
Secretariat memorandum

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Agenda item: 5

CAC038

Drafted: 18.09.12

Matters Arising

1 Purpose of report

- 1.1. To record matters arising from previous meetings of the Consumer Affairs committee and give progress on their resolution.

2 Recommendation

- 2.1. That the report is received for information.

3 Information

- 3.1. The table at Annex A indicates the current position in relation to matters arising from previous meetings of the Committee.
- 3.2. Updates for inclusion in this report were invited five working days in advance of the meeting, in writing to the Committee Services team, rather than in person at the meeting.

4 Equalities and inclusion implications

- 4.1. None – report is for information only.

5 Legal powers

- 5.1. Section 248 of the Greater London Authority Act 1999 places upon London TravelWatch (as the London Transport Users Committee) a duty to consider - and where it appears to the Committee to be desirable, to make recommendations with respect to - any matter affecting the functions of the Greater London Authority or Transport for London which relate to transport (other than of freight). Section 252A of the same Act (as amended by Schedule 6 of the Railways Act 2005) places a similar duty upon the Committee to keep under review matters affecting the interests of the public in relation to railway passenger and station services provided wholly or partly within the London railway area, and to make representations about them to such persons as it thinks appropriate.

6 Financial implications

6.1. None – report is for information only.

Annex B

No	Date	Minute	Action	London TravelWatch Owner	Status	Complete
1	15.9.10 15.06.11 20.09.11	7 5.1 C2	To consider as part of next year's review of performance targets minor amendments to feedback questionnaire to enable more direct comparisons between London TravelWatch and Passenger Focus	-	Work on revising the customer satisfaction questionnaire is underway and progress will hopefully be reported at the next meeting.	In progress
2	17.11.10 14.02.12	8 5.1	Seek editorial in targeted publications to increase complaints from under-represented passengers.	Communications Officer	An article has been sent to various publications in light of the experiences at the Paralympic Games. This activity has been absorbed into the Communications Officer's workstream and so will no longer be reported on as part of this report.	Complete
3	30.11.10 15.06.11 14.02.12 08.05.12	7 5.3 5.2 5.1	To continue to encourage the Public Carriage Office to put more posters in London on taxi fares (especially at airports).	Policy Officer	The PCO is unwilling to take this forward despite requests by London TravelWatch. Officers recommend ceasing work on this for the time being as it no longer represents best use of resources.	Complete
4	20.09.11	5.7	Ensure that lost property details are included on London Buses posters.	-	New arrangements for lost property are currently being implemented by TfL. Once these have been introduced, better information can be put on buses.	In progress
5	30.11.11	5.1	Brief the Chair on London TravelWatch's contribution to the Law Commission's investigation into taxi and private hire vehicle reform.	Director, Policy & Investigation	London TravelWatch's submission to the Law Commission's review is attached to this report.	Complete
6	30.11.11 14.02.15	5.3 5.7	Add the text from the How to Complain leaflet to the website as plain text in addition to pdf.	Communications Officer	This has now been completed.	Complete

No	Date	Minute	Action	London TravelWatch Owner	Status	Complete
7	14.02.12	7	Review previous letter to Ofcom on use of non-geographic phone numbers and reissue.	Executive Assistant	The consultation on unbundling and simplification of freephone and non-geographic numbers is closed and further correspondence is not being sought.	Complete
8	14.02.12	C1	Circulate Jenni Borg's presentation on ticketless technologies to members.	Executive Assistant	This has now been circulated to members.	Complete
9	08.05.12	10	Review use of fixmytransport.com and its relationship to London TravelWatch and TfL.	Executive Assistant	This is on the agenda for consideration at this meeting.	Complete

5 September 2012

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

Dear Sirs

Reforming the law of taxi and private hire services

London TravelWatch is the statutory watchdog set up by Parliament to represent transport users in London. We welcome the investigation into the legislation of taxis and private hire vehicles and the invitation to contribute.

London TravelWatch responses to the Law Commissions questions

Provisional proposal 1

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

London TravelWatch supports this proposal. We recognise that there are two distinct markets for individual passenger transport provided presently by taxis and private hire vehicles.

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

London TravelWatch supports this proposal.

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.

London TravelWatch supports this proposal.

Question 4

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

No. many of the issues that apply to taxi hire also apply to pedicabs. We particularly want to see pedicabs licenced.

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.

