

REPORT

To: CORPORATE SERVICES COMMITTEE		Subject: TAXI AND PRIVATE HIRE CAR LICENSING - SCOTTISH GOVERNMENT BEST PRACTICE FOR LICENSING AUTHORITIES 2007
From: HEAD OF LEGAL SERVICES		
Date: 12 February 2008	Ref: JM/MK/AW	

1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to make the members aware of the Best Practice Guidance issued in December 2007 by the Scottish Government relating to taxi and private hire car licensing.

2. BACKGROUND

- 2.1. The Scottish Government, in March 2004, responded to a report of the Office of Fair Trading into the regulation of taxi and private hire vehicle services in the UK, agreeing that central government should promote and disseminate best practice in applying quality and safety regulations to assist licensing authorities in their role of regulating taxis and private hire cars. The Scottish Government, following discussion with the Department for Transport and various stakeholders, issued this guidance in December 2007.
- 2.2. The best practice document's stated aim is to provide best practice for Scottish Local Authorities on a range of licensing issues in relation to their powers to regulate taxis and private hire cars (PHC's) and their drivers.
- 2.3. The best practice document acknowledges that it does not offer interpretation of the legislation governing taxi and private hire car licensing, which is a matter for the licensing authorities and the Courts. The document also acknowledges that it cannot address the whole range of possible licensing requirements and according focuses primarily on issues that have caused difficulty in the past or that seem of particular significance.
- 2.4. A number of issues affecting taxi and private hire were separately considered during the deliberations of the Civic Government Task Group, which reported to Ministers in December 2004. The Minister for Financial and Public Service Reform subsequently announced that the implementation of many of the recommendations would require primary legislation and that the Executive was not in a position to introduce a Civic Government Bill in the lifetime of that parliament. The position in respect of prospective legislation is being monitored by local authorities through COSLA and Solar.

3. CONSIDERATIONS

- 3.1. A copy of the full document is available within the Members' Library.
- 3.2. In relation to accessibility, the document acknowledges that licensing authorities will wish to consider the accessibility of their taxi vehicles for people with disabilities, particularly given that taxis can be hired on the spot and that a disabled person should be available to hire such a taxi on the spot with the minimum delay or inconvenience. In this regard the Council have sought, through a gradual process, to

ensure that all taxi vehicles within North Lanarkshire will be purpose built or purpose adapted. The Guidance notes that local licensing authorities should be cautious about specifying that only purpose built taxis should be available, and in this regard it should be noted that the policy decision taken by the Council was not done lightly and was indeed approved after significant consideration and consultation. The legality of such a policy was recently endorsed in the Court of Session.

- 3.3. In relation to more general matters relating to the specification of vehicles, the Council currently acts largely in accordance with the Best Practice Guidance. One area on which the Council differs is that of age limits. The Council, as members will be aware, currently sets age limits in relation to taxi and private hire vehicles. The Best Practice Guidance questions whether it would not be more appropriate to have more frequent tests for older vehicles, but the Council, through the General Purposes Committee, has previously decided that vehicle age limits were appropriate. This decision was again taken following significant consultation and consideration of all available options, and it should be noted that a number of local authorities throughout Scotland operate such age limits.
- 3.4. The Guidance confirms that in terms of quantity restrictions on taxi licences, the local authority must first have satisfied itself that there is no significant unmet demand. In this regard North Lanarkshire Council currently obtain regular surveys of taxi demand from the Fraser of Allander Institute, in accordance with the Best Practice Guidance.
- 3.5. In relation to drivers' licences, the Council currently agrees that, in general, licences should be issued for three years. The guidance makes reference to applicants being able to request a single year licence at a reduced fee. The Council has never received such a request and therefore does not consider it to be appropriate.
- 3.6. In relation to criminal record checks, the Council is generally in agreement with the Best Practice Guidance, with the exception that it does not think it appropriate to set a tariff of offences together with views as to the period which they would normally expect to have elapsed before an applicant would be considered for the grant of a licence. The Council is aware that the Rehabilitation of Offenders Act is excluded to the extent that spent convictions require to be disclosed to the Council in relation to drivers' licences. Accordingly, it is not felt appropriate that any policy is formulated with regard to convictions becoming "spent".
- 3.7. In relation to criminal convictions of applicants from elsewhere in the EU and other overseas countries, the Council is currently reviewing its operation with a view to introducing a procedure similar to that noted.
- 3.8. The Council agrees with the Best Practice Guidelines on enforcement, and indeed has recently carried out visible enforcement activity during the late night period.
- 3.9. The Council is also in agreement with the suggestions in relation to complaints procedures and would note that the Licensing Section of the Council's website is shortly to be updated, and the best practice comments in relation to complaints will be taken into account.

4. **CORPORATE/FINANCIAL CONSIDERATIONS**

4.1. There are no particular corporate/financial considerations in relation to this report.

5. **RECOMMENDATION**

5.1. The Committee is asked to note the Best Practice Guidance and the comments thereon.



Head of Legal Services

(Members seeking further information on the contents of this report are asked to contact Alan Wright, Solicitor (District Courts & Licensing) on Ext. 2214)