

REPORT TO: Licensing Sub-Committee

MEETING DATE: 14 February 2013

BY: Executive Director (Support Services)

SUBJECT: Taxi & Private Hire Car Licensing - Proposals for Change

1 PURPOSE

- 1.1 To advise the Sub-Committee of the scope of the current Scottish Government Consultation on proposed changes to taxi and private hire car licensing.

2 RECOMMENDATIONS

- 2.1 That the Sub-committee consider the questions raised as part of the consultation and consider the general tenor and direction of the Council response.
- 2.2 That the Sub-committee accept a further report to the next meeting with a view to approving the proposed response as formulated taking account of the views expressed relative hereto.

3 BACKGROUND

- 3.1 The Scottish Government launched a consultation on proposals to reform taxi and private hire car licensing in November 2012. The consultation is open for responses until 15 March 2013. The consultation is aimed at ensuring that a robust and modern scheme of licensing is in place which is able to address concerns about the influence of organised crime on the trade, and also to address concerns about variability in how legislation is interpreted and enforced.
- 3.2 The Scottish Government acknowledge that some of their proposals will require changes to primary legislation when an appropriate slot in the legislative timetable is available, while others are non-legislative. The proposals within the consultation are split into four broad categories, namely-
- (1) the structure of the licensing regime;

- (2) Interpretation;
 - (3) Enforcement and compliance; and
 - (4) New areas of licensing.
- 3.3 In respect of the structure of the regime, the proposals include allowing Councils to restrict the number of Private Hire Cars in their area; to allow Councils to require training of PHC drivers (in knowledge of their area); to convene a working group on overprovision studies; to ensure that drivers used on contract are included within the licensing regime (closing the 24 hour exclusive hire exemption); convening a working group to consider the creation of updated national mandatory licensing conditions to improve consistency on a national basis; to restructure the Booking Office requirements to remove current exclusions for businesses with fewer than four cars and with no physical “premises”.
- 3.4 On Interpretation, the proposals are that the focus of the Police should be refocused to reflect the duty imposed on them by the alcohol licensing regime relative to reporting to the licensing authority; to introduce licensing objectives such as are used in alcohol licensing to Civic licensing areas; to produce guidance on the application process; to put the onus of proof of the “fit & proper” test onto the applicant; to support the development of a licensing policy network.
- 3.5 On Enforcement and compliance, the proposals are that options be explored to enhance enforcement, including a potential statutory basis for licensing enforcement officers.
- 3.6 The consultation does not propose new areas of licensing per se, but contains a number of questions relating to the issue of “special event vehicles” which do not necessarily fall within the ambit of the current regime.
- 3.7 The list of questions raised in the Consultation, relating to the various proposals outlined in paragraphs 3.3- 3.6 above, is attached hereto. There are a total of 30 questions (one of which was inadvertently omitted from the summary list of questions but has been added at the bottom for completion.)
- 3.8 The Sub-committee are invited to give their views and comments on the proposals and the questions asked by the consultation relative thereto, from which the Corporate Legal Advisor will draw up a response on behalf of the Council. It is proposed that the resulting response would be presented to the next Committee, which is scheduled for just prior to the closing of the consultation period, for any final additions or adjustments before the response is issued.

4 POLICY IMPLICATIONS

- 4.1 None. As Licensing Authority, the Council has the power to regulate licensed activities and conditions relative thereto. It has the duty to

respond to, address and enforce any relevant changes in national legislation relative to the licensing regime.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
6.2 Personnel - None
6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Scottish Government Consultation, November 2012

AUTHOR'S NAME	Morag Ferguson
DESIGNATION	Corporate Legal Advisor
CONTACT INFO	Ian Forrest, Senior Solicitor, x7389
DATE	4 February 2013

CONSULTATION QUESTIONS

Please provide examples/evidence for your answers. Of particular interest will be information on the impact to business and regulators as a result of proposed changes including information on the additional costs of any changes proposed, the impact on competition and impact on micro and small businesses. Solutions to mitigate any negative impacts are also welcome.

1. Should local authorities have the power to restrict numbers of private hire cars?

Yes No

Comments

2. What issues would arise from allowing local authorities to restrict numbers of private hire cars and how could these be resolved? For example, would consideration need to be given to setting percentages for certain vehicle types?

Comments

3. Training:

(a) Is it necessary to specifically allow local authorities to require training of private hire drivers? What evidence is there of local authorities already doing this with their current powers?

(b) What might that training include? Should this be specified in legislation?

