



Taxi and Private Hire Services





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CHAPTER 12

ACCESSIBILITY

INTRODUCTION

- 12.1 Ensuring proper accessibility for all was a stated priority of our review.¹ Whilst improvements have been made over the last 20 years, more needs to be done to improve accessibility, particularly as provision currently varies widely between different licensing areas.

INCENTIVES

- 12.2 We asked stakeholders whether licensing authorities should have the ability to set a lower licensing fee for vehicles meeting certain accessibility standards.² We were interested in finding out whether this could incentivise the uptake of accessible vehicles.

Consultation

- 12.3 Most consultees agreed with this. At the same time, the majority of stakeholders we met at consultation events told us that it would be difficult to set the incentive at a level where it would make a difference. Torfaen County Borough Council said it had made available discounted fees for four years, but this had not been effective in increasing numbers as the discount did not cover the additional cost of purchasing the vehicle. A number of people suggested waiving VAT, reducing road tax for wheelchair accessible vehicles, or providing other tax breaks.
- 12.4 Consultees who disagreed tended to argue that providing lower fees for accessible vehicles would result in increased fees for other licensees, as fee levels are determined on a cost recovery basis.

Discussion

- 12.5 Some form of financial incentive would clearly encourage licence holders to meet certain accessibility standards. However, the general view is that a reduction in licensing fees would not be the answer. Any reduction in the fee would most probably not compensate for the additional expense arising from purchasing and operating an accessible vehicle, although this would depend on the type of vehicle and the standards it met.
- 12.6 Further work would also be required to identify the right financial incentives and how the cost of them should be borne. It would not be for us to undertake this kind of assessment, but we recognise that it could be a worthwhile matter for the Secretary of State to pursue.

¹ Reforming the Law of Taxi and Private Hire Services (2012) Law Commission Consultation Paper No 203, pp 136 – 137.

² Reforming the Law of Taxi and Private Hire Services (2012) Law Commission Consultation Paper No 203, question 58.

ACCESSIBILITY STANDARDS

- 12.7 In our consultation paper we suggested that the Secretary of State should have the power to set standards for drivers, vehicles and operators. We originally proposed that this power should be limited to conditions relating to safety. As discussed above,³ we now think the power should extend also to conditions relating to accessibility, to protection of the environment and to matters relevant to enforcement. Accessibility would therefore feature as a central requirement as part of national standards, allowing the Secretary of State to impose the requirements we suggest in this chapter, together with any additional standards the Secretary of State found appropriate, following consultation with a technical panel.⁴

ACCESSIBILITY TRAINING

- 12.8 In our consultation paper we strongly recommended that drivers of both taxis and private hire vehicles should undergo training on disability awareness as a condition of their licence.⁵ We felt that many of the problems experienced by disabled people stemmed from lack of awareness and poor attitude, and that this would be most appropriately tackled through education.

Consultation

- 12.9 This proposal attracted high levels of support. The key themes of such training were identified as enabling drivers better to understand the needs of their disabled passengers, and to be able to operate and maintain equipment properly. One respondent suggested that training was needed on how to adjust driving behaviour to address the needs of different passengers.
- 12.10 Anecdotal evidence was provided about drivers not knowing how to operate the ramp in their vehicle, and failing to use the restraints in their vehicle to secure a wheelchair. Other examples included drivers losing their temper with disabled passengers who required assistance in entering the vehicle and trying to require passengers to travel in a way which would not be comfortable or safe for them.
- 12.11 Consultees representing people with learning disabilities told us that such people may have difficulties in communication and often other sensory or physical disabilities, and may need high levels of support. Training is needed to increase awareness of such needs. The needs of passengers with visual and auditory impairments also need to be adequately represented in the training. A number of respondents reported instances of drivers refusing to carry assistance dogs on religious grounds, because dogs are regarded as unclean in some religions. Others described situations where inadequate or inappropriate accommodation was available for assistance dogs, and one case where the carpet was rolled back and the dog required to sit on a metal floor. This is another area which could be covered in mandatory training, particularly as the obligation of taxi and private hire vehicle drivers to carry an assistance dog at no additional charge is already

³ See Chapter 5, Recommendation 31.

