



National Association of
Licensing and Enforcement Officers

Mr John Thompson
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Mr Paul Lawry
DfT
Accessibility & Equalities Unit
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Dear Mr Lawry

Department for Transport's Consultation on Improving Taxi Accessibility

The National Committee and members of NALEO have taken great interest in this consultation and I have been authorised to respond on behalf of the Association. NALEO still believes that the 12 week time scale has placed undue constraints on our member's ability to consult fully with all trade and disability access groups. We have shared our initial thoughts with many parties and trust that as many groups as possible will respond individually. With more time NALEO might well have formulated fuller responses.

NALEO's responses to the individual Consultation questions are as follows:

Q1 - What is your view of the analysis and data included here and in the impact assessment?

NALEO believes that further research is essential before the DfT finalises its technical standards.

Whilst the report is quite comprehensive the following matters stand out as likely to affect the outcome and which are felt to be insufficiently accurate to enable a valid comment:

- a) [CP1.7] There is no one definition of a disabled person. The needs of a wheelchair using passenger are different from those of someone who cannot bend forward or who has low hand grip strength. The consultation itself identifies that further research is required as only anecdotal evidence indicates there may be a need for different vehicles. All of the suggested options have high cost implications for the taxi & private hire trade and it would seem essential to obtain evidence of the overall need for change before choosing which of the options to move with. As this situation has been

on the horizon since 1995 it would seem that by now there should be clear non-anecdotal evidence of a pressing demand available to DfT.

- b) [CP1.7] Given that 50% of the national 85,000 taxi fleet is wheelchair accessible [WAV] then sufficient vehicles would appear to be available as significantly less than 50% of taxi users are wheelchair users. If however the drivers of WAV's are not providing for the needs of such passengers then driver training such as the NVQ2 in Transporting passengers by Taxi & Private Hire and sanctions such as could be provided under Section 36 of the DDA would seem extremely apt- and in the interim less expensive than mandatory vehicle specifications based on anecdotal evidence of demand.
- c) [CP2.10] The figure given for the total national private hire fleet [140,000] does not give the number of disability friendly vehicles. This is a serious data omission.
- d) [CP2.4] The report accepts that "*we do not know the extent that disabled people want wheelchair accessible vehicles [WAVs].....further work is needed on this point*". Again it is felt that this should be established before moving to a 100% mandatory WAV policy.
- e) [CP2.4] "*Evidence from the impact assessment*"- What evidence? The statement does not appear elsewhere substantiated and the consultation does not direct responders to any one document.
- f) [CP1.7] Purely as one example Sefton Council has 271 taxis and of those 205 are wheelchair accessible vehicles including TW200, Fairways, TX1, TX2 and TX4, Mercedes and Euro7. Sefton does not have a mandatory policy yet 66% are WAVs. It is to be noted that one radio system in the North of Sefton have many regular customers who refuse to use metropolitan type vehicles as those vehicles do not suit their particular disabilities.
- g) [IA Box 2, Pg 46] The assumption that because case law has made it difficult to have mixed fleets is untenable. Whilst difficult, amended legislation could specify a percentage of taxis having to be WAV in any area. Incentives such as fuel duty rebate for WAVs with the rebate being unavailable to saloon cars could be possible. The data is not challenged merely the assumption that a 100% WAV fleet follows from that section.
- h) [IA Options 2+4] The assumption that saloon car owners change vehicles every four years is inaccurate. Some stay to ten years from new. A more accurate average for example on Merseyside would probably be between 6 and 7 years per saloon vehicle. Again an 11 year life span for WAV's is probably nearer correct but an average 13-14 year life span is quite common.
- i) [IA Option 2] The DfT assumption that no additional enforcement costs will be incurred is flawed. As most Local Authorities are now running at maximum resource utilisation any further duties brought on by a commencement order under Section 36 are likely to cause additional financial burden on authorities. If this is imposed at the same time as licence holders having to spend more

on vehicles authorities will have difficulty raising licence fees to recoup the additional costs.