London TravelWatch supports this proposal. We do not want stretch limos, for example, to benefit from, for example, stopping dispensations, when they are not actually public transport.

Provisional proposal 6

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

London TravelWatch supports this proposal.

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.

London TravelWatch supports this proposal. We do not want novelty vehicles to benefit from, for example, stopping dispensations, when they are not actually public transport

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.

London TravelWatch supports this proposal.

Question 9

How, if at all, should the regulation of taxis and private hire deal with: (a) carpooling; and
(b) members clubs?

This group of services does not appear to be public transport and should be excluded from the privileges of public transport providers. The women only taxi provider is an exception as it would appear to be public transport.

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.

London TravelWatch supports this proposal

Provisional proposal 11

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

This group of services does not appear to be public transport and should be excluded from the privileges of public transport providers.

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?

This group of services would be public transport if contracted by public bodies for the public to use and should not be excluded from the privileges of public transport providers. In contrast private contracts are effectively chauffeur services and so should not benefit from the privileges of public transport providers.

Provisional proposal 13

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

London TravelWatch supports this proposal. We know drivers abuse the lack of parking enforcement on railway forecourts, for example. It would be good if taxis and PHV's could be enforced against if they ignored parking rules. Similarly if taxis and PHVs are in public places on duty they should abide by the rules'

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?

Taxis and PHV regulation should protect airport passengers from loopholes of being picked up on private land. Passengers do not recognise these boundaries, nor should regulation.

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.

London TravelWatch supports this proposal. The distinction between Taxis and PHV's can also be defined by the contract that a PHV controller has with the caller that includes assigning a vehicle for a specific journey and retaining the record of the journey.

Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

Passengers want to be able to call or hail a Taxi from the street. If a nearby Taxi responds to a tweet rather than a wave of the arm, what is the difference? We think

tweeting for a Taxi would be beneficial for passengers. This would be separate to pre-booking through a particular controller.

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”? London TravelWatch supports this proposal. Passengers do not recognise the boundary between the street and other public places.

Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

London TravelWatch supports this proposal. We have anecdotal evidence and personal experience that this rule is ignored by Taxi drivers on their way home at the end of a shift or they avoid picking up wheelchair using passengers. We also know of cases where blind or partially sighted passengers have been refused a taxi journey because they are travelling with an assistance dog. In cases where there is a medical reason for a driver refusing to give a ride they should be obliged to organise an alternative taxi. We would like to see higher penalties for non-compliance.

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.

London TravelWatch supports this proposal.

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.

No view.

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.

London TravelWatch supports this proposal.

Provisional proposal 22

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

London TravelWatch supports this proposal.

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 “prebooked” and did not otherwise lead to customer confusion?

In London taxi is very well understood. This proposal would water down that understanding and therefore would not be supported.

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

London TravelWatch supports this proposal.

Provisional proposal 25

National safety standards, as applied to taxi services, should only be minimum standards.

London TravelWatch supports this proposal.

Provisional proposal 26

National safety standards, as applied to private hire services, should be mandatory standards.

London TravelWatch supports this proposal.

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.

London TravelWatch supports this proposal.

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?

Yes. London TravelWatch supports this proposal.

Question 29

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

No view

Question 30

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

No view

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.

London TravelWatch DOES NOT support this proposal. We want to see standards of access set by Government. In London all Taxis are accessible. We would like to see a proportion of PHV's in large companies being accessible to wheelchair users.

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.

London TravelWatch supports this proposal.

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?

No view

Provisional proposal 34

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.

London TravelWatch supports this proposal.

Question 35

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

London TravelWatch supports this proposal.

Question 36

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

Yes. For example a particular problem in London is PHV drivers ignoring parking regulations knowing that is very difficult for the authorities to ticket them. This can cause real problems of congestion. A typical condition would be that an operator must declare where vehicles awaiting work are to stand.

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?

This should be a statutory requirement. Passengers do not recognise governmental boundaries. However, we would not want London standards to be watered down in order that they are compatible with areas outside London.

Provisional proposal 38

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

Yes, London TravelWatch supports this proposal.

Provisional proposal 39

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

London TravelWatch supports this proposal.

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?

This is an operational matter. Passengers want a vehicle to be available as quickly as possible at any time of the day and this may help. Therefore, London TravelWatch supports this proposal.

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.

This is an operational matter. Passengers want a vehicle to be available where they are. Therefore, London TravelWatch supports this proposal.

