

**Improving Public Transport – Welsh Government White Paper**

This response is submitted on behalf of Denbighshire County Council. Some comment mirror that of the All Wales Licensing Expert Panel representations made on behalf of Wales Heads of Environmental Health Group.

**National Standards**

**Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.**

Yes, this is consistent with the previous consultation work undertaken between the Licensing Expert Panel and Welsh Government lead on taxi reform in Wales. It is also consistent with recommendation 2 made by the “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]” and the Law Commission review “Reforming the Law of Taxi and Private Hire Services” [2012]”.

National standards would ensure that taxi services are delivered consistently across Wales and deal with any perceptions of any unnecessary inconsistency across Councils, which, in turn, aids businesses plan their services which is especially important for those operating in areas which span neighbouring authorities.

**Q23. Are there any matters which you would like to see contained in any national standards?**

Separate national standards should be defined for vehicles, drivers and operators. The following matters should be included, although this is not an exhaustive list:

- Enhanced DBS and Barring List checks (certificate of good conduct for overseas applicants) for drivers, operators, proprietors and dispatchers. The Council believe that anyone taking or holding an individual’s personal information should have to be vetted to ensure that that person is safe and suitable (“fit and proper”).
- Medical fitness and specifically the requirement of Group 2 Medical Standards and the need for the applicant’s full medical history to be noted by the completing GP. Standards should also consider consistency of the issue of exemption certificates in terms of Equality Act duties.
- Immigration checks specifically the Right to Work in the UK
- Suitability of applicants and licence holders. The Institute of Licensing has published guidance on determining the suitability of applicants and licence holders in the hackney carriage and private hire trades. The criteria used in this guidance should be incorporated into any national standards  
[https://www.instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)
- Nationally-recognised vocational qualifications to include disability quality and awareness training, safeguarding awareness training (Child Sexual abuse / Exploitation, County Lines), practical driving standards test, communication

skills and literacy, customer care, handling of emergencies, managing conflict etc.

- Knowledge and suitability test (literacy, numeracy, highway-code, conditions, local area knowledge).
- Foreign driving licences

In addition, the Council would recommend the following matters be included in relation to vehicles:

- National Inspection Standards and frequency of inspections and testing including the criteria for testing. Consideration should also be given to suitability, independency and availability of testing stations and how they are approved e.g. consider if use of Trade owned testing stations are appropriate.
  - Design and appearance and internal spatial requirements of vehicles including the approach to identify taxis and private hire vehicles.
  - The information which should be contained on any vehicle identification source (plates, door signs).
  - Standards for specialist and novelty vehicles, such as stretched limousines, wedding and funeral cars, omnibuses and pedicabs.
  - Taxi Meter standards including the criteria for Pulse and GPS meters.
  - The use and standards for CCTV within vehicles, both audible and video as outlined in recommendation 17 & 18 “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]”. The Information Commissioner’s Office has produced advice for councils and other organisations in using surveillance and CCTV systems in licensed taxis. A national standard should take account of this advice.  
<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand> The LGA Guidance has also now been published.  
<https://www.local.gov.uk/developing-approach-mandatory-cctv-taxis-and-phvs>
- The cost of fitting CCTV within licensed vehicles particularly for small businesses may require subsidy from Welsh Government. In respect of the data obtained on CCTV the Council wish to highlight that Councils may be considered data controllers and as such may be affected by additional burdens.
- Record Keeping including the retention period required. The Council believe that ideally records should be kept for every journey undertaken, however, there are obvious practical difficulties with taking this approach. A better option would be to use technology to better the safeguarding processes. The use of CCTV, trackers and GPS systems would not only provide a more robust system for record keeping, but would also not place an administrative burden on taxi drivers.
  - Environmental considerations such as vehicle emission standards.
  - The criteria, if any, for exemption from displaying vehicle plates / stickers

The standards for some of the points recommended above are included in guidance already and should be taken into account when developing any national standards, such as the Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), although this is in need of updating.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)

In addition the Council would recommend mandating training for all individuals involved in the licensing decision-making process. Consistent and appropriate training of officers, councillors and Magistrates' legal clerks (for appeals) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

The Council would urge the Welsh Government to ensure that any standard adopted does not reduce any standard currently being applied in any of the licensing authorities across Wales.

Finally, any national standards developed should be consistent with criteria implemented in England to reduce variations in driver, vehicle and operator requirements especially around the border areas.

**Q24. Are there any matters which you think should be excluded from any national standards?**

There are no matters that should be excluded, although national standards should not duplicate other legislation.

**Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?**

The main obstacle will be incorporating the national standards into the 10,000 vehicles and 12,000 drivers currently licensed in Wales and the provisions that will need to be in place for transitional arrangements and grandfather rights. Consideration will also need to be given to finding suitable consistent standards which work for both urban and rural areas.