- j) [IA Option 3] The assumed cost of an enhanced vehicle at £30,000 is believed significantly low. Given development costs and the fact the currently available WAVs can be £27-30,000 now the stated figure is felt to be on the low side. £35,000 is felt to be a more accurate estimate of the likely costs. The costs for an interim vehicle appear accurate however.

Q2 - What are the potential impact costs and benefits of the “Do nothing” scenario?

- a) The existing anecdotal evidence of taxi drivers failing to answer hails from wheelchair users will not reduce, although driver training may reduce the incidence of this behaviour. As politicians such as Baroness Chapman have experienced this first hand, this scenario is unlikely to be popular and certainly it will change little to the benefit of wheelchair users. However ambulatory disabled passengers who currently prefer saloon taxis will not be inconvenienced by the mandatory introduction of WAV taxis. A Nil impact.
- b) [CP2.10-2.11] In the current economic climate this option would not place additional purchase costs and running on costs on to the licensed taxi trade. There would be no danger of taxi drivers migrating to private hire thereby reducing the numbers of WAV available from the current levels. The links and requirements of the Better Regulation agenda would not be engaged to any great extent by this option. There would be no reduction in WAVs currently available.

Potential Benefits & Costs- Do Nothing

As no additional costs would be incurred by licence holders it is unlikely that existing WAV operators will transfer to private hire or saloon taxis. Existing WAV provision would most likely remain at the current level but no advance would occur.

Q3 - Further and more accurate data provided by NALEO.

Due to the limited time made available to us no further data is at present available.

Q4 - What type of guidance would be most effective, in what format and what can DfT do to promote take- up.

- a) [CP 2.16] DfT is reported as often seen by the licensed trades as handing down guidance whilst not necessarily asking the trades themselves for workable answers. Sometimes this is due to divergent agendas between taxi and private hire groups making a consensus way forward difficult. However at a recent DfT meeting on this subject, Sefton’s Principal Licensing Officer noted that the Public Carriage Office [PCO], Institute of Licensing [IoL] and National Association of Licensing Enforcement Officers [NALEO] all worked in

a balanced and constructive way with DfT whilst acknowledging varying viewpoints (and also points of agreement). It is believed that a subsequent trade meeting exhibited the same methods.

- b) [CP2.17] DfT could and should produce a range of guidance but, in the light of the comments at 4a (above) DfT should first engage in a structure of formal sub groups within short, set timescales so that licence holders will take ownership of the resulting guidance as being fair, accurate and reasonable.
- c) [CP2.17] Once suggestion b) was followed appropriate subjects for guidance should include: Driver Training including Disability awareness, considering the needs of disadvantaged persons and the benefits of additional income generators through increased journeys. Advice on obtaining local demand survey data distinguishing ambulatory and wheelchair user needs would be extremely useful. Minimum set standards for training and setting vehicle specifications nationwide could perhaps be set down by Statutory Instrument.
- d) [CP2.17] The recent DfT leaflet “staying safe- guidance for taxi drivers/private hire drivers” [Dec 2008] is an example of the sort of document which can be easily circulated to the trades.

Q5 - Draft Technical Specification: Improvement of accessibility levels? Which aspects would be easy to deliver and which would be hard?

The interim standard seems not to cause any great technical problems although as the older fairways and metrocabs will not meet this standard there is an identified risk of a dip in WAV provision. As regards to the new enhanced specification until someone produces such a vehicle costs must only be informed estimates and in particular until the height requirements are met then accurate estimates are unlikely to be available.

It would therefore seem logical to only move from the interim specification to the enhanced specification once the following conditions are met:

1. When the reference term for “persons with a disability” is more clearly defined;
2. When the extent to which the “ambulatory disabled” do not want WAVs is quantified;
3. When the extent to which Wheelchair users expect/ require WAV's is quantified;
4. When clearly compliant vehicles are available and;
5. When the costs of these “enhanced” vehicles are a known quantity.

