

ANNEX C: CONSULTATION QUESTIONNAIRE

Taxi and Private Hire Car Licensing



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

West Dunbartonshire Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ *Please tick as appropriate*

Surname

McCulloch

Forename

David

2. Postal Address

Legal, Democratic & Regulatory Services

Council Offices

Clydebank

Postcode G81 1TG

Phone 01389 738741

Email licensing@west-dunbarton.gov.uk

3. Permissions - I am responding as...

Individual

☐

/

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

(d) 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?

Please tick as appropriate ☒ **Yes** ☐ **No**

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 ☐

In theory, there may be sound consumer policy arguments for not placing limits on the number of vehicles that are allowed to operate. New entrants may provide better quality vehicles and drivers, which could shake up any complacency that may exist amongst existing operators. That is the reality for most retail businesses regulated by the council.

There are of course some markets that need to be more tightly regulated. Bus deregulation has arguably improved transport services in profitable areas but there are many concerns about its impact elsewhere.

Taxis are in some senses a public service provided by private operators and therefore cannot be treated like many other service providers. We have particular concerns about the problems that can arise when supply exceeds demand and competition becomes too fierce. 'Turf wars' could result in aggressive practices that would have negative impacts on customers caught up in disputes between rival firms desperately seeking customers. Police concerns about alleged organised crime links to some firms in the private hire industry in Scotland show the potential that may exist.

If the number of private hire cars exceeds the level of demand within the local authority area, this can encourage operators to seek business in neighbouring areas. Within West Dunbartonshire we have a persistent problem with private hire car operators from two specific neighbouring council areas 'parking up' in our area which means they are competing directly, and unfairly, with our own licensed operators.

We would therefore welcome local authorities having the option to use a power to limit the number of private hire cars to more closely match the level of demand, although we accept this would only solve the cross-border problems if the neighbouring councils choose to use that power.

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?

West Dunbartonshire only has eight licensed private hire operators so, in practice, we would not intend to use a power to cap the number of licences unless numbers increased markedly.

The power to cap the number of licences would not immediately solve any existing problem with excess numbers of private hire vehicles because the legislation does not give grounds to revoke existing licences for this purpose. Any reduction would therefore take place over a protracted period of time as licence holders leave the private hire trade and no new licences are granted.

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?

Although we issue separate licences for taxi and private hire operators, West Dunbartonshire Council issues combined licences for “taxi/private hire” drivers. Therefore all our private hire drivers have passed a ‘knowledge test’.

We believe training should include general customer care with specific reference to the needs of disabled passengers and dealing with confrontation.

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)?

We would welcome any guidance for local authorities about the minimum standards that should apply to any overprovision assessments including the minimum frequency of assessments. As noted in the consultation document, formal demand surveys have become a complex and costly exercise and we would welcome guidance that provides for robust but straightforward, low cost and more frequent assessments.

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?

We would welcome the removal of the contract exemption because it is hard to understand why people travelling in contracted vehicles should have a different level of protection based only on 'caveat emptor'. Contracts are often undertaken by licensed taxi and private hire drivers anyway although this change will inevitably require some contract operators to become licensed for the first time. Where a licensed operator/driver undertakes a contract, we do of course consider whether any incidents that take place during the contract affect the operator/driver's fitness to hold a taxi/private hire drivers' licence.

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.)

It appears anomalous that the vehicles and drivers who carry the most vulnerable customers are excluded from the licensing regime, although we accept that protection is available via the PVG scheme. Nevertheless we understand the need not to burden them with administrative processes and costs that would act as a disincentive to voluntary and charitable activity.

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).

We understand the need for an element of national consistency whilst maintaining the fundamentally local nature of taxi licensing. It would be worth carrying out a mapping exercise to compare different authorities' local licence conditions. It is quite possible that many of them cover very similar issues but with slightly different wording which could be standardised nationally without losing any impact locally.

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

Yes. We believe one of the purposes of the Booking Office Order was to

control the potential for organised crime to use taxi businesses as a way of laundering money. It therefore makes no sense for some taxi businesses to be exempt from the Order merely because their bookings are received using modern call handling technology that doesn't require a physical booking office premises. If such businesses continue to be exempt, we believe existing licensed booking offices may change their method of operation to exempt themselves from the licensing regime and this loophole needs to be closed.

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

We support the inclusion of such businesses within the licensing regime for booking offices.

10. Role of police:

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

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?

We support the creation of a positive duty on the police to give notice of specific information as that achieves consistency with the Licensing (Scotland) Act. In practice though, we doubt it will change the police response as they already inform us of any criminal convictions for example. West Dunbartonshire Council has signed an information sharing protocol with Strathclyde Police to enable greater sharing of information.

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?

The consultation document does not say whether licensing objectives would replace the current 'fit and proper person' test or simply support it. Whilst licensing objectives could be useful to remind everyone of the underlying purposes of the licensing regime, we would not support any removal of the 'fit and proper person' test which we believe has worked very well over many years. The consultation document does not make a convincing case for the introduction of licensing objectives other than achieving consistency with the 2005 Act. However we believe the 2005 Act is unnecessarily complex due to the abolition of the "fit and proper person" test.