Provisional proposal 42

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

This is an operational matter. Passengers want a vehicle to be available where they are. Therefore, London TravelWatch supports this proposal

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.

London TravelWatch supports the regulation of maximum taxi fares. It should be a requirement that the fare is declared to the passenger before the journey.

Question 44

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

No. passengers understand the charging regime of taxis. Although taxi fares are a maximum fare it is generally accepted that the metered fare is the fare. This would confuse passengers and be unfair.

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?)

London TravelWatch believes that the requirements for fit-and-proper person should be established nationally to ensure consistent consumer protection nationally.

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.

London TravelWatch DOES NOT support this as vehicle owners can exert a controlling influence on the culture and activities of local taxi and private hire operations. This can sometimes be a negative influence and therefore an owner should be a fit-and-proper person.

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?

We have no view on which level these standards are set, but they are needed to be set at some level.

Provisional proposal 48

Operator licensing should be retained as mandatory in respect of private hire vehicles.

Yes. The role of the PHV operator is as important in maintaining the confidence of passengers as the driver. Without a good operating regime and record keeping the safety and security of passengers would be compromised

Question 49

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

London TravelWatch believes radio circuits should be included in operator licensing because of the controlling nature of their activity and influence on the culture and activities of drivers.

Provisional proposal 50

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

London TravelWatch think believes the safety and security of passengers is linked to the operator dispatching a driver for a particular job. The record keeping of passenger journeys is important to safety and security for passengers. This link could be lost if intermediaries are used

Question 51

Should “fit and proper” criteria in respect of operators be retained?

Yes. The role of the PHV operator is as important in maintaining the confidence of passengers as the driver. Without a good operating regime the safety and security of passengers would be compromised

Provisional proposal 52

Operators should be expressly permitted to sub-contract services.

Yes, London TravelWatch supports this as long as all of the control and record keeping regimes are in place.

Question 53

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?

Yes.

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

London TravelWatch supports this proposal. Limiting the numbers of taxis would not benefit passengers.

Question 55

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

No view

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?

No view

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.

In principal taxis should be accessible to all, In London this is the case. However we recognise the practicability of this elsewhere and so would support a proportion of the fleet being accessible. Therefore a separate licence category would be a good thing and could be used to encourage entry into the market of accessible vehicles where presently there are too few.

Question 58

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

Yes

Question 59

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

None. This will happen either by regulation or incentive. A balance of the two is most likely to be appropriate.

Provisional proposal 60

We do not propose to introduce national quotas of wheelchair accessible vehicles.

We agree as a national quota would not necessarily respond to local demand. For example the demographics of one area may be made up of a much more elderly population. However a zero quota of accessible vehicles in an area would not be acceptable.

Provisional proposal 61

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

London TravelWatch supports this proposal.

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.

London TravelWatch has been pressing Transport for London to introduce a poster describing the complaints procedure in a prominent position for some years. This was originally a response to safety concerns, but has a general value. TfL have said that they will be progressing this after the Olympics

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?

Yes. No passenger should be ignored by a taxi driver. There is already an obligation to stop for anyone that hails a taxi in London, but this is ignored sometimes. A higher penalty is required.

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

Yes

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”.

From our work with the London Transport Community Safety Partnership we know from the police that the penalty for touting is too low. An offender, if caught, is fined too little and then re commits the offence. The penalties for touting should be higher.

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)*

London transport would welcome this, though we do not know about the practicalities.

Question 67

Should licensing authorities make greater use of fixed penalty schemes and if so how?

Greater use of enforcement powers is supported by London TravelWatch.

Provisional proposal 68

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

London TravelWatch supports this proposal. Passengers do not recognize geographical boundaries.

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?)

London TravelWatch supports this proposal. Passengers, and those that break the rules, do not recognise geographical boundaries, nor should enforcement.

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.

London TravelWatch supports this proposal.

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

London TravelWatch supports this proposal.

Provisional proposal 72

Appeals should continue to be heard in the magistrates' court.

This is a special area of law. Consideration should be given to empowering local traffic commissioners to hear appeals.

Question 73

Should there be an onward right of appeal to the Crown Court?

This is a special area of law. Consideration should be given to empowering local traffic commissioners to hear appeals. We have no view as to where appeals should be heard after that.

Yours sincerely

Vincent Stops
Policy Officer