

Petition – P-05-775 Put an end to the Cross Border and Sub-contracting Taxi Licensing loophole

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Petitions Committee | 17 October 2017

Research Briefing:

Petition number: P-05-775

Petition title: Put an end to the Cross Border and Sub-contracting Taxi Licensing loophole

Petition text:

We call on the National Assembly for Wales to urge the Welsh Government, in the context of its consultation into the reforms of the taxi licensing laws, to put a stop to the 'cross border' and 'sub-contracting' loophole in the law which means hundreds of out of town taxis and private hire vehicles descend on Cardiff to work Private Hire.

There are enough Cardiff licensed vehicles to cover the City without the need for these cars from as far afield as London, Merseyside, the Midlands etc. As well as from neighboring authorities like Newport, the Vale and RCT etc. There have even been vehicles not working on any platform, illegally plying for hire, hiding behind the fact so many 'alien' cabs are in the City.

Many of these vehicles have NO markings on them, making a mockery of the standards set by Cardiff County Council for vehicles licensed by themselves, including highly visible livery and local street knowledge. Alas it will be only matter of time before a vulnerable person jumps into a non-licensed car with catastrophic results.

We urge the Welsh Government to ensure that the only Taxis and Private Hire vehicles allowed to work in Cardiff are those licensed by Cardiff County Council. This is to ensure public safety and to ensure that Cardiff isn't saturated with even more cars than what is needed which if allowed to continue will see even more congestion and pollution in our Capital. It will also give existing drivers licensed by Cardiff a chance to earn something approaching a living wage.

Background

Although the term "taxi" is commonly used to describe both taxis and private hire vehicles (PHVs), they are licensed differently within a "two tier" system of regulation. In 2014, the Law

Commission published a [final report on proposed reforms to taxi and PHV services](#) which summarised differences as follows:

Taxis can pick passengers up at ranks and be hailed. In legal terms, these activities are currently referred to as “plying for hire” and only taxis can engage with passengers in these ways. Private hire vehicles, on the other hand, can only be pre-booked through a licensed operator, and are not allowed to “ply for hire”.

Local authorities are responsible for licensing taxis and PHVs in Wales.

In its report, the Law Commission described arrangements which existed at that time for cross-border working, explaining that in England and Wales PHV could pick up passengers outside the area in which they hold a licence. However, drivers, vehicles and operators had to be licensed in the same area and operators could only invite and accept bookings within that licensing area. Sub-contracting could only take place between firms licensed in the same area. The Law Commission argued that “this hampers them expanding their business to have offices in neighbouring areas, and is increasingly difficult to police given the rise in internet bookings”.

Consequently, as part of wider proposals for reform of the industry, the Law Commission recommended:

freeing up cross-border working for private hire services. Operators should no longer be limited to using drivers and vehicles from their own licensing area; nor should they be restricted to only inviting or accepting bookings within that licensing area. Under our recommended regulatory framework, licensing district boundaries lose much of their importance in relation to private hire vehicles. Although local authorities will continue to administer licences applied for in their area, they will do so on the basis of national standards, which they will have no discretion to vary. Once licensed, providers will be able to work across England and Wales and subject to enforcement action by officers of any licensing authority.

Subsequently, section 11 of the UK [Deregulation Act 2015](#) allowed a PHV operator to sub-contract a booking to another operator who is licensed in a different licensing district. A [Local Government Association \(LGA\) publication on the Act](#) commented (emphasis added):

The LGA strongly opposed the clause [which became section 11] on the grounds that it had been brought forward **without the accompanying safeguards deemed necessary by the Law Commission’s review of taxi licensing**.

Currently licensing arrangements for taxi and PHVs is not devolved. However, the *Wales Act 2017* devolves licensing to the Assembly. The relevant provisions are expected to commence early next year.

Welsh Government action

In anticipation of devolution, the Welsh Government launched a consultation on [taxi and private hire vehicle licensing in Wales](#) in June 2017. The consultation closed on 8 September. As the Cabinet Secretary’s letter to the Chair on this petition indicates, the purpose of the

consultation was to consider the Law Commission's proposals. Key areas identified include proposals which would:

- Introduce national standards for all taxis and private hire vehicles with the power for local licensing authorities to set additional standards where appropriate;
- Make it easier for providers of taxis and private hire services to work across local authority boundaries while also giving licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas; and
- Retain the ability of local licensing authorities to limit the number of taxis working in their licensing area.

National Assembly for Wales action

The issue of cross-border working was briefly discussed in your disabled access to public transport inquiry. On [4 April 2017 \(PDF 286KB\)](#) the Chair of the Licensed Private Hire Car Association commented in oral evidence:

I would suggest that the cross-border issue is more prevalent than it's ever been because of technology enabling people to do things outside of their own area. I think there is a problem with that. Certainly, in London, where lots of people are licensed, drivers are popping up all over the place. I think the legislation doesn't need to be protectionist, but it does need to take account of local provision. Local provision, including disabled provision, will be harmed if people from outside that don't meet the regime's standards and requirements come into an area. It devalues it. I think the Secretary of State and, obviously, the devolved powers like yourselves and, indeed, people like the Greater London Authority, do need to get to grips with this. I think the cross-border issue is a particularly interesting aspect for you guys to look at.

On 23 May 2017 the Cabinet Secretary for Economy and Infrastructure, Ken Skates, made a [Plenary statement on the consultation](#). In this he noted (emphasis added):

The piecemeal evolution of the regulation of taxi and private hire services has resulted in a complex and fragmented licensing system. The relationship between taxi and private hire services, commonly known as mini cabs, requiring pre-booking, is not clearly defined. The balance struck between national and local rules lacks an overarching rationale, **resulting in duplication, inconsistencies and considerable difficulties in cross-authority enforcement.**

He continued (emphasis added):

I am keen to make it easier for providers to work across local authority borders, but with the appropriate arrangements in place to ensure that licensing officers have enforcement powers to deal with vehicles and drivers licensed in different areas. We have a responsibility to ensure that there is clarity of understanding and clear roles and responsibilities within the licensing regime to ensure that the quality of service, universally available, is achieved and maintained. Above all, we have a duty to ensure that the licensing arrangement in Wales safeguards the public and prevents the exploitation of the professional drivers that are delivering these very important services across our communities.

When asked specifically about cross-border working and English drivers working in Wales, an issue explicitly identified in this petition, the Cabinet Secretary reiterated the need to have “appropriate arrangements in place to ensure that licensing officers have enforcement powers to deal with vehicles and drivers licensed in different areas”.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.