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

If licensing objectives are to be introduced, we believe it should be possible to devise a set of objectives that would be common to all Civic Government licences even if some of those objectives may be more relevant to specific types of licensed activity than others. Indeed, the five objectives within the Licensing (Scotland) Act could apply equally to civic government licensing [apart from amending the fifth one to read “Protecting vulnerable people from harm” as that would then encompass the needs of other groups such as disabled people]. Of course, this might suggest that licensing objectives are so generic as to be of little value.

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?**

We would welcome some more guidance as it would simply be strengthening an existing process. We would of course hope that any guidance will allow local authorities to deviate from the guidance where justified for local reasons.

We don't consider there is any evidence to suggest a power to make regulations on hearings is necessary. Indeed the lack of successful appeals on this point does not suggest there is a problem. Processes currently work well and should not be overly complicated by unnecessary regulation.

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

Yes

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?**

We struggle to understand how this would, in practice, improve the level of protection afforded to the travelling public. As the consultation itself notes,

requiring a Disclosure certificate would result in a reduction in the amount of information available. The disclosure regime has its limits if, for example, an individual has avoided ever being convicted of any offence. The recent case of a well-known celebrity who allegedly abused children over decades shows that a clean Disclosure would not be positive and reliable evidence that a person is fit and proper. Applicants could be required to provide references, but anyone who has employed people based on references will know that little reliance can be placed on them.

We do not want to place unnecessary burdens of red tape on people wanting to start up new businesses, therefore any attempt to reverse the burden of proof should be resisted. We feel that there should be a presumption in favour of applicants getting their licences unless there are good grounds to refuse.

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?

There is already a Licensing Forum as part of the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR). This could be developed further as required, and there may be a case for sub-committees involving the practitioners who are not always the people who attend the SOLAR Licensing Forum. For example, there may be a need for a separate forum specifically for taxi/private hire licensing.

The need for meetings can be reduced by making full use of a facility such as a Knowledge Hub (<https://knowledgehub.local.gov.uk/>) which is used by Trading Standards for example.

We would support a forum that shared information on refusals, suspensions and revocations. Officers could use this information to guide elected members and help them make decisions that are consistent across time and area.

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?

Yes, we believe they will assist.

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?

Within Clydebank we have a 100% wheelchair accessible fleet. In the Dumbarton zone we have ten wheelchair accessible vehicles although the majority are not wheelchair accessible. We believe we have only received one complaint from a member of the public who was unable to source a wheelchair accessible vehicle. Therefore in general we believe there is sufficient provision locally although this is an issue we would consider as part of a future local review of the level of demand for taxis.

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?

We believe councils already have sufficient powers to increase the availability of wheelchair-accessible vehicles.

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?

No.

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)?

We have dealt with exceedingly rare complaints about discrimination on the grounds of race. These are investigated and if necessary reported to the licensing committee.

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?

West Dunbartonshire Council employs a Licensing Officer to enforce the Civic Government (Scotland) Act. However we understand that this isn't the case in all councils, including at least one neighbouring council. We would support any measures to formalise the role of enforcement officers in the same way as has been achieved for alcohol licensing. That was achieved by compelling licensing authorities to employ at least one LSO, and in

practice this may mean an increase in fees in some areas to pay for the new resource.

We have recently devised a risk assessment scheme which allows us to assess the risk of non-compliance across the full range of licensing activities.

23. Are there other solutions to creating increased enforcement/compliance capacity e.g. taxi marshals at night. Who should provide/pay for these?

We note the reference in para 59 to the problems caused by out-of-area taxis and private hire cars. As noted in our answer to Q1 above, this is a very real problem in the Clydebank area of West Dunbartonshire and is a persistent source of complaint from our taxi trade. One of the key problems is gathering evidence to prove to the satisfaction of a Sheriff that an operator is in fact breaching the Act. Vehicles can be parked in our area for a variety of legitimate reasons, and covert surveillance can only be done if it is necessary and proportionate under the Regulation of Investigatory Powers (Scotland) Act 2000.

We have tried to secure agreement within the Greater Glasgow area for enforcement officers to be empowered to enforce another council's licence conditions within the area in which the officer is employed. We believe this would be a major step forward in clamping down on out-of-area vehicles picking up passengers illegally. Unfortunately we have not been able to reach such an agreement, and it would be helpful if the Act was to be amended to give enforcement officers such a power. This would of course be made simpler by having a standard set of national conditions as referred to above.

There may be demand for a structured training course on taxi enforcement issues that would allow councils to authorise more officers to enforce the 1982 Act.

In the last few years taxi marshals have been provided during the Christmas / New Year period in West Dunbartonshire. However this does involve a significant cost and we cannot assume the service will continue.

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

Our council decided in 2005 to licence such vehicles with up to eight seats, however we are not aware of any operating within our area.

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

We understand there can be difficulties carrying out tests on such vehicles.

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

The Act already allows councils to licence special events vehicles as they are simply a specific type of private hire car. We have not yet developed a set of licence conditions for such vehicles and national guidance on this would be useful.

Special events vehicles are often used to carry children on special treats such as birthdays, and the protection of unaccompanied children should be a priority for licensing authorities.

27. What form should a national response take?

A standard set of optional licence conditions would be useful.

28. 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?

We do not believe there would be any effect within our area.

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

It would simply mean that SEVs would not be subject to the same rules when engaged for weddings.

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

No