It is also believed that the availability of compliant vehicles would be accelerated if a Statutory Instrument set down what the national requirements are as this would encourage manufacturers to invest in the project. Local conditions often vary greatly and manufacturers need certainty in order to invest the sort of funds needed to complete this project.

NALEO is also aware that some other group's consultation responses will speak in favour of non rear loading WAV's and that others will speak against such vehicles. Given the limited time allowed to consult NALEO's members have not expressed a clear consensus on this matter but given the apparent diversity of views NALEO has received this would seem to be a matter of great importance and should be enshrined within any future consultation process.

Indeed many NALEO members feel that the matter of ingress and egress into all licensed vehicles should be subject to greater constraints than merely a whole vehicle type approval which may permit folding seats to be in between a rear row passenger and an accessible exit in the event of accidents involving licensed vehicles. Whilst this may be outside the scope of this consultation should regulations be brought into effect then this matter should be part of the process of arriving at any such regulation for DDA compliant vehicles.

Q6 - Advantages and disadvantages of DfT funded demonstration schemes.

One of the identified problems with WAV's is that drivers of such vehicles are not always willing to be hired by wheelchair users. This can be seen from Baroness Chapman's comments of last year in the House of Lords in the debate on the then Local Transport Bill. As more councils adopt the NVQ2 standard in transporting passengers in taxi & private hire vehicles under aegis of the DfT sponsored Go Skills passenger sector skills council this, it is felt should have a positive effect on this sort of behaviour.

Again using Sefton as an example it is an area with a mixed fleet and which currently undertakes annual surveys on unmet demand with a restricted number of 271 hackney carriages. It also engages heavily in the local transport plan with the other local councils and Merseytravel and has recently adopted the full NVQ with all drivers having to gain this within 5 years. Sefton or a similar council would therefore seem to encapsulate all of the constituents that such a funded demonstration scheme would need in order to provide the data which would be of most use countrywide.

On the negative side if on the demonstration schemes were set to impose many requirements but offering little by way of reward the trades would be likely to see the changes as an imposition at their expense and engagement in the aims would almost certainly reduce from present levels. This would be counterproductive and could even lead to a 100% saloon private hire fleet with no take up of hackneys at all.

Q7 - Effective ways of influencing national and local authorities, drivers and manufacturers

National Institutions/ Authorities:

A joint trades/ enforcers/ manufacturer/ disability representative steering group could effectively thrash out the parameters of any guidance and specifications in an informed manner. This would require DfT funding to facilitate. The resultant best practice/ code of practice could be used as the minimum standard applicable to the whole of the United Kingdom.

Local authorities:

If such a Code of Practice were introduced then all local authorities [LAs] would have to justify departure from that code. An alternative is to set minimum standards under regulations made under Statutory Instrument thereby guaranteeing a nationally level playing field for all LA's.

Drivers:

For example if service funders were encouraged to then link NVQ2 training to access to income sources such as school and social services contracts, and transport executive subsidised services (dial a ride) then drivers would be encouraged to use the vehicles to a fuller extent as it would pay them to do so. Further if used for local bus services WAVs could be eligible for bus fuel duty rebate again giving further incentives to owner drivers.

Q8 - Amendment & commencement of S36 DDA 1995

If the Government has accepted the need to amend this section so as to include wheelchair accessible private hire and public hire vehicles this does seem a logical step. If you choose to offer a WAV for hire then the duty to actually carry a wheelchair user in that WAV seems right and proper. This is regardless of whether any other changes are made. This was the crux of Baroness Chapman's complaint during the passage of the Local Transport Bill.

Such a change in itself should reduce the chances of a wholesale migration to non WAV private hire from existing WAV hackney fleets. However in the spirit of the DDA 1995 consideration should be given to medical exemptions for existing drivers who themselves develop a disability so as to ensure that they themselves are not discriminated against.

Q9 - Additional enforcement action or tools

[CP2.24] WAV drivers under a duty to carry wheelchair users should not generally be liable to a penalty for stopping and taking the time to assist in loading/ unloading such a passenger. DfT Guidance should clearly state that and give parameters for when it would/ would not be appropriate for Civil Enforcement Officers [CEOs] to issue penalty charge notices. This advice should be binding on parking authorities.

