

# Regulatory Committee

**9.30am, Monday, 9th March 2020**

## **Private Hire Car Overprovision**

<b>Executive/routine</b>	
<b>Wards</b>	All
<b>Council Commitments</b>	

### **1. Recommendations**

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- 1.1 The committee is asked to:
  - 1.1.1 Note the content of the motion passed by full Council on 24 October 2019 in relation to capping Private Hire Car Licences and discharges the outstanding remit; and
  - 1.1.2 instruct officers to undertake the actions as detailed in section 5

**Paul Lawrence**

Executive Director of Place

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# Report

## Private Hire Car Overprovision

### 2. Executive Summary

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- 2.1 This report outlines the necessary steps required to consider, develop and implement an overprovision policy for Private Hire Cars (PHCs) and provides members with detail on the proposed framework in which such a policy should be agreed.

### 3. Background

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#### Current Position

- 3.1 The Civic Government (Scotland) Act 1982 ('the 1982 Act') creates a two-tier licensing regime for taxis and PHCs. The City of Edinburgh Council exercised its powers to license taxis and Private Hire Cars (PHCs) in 1983.
- 3.2 For many years the Council has adopted a policy of limiting the number of taxi licences issued within the city, utilising the powers available to it under Section 10 (3) of the 1982 Act. This power can only be used if the Council is satisfied that there is no 'significant unmet demand' for taxis. The Council is required to keep this position under regular review.
- 3.3 On 1 May 2017 amendments to the 1982 Act came into force which introduced powers allowing Licensing Authorities to limit PHCs. Previous advice offered to the committee by officers has been that these new powers require a methodology to assess how to calculate overprovision of PHCs. The Scottish Government committed to providing such guidance, and in its absence the Council has not thus far implemented a limit on the number of PHCs in Edinburgh.

#### Scottish Government Guidance

- 3.4 On 24 October 2019 the Scottish Government released guidance on how Local Authorities should assess overprovision of PHCs ([link in section 8](#)).
- 3.5 Guidance on how to calculate unmet demand for taxis has existed for several years and is partly focused on an analysis of taxi stance (rank) activity, including waiting times for both passengers and drivers and number of pick ups. This is distinctly different to the guidance issued by the Scottish Government for calculating PHC

overprovision, which relies heavily on analysing a range of data not normally available to a local authority.

### **Local PHC trade demographic**

- 3.6 The number of PHCs remained consistent for many years until 2013. However, from 2013 to 2019 the trade experienced rapid growth following the development of several key factors and the evolution of the gig economy.
- 3.7 In the period in which data is readily available (2015 to 2019), the number of PHC vehicle licences issued increased from 1,012 to 2,518. A similar trend is noted in the number of licensed PHC drivers in Edinburgh, as the following tables show.

VEHICLES	2015	2016	2017	2018	2019
Taxi	1316	1316	1316	1316	1316
PHC	1012	1471	1772	2165	2518
Total	2328	2787	3088	3481	3834

DRIVERS	2015	2016	2017	2018	2019
Taxi	3099	3226	3166	3118	2934
PHC	1258	2114	2447	2878	3153
Total	4357	5340	5613	5996	6087

- 3.8 This increase is mirrored across the UK and is not unique to Edinburgh. Other councils in the UK have experienced growth, with an additional 87,000 licensed PHCs across the UK in the same period. The graphs provided in Appendix 3 provide evaluation with other comparable sized and populated cities.

## **4. Main report**

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### **Available guidance**

- 4.1 At the meeting of the City of Edinburgh Council on 24 October 2019, a motion was agreed instructing that a report on PHC overprovision should be reported to the Regulatory Committee. When considering such a policy the Council must have regard to the guidance issued by the Scottish Government on 24 October 2019.
- 4.2 Officers have reviewed and considered the terms of the guidance. The guidance makes clear that there is no definitive method of calculating overprovision. The guidance does, however, offer suggestions on what factors or influences should be considered when developing such a policy.
- 4.3 The data which is recommended for consideration would be required to be provided by commercial organisations operating within the private hire trade. Whilst these operators will be licensed by the City of Edinburgh Council to operate a taxi (or

PHC) Booking Office, there is no express power for the Licensing Authority which would oblige licensed booking offices to provide such data.