⁴ See Chapter 4 for further information on the consultation requirements relating to the Secretary of State's standard-setting powers.

⁵ Reforming the Law of Taxi and Private Hire Services (2012) Law Commission Consultation Paper No 203, provisional proposal 61.

- 12.22 One respondent said that local licensing authorities should make the taxi fare tariff available online. This would be of benefit generally, as would the wider distribution of licensing information.

Discussion

- 12.23 We remain persuaded that an obligation contained in vehicle licence conditions, to display complaints information inside the vehicle would be useful. We do not think such a requirement would be unduly onerous, and believe that the benefits would far outweigh any disadvantages. Such a requirement is common in public transport such as buses and trains. Complaints could also help draw the attention of local licensing authorities to those operating contrary to the legal requirements, which would assist with enforcement.
- 12.24 Local authorities are used to dealing with complaints, and are equipped for handling them. Some authorities provide direct links online for licensing complaints.⁹ Many local libraries also incorporate local authority customer service centres where complaints could be lodged.
- 12.25 There are various practical issues to consider. It would be necessary to make the information available in alternative formats, such as large print and braille. Information should also be made available at ranks, and on local licensing authority websites. Some stakeholders have also suggested that information should be available on the outside of the vehicle, so that a complaint can be made if a taxi fails to stop when hailed. We are not convinced by this, as it is unlikely the disappointed traveller would be able to note the details, but it is something the Secretary of State could consider.

Recommendation 63

We recommend that the Secretary of State require information on how to complain about taxi and private hire vehicle services to be displayed in taxi and private hire vehicles.

Recommendation 64

We recommend that local licensing authorities should display complaint information in offices, libraries and on websites.

LOCAL ACCESSIBILITY NEEDS REVIEW

- 12.26 During consultation stakeholders representing disabled passengers highlighted how local standard-setting often overlooked the needs of disabled passengers. Typically, this took the form of overly restricting the type of provision that could be made. Such policies, standards or conditions can be judicially reviewed, and we will recommend a streamlined process for judicial review of local standards.¹⁰
- 12.27 As we noted in our consultation paper, general equality duties apply to any public

⁹ See, for example, Guildford Borough Council's online portal for complaints about licensed vehicles: <http://www.guildford.gov.uk/article/3623/Make-a-complaint-about-a-Guildford-licensed-taxidriver-or-company> (last visited 13 March 2014).

¹⁰ For further details, see Chapter 14.

authority in discharging public functions. Furthermore, in Chapter 11 we recommended that a local authority wishing to impose or continue quantity restrictions must take into account a range of statutory public interest factors, including the impact on of doing so on disabled passengers.¹¹

- 12.28 In order to ensure that licensing authorities specifically consider the needs of disabled passengers as part of reviewing their local licensing conditions, we recommend a new procedural requirement for licensing authorities to review their taxi licensing policy at least every three years, in order to assess whether the needs of their disabled constituents are being met.

Recommendation 65

We recommend that licensing authorities conduct an accessibility review at three year intervals.

- 12.29 This recommendation is given effect by clause 15(5) of the draft Bill.

A NEW OBLIGATION TO STOP

- 12.30 We asked stakeholders for their views on how best to tackle taxi drivers ignoring disabled passengers who try to hail them. We asked whether it would help to impose an obligation on drivers to stop, if reasonable and safe to do so.¹² This question is closely tied to that of compellability; we have discussed the question of an obligation to stop in Chapter 3.

Consultation

- 12.31 Whilst the majority of respondents agreed that there should be an obligation to stop, a key concern was how to enforce such a requirement. Some stakeholders considered it impractical, not least because it would be difficult to prove whether or not it would have been safe for the driver to stop. A number of respondents suggested that “mystery shoppers”¹³ could be used to test compliance. The Disabled Persons Transport Advisory Committee recommended that fixed penalty notices should be used to enforce against failure to stop.
- 12.32 Some regulators in Wales said that licensing authorities needed clear enforcement powers to sanction drivers who fail to offer reasonable assistance to disabled passengers, with more appropriate penalties for offences. This could be combined with national training in relation to recommended approaches and techniques. They suggested a standard mandatory requirement for roof lights to be connected to the taxi meter, to record when the vehicle is available for hire. Others agreed that there should be some obvious mechanism to show when a vehicle is available for hire. Many respondents thought that an illuminated roof sign already signalled availability for hire and obliged the driver to stop where safe.