[CP 2.25-2.26] Offending WAV drivers should have the options of either a fixed penalty notice or an NVQ2 training course instead of prosecution. Repeat offenders not in possession of a medical exemption should then be barred from WAV employment and the additional revenue sources that work can provide. Fixed penalties would require primary legislation but the Government has indicated it is considering that in any event [see 8 above].

Q10 - Positive incentives to improve driver behaviour

NALEO believes that a structured process of educating the service providers and users will reap great benefits for the service as a whole possibly by:

- Attaining a 100% NVQ2 qualified driver base;
- Only allowing access to certain contracts/work to qualified drivers;
- Duty rebates to licensed and trained drivers;

All of these will inevitably reap rewards if only from driver's financial self interest. What is today a new idea will become, over time the accepted norm and if non-compliant drivers are effectively enforced against then the overall attitude of drivers will change from tolerance of bad drivers to other drivers reporting offenders.

A published acceptance by DfT together with greater insistence within LTP3 guidance that taxis and private hire vehicles are an essential part of the public

transport infrastructure will enable these drivers to be regarded by the public as professionals rather than as at present as a transient unskilled workforce. The famed knowledge of the London Cab driver is well known. Professionally trained drivers nationwide could have a better public perception.

Q11 - DfT & Local Authority future improvements

As LA licensing conditions vary so much from council to council this causes confusion and gives rise to one trade grouping having a commercial advantage over another, on occasions merely because of the different political makeup of each neighbour authority. DfT and LA's should work together to improve on the best practice guidance and then take it further.

That guidance should be replaced by a statutory Code of Practice or Regulations set down under a Statutory Instrument. The clarity such minimum standard taxi & private hire Regulations could bring would reap significant costs benefits countrywide and assist in offsetting some of the massive costs envisaged by this current consultation. Any working party on such Regulations should and must include manufacturers, users and trades representative and LA enforcement officers and organisations such as NALEO and the IoL.

Q12 - Availability of accessible taxis at transport interchange points

Local Authorities could be required by DfT to maintain on each Council website, pages which show contact details for hackney radio systems and private hire operators. Such pages should indicate which systems do/ do not have WAVs/ other disability friendly vehicles and also give contact telephone and email facilities.

Consideration could also be given to a number of automated information points where bookings could be facilitated. If these were situated in close vicinity to Transport interchanges then this would allow for unexpected transport needs whereas the web pages would allow people to check their destination area and make an informed provision for their needs in advance.

Where provision of services at rail or other stations is by permit only then it is not felt that voluntary codes are likely to guarantee WAVs and other disability friendly vehicles will be available. Once the final definitions of disabilities and their differing needs have been arrived at, regulations as to obtaining/ issuing of such permits may unfortunately prove necessary. Only in the situation where open access is allowed, for example Lime Street Station Liverpool, would a voluntary code work. Therefore if such were felt appropriate guidance insisting on open access on payment of a fee or otherwise might work.

Q13 - Improving consistency & quality of information to disabled persons

As per the response to question 12, Local Authorities could be required by DfT to maintain on each Council website, pages which show contact details for hackney radio systems and private hire operators. Such pages should indicate which systems do/ do not have WAVs/ disability friendly vehicles and also give contact telephone and email facilities.

DfT should give specifics as to what should be provided and in which formats. DfT should also specify how the costs of such provision should be recouped- general licence fees or government grant. A pilot scheme could be tried as suggested at question 6 above.

Q14 - Potential impacts, costs and benefits of pro-active initiatives

Regretfully NALEO considers that this question is too wide ranging to accurately answer. If the interim specification were adopted pending further demand research then over time costs would not appear to outweigh the perceived aims. Many ambulatory disabled persons in areas where mandatory WAV policies are in place could well consider themselves unfairly disadvantaged over this period however.

