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HACKNEY CARRIDGE AND PRIVATE HIRE VEHICLES (TAXI) MODERNISATION AGENDA

Purpose

1. This report provides information in relation to proposed modernisation of the legislation, policies and practices which pertain to the hackney carriage, and private hire (taxi) vehicle trade in Wales.

Background

2. The Welsh Government's Programme for Government includes a statement in relation to the modernisation of the legislation which controls taxi vehicles in Wales: "(We will) Legislate to modernise the taxi and private vehicle sector and address the problems of crossbordering."
3. To assist the Welsh Government, local authorities, via the WLGA, have provided expert taxi licensing officers on secondment, to help shape and progress this work.
4. Due to the pressures upon the Welsh Government legislative capacity, the Deputy Minister for Climate Change, Lee Waters MS, has approached the WLGA to discuss and establish which aspects of change can be agreed upon and put into place voluntarily by local authorities, and which would require to be framed in legislation, either immediately, or in the future.
5. Positive discussions with the Deputy Minister, the WLGA, including the Leader and Deputy Leader, and LA officers have been taking place to establish how this could work, with the aim of ensuring consistency of approach across Welsh local authorities.
6. As part of this process, the Leader has agreed to raise this area of work with Members, to seek their support to continue to work together with Welsh Government.

Coordination and modernisation of the current system

7. Local authorities administer and enforce the current regime and framework of legislation. Hackney Carriage and Private Hire vehicles are governed by legislation which in part dates back to the Town Police Clauses Act 1847.
8. Local authorities individually, through their licensing committees ensure the safety of the public and the standards which apply to vehicles, drivers and operators of taxi businesses in their local authority area.

9. Legislation, national guidance and coordination of approach via the Directors of Public Protection Licensing Expert panel, work to ensure wherever possible, there is consistency of policy and procedure across Wales.
10. The Licensing expert panel of local authority officers has been successful in moving forward the voluntary agenda of a coordinated approach to modernising and harmonising aspects of taxi licensing.
11. A number of local authorities have therefore begun implementing a number of policy changes, including enhanced DBS six monthly checks, medical standards, driver code of conduct, safeguarding and wheelchair accessible vehicle training, specifications for CCTV and dashcam use and private hire operator standards. See [Taxi and private hire vehicles: licensing guidance \[HTML\] | GOV.WALES](#)
12. It is noted that there is variation in the speed at which local authorities are making these voluntary improvements to policy changes, which is in part at least due to the uncertainty about the content of the proposed White Paper.

White Paper consultation proposals

13. The attached document (Annex 1) outlines the current proposals for a Welsh Government White Paper as is currently understood and also sets out the rationale for their inclusion in legislation.
14. In summary these are:
 - national minimum standards allowing enforcement officers to carry out their action on any driver/vehicle/operator as opposed to only those licensed in their area
 - introduction of a penalty point system and fixed penalty notices across Wales
 - clearer definitions for taxis and private hire vehicles and their use
 - better information sharing
 - dealing with England/Wales cross border issues
 - power to set a date by which all vehicles must be ZEV
 - national fee structure clarity and uniformity
 - national fare structures
 - options to remove or retain vehicle number limits
15. These proposals have recently been tested by Welsh Government with representatives of the taxi trade, trade unions (UNITE, GMB and RMT). There was much support for the principles of modernisation, but also noted some areas of concern. These included the impact of app based operators on competition; differing fees in neighbouring local authorities encouraging cross border working, local authority capacity to enforce legislation and maintain standards and safety.

Next steps

16. The Welsh Government intends to continue dialogue and to coproduce the modernisation agenda. Local authority officers are keen to ensure they are engaged fully in discussions and to assist with progress.
17. The Welsh Government will finalise and publish the White Paper consultation in the coming weeks, and consequently further local authority contributions will be made via Directors of Public Protection Wales and the WLGA.
18. It is suggested that workshops be held within local authorities for Members and Officers to be able to align their policy work to new legislation and guidance.

