

Taxis and private hire vehicles - informal targeted consultation

Private Hire Reform Campaign (PHRC) response

Proposal 1:

The first proposal is to allow PHV operators licensed in England (outside London) and Wales to sub-contract bookings to an operator licensed in a different district. London PHV operators are allowed to sub-contract to an operator outside London so it would be a case of establishing a more level playing field.

Question 1a:

Do you regard this as a measure which would reduce a burden on the PHV trade? If not, what effect do you think it would have, and why?

Response to 1a:

The PHRC not only agrees this proposal would reduce a burden / remove an inherently unfair geographic restraint of trade, but that it is a very small legislative change that will transform the way the private hire trade operates and create employment, improve responsiveness to customer bookings and reduce CO2 vehicle emissions by reducing the distances travelled by PHVs without carrying passengers.

Private hire operators in England (outside London) and Wales are not only incapable of competing with operators in London, because of the current restraint of trade, but neither can they compete with unlicensed and unregulated businesses in Europe, or elsewhere in the world, who utilise modern technologies to secure PHV bookings, which they intend then to sell to PHV operators in the UK. By being able to sub-contract, private hire operators will be able to offer a comparable service to those operating abroad.

The PHRC respectfully suggests this proposal would be best achieved by adopting, with appropriate modification, the wording of section 5(1) of the Private Hire Vehicles (London) Act 1998 by inserting a new section 56(2A) into the Local Government (Miscellaneous Provisions) Act 1976 in the following terms:

56(2A) “another operator” means an operator licensed anywhere in England and Wales under section 55 of this Act, or section 3 of the Private Hire Vehicles (London) Act 1998; or an operator in Scotland.

Question 1b:

Could you provide any evidence about the impact this proposal would have, whether by reference to a single operator in a case-study type way, or by reference to a global figure of how the trade will benefit in financial terms by being able to sub-contract across borders?

Response to 1b:

Whilst it is difficult to quantify the global job creation that would result from allowing cross-border sub-contracting, because such figures can only be estimated and are generally commercially sensitive, the PHRC believes the number of driver and booking office jobs that would be created within 12 months of implementation of the proposed change to private hire sub-contracting law would be greater than in any other employment sector.

The Department for Transport statistical table TAXI0103: Taxis, private hire vehicles and their drivers: England and Wales by licensing region, 31 March 2011, available on The National Archives website at <http://webarchive.nationalarchives.gov.uk/20120216232754/http://www.dft.gov.uk/statistics/tables/taxi0103/> (last visited 16 January 2014) shows the total number of licensed drivers in England increased by 13,900 between 31 March 2009 and 31 March 2011.

During that period, six private hire companies from Tyneside, Nottinghamshire, Merseyside, Birmingham, West Midlands and Kent created about 300 new driver jobs and about 24 new booking office jobs. Between them, they predict they would create about 1,944 new jobs (1,800 driver jobs and 144 booking office jobs) within only 12 months of the proposed change to private hire sub-contracting laws (six times the number they created between 2009 and 2011).

As the ratio of booking office staff to drivers is about 8:100 in a computerised booking office (and higher in a non-computerised booking office), if 25,000 driver jobs were created by the proposed change to the law (and the natural growth in the industry), this would create a further 2,000 booking office jobs within 12 months.

Whilst it is not seriously suggested the proposed change in law would create a further 90,072 jobs (83,400 driver jobs and 6,672 booking office jobs, i.e. six times the total increase between 2009 and 2011), the potential for job creation is immense.

Proposal 1c:

Do you see any adverse consequences arising from the proposal? If so, please explain.

Response to 1c:

Whilst the PHRC does not foresee any adverse consequences arising from this proposal, it would like to take this opportunity to counter those that may be advanced by others.

The introduction of cross-border sub-contracting will not result in the demise of small private hire companies. Even in London, where Addison Lee, the Europe's largest private hire company is based, the statistical table TAXI0104: Taxis, private hire vehicles and their drivers: England and Wales by licensing area, 31 March 2011, available on The National Archives website at <http://webarchive.nationalarchives.gov.uk/20120216232754/http://www.dft.gov.uk/statistics/tables/taxi0104/> (last visited 16 January 2014), shows there were another 3,110 licensed private hire operators in London in 2011.

The success or failure of private hire companies, as with every other business, is not determined by the business, but by the customer - some want to use large companies that are able to meet their travel needs 24/7 over a large geographic area, whereas others want a more personal service, because they get the same driver every time.

Indeed, small private hire companies are more likely to attract cross-border sub-contract work from larger private hire operators in other districts, because they are less likely to be able to compete for the customer's future business. Commercially, a large private hire company would not sub-contract work to another large private hire company that could provide a comparable service to the customer.

For longer journeys, such as those commonly referred to as airport transfers, there is likely to be a great deal of cross-border sub-contracting between large and small private hire companies in different areas, because all private hire companies will be likely to seek a complimentary booking from another operator, so that they are paid for carrying passengers to and from the airport, as opposed to only to or from the airport.

