

**The Highland Licensing Committee**

**Meeting – 10 May 2016**

Agenda Item	<b>6.</b>
Report No	<b>HLC/043/16</b>

**Taxi and private hire car licensing – consultation on the impact of modern technology**

**Report by the Principal Solicitor – Regulatory Services**

**Summary**

This report invites the Committee to consider, and amend if required, the attached draft response to the Scottish Government consultation in relation to the impact of modern technology on taxi and private hire car licensing.

**1.0 Background**

- 1.1** The Scottish Government have issued a consultation document in relation to the impact of modern technology in relation to taxi and private hire car licensing.
- 1.2** Officers from Licensing, Trading Standards and Community Services have drafted a response to this consultation, a copy of which is contained in Appendix 1 of the report.
- 1.3** The last date for submission is 15<sup>th</sup> June 2016.

**2.0. Recommendation**

The Committee is invited to consider the draft response detailed in Appendix 1 and thereafter agree a final response to be returned to the Scottish Government.

Officer Reference: Michael Elsey

Date: 22 April 2016

Background Papers: Scottish Government taxi and Private Hire Car Licensing – Consultation on the impact of modern technology document

Appendix 1: Draft Highland Council response

## Annex B

### Taxi and Private Hire Car Licensing –Consultation on the impact of modern technology



#### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name: Highland Council

Phone number:

01463 785098

Address

Town House, Inverness.

Postcode

IV1 1JJ

Email

licensing@highland.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## Annex C

### 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.**

**Questions: the regulation of the taking of bookings:**

**1. Should the current booking office regime be updated and the definition of the licensed activity be amended?**

Yes  No

The introduction of modern methods of communication including mobile phones and mobile apps for booking taxis/PHC's should be reflected in the current booking office legislation. The existing legislation is primarily associated with booking offices located at physical premises. Whilst larger taxi/PHC booking office companies will probably retain the physical premises newer, smaller companies are tending to utilise the modern technology to operate their business.

**2. In what ways should the booking office regime be amended?**

Whilst it is desirable that control over the taxi booking activity is retained, if for no other reason than to ensure access to the transactional details (i.e. vehicle, driver, location of pick-up and destination, price etc), consideration should be given whether there is a need for booking activity licensing to be tied to local authority boundaries.

Technology would now allow a booking office to be located anywhere, but as long as enforcement officers from all relevant authorities can access the information they need and have a route by which they can raise concerns about the activities of those operating the booking facility and the licensing authority takes responsibility for providing a mechanism to sanction the licensee where necessary, then the principles necessary to control the activity should be satisfied.

On this basis there appears to be little sense in a booking activity operator, operating across several local authority boundaries, to be licensed by each of these local authorities.

**3 What would be the impact for local Licensing Authorities, the trade and the public ?**

Little impact for Licensing Authorities in terms of administration of the booking office licensing scheme. If the above argument is accepted then there will be an obvious impact on local authority workload and income, but with an associated reduction in costs to the trade and potentially to the public.  
However it is anticipated that enforcement in terms of identification of small non-premises booking offices may be problematic, but no more problematic than the identification of any other e-commerce activity

**4. Should the current exemption to the licensing regime for booking offices with three or less relevant vehicles be amended?**

Yes  No

HC are of the view that the current exemption for 3 or fewer vehicles should continue. This Authority has experienced very few issues relating to operations of 3 vehicles or fewer.

**5. What should the limit be amended to?**

n/a

**6. What would be the impact for local Licensing Authorities, the trade and the public?**

n/a

**7. Should the current position and status quo be maintained?**

Yes  No

See answer to question 2

**Questions: where should the taking of bookings be regulated:**

**8. If a business is taking booking, then where should it be registered? For example should it be registered in every local authority where it takes orders, or where the bulk of its business is?**

See question 2

**9. What sort of information or assistance should a business taking bookings be able to provide and to whom?**

Full details of the drivers who operate under the company booking system.  
Details of all pre-booked journeys including name of customer, date, time and start and finish locations of each journey.