- 4.4 It is noted that the guidance does not outline a specific method of calculation by which to assess overprovision, instead requiring the Licensing Authority to determine which information it considers appropriate for consideration and how that information should be gathered.
- 4.5 In addition to the guidance issued by the Scottish Government, the Council must also have regard to its responsibilities outlined by the Competition and Markets Authority (CMA).
- 4.6 In 2017, the CMA contacted Local Authorities across England and Wales to provide detailed advice and guidance on the impact of taxi and PHC licensing on competition and consumer welfare (Appendix 2).
- 4.7 It should be noted that whilst guidance was issued to Local Authorities in England and Wales, the CMA has confirmed that its content is specifically relevant to the taxi and private hire licensing functions adopted by this Council.
- 4.8 The guidance issued by CMA specifically highlights the necessity for Local Authorities to consider the following matters when developing policy or licence conditions:
  - 4.8.1 Unintentionally distorting competition by increasing consumer costs.
  - 4.8.2 A cap on vehicles numbers is not necessary to ensure passenger safety.
  - 4.8.3 A cap on vehicle numbers may harm passengers by reducing availability, increasing waiting times, reducing potential for innovation of reducing costs to passengers and reduce potential to improve quality of service for passengers.
- 4.9 In addition to these matters, officers will also carry out a Competition Impact Assessment, or instruct a consultant to do so on the Council's behalf, in line with the guidance received from CMA.

### **Council Data**

- 4.10 The data in Appendix 3 shows that when compared to other similar sized cities, the number of PHCs compared to taxis in Edinburgh is consistent with the trend seen across the rest of the UK.
- 4.11 The last full set of data available for analysis is from 2018. At 4.2 PHCs per 1,000 population, Edinburgh is broadly equivalent to Birmingham and Liverpool, which both have figures of 4.1 per 1,000 population. Edinburgh sits below Glasgow which is recorded as 6 per 1,000 and London at 9.9 per 1,000.
- 4.12 The nature of the growth and development of the PHC trade in Edinburgh has indicated that whilst there continues to be an increase in number of licensed PHCs, the natural turnover of licences being issued for vehicles remains steady and consistent with previous years trends.



- 4.13 This turnover of PHC licences which are not renewed has not previously been analysed. Additionally, existing licensed vehicles are replaced and upgraded, and operators assess and rotate their current fleet. The following table outlines the last four years' trend in PHC licences issued.

	Year of Grant			
	2016	2017	2018	2019
Total number of licences granted	1,496	2,101	2,506	2,518
Number of Change of Vehicles	135	159	260	272
Other variations	42	49	88	119
Applications for new licences issued	552	633	630	485
Change per year		81	-3	-145
Renewal Licences issued	767	1,260	1,528	1,642
Change from previous year		493	268	114
Number not renewing	59	365	516	
Percentage not renewing	4.47%	19.28%	23.91%	
Total vehicle licenced	1,319	1,893	2,158	2,127
Change from previous year		574	265	-31

- 4.14 The difference in the number of licences granted and number of licences collected may also demonstrate inactive vehicles, where licence holders retain or gain a licence but do not collect plates. Officers are assessing the impact of licence holders choosing not to renew or surrender licences which are not operational. There appears to be evidence of a significant turnover of licence holders within the PHC sector.
- 4.15 In order to ensure that the Council adopts an evidence-based approach it will be necessary to engage widely with all sectors of the trade, the public and other interested parties. This will be achieved by a range of approaches including questionnaires, focus groups and meeting with specific trade groups.
- 4.16 It is proposed that the outcome of any work undertaken by an external consultant to examine the PHC market and make any recommendations will be consulted upon prior to policy proposals being presented to the Regulatory Committee.
- 4.17 Given the nature of the taxi demand survey and the type of information that the Scottish Government guidance suggests the Local Authority take into consideration, are similar, it is proposed to take a pragmatic approach to these reports and amalgamate these separate surveys. This would provide for a single, combined assessment which would give a comprehensive view of the current level of taxi demand and PHC provision in Edinburgh.