Likewise, private hire companies that provide specialist vehicles, such as executive cars or minibuses capable of carrying multiple wheelchair passengers, which tend to be small companies, are also likely to attract cross-border sub-contract work from other operators.

Proposal 2:

The second proposal seeks to address the law as stated in the case of *Benson v Boyce*. It is to allow private hire vehicles licensed by a local authority outside London to be driven by a person (e.g. a family member) who does not hold a PHV driver licence when the vehicle is not being used for private hire work i.e. when it is “off-duty”. This is the position in London, so again, it would be a case of establishing a more level playing field as between London and the rest of England and Wales.

Question 2a:

Do you regard this as a measure which would reduce a burden on the PHV trade? If not, what effect do you think it would have, and why?

Response to 2a:

The PHRC agrees that allowing someone who does not hold a PHV driver licence to drive a PHV when it is not being used for private hire work would bring equality with the private hire trade in London (although there is some uncertainty as to whether that is the legislative position or merely the approach adopted by Transport for London) and remove an unnecessary burden.

In that regard, section 12 of the Private Hire Vehicles (London) Act 1998 seems to have the same effect as section 46(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 with which the case of *Benson v Boyce* was concerned.

The PHRC respectfully suggests that any legislative change, which may be made in relation to this proposal in respect to PHVs outside of London, should also be applied to London in order to ensure consistency across the whole of England and Wales.

Despite relating to question 2b, the PHRC would like to respectfully suggest that, in order to discourage abuse and to enhance the ability of police and councils to take effective enforcement action, an unlicensed driver of a PHV carrying passengers should be deemed to have committed an offence, unless the driver can prove on the balance of probability that the passengers are not fare-paying passengers.

Question 2b:

Could you provide any evidence about the impact this proposal would have, whether by reference to a single owner-driver who, for example, had to acquire a second vehicle as the family car or by reference to a global figure of how the trade will benefit in financial terms by being able [to] allow others to use their vehicle when it is “off-duty”?

Response to 2b:

Whilst it is undoubtedly the case that many owner-drivers have acquired a second vehicle as the family car, it is also undoubtedly the case that many PHVs are currently driven illegally by someone who does not hold a PHV driver licence when the vehicle is off-duty.

Some councils have endeavoured to prevent unlicensed people from driving PHVs when they are off-duty by refusing to grant a PHV licence, if the certificate of insurance shows that an unlicensed person is also insured to drive the vehicle. By way of examples, the PHRC believes that Broxtowe Borough Council (Nottinghamshire), Teignbridge District Council (Devon), Sedgemoor District Council (Somerset) and Kirklees Council (Yorkshire) are a few of those councils, although there are likely to be a great many more.

In Birmingham, where the city council is very proactive in its enforcement, many PHV owner-drivers own a second car, because they are in no doubt that, if they allowed an unlicensed person to drive their PHV, the city council would prosecute them and the driver and may also revoke the driver’s PHV driver licence.

By way of further example, until his recent retirement, one PHRC member company had a PHV owner-driver who surrendered his PHV licence every Friday afternoon and collected it every Monday morning from the council in order that his wife could drive the PHV / family car when they went away each weekend with their touring caravan. This was not only terribly inconvenient to the PHV owner-driver in question, but also placed an administrative burden on the city council for which it could make no direct charge.

In other areas, where councils either undertake little enforcement and / or do not seek to relentlessly enforce a provision that does not undermine public safety, it appears likely there is less second car ownership and more illegal use by unlicensed drivers.

As well as family members, PHVs are, or could often be driven by others without a PHV driver licence, such as: garage mechanics; administrative staff taking licensing applications to, or collecting licences from councils; accident management company delivery drivers, delivering replacement PHVs to licensed PHV drivers.

<p>Question 2c:</p> <p>Do you see any adverse consequences arising from the proposal? If so, please explain.</p>	<p>Response to 2c:</p> <p>As with the first proposal, the PHRC does not foresee any adverse consequences arising from this proposal, but would like again to take this opportunity to counter those that may be advanced by others.</p> <p>It seems most likely that others will assert that any such change in the law would lead to widespread illegal plying for hire (as if a hackney carriage) by unlicensed drivers and unlicensed drivers illegally undertaking private hire work. The PHRC does not accept that a change in the law would have such an adverse effect. Realistically, if someone is inclined to illegally ply for hire and / or undertake private hire work when they are not licensed to do so, they are likely to be doing so now!</p> <p>If such illegal activity is taking place, the police and councils should be proactive in tackling it now. If licensing officers were to spend less time on administration - an issue that is at the core of proposal 3 - councils would be better able to use their limited resources to undertake more enforcement, which would be welcomed by all law abiding members of the hackney carriage and private hire trades and better serve the travelling public.</p>
<p>Question 2d:</p> <p>Do you have any feel for what proportion of PHV owners currently own second cars. If the legislation was changed in this way, how many would no longer want to have a second car - i.e. how many would use the PHV as the “family car”?</p>	<p>Response to 2d:</p> <p>Even with a national membership, the PHRC does not have a feel for what proportion of PHV owner-drivers currently own second cars, because the necessity to own a second car is directly influenced by the attitude of the council by which they are licensed.</p> <p>However, one PHRC member company whose PHV owner-drivers have a high proportion of second car ownership, surveyed all 140 of their PHV drivers and the unanimous response of the 90 who replied was that they agreed this would remove an unnecessary burden and have significant financial benefits for them and their families.</p>