Comments

4. What alternative options are there – legislative or non-legislative – that could improve the process of justifying a restriction on numbers of vehicles (taxis and/or private hire cars)?

Comments

5. Inclusion of contract work in licensing:

a) How would the inclusion of contract work within licensing affect:

- i) Those tendering and awarding contracts?**
- ii) Licensing authorities?**
- iii) Those providing driving services which are currently unlicensed?**
- iv) Passengers using a contracted service?**

b) How could issues be resolved?

Comments

6. Are there any issues that need to be considered with reference to operations not run for profit? (Such as voluntary transport arrangements that are run basically as charitable activity, which will continue to be excluded from licensing.)

Comments

7. Updating licensing conditions:

(a) Would the use of a combination of mandatory and recommended conditions achieve an appropriate balance between national consistency and local context?

(b) Do different levels of licence (driver, vehicle, booking office) require a different combination of mandatory and recommended conditions?

(c) What issues of national concern could be included in a set of mandatory conditions?

(d) Who should be involved in this work? (Please also indicate if you would be willing to be involved).

Comments

8. Is the extension of the Booking Office Order a proportionate response to concerns at some companies circumventing this layer of licensing?

Comments

9. What specific measures would assist the enforcement of a licensing regime that covers businesses using mobile/smart phone technology?

Comments

10. Role of police:

a) How might the role of the police within the 1982 Act be refocused?

b) What would be an appropriate timeframe for police to respond to a request for information?

c) How well defined should the information be that they should submit?

Comments

11. Licensing objectives:

a) Is the introduction of statutory licensing objectives a useful tool for local authorities?

b) Who should be involved in the creation of the licensing objectives?

Comments

12. Should one set of licensing objectives apply to all Civic Government regimes or be specific to taxi and private hire car licensing?

Comments

13. Guidance on licence application process:

a) Is guidance an appropriate response to this issue?

b) Are there other elements this specific guidance should cover?

c) Should a power be introduced to the 1982 Act (similar to the Licensing (Scotland) Act 2005) to make regulations on hearings procedures?

Comments

14. Do you agree improved Best Practice Guidance is required?

Comments

15. Requiring applicant for any level of licence (driver, vehicle, booking office) to prove they are 'fit and proper':

(a) What would be the effects on the system of requiring applicants to prove they are 'fit and proper'?

(b) What would be a suitable set of requirements for applicants to meet?

(c) Who would be responsible for setting these?

Comments

16. Develop licensing policy network:

(a) Who should be part of this network?

(b) Could this network be used to share information on licence refusals, suspensions and revocations?

(c) What format could a policy network take? E.g. physical meetings, shared web space?

Comments

17. Taking into account the proposals on the Booking Office Order, updated conditions and contract work and proposals on the licence application process, do you think that these will assist in tackling the presence of organised crime in the industry?

Comments

18. Is there sufficient access for disabled people to taxi and private hire car services? What would make it easier for everyone to access taxis or private hire cars?

Comments

19. What measures or support could be implemented that would increase the availability of wheelchair accessible taxi and private hire vehicles, particularly outside of Scotland's cities?

Comments

20. As well as the specific requirements in relation to taxis and private hire vehicles in sections 160 to 173, the Equality Act 2010 places a general duty on public bodies such as local authorities to advance the equality of opportunity of disabled people. Do you believe that this has had an effect on the provision of wheelchair accessible taxi and private hire vehicles?

Comments

21. Are there any other issues related to taxi and private hire car licensing for people who share other protected characteristics under the Equality Act 2010 (age, race, religion or belief, sex, sexual orientation, gender reassignment, pregnancy or maternity)?

Comments

22. Statutory Licensing Enforcement Officer:

a) How would a statutory requirement for local authority enforcement officers work in the context of Civic Government licensing?

b) What would be the potential pitfalls?

Comments

23. Do you know of licensing authorities that currently licence special events vehicles under the 1982 Act?

Comments

24. What prevents those authorities who don't licence special events vehicles from doing so?

Comments

25. Does this issue require a national response and why?

Comments

26. What form should a national response take?

Comments

27. What effect, if any, would the proposal to bring contract work within the taxi and private hire car licensing regime have on the operation of special event vehicles?

Comments

28. How would the weddings exemption within the 1982 Act affect any attempt to specifically licence special events vehicles?

Comments

29. Do you have any other information or comments related to taxi and private hire car licensing not covered in the consultation document?

Comments

* Are there other solutions to creating increased enforcement/compliance capacities eg taxi marshalls at night, who should provide/pay for these?

