



Llywodraeth Cymru
Welsh Government

PUBLICATION

Cabinet paper: Taxi licensing reform – white paper

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Decision required

Cabinet is asked to note the proposals to reform taxi and PHV licensing through the introduction of national minimum standards; improvements to enforcement powers; and the introduction of better information sharing between local authorities.

Cabinet is asked to note that these will be set out in a white paper which is scheduled to be published shortly.

Summary

1. Taxis and Private Hire Vehicles (PHV) play a vital role in our transport system, providing a flexible door to door service as well as the ability to integrate with public transport services. They are able to operate during hours when buses, for example, are not available, making them crucial for the night-time economy and they are disproportionately important to people with mobility difficulties. They play a key role in the provision of school, social care and non-emergency patient transport. Taxis and PHV also have a key role to play in terms of modal shift in urban and rural areas, as reliable, safe and accessible services may reduce second car use.

2. This is a rapidly-evolving, technology driven sector, yet the legislative framework surrounding it is antiquated. Whilst we want new legislation to be future proof, we cannot yet define the legislative requirements for emerging technologies such as autonomous vehicles, so the Bill focuses on a number of longstanding issues that need to be dealt with now to ensure that we have a safer, fairer and greener provision in Wales. Those longstanding issues include inconsistent standards for drivers, operators and vehicles across Wales; an inability for local authority enforcement officers to carry out enforcement activity

against drivers licensed elsewhere but operating within their area; and limited information sharing between local authorities which hampers enforcement.

3. The white paper, attached at Annex B, will be published week commencing 6 March with proposals to address these longstanding issues and to deliver the Programme for Government commitment to 'legislate to modernise the taxi and private sector and address problems of cross-bordering'. We are working with LPGU to consider the choreography of the Taxi Bill and the Bus Bill, and further advice will follow on this.

Objective of the paper

4. The proposals set out in the draft White Paper aim to deliver a safer, fairer, greener taxi and PHV provision across the whole of Wales. Currently Taxi/PHV licensing differs across Wales as each local authority sets its own licensing policies and conditions. This results in varying licensing requirements and standards across the country. This leads both to inconsistency of service and to so-called cross bordering, when taxi or PHV drivers obtain a licence in an area with lower licensing requirements and then undertake pre-booked work in towns or cities with higher demand for services.

Legislative proposals

National minimum standards

5. Efforts have already been made to bring about consistency in standards on a voluntary basis with limited success. In March 2021 Welsh Government published a harmonisation document aimed at bringing uniformity in some areas of taxi/PHV policy across Wales but these have not been adopted by all LAs.

6. The introduction of 'national minimum standards' would mean the same checks would be carried out on all drivers and operators across Wales – i.e. there would be a consistent approach to DBS, overseas criminal records checks, medicals – as well the same approach to testing of vehicles, age limits/ emissions policy and specific requirements such as rooflights for taxis only.

7. 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. We think this is crucial to addressing the issue of 'cross-bordering' in that it removes the ability of local drivers to be undercut by drivers licensed elsewhere.

8. An important element of the proposals for national minimum standards is that applicants for a licence would be required to successfully obtain a regulated qualification which will include key subjects such as: children and adult safeguarding awareness, Equality Act 2010 and disability awareness, mental health awareness, dementia awareness, Violence Against Women Domestic Abuse And Sexual Violence (VAWDASV) awareness, county lines awareness, trafficking awareness.

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

9. 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.

10. 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.

Introduction of penalty points and fixed penalty notices across Wales

11. Enforcement policy 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.

12. The main aim of introducing FPNs would be to reduce demand on the magistrate's court for some more minor offences. A penalty points scheme similarly would be restricted to minor offences and would operate across Wales. This would mean that a driver would accumulate points wherever the issue occurred.

Clearer definitions/terminology for taxis and PHVs, what can/can't do

13. One key difference between taxis and PHVs is that only the former can be hailed in the street or can use taxi ranks/stands. The current legislation struggles to identify the differences between them resulting in court cases considering 'plying for hire' offences. It can be confusing for passengers whether vehicles are available for hire or not.

14. 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. This is important for tackling issues of cross-bordering because it

would make it easier to ensure that drivers licensed elsewhere as a PHV were not undertaking activity in another area that they were not licensed to do.

Better information sharing

15. To aid enforcement, there is a need for better information sharing between LAs who currently each have their own systems in place. One way to assist this could be to have a national database but there may be other options for delivering the same outcome that are more cost effective to deliver. We will work with the Centre for Digital Public services to explore options, assisted by consultation responses.

Dealing with England/Wales cross-border

16. If we introduce national minimum standards for Wales, drivers, vehicles and operators could be licensed in England to lower standards and operate here. We propose considering 2 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.

Power to set a date by which all vehicles must be Zero Emission Vehicles (ZEV)

17. 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.

Impact

18. The proposals in the White Paper will deliver on our Programme for Government commitment to legislate to modernise the taxi and private hire vehicle sector and address the problems of cross-bordering and the vision set out in Llwybr Newydd: We want a taxi and PHV licensing system that is fit for a modern Wales, promotes safety for passengers and drivers, contributes to a cleaner environment, improves the customer experience and is accessible by all.

19. Drivers and operators will benefit from greater consistency across Wales removing some of the problems of cross-bordering by taking away the ability of PHV drivers being able to get licensed in an area with lower standards before then working elsewhere.

20. Passengers will benefit from a more consistent service that they can rely on which could in turn make them more likely to take more sustainable forms of transport knowing that they have a means to linking up with them. This will help with our modal shift targets. Importantly, all drivers will be trained on key issues including safeguarding, disability awareness, VAWDASV and county lines ensuring drivers can both provide specific assistance that might be needed as well as being eyes and ears in the community.