### **Contractor Procurement**

- 4.18 It is considered necessary to ensure that appropriate expertise, resources, and industry knowledge is required. Like the position taken by the council when procuring the Taxi Demand survey, this work will require an external contractor.
- 4.19 It will be necessary to undertake full procurement for a contractor to be engaged to undertake this work, additionally encompassing the three year taxi demand survey. Officers have taken initial steps to begin sourcing an appropriate external contractor and regular progress updates will be provided to members.
- 4.20 It is anticipated that the implementation of an overprovision policy would require extensive phases of consultation, data gathering and analysis, with varying degrees of complexity. As such the Directorate proposes an agreed timeline within the statutory timeframe. Officers will report back to the committee within six months with a progress update. This is a realistic timeframe which allows for a full procurement process, detailed trade and public consultation, gathering of relevant data and analysis of that data.

### **Public Safety Concerns**

- 4.21 Significant concerns have been raised by members of the taxi trade claiming that the increase in PHCs endangers the public. However, there is no evidence-based assessment of the increase in PHC numbers contributing to an increase in crime or risks to public safety in Edinburgh.
- 4.22 The Council has received allegations that the increase in PHC numbers has resulted in a concerning increase of instances of illegal plying for hire by PHCs. The Regulatory Committee was recently provided with a detailed breakdown of complaints made against Taxi and Private Hire Licence holders. It was noted that the increase in complaints against PHCs in relation to illegal plying for hire resulted from complaints made by the taxi trade, not members of the public.
- 4.23 The number of complaints received from members of the public is consistent with the general growth of the trade. As previously reported, there have been no circumstances in the previous two years where any such a complaint has resulted in sufficient evidence being available to substantiate the complaint.
- 4.24 The Directorate has commenced projects using test purchasing to detect and deter illegal pick ups by PHC Drivers. As at the time of writing 40 such test purchase attempts have been made, with just two PHC Drivers being prepared to pick up illegally. Both cases have been reported to the Licensing Sub-Committee and suspensions have resulted. Further such exercises are planned.

### **Complaints**

- 4.25 The motion passed by the Council on 24 October 2019 requested information for members on current means of inspection and enforcement and data from Police Scotland on reported crime in the last five years. A request for this information has been made to Police Scotland and will be forwarded to members when received.
- 4.26 Members were provided with a detailed report in January 2020 in relation to taxi and PHC complaints and enforcement. This showed that the increase in complaints

received can be attributed to several factors, but is at a level which is consistent with the growth of the trade.

- 4.27 Analysis of the complaints established that there is no evidence of an irregular increase in the number of complaints received by members of the public or PHC trade, however an increase in complaints received by members of the taxi trade against the PHC trade is noted.
- 4.28 The type and severity of complaints received against the PHC trade does not support the concern that the increase in PHC numbers poses an increased threat to public safety or diminishes the effectiveness of existing monitoring and enforcement practises. The following table identifies some key comparative information in relation to the severity of complaints received against the taxi and PHC Trade in 2018 and 2019.

Type	PHC	Taxi
<b>Aggressive Behaviour</b>	119	192
<b>Sexual</b>	6	8
<b>Mobile phone use</b>	14	19
<b>Vehicle used when not of required standard</b>	33	19

### Suspensions

- 4.29 Requests for suspension of licences submitted by the Cab Inspector and Council officers is a key outcome indicator for effective enforcement. Between January 2017 and September 2019 a total of 128 suspension requests were referred to the Licensing Sub-Committee. These hearings take place in private under the B Agenda and therefore it is difficult to make the public aware of this aspect of the regulatory role. The table below sets out the main reason why a driver was referred to a hearing for consideration of suspension, but it is important to note that there may be multiple reasons. It is also worth noting that the circumstances relevant to the suspension request may be unconnected to the operation of the licence.

Category	PHC	Taxi	Total
Violence	11	11	22
Traffic Offences	26	14	40
Sexual Offences	12	2	14
Drink driving or driving under influence of drugs	11	1	12
Conduct of Driver	3	1	4
Illegal pick ups	11	4	15
Other	18	3	21
<b>Total</b>	<b>92</b>	<b>36</b>	<b>128</b>

- 4.30 Of the 128 suspensions heard by committee, 95 (74%) resulted in action being taken against the licence holder by way of suspending the relevant licence. In some cases, the committee decided to await the conclusion of legal proceedings prior to reaching a decision.