**10. Do you have other concerns about where the taking of bookings should be licensed?**

Yes  No

**11. Should the current position and status quo be maintained?**

Yes  No

See question 2

**Questions: Taxi and private hire car fares and the control of fares:**

**12. Would it be appropriate for taxis and private hire cars to be required to have a taximeter ?**

Yes  No

The status quo in relation to taxis requiring to have a taxi meter fitted should continue however HC are of the view that it should not be compulsory for private hire cars to have a meter fitted. In Highland a number of PHC's carry out tours, primarily for tourists, and it is envisaged that this number will increase when the 24 hour contract exemption is removed. The cost/charge of these tours/journeys should be left to the discretion of the operator/driver. Some PHCs are used for Council contract work, including demand-responsive services on bus-equivalent fares, where the fare is set as a condition of contract, and many are used primarily for school transport contracts (along with some off-peak work). There is no benefit in requiring a taximeter in these cases.

**13. Should the Scottish Government impose the requirement of a taximeter on all taxis and private hire cars?**

Yes  No

See above

**14. Should the requirement of a taximeter for taxis and private hire cars be left instead to the discretion of the local authorities?**

Yes  No

Rather than a mandatory requirement the alternative would be for Licensing Authorities to determine whether PHC's should be fitted with meters.

**15. What would be the impact, for example additional costs, of requiring all taxis and private hire car vehicles to install and operate a taximeter. In particular could this jeopardise provision in rural areas?**

The mandatory requirement for PHC's to have a meter fitted would involve the additional cost of the operator having to purchase the meter, have it calibrated to the Council tariff and then have it checked and sealed by the Council. Within Highland there are a significant number of rural areas which principally are serviced by PHC's rather than taxis. The imposition of additional costs for purchasing and maintaining a taximeter, together with the inability to charge in excess of the tariff may make some rural PHC businesses unviable.

This would also increase costs for Council school transport and demand-responsive transport contracts, with no corresponding benefit, at a time when budgets are under pressure.

**16. Are you aware of particular problems with the charging of fares in your local area ?**

Yes  No

HC are not aware of any particular problems in relation to the charging of fares within its area.

**17. Can you suggest, or have you experienced licensing authority good practice in relation to fares?**

Yes  No

**Questions: any additional concerns or suggestions:**

**18. Do you have any additional concerns regarding the issues raised in this consultation?**

Yes  No

1. The arguments to date surrounding the use of app-based taxi booking fails to address some of the legal issues around taximeters. Taximeter is a legally defined term in both European and UK law and as the law currently stands a smart phone app-based system is not capable of meeting the

description of a “taximeter”.

If this is somehow set aside to permit such apps to be used as taximeters then it would be wise to consider how the public would be protected in the absence of the technical scrutiny normally applied to measuring systems in use for trade, which include accuracy, reliability and being designed so as not to facilitate fraudulent use.

If however recognised as something other than a taximeter, then the use of smart phone apps by PHC operators as a means of a prospective customer being provided, before he/she commits to a booking, with a clear unambiguous indication of the price to be paid for a journey, then there use can be seen as beneficial to the public.

Surge pricing, although mentioned in the main consultation document is not specifically addressed in the questions and perhaps should be.

Whilst for pre-booked PHCs, it may be argued that the PHC operator and travelling customer can safely be left to agree the price before committing to the contract and are therefore already subject to any surge pricing that market forces permit, a consumer arriving at a taxi rank and not therefore able to exercise choice to the same extent should perhaps still be protected by the taxi operator being controlled by a fixed tariff (albeit one that is tiered according to an agreed principle).

2. Whilst not directly relating to the consultation an issue has arisen with regard to the process to be undertaken in relation to the review of the taxi tariff under Section 17 of the Act. Paragraph 3 of Section 17 requires a licensing authority to “consult with persons or organisations appearing to them to be, or be representative of, the operators of taxis operating within their area”. Previously the Highland Council sought to fulfil this requirement by writing to all taxi operators in Highland, inviting them to submit their views in relation to the review. However at a recent appeal the Deputy Traffic Commissioner deemed this to be inadequate and considered that to fulfil the requirement to to “consult”, face to face meetings should have been arranged with the trade.

In view of this, guidance from the Scottish Government would be welcomed to ensure that a consistent approach is taken by Scottish Licensing Authorities in relation to how consultation with the trade should be carried out.

**19. Do you have any suggestions or are you aware of existing good practice, for addressing the issues raised in this consultation?**

Yes  No