Proposal 3:

The third proposal is to make it explicit in the legislation applying to taxis and PHVs outside London that taxi and PHV driver licences should be issued for a standard period of three years (and PHV operator licences for five years) and licences should only be granted for shorter periods in the circumstances of an individual case (e.g. probation / monitoring or where the driver asks for a short-term seasonal licence).

Question 3a:

Do you regard this as a measure which would reduce a burden on the taxi and PHV trades? If not, what effect do you think it would have, and why?

Response to 3a:

Whilst the PHRC agrees that this would reduce a burden on the taxi and PHV trades, there is a real concern that more councils will set fees at levels that preserve the council's fee revenue, even though doing so would contravene the statutory provisions of sections 53(2) and 70(1) of the Local Government (Miscellaneous Provisions) Act 1976.

Question 3b:

Could you provide any evidence about the impact this proposal would have, particularly in terms of cost-savings for drivers and operators?

Response to 3b:

Across the whole of England and Wales there are about 300,000 licensed taxi and PHV drivers, with about one third of them being licensed in London; and about 16,000 private hire operators, with about one fifth of them in London.

In the absence of any data, even if half the drivers were currently licensed annually at an average cost of £100 per annum, the total saving to licensed drivers over a 3 year period would be £30 million.

Whilst it is more difficult to quantify the potential savings to private hire operators, because licences are commonly issued for 1, 3 and 5 year periods and the fees vary dramatically for no good reason, if one were to assume that about 5,000 renew licences annually at an average cost of £1,000 each and a further 5,000 renew every 3 years at an average cost of £2,000 each and the fee for a 5 year licence ought to be no more than the fee for an annual licence (an issue to which we shall return later), the saving to private hire operators over a 5 year period would be £25 million.

Question 3c:

Do you see any adverse consequences arising from the proposal? If so, please explain.

Response to 3c:

The PHRC does not believe that there should be any adverse consequences arising from this proposal, but as referred to above, is concerned that councils in England and Wales will set fees at levels intended to preserve their fee revenue, even though doing so would contravene the aforementioned provisions of the 1976 Act.

In the circumstances, the PHRC respectfully suggests that in relation to driver licensing, section 53(2) be amended to: (i) expressly state what a council may include in the fee it proposes to charge for the grant of the licence; and (ii) that councils should also be required to follow the procedure for setting vehicle and operator licence fees under sub-sections (3) to (5) of section 70 of the said 1976 Act.

Whilst it is accepted that section 70(1)(c) of the 1976 Act seems to permit councils to recover “any reasonable administrative or other costs in connection with the foregoing and the control and supervision of hackney carriages and private hire vehicles” this often results in councils incorporating a proportion of the costs of undertaking vehicle enforcement in private hire operator licence fees. The PHRC is of the opinion that the only costs that should be chargeable by a council are those relating to the grant of the licence and checking compliance with the conditions of the licence, if any such checking is ever done (and in the experience of PHRC members, this is rarely done by councils).

If it is not feasible to also tackle the fees issue at this time (even though individual challenges by way of objection to District Auditors is very time consuming and expensive to the trade and councils), the PHRC would request that councils be required to offer driver licences for 1 and 3 year periods and private hire operator licences for 1, 3 and 5 year periods so that drivers and operators have an opportunity to opt for the cheaper / shorter duration licence.

<p>Question 3d:</p> <p>If you are in a position to offer any information about licence durations and licence fees, it would be helpful if you could fill out the following table.</p>	<p>Response to 3d:</p> <p>The PHRC is currently attempting to collate this information from council websites and will furnish this data as soon as it is available.</p>
<p>Question 3e:</p> <p>If proposal 3 was brought in, what proportion of licences do you anticipate would be of short term duration?</p>	<p>Response to 3e:</p> <p>As almost all councils have adopted the DVLA Group 2 medical standards of fitness (as recommended in the Department for Transport Best Practice Guidance), medicals are frequently required every 5 years, which does not fit well with 3 year driver licences.</p> <p>The PHRC respectfully suggests that the burden on taxi and PHV drivers could be further reduced by requiring driver licences to be issued for periods of 5 years with a requirement to renew medicals and DBS (criminal records) checks on renewal of the driver licence.</p> <p>If that further change were made, short term driver licences would only be required for drivers over 65 years of age, when the Group 2 medical standard requires an annual medical, or when a driver has a medical condition that requires more frequent monitoring.</p>