Recommendations

19. Members are asked:

- 19.1 To note the contents of the report;**
- 19.2 Endorse officers continuing engagement with the Welsh Government on the issue; and**
- 19.3 Consider the need to arrange workshop sessions locally to help change and embed policies required by new legislation and guidance.**

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Discussion paper – Taxi White Paper proposals and rationale

Proposal 1. National minimum standards

The following have already been voluntarily agreed to be adopted in LA Policy and were published online in March 2021.

- Enhanced DBS six monthly checks / Overseas criminal record checks
- Medical standards
- Driver Code of Conduct / Dress Code / Driver Conditions
- Safeguarding & Wheelchair Accessible Vehicle (WAV) training
- CCTV/dashcam specifications (not mandatory use)
- Private operator standards

The proposal is to adopt these as well as a number of other issues that could not be agreed on voluntarily as 'national minimum standards'. Those additional issues include: vehicle age or emissions policy/ vehicle testing regime; vehicle standards e.g. for taxis mandatory use of roof light; a new Class B licence for novelty vehicles

What currently happens

The 'quick wins' listed above have been agreed through the LAs, WLGA and WG for each LA to adopt as Policy. Whilst the LAs agree to the above not all have adopted these changes. This requires local consultation and approval.

Rationale

Standardising the approach will help to improve safety for passengers as it raises the bar to best practice among the LAs. It also ensures fairness for drivers and operators as all will be operating to the same rules meaning cost of compliance will be more equal and therefore the ability of someone to 'undercut' by being licensed in an area with less strict rules will be removed. The above agreed "quick wins" may not be adopted locally without WG issuing these minimum standards through legislation and the additional issues would be even more difficult on a voluntary basis. The introduction of Class B licences recognises that certain types of vehicles would not be able to meet these national minimum standards.

Proposal 2. Allowing enforcement officers to carry out enforcement action on any driver/vehicle/operator as opposed to only those licensed in their area

What currently happens

Current legislation limits enforcement action on drivers or vehicles that enter a LA area that are licensed elsewhere. The LA officers often have little knowledge of the vehicle policy requirements in other areas. There is the potential for voluntary joint enforcement protocols, however, it is a convoluted and limited approach to dealing with cross border issues.

Rationale

The ability to carry out enforcement action against any driver or vehicle licensed in Wales will mean LAs being able to enforce the rules consistently and ensure that drivers aren't simply able to ignore them if operating out of area. This, along with other measures being proposed will make cross bordering less beneficial and ensure fairness. Enforcement of out of area drivers/vehicles will be easier as they will be licensed to the same standards.

Proposal 3. Introduction of penalty points and Fixed Penalty Notices across Wales.

What currently happens

Enforcement differs between the LAs. While Fixed Penalty Notices would be new, some already use penalty points systems for the drivers and vehicle proprietors licensed within the authority area.

Rationale

The main aim of introducing FPNs would be to reduce demand on the magistrates court for some offences such as the driver not wearing a badge. A penalty points scheme similarly would be restricted to minor offences in operation throughout Wales so that a driver or operator would accumulate points wherever the issue occurred. Examples of penalty points infringements could be non-compliance with policy or vehicle conditions such as the vehicle not displaying a taxi rooflight or not carrying a first aid kit.

Proposal 4. Clearer definitions/terminology for taxis and PHVs, what can/ cannot do.

What currently happens

The current legislation struggles to identify the differences resulting in court cases considering 'plying for hire' offences. Confusion for passengers whether vehicles available for hire or not.

Rationale

New legislation could provide clear definitions of both types of vehicles to assist with enforcement and help passengers understand the differences between taxis and PHVs. Importantly we are proposing definitions for 'there and then' hire so that offences related to PHV drivers 'plying for hire' are easily enforced.

Proposal 5. Better information sharing.

What currently happens

LAs use various database packages often for the function of all licensing duties including Taxis/Gambling/Alcohol Licensing. Some LA's share this database with other Departments inhouse. There is little sharing of information between LAs meaning there are 22 separate depositories for information on licensed drivers, vehicles and operators. Similarly LAs are currently required to hold public registers of licensed drivers and vehicles. No national platform exists for LAs or passengers to search for licensed drivers/vehicles/operators.