¹¹ Draft Taxi and Private Hire Vehicles Bill, clause 18(7)(b), and discussion at para 11.81 above.

¹² Reforming the Law of Taxi and Private Hire Services (2012) Law Commission Consultation Paper No 203, question 63.

¹³ An expression used by competition authorities to describe people presenting themselves as potential customers with a view to reporting infringements.

greater detail in Chapter 3 above.¹⁶

- 12.38 Recommendation 16, contained in Chapter 3 above, gives effect to this policy.

EQUALITY ACT 2010

- 12.39 In our consultation paper we highlighted the application of the Equality Act 2010 to the area of taxi and private hire licensing. We noted that licensing authorities are subject to a duty to eliminate discrimination and promote equality of opportunity, whilst service providers must not discriminate against disabled people in the provision of services. We note that it would not fall within the scope of this project for the Law Commission to recommend bringing into force those sections of the Act which deal specifically with taxi and private hire services.

- 12.40 As will be clear from earlier parts of this chapter and the discussion in Chapter 3,¹⁷ during consultation we heard a significant amount of concerning evidence about discrimination against disabled people. Two things were particularly clear: first, that a lack of training and understanding are at the bottom of many of the problems experienced; and secondly, that enforcement of existing protections is weak, if indeed it takes place at all.

- 12.41 We recommend in Chapter 5 that the Secretary of State should have the power to set national standards for driver, vehicle and dispatcher licences. These powers would include setting standards relating to safety, accessibility and matters relating to enforcement. Discrimination against disabled people is an area in which these three categories of standards are inherently intertwined.

- 12.42 As the law currently stands, much of the behaviour complained of by disabled passengers would infringe the provisions of the Equality Act 2010, in particular the requirement not to discriminate in the provision of services.¹⁸ However, the only means of enforcing this is through pursuing an action in the civil courts. This is costly, complex and, without the support of a representative organisation or charity, not feasible for most individuals. Furthermore, even if action were to be taken against a driver or dispatcher, the court would not have the power to take action against the licence.

- 12.43 In order to provide a more effective means of enforcement, and one which targets the offending behaviour more squarely, we strongly recommend that the Secretary of State should exercise the standard-setting powers to make it a condition of licence for both drivers and operators that they comply with the provisions of the Equality Act 2010, specifically section 29, which prohibits discrimination in the provision of a service.

- 12.44 This would allow a licensing authority to take action against the licence where there was sufficient evidence to demonstrate that a driver or dispatcher had, for example, overcharged a customer on the basis of a disability. It would remove the difficulties the customer faces in seeking to take action against this behaviour, as the procedure would be activated simply by lodging a complaint with the

¹⁶ See Recommendation 16, and discussion from para 3.88 above.

¹⁷ See for example the discussion from para 3.83 above.

¹⁸ Equality Act 2010, s 29.

licensing authority. The complaint could then be dealt with through the usual channels put in place by that authority, and would of course be subject to evidential requirements.

Recommendation 66

We recommend that the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to comply with the Equality Act 2010 as a condition of the licence.

ACCESSIBLE VEHICLES

- 12.45 In our consultation paper we asked whether there should be a separate licensing category for wheelchair accessible vehicles. We suggested that a vehicle holding such a licence could be required to give priority to disabled passengers. We also asked whether there should be a duty of licensing authorities to make adequate provision at ranks for wheelchair accessible vehicles.¹⁹