If the enhanced specification were adopted without any primary legislative changes then there would appear to be a significant danger in reducing WAV provision (through transfer to private hire) without any benefit to the existing and disadvantaged ambulatory disabled passengers.

Nationally applicable minimum standards set down by Statutory Regulations would clarify the market whilst improving manufacturer entry into the market. It is still felt that there is insufficient data on demand for WAV's, demand for vehicles suitable for other disabilities and customer requirements for the council to be able to offer comment of other effects.

Q15 - Further and more accurate data- DfT initiatives

At the point of reply NALEO has no more such data.

Q16 - Opinion of the draft technical specifications

This question merely repeats question 5 as answered above. The interim specification does not seem too onerous to existing WAV owners but could have great effect of any mixed fleet areas. Given that the report itself identifies that the actual demand levels are as yet unclear and also that many areas report ambulatory disabled passengers as unhappy with WAV's currently available, it is the need not the solution which is queried.

As an example many drivers complain of heavy passengers with electric wheelchairs that have, anecdotally, bent ramps etc or been high on impossible to load safely. The specification gives no maximum dimension or weight that a driver would be expected to load. That sort of guidance is crucial to gaining trades acceptance.

In the light of earlier comments in this section progressing to the enhanced specification, without supporting data seems excessive. Leeds City Council has already lost a case in the High Court re a vehicle specification which was so onerous it was held no vehicle existed which matched the specification. In the light of that decision an enhanced specification which incurred (estimated) costs (nationwide) of some £1,189,200,000 to obtain benefits of £417,255,000 would seem to be "Wednesbury unreasonable" (*Consultation Page 52*). That figure equates to a cost per licensed hackney carriage (85,000) over 12 years of £13,990 which equals an annual cost, on DfT estimates of £1166.00.

Q17 - Potential Impacts Costs & Benefits of a Regulation

In order to answer this one must first determine:

- a) Will mixed fleets be allowed ?[CP2.41] or;
- b) Will only WAVs be allowed as licensed taxis?

- c) What demand level is evidenced for wheelchair users?
- d) What demand level is evidenced for ambulatory disabled?

If mixed fleets were allowed with certain costs incentives available to WAVs then market forces would most likely determine vehicle levels. A mandatory enhanced WAV order would increase costs by some £1166 per annum per cab over 12 years and so fares would have to increase. This would lead almost certainly to a reduction in demand and a move to non WAV private hire work. This would almost certainly affect WAV provision unless subsidies, bus duty fuel rebate or similar were offered to balance the equation.

However a minimum enhanced vehicle specification set by Statutory Instrument would produce clarity and certainty would perhaps be sufficient to make manufacturers move into this market area. The costs of any such vehicle would however certainly determine the failure or success of such a move. More detailed data is needed.

Q18 - Further or more accurate data on potential costs of regulations

NALEO disputes the fact that there would be no additional enforcement costs.

Q19 - Enforcing a Technical Standard

[CP2.46-2.50] In order to move the whole country forward consideration should be given to removing local condition making powers, by primary legislative amendment if required, for both the issue of hackney carriage and private hire vehicle licences. The technical specification for these vehicles should be set down by Regulations made under Statutory Instrument. Regulations should be consulted on but could include:

Making it an offence to:

- Present a vehicle for licensing unless it meets those Regulations;[TX10]
- Use a vehicle as a DDA compliant taxi or private hire vehicle unless it meets those Regulations;[TX20]
- Use a compliant vehicle whilst it is unfit due to lack of maintenance or similar which causes it to no longer match the requirements of the Regulations;[TX30]
- Using a DDA compliant vehicle whilst a non NVQ2 qualified driver

Further:

- Local Authority Enforcement Officers should be required to be trained and designated as Vehicle Examiners for the purposes of the regulations;
- The range of penalties for any such offences should be determined after consultation as to whether they should be endorseable or not, the maximum level and any appeals process against the imposition of a fixed penalty (were such to be adopted).

Yours sincerely,

John Thompson,

Hon Secretary NALEO.