**Q26. What would be the best approach for determining the content of national standards?**

There are already a number of national policies in place which have been adopted by a number of Welsh Local Authorities in order to provide a level of consistency between areas, such examples include:

- National Inspection Standards for hackney carriage and private hire vehicles, and
- Institute of Licensing Guidance on determining the suitability of applicants and licences in the hackney carriage private hire trade.

There are also some excellent examples of local taxi licensing policies and standards in place which have been developed and applied at a local level.

Welsh Government will first need to establish what policies and standards are already in place in Wales and then draw on the knowledge of licensing practitioners

who have expert practical experience of undertaking taxi licensing work on a daily basis.

This review should be seen as an opportunity to drive up standards and it would be remiss of Welsh Government to disregard any policies, standards or procedures which have been developed by licensing professionals and which actually serve to provide a robust service against a backdrop of legislation which is woefully inadequate and outdated.

The All Wales Licensing Expert consists of managers and team leaders from local licensing Authorities across Wales who have extensive knowledge and experience in the taxi licensing field and would without question need to be heavily involved in the development of national standards.

It is suggested that Welsh Government would also need to engage with passenger safety groups and operator representatives by way of meetings, seminars and workshops.

**Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.**

The previous Welsh Government consultation on Taxi and Private Hire Vehicle Licensing in Wales [WG31865] referred to “national standards for all taxis and private hire vehicles, set by Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so”

Although the White Paper makes no reference to minimum national standards, it is worth noting that the Council would not recommend that local licensing authorities be permitted to set additional local conditions above the national standard.

**Enforcement**

**Q28. Should a Local Authority be able to revoke or suspend a licence relating to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.**

No, the Council believe that the revocation of a vehicle licence should be the responsibility of the home Licensing Authority. Where it is proposed that action is taken to revoke a licence, it is imperative that the licence holder is afforded the opportunity to be heard i.e. the opportunity of a fair hearing; this is a requirement of Article 6 Human Rights Act which protects your right to a fair trial. The Licensing Authority that has issued the licence will also have invaluable local knowledge about the licence holder, have immediate access to the history of the vehicle and any complaints received and should be responsible for recovering any fees associated with taking the enforcement action. It is noted that proposals in relation to fee setting are not included in the White Paper.

The Council believe however that it is appropriate for any authorised officer from any Licensing Authority area to have the power to suspend immediately (Section 68 Local Government (Miscellaneous Provisions) Act 1976) a licence of any vehicle operating in their area (irrespective of where it was licensed) where there is an immediate public safety risk e.g. defective tyre, or potentially where the vehicle fails to meet the national standards e.g. missing door signs / back plates. The authority that issues the suspension, would then report the matter to the home Licensing Authority for them to consider whether to lift the suspension or take further action.

Irrespective of the action the process will need to be consistent across Wales. This is especially important for revocation as local process to determine such an application might differ.

**Q29. Should a Local Authority be able to issue a lesser sanction in relation to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.**

Yes, the Council consider this of benefit to aid the home Licensing Authority in order to determine whether any further action is required e.g. improvement notice / advisory / warning. For example introducing a system of issuing a Fixed Penalty Notices would bring taxi and private hire enforcement in line with other areas of local government. Some method of referral scheme would need to be developed to notify the issuing Licensing Authority, however the practical implications of this would need further consideration.

**Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.**

The Council are aware that the Licensing Expert Panel has previously been in discussion with Welsh Government about introducing the power to stop and direct taxi and PHVs. This would be a useful and beneficial addition to the enforcement options currently available to local authorities.

Currently Licensing Authorities are unable to attach conditions to hackney carriage driver licences, some local authorities have Byelaws in place and the Council would recommend incorporating any relevant component of these into national standards

The Council would recommend other enforcement provisions be introduced by Welsh Government such as where a driver refuses a fare due to the short distance involved or for cases of overcharging.

In addition the Council would recommend mandating training for all individuals involved in the licensing decision-making process (as mentioned above). Consistent and appropriate training of officers and councillors (this should also include Magistrates' legal clerks) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

## Information Sharing

**Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.**

Yes, the establishment of a mandatory national database of all licensed drivers is critical, however this database should be expanded to include vehicle and operators, proprietors and dispatchers to support stronger enforcement. This must be established quickly.

In the interim, the National Anti-Fraud Network (NAFN) currently provides an online register of taxi and private hire drivers who have been refused or had their licence revoked. The database includes the reasons for any refusal or revocation, along with the relevant Licensing Authority details. Welsh Government must introduce legislation to mandate its use as a priority. The Council has agreed in principle to use this database and at the time of this consultation response all local authorities in Wales were progressing this.

In addition any national database must be able to accommodate or link in with an equivalent database in England to avoid duplication of data entry and ensure public safety particularly around the border areas.

Additionally, other organisations may have vital information on applicants or current drivers which sits outside usual DBS process but may be equally relevant to determining suitability of an individual. Current practices make the sharing of information with organisations difficult, especially, for example, in other authorities. Creation of a safeguarding database would remove barriers and improve information flow.

**Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.**

The Council are aware that the Common Law Police Disclosure provisions have been highlighted as a significant concern by the Licensing Expert Panel previously. These proposals do not cover this issue. The Council would suggest the current disclosure provisions be reviewed to ensure that all relevant information of crimes and conduct by taxi and private hire drivers, including arrest, charge and conviction information, is shared with the Licensing Authority immediately.

The Council appreciate that Welsh Government may be limited in influencing this suggestion but it is essential to ensure all drivers, operators, proprietors and dispatchers are safe and suitable. Any influence Welsh Government could have on this to improve information-sharing on public safety grounds would be welcomed. It would be particularly helpful if, for example, specific questions on whether an individual when appearing in custody is a holder of any licence.

## **Joint Transport Authority (JTA)**

### **Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national Licensing Authority (Option A)? Yes/No? Please explain your answer.**

No, the Council would **not** support the proposal to redirect all of the existing taxi and PHV licensing functions into a national Licensing Authority on the information provided, as there is no evidence to support taking the function away from Local Authorities. At this stage there is no detail contained within this white paper as to how the JTA would undertake the licensing function and therefore it is very difficult to be able to answer this question. The Council feel that insufficient research has been undertaken in respect of this proposal and that Welsh Government must produce a far more detailed explanation on how the JTA would work. The Council feel that they would then be in a better position to comment on the proposal. Our overriding concern is the protection of the public, and there is nothing contained within this proposal which suggests that public safety is at the forefront of this proposal.

In addition, Local Authorities have a duty to consider the WG's Framework for Managing the Night Time Economy in Wales. Authorities need to consider the transport need of their local evening and night time economy as part of an integrated approach, which includes the importance of taxis and PHVs. Partnership working between key local agencies such as the Police (including transport Police), licensing and the taxi trade offer the best opportunities for achieving sustainable late-night transport environments that also promote safety. Removal of the duty from Local Authorities would not be beneficial to implementing plans for improving the night time economy as a whole.

The Council would urge the Welsh Government involve the Licensing Expert Panel in considering the evidence for Welsh Government's proposals and to work with them further to ensure any reform of taxi and private hire vehicle legislation is robust, enforceable and improves public safety.

### **Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.**

Yes, the Council believe that local authorities should continue to have responsibility for taxi and PHV licensing. Whilst the Council appreciate that the Licensing function requires strengthening as mentioned in option B, it is recognised that licensing at the local level works well. Additional evidence is requested from Welsh Government to justify the contrary to continuing with Local Authority responsibility.

### **Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.**

The Council believe that the current proposals contained within the White Paper fall far short of the reform that taxi and private hire licensing so desperately requires. The previous set of proposals contained within the Taxi and Private Hire Vehicle

Licensing in Wales [WG31865] would have introduced a robust taxi licensing regime which was fit for the 21<sup>st</sup> century and afforded local authorities the necessary tools to protect the public, tackle cross border working and introduce more powers for better enforcement. Instead, what is now being proposed is a quick fix and offers nothing more than a sticking plaster solution. The existing legislation is archaic, not fit for purpose and requires fundamental reform with new primary legislation.

A viable alternative however is readily available by considering in more detail adopting the recommendations of the “Ministerial Working Party into Hackney carriage and Private Hire Licensing in England [2018]” which builds on the work undertaken by the Law Commission “Reforming the Law of Taxi and Private Hire Services [2012]”.

These recommendations offer far more than a sticking plaster solution and would modernise the legislative framework, introducing appropriate regulation and giving licensing authorities the necessary enforcement tools to better protect the public. The recommendations, if implemented, would also ensure that inconsistencies between Welsh and English authorities, particularly along the border, are negated.

**Q36. We would like to know your views on the effects that the legislative proposals set out in this paper would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased? or negative effects be mitigated?**

Welsh Government must have regard to the Welsh Standards as set out by the Welsh Language Commissioner. It is important that applicants are able to apply in their language of choice. Positive effects could be increased by ensuring that signage, etc. is provided in bilingual format on all taxis and taxi ranks.

**Q37. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

See above

**Q38. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: Please enter here:**

Consideration should be given to the potential for setting of fees and tariff charging. While there is a difference between rural and urban areas, there is merit in standardising fees for licensing, similar to that under the Licensing Act 2003 or Gambling Act 2005. As with national standards, a universal fee may prevent



operators and / or proprietors shopping around and seeking to get licensed in an authority with a lower application fee. Although standardising tariff charging might be more problematic any changes to the regime should include guidance on setting a maximum tariff charge for metered journeys.

While this might not fall within the remit of this review the Council think it is appropriate to consider the driving hours of licensed drivers. A taxi driver is a professional driver and yet sits outside the maximum driving hours linked to other driving professions. The safety of passengers, other road users and the general public should not be put at risk due to drivers' tiredness.