and appeals.

IMPACT ASSESSMENT

- 1.36 This consultation also includes an impact assessment and we ask consultees for information about the costs and financial benefits likely to arise from different aspects of the review.
- 1.37 Our expectation is that the review as a whole will be deregulatory, and it will be important to understand the extent of likely savings. Where some new regulatory pressures arise (for example in respect of accessibility or licensing of limousines) it will be equally important to understand how large those new burdens are likely to be. The impact assessment is available at <http://www.lawcom.gov.uk> (see A-Z of projects > Taxi and Private Hire Services).

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

- 1.38 The list below sets out our provisional views for consultation. They are divided between provisional proposals, where the Law Commission has a preliminary stance and is seeking views on it, and open questions where we are seeking more evidence and have not reached a preliminary position.
- 1.39 It would be helpful if you could give us your views on the provisional proposals and questions we ask, as well as on any other areas you feel are important. The page numbers refer to the full consultation paper which has more detail.

LIST OF PROVISIONAL PROPOSALS AND QUESTIONS

OVERVIEW OF PROVISIONAL REFORM PROPOSALS

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre-booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares. *(Page 160)*

REFORM OF DEFINITIONS AND SCOPE

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform. *(Page 162)*

Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver. *(Page 164)*

Question 4

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence? *(Page 164)*

Provisional proposal 5

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers. *(Page 165)*

Provisional proposal 6

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. *(Page 166)*

Provisional proposal 7

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency. *(Page 167)*

Provisional proposal 8

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service. *(Page 168)*

Question 9

How, if at all, should the regulation of taxis and private hire deal with:

- (a) carpooling; and
- (b) members clubs? *(Page 170)*

Provisional proposal 10

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes. *(Page 171)*

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation. *(Page 172)*

Question 12

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse? *(Page 174)*

Provisional proposal 13

Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets". *(Page 175)*

Question 14

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank? *(Page 177)*

Provisional proposal 15

The defining feature of taxis, the concept of "plying for hire", should be placed on a statutory footing and include:

- (a) references to ranking and hailing;
- (b) a non-exhaustive list of factors indicating plying for hire; and
- (c) appropriate accommodation of the legitimate activities of private hire vehicles. *(Page 181)*

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services. *(Page 181)*

Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?
(Page 182)

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained. (Page 182)

Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked. (Page 183)

Provisional proposal 20

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.
(Page 184)

Provisional proposal 21

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.
(Page 185)

Provisional proposal 22

Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
(Page 185)

Question 23

Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion? (Page 186)

A REFORMED REGULATORY FRAMEWORK

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements. (Page 188)

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards. (Page 189)

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards. *(Page 189)*

Provisional proposal 27

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers. *(Page 190)*

Question 28

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable? *(Page 190)*

Question 29

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles? *(Page 191)*

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services? *(Page 192)*

Provisional proposal 31

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should *only* cover conditions relating to safety. *(Page 192)*

Provisional proposal 32

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement. *(Page 193)*

Question 33

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel? *(Page 193)*

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards. *(Page 193)*

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards? *(Page 194)*

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators? *(Page 194)*

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements? *(Page 195)*

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting. *(Page 196)*

Provisional proposal 39

Licensing authorities should have the option to create, or remove, taxi zones within their area. *(Page 196)*

Question 40

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority? *(Page 197)*

Provisional proposal 41

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority. *(Page 198)*

Provisional proposal 42

We do not propose to introduce a “return to area” requirement in respect of out-of-area drop offs. *(Page 199)*

Provisional proposal 43

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares. *(Page 200)*

Question 44

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? *(Page 200)*

REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**Question 45**

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 203)*

Provisional proposal 46

Vehicle owners should not be subject to "fit and proper" tests and the criteria applied would relate solely to the vehicle itself. *(Page 204)*

Question 47

Should national vehicle safety standards be either:

- (a) set out in primary legislation; or
- (b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions? *(Page 205)*

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles. *(Page 206)*

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis? *(Page 208)*

Provisional proposal 50

The definition of operators should not be extended in order to include intermediaries. *(Page 209)*

Question 51

Should "fit and proper" criteria in respect of operators be retained? *(Page 209)*

Provisional proposal 52

Operators should be expressly permitted to sub-contract services. *(Page 210)*

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply? *(Page 210)*

REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers. *(Page 213)*

Question 55

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers? *(Page 213)*

Question 56

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed? *(Page 215)*

TAXI AND PRIVATE HIRE REFORM AND EQUALITY**Question 57**

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

- (1) a duty on the licensee to give priority to disabled passengers; and
- (2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles. *(Page 217)*

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards? *(Page 217)*

Question 59

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers? *(Page 217)*

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles. *(Page 218)*

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training. *(Page 219)*

Provisional proposal 62

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority. *(Page 219)*

Question 63

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help? *(Page 220)*

REFORMING ENFORCEMENT

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?
(Page 222)

Question 65

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.
(Page 223)

Question 66

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules? (Page 223)

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how? (Page 225)

Provisional proposal 68

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas. (Page 225)

Question 69

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this? (Page 226)

REFORM OF HEARINGS AND APPEALS

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence. (Page 230)

Provisional proposal 71

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision. (Page 231)

Provisional proposal 72

Appeals should continue to be heard in the magistrates’ court. (Page 232)

Question 73

Should there be an onward right of appeal to the Crown Court? (Page 233)

CONCLUSION

- 1.41 It is not possible in a summary of this length to introduce all of our provisional proposals. Consultees are therefore encouraged to refer to the full Consultation Paper available on our website. Please send responses by **10 August 2012**.

How to respond

Send your responses either -

By email to: tph@lawcommission.gsi.gov.uk or

By post to: Public Law Team (Taxi and Private Hire), Law Commission, Steel House, 11 Tothill Street, London SW1H 9LJ

Tel: 020 3334 0266 / Fax: 020 3334 0201

If you send your comments by post, it would be helpful if, where possible, you also sent them to us electronically (in any commonly used format).