Wheelchair-accessible vehicles

- 12.46 It became apparent during consultation that there is a great deal of confusion and misunderstanding over what is meant by “wheelchair-accessible vehicle”. A number of stakeholders told us that application of the term does not always mean that a disabled person in a wheelchair can travel comfortably or safely in such a vehicle, or that it is suitable for all types of wheelchair.
- 12.47 European specifications are not mandatory for wheelchair accessible vehicles²⁰ and there is no single standard for such vehicles, although work has been done by the British Standards Institute.²¹
- 12.48 The dimensions for wheelchair accessible vehicles (including regulated rail vehicles, buses and coaches) are based on what is known as a “reference wheelchair.”²² Some consultees told us that the dimensions are inadequate because many modern wheelchairs, particularly electric wheelchairs, are larger. However, other groups, such as the Disabled Persons Transport Advisory Committee and the Spinal Injuries Association, say that the number of larger wheelchairs is small and that the dimensions of accessible taxis are adequate.
- 12.49 Many wheelchair accessible vehicles are rear-loading, and some passengers prefer that. Others, however, prefer a side-loading vehicle. From a safety point of

¹⁹ Reforming the Law of Taxi and Private Hire Services (2012) Law Commission Consultation paper No 203, question 57.

²⁰ Directive 2007/46/EC establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units for such vehicles. See in particular Annex XI, Appendix 3.

²¹ See Specification for M1 vehicles for the carriage of one or more passengers seated in wheelchairs. Manufacturing requirements PAS 2012-1:2012, and Specification for M1 vehicles for the carriage of one or more passengers seated in wheelchairs. Retail requirements PAS 2012-2:2012, both published by the BSI <http://www.bsigroup.com/en-GB/> (last visited 19 March 2013).

²² As defined in the Rail Vehicle Accessibility (Non-interoperable Rail System) Regulations 2010, SI 2010/432, Schedule 2, diagram A. The dimensions are length 1200mm, width 700mm, sitting height 1350 and height of footrest about the floor, 150 mm.

view a rear-loading vehicle can present problems because the passenger can only access the vehicle from the road. This means that a longer ramp is required because the kerb cannot be used, which can present access problems.

- 12.50 Many consultees emphasised that for a vehicle to be accessible did not necessarily mean that it must be capable of carrying a wheelchair. Indeed, wheelchair-accessible vehicles can pose difficulties for non-wheelchair using disabled people; for example, those with mobility difficulties may struggle with the high step and raised floor of a purpose-built vehicle. This has played an important part in our policy consideration in this area.

Consultation

- 12.51 Consultees were fairly evenly divided on the question of a separate licensing category for wheelchair accessible vehicles. The Disabled Persons Transport Advisory Committee regarded the proposal as an “important recommendation”. The Committee also considered that wheelchair accessible vehicles should be granted priority at taxi ranks.
- 12.52 However, other consultees thought this could be potentially harmful, creating tension between disabled people and other travellers. A comment made by a number of respondents, in particular representatives of disabled people, was that fair and equal access for all was the key, rather than priority treatment.
- 12.53 Another important point raised was that most disabled people do not require wheelchair accessible vehicles – for example, some consultees with mobility difficulties stated that they prefer saloon cars as they do not have to climb upwards into them as they do with a traditional black cab.
- 12.54 Some stakeholders felt it would be useful if licensing authorities distributed information regarding the range of vehicles available in the area, and who they are operated by. Others noted that they often have difficulty in accessing vehicles at ranks; during consultation we were shown ranks without dropped kerbs or where there is insufficient space to extend a ramp. At one railway station, it was only possible to load a wheelchair into an accessible taxi from the road, and not from the pavement. We have already mentioned issues surrounding rear-loading wheelchair-accessible vehicles; it is often difficult to accommodate these on ranks as space for a ramp must be left clear behind them. As a result, some licensing authorities will not license rear-loading vehicles.

Discussion

- 12.55 There are a number of practical difficulties arising from a separate licensing category. It introduces another level of complexity into the licensing regime. A category solely for wheelchair accessible vehicles would ignore the point made by many respondents that the system needs to cater for many different types of disability.
- 12.56 There would also be practical difficulties in requiring a licensee to give priority to disabled passengers. For example, it may not always be obvious to a driver that a potential passenger is disabled.
- 12.57 We do not recommend a separate licensing category for wheelchair accessible