21. LAs will benefit from improved and more efficient enforcement powers and for those already with stringent licensing standards the introduction of national minimum standards will both bring fairness but also ease of enforcement against drivers operating in their area but having been licensed elsewhere.

22. Citizens as a whole will benefit from the gradual move to more efficient vehicles and ultimately to zero emission ones, improving air quality and contributing to climate change targets.

Communications and publication

23. It is proposed that the White Paper is published wc 6 March. Local authorities and the WLGA have been engaged over a long period of time on reform of the licensing regime and the Deputy Minister for Climate Change has met with them and the Unions to set out the rationale for the proposals that are coming. LAs and the unions suggested they were content with the proposed broad content of the white paper. Unions made clear that anything involving costs will need adequate transition time and while we have addressed what we consider to be the causes of cross bordering they would prefer strict rules limiting where PHVs operate. We think that approach would result in a less flexible and reduced provision for passengers. It is our intention to provide LAs, WLGA and the relevant unions with an advance copy of the White Paper under embargo.

24. A written statement will be issued to all Senedd members on the morning of the launch of the consultation. An oral statement is scheduled for 28 March and will provide a further opportunity to publicise the consultation and to review initial responses.

Recommendation

Cabinet is asked to note the proposals to reform taxi and PHV licensing through the introduction of national minimum standards; improvements to enforcement powers; and the introduction of better information sharing between local authorities.

Cabinet is asked to note that these will be set out in a white paper which is scheduled to be published wc 6 March.

Lee Waters
Deputy Minister for Climate Change
February 2023

Annex A: Statutory, finance, legal and governance matters

Statutory requirements

1. In developing the proposals for the White Paper and Draft Regulatory Impact Assessment consideration has been given to the goals and ways of working set out in the Well-being of Future Generations Act. Officials are engaging with Local Government officials and the WLGA.

2. As far as the Socio-economic Duty is concerned a key objective of legislative reform is to ensure that taxi and PHV provision is consistent across Wales so that all communities benefit. This will be especially important for those that rely on them at times of day when public transport is not available such as those employed in the night time economy. It will also ensure a reliable and safe provision for those that use them to access social care, education and non-emergency health appointments.

Financial requirements

3. The legislation itself will not incur costs but by creating a power to introduce national standards there will be future costs associated with developing and maintaining these standards (Welsh Government and/or another body); for local authorities in terms of adapting to the new regime; and for drivers and operators in terms of complying with the new regime.

4. Officials have drafted proposals with the intention of keeping implementation costs to a minimum. The draft RIA sets out estimates of the cost implications of implementing the proposals for:

- The taxi and PHV sector
- Local authorities; and
- The Welsh Government

5. Officials expect to get a clearer idea of the implementation costs through the consultation process. With each local authority working to different standards at the moment the costs to industry will vary across Wales, i.e. where standards are already high, there is likely to be a more limited/no increase in cost for the sector.

6. Additional costs for the taxi and PHV sector may arise as follows:

- National standards may give rise to additional costs for taxi/PHV drivers, operators and vehicle proprietors in some parts of Wales where new licence conditions will apply: For example, mandatory national regulated training, vehicle age or emissions requirements and mandatory rooflight wording.
- Faster transition to zero emission vehicles may result in additional costs for vehicle proprietors, if Ministers use the powers proposed in the Bill. The extent of this cost would depend on when the powers are used and the state of the market at the time.

7. Although costs for the taxi and PHV sector are likely to increase, achieving a consistently high standard across Wales will give passengers confidence to use taxis and PHVs more frequently and so increase the earning potential of the sector.

8. Costs for local authorities are unlikely to increase, and may even decrease, as a result of the legislation. Were costs to increase these would be recovered through the fees they charge for licences.

9. Post implementation, there will be a role for Welsh Government in terms of overseeing the national standards but this will be managed from existing headcount.

10. Officials are exploring options for improving information sharing between local authorities and with passengers. Officials will submit further advice including options and estimated costs. A range of options will be considered from the no cost option of doing nothing to more significant IT projects which could come at significant cost. Officials will provide a cost-benefit analysis of these options. There may also be options for the ownership of any systems developed and for the funding of any ongoing work, such as using taxi/PHV licence fees to fund revenue costs. This will be covered in further advice.

11. The paper has been cleared by Group Finance (clearance number ET/CF/22/315) and by Budget and Government Business (clearance number BGB/0789/6).

12. There are no compliance issues.

Legal requirements

13. Legal Services have provided advice on drafts of the white paper but at the time of considering this Cabinet Paper have not seen the final draft.

14. Issuing a white paper for consultation on legislative proposals creates an opportunity for legal challenge by a party with sufficient standing to bring a challenge. The grounds on which a legal challenge may be made are numerous but commonly relate to procedural issues and failing to comply with the Gunning Principles, which should underpin consultation. These principles seek to ensure that:

- a. such consultation takes place when the proposal is still at a formative stage

- b. sufficient reasons are put forward for the proposal to allow for intelligent consideration and response
- c. adequate time is given for consideration and response, and
- d. the product of the consultation is taken into account conscientiously.

15. Legal Services consider that the white paper sets out the policy proposals in the level of detail that will likely facilitate meaningful consultation and engagement with stakeholders. In terms of the proposals identified in the white paper, Legal Services have worked with policy officials to provide initial legal advice, which has shaped the proposals so far. At a high level, there is a competence basis to consult on the legislative proposals identified in the white paper, however Legal Services will continue to work with officials as proposals develop, advising of any competence issues once the proposals are sufficiently developed to undertake a detailed analysis.

16. While there will always remain a risk of legal challenge, at this stage, Legal Services consider that the approach to consultation and the content of the white paper sufficiently mitigates the risk of challenge so that the risk of a successful challenge is relatively low.

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