Rationale

Data protection and data sharing is complex without new legislation. A central database would ensure all LAs had instant access to all information on a driver, vehicle or operator which would be vital given the enforcement proposal (2 above). However, there may be other options for delivering the same outcome that are more cost effective to deliver and we will explore these assisted by consultation responses. There are also practical issues resulting from the existing arrangements LAs have with IT service providers.

Proposal 6. Dealing with England/Wales cross-border.

What currently happens

Currently the same legislation applies to taxis and PHVs in England meaning that the problems of cross-bordering are relevant in both England and Wales.

Rationale

If we introduce national minimum standards for Wales drivers, vehicles and operators could be licensed in England to lower standards and operate in Wales. We propose considering three options in the white paper to seek views on a preferred approach to limit English vehicles being predominantly used in Wales to avoid national standards.

Proposal 7. Power to set a date by which all vehicles must be ZEV.

What currently happens

LAs promote ZEV and have been involved in free trials of Electric taxis. No LA in Wales currently requires all vehicles to be ZEVs.

Rationale

ZEV Incentives and continued free trials are likely to increase the number of ZEV being licensed but they can only go so far. Having a power in legislation to set a date would complement the incentives and help to quicken the pace of change. But the two would need to go hand in hand. An all-Wales ZEV policy is unlikely to be achieved voluntarily.

Other Issues considered and rejected

National licensing fee structure – (clarity and uniformity of method)

What currently happens

All LAs set fees on a cost recovery basis from the previous financial year. The fees LAs set individually are open to legal challenge

Rationale

Rural v Urban / Number of drivers/vehicles and staff required to provide a service will all contribute to the costs. Consistent fee structures throughout Wales will be difficult and would likely require some sort of redistribution of fees recovered to reflect variations in things like economies of scale. We do not intend to legislate for national fees, but we anticipate more standardisation of fees as a result of the same standards applying across the board with limited scope for variation. The Wales Licensing Expert Panel has already agreed a toolkit for setting licensing fees which will help with consistency. Furthermore, there would still be scope for LAs to work together to try and seek greater standardisation of fees such as at a regional level.

National fare structure

What currently happens

A local decision making process is currently in use, drivers and companies may request an increase of fares from the LA. The process for reviewing the fares requires local consultation and consideration of local costs e.g. fuel/ parking charges/ local maintenance and running costs. Likely to vary in city and rural areas.

Rationale

To set a national table of fares would be challenging. Requires reducing city prices or increasing rural prices for passengers. This would remove decision making from LA and reviewing the table of fares would be challenging each time a review is required. There is however scope for a toolkit to be agreed for use across Wales and this will be explored with the Wales Licensing Expert Panel.

Issue for discussion

Potential removal of provision allowing LAs to introduce taxi quantity restrictions

Current law allows local authorities discretion to refuse the grant of a taxi vehicle licence if the local authority is satisfied that there is no significant unmet demand for taxis within the area. Cardiff Council is the only local authority in Wales that imposes such a restriction and the Council is reviewing its policy.

The Competition and Markets Authority is clear that quantity restrictions may cause harm to passengers through reduced availability, increased waiting times and may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles. Similarly the Department for Transport recommend not to impose limits as best practice guidance.

When a Council introduces Hackney Carriage limits, the effective value of each existing licence can be tens of thousands of pounds. This means that a new driver seeking to enter the market will pay a large fee towards a vehicle which is already licensed rather than consider investing in new vehicles such as EV.

Options that are under consideration:

- 1) Status quo – allow LAs to introduce quantity restrictions where there is evidence of unmet demand and accept the risk of secondary markets developing as now for licensed vehicles
- 2) Leave ability to set restrictions as currently but make vehicle licences non-transferable where such limits are introduced
- 3) Remove the ability for LAs to set limits