#### **Best Practice in other Local Authorities**

- 4.31 Officers have liaised with colleagues in Glasgow City Council and have visited their taxi vehicle licensing facilities and testing premises. Discussions on procedures for a range of functions including testing, enforcement and operational management have been helpful in ensuring that the Council's approach to these matters remains effective.
- 4.32 Officers also discussed the implementation of an overprovision policy for PHCs in Glasgow. Useful insights were gained through these discussions into the various challenges associated with implementing such a policy and importantly, the impact that this has had on their customers, resources, service delivery and ability to continue to achieve operational performance aims.
- 4.33 Officers will consider how best to utilise these discussions as part of its own policy development. It is anticipated that the approach outlined in this report will provide for a comprehensive, informed and evidence based and view to be formed on the matter.
- 4.34 As reported to the committee in January 2020, the Council invests significant resource and finances in specialist officers from Police Scotland being made available to deal with matters relating to taxi and PHC drivers and operators. It was noted during discussions with colleagues at Glasgow City Council that they do not operate such an arrangement and that all enforcement functions are maintained and resourced solely within the council.
- 4.35 Members will note that the line management of the Taxi Examination Centre has now transferred to Regulatory Services. It is intended that the Directorate will consider whether the current operational arrangements for inspection and enforcement should continue to be delivered by one group of staff, or whether the increased size of the licensed fleet overall requires a different structure to be explored. The Directorate will continue to report on enforcement activity and will update the committee should revised operational arrangements be proposed.

#### **Engagement with trade representatives**

- 4.36 Officers have engaged with trade representatives to seek initial feedback on PHC overprovision.
- 4.37 Trade representatives were asked to complete a short questionnaire intended to provide the Council with a more complete understanding of what information they considered should be taken into account, and what information they could make available to the Council to assist in any future policy development.
- 4.38 The responses to this questionnaire are provided at Appendix 4.

## 5. Next Steps

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- 5.1 Officers will undertake necessary actions to appoint an appropriately experienced and skilled external consultant to undertake the required research and analysis work on taxi demand and assessment of PHC overprovision. A full equalities impact assessment will be required with regard to any recommendations that the consultant submits to the Council.
- 5.2 In addition, officers will continue to engage directly with relevant stakeholders.
- 5.3 Upon conclusion of any research and analysis completed by an appointed contractor, officers will present the collected data and any supporting information to the committee.
- 5.4 It is intended to undertake consultation with a wider group, including making the results of the research and any recommendations brought forward by officers, available for public consultation.

## 6. Financial impact

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- 6.1 The cost of any research or procurement works is contained within the income from taxi licence fees. The expected cost of this piece of work is £100,000
- 6.2 Where a significant increase in associated costs is identified, it may be appropriate to review the Licensing fee structure to ensure that the costs of administering the service and its associated policies, continues to be sustainable.
- 6.3 Recovery of associated costs and any subsequent review of the Licensing fee structure to accommodate this is necessary, as the Licensing Service is not supported by the Council's central budget and it must recover all incurred costs exclusively through Licensing fees.

## 7. Stakeholder/Community Impact

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- 7.1 Once procurement of a contractor is completed then a statutory consultation framework will be agreed to enable:
  - 7.1.1 consultation with trade representatives.
  - 7.1.2 public consultation on recommendations.

## 8. Background reading/external references

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- 8.1 Scottish Government Guidance – [Private hire car licensing; guidance on power to refuse on grounds of overprovision.](#)

## 9. Appendices

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- 9.1 Appendix 1 – Scottish Government Guidance on Powers to Refuse to Grant PHC Licenses on Grounds of Overprovision.
- 9.2 Appendix 2 – Guidance from CMA
- 9.3 Appendix 3 – PHC & Taxi comparative City data
- 9.4 Appendix 4 – Responses to Questionnaire

# **Civic Government (Scotland) Act 1982**

## **Guidance on Power to Refuse to Grant Private Hire Car Licences on Grounds of Overprovision**

October 2019



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

## **Introduction**

1. Taxi and private hire car services play an essential part in local transport networks, providing an invaluable service for both residents and visitors to Scotland. The aim of a licensing regime is amongst other things, the preservation of public safety and order and the prevention of crime. The licensing regime for taxis and private hire cars therefore needs to ensure that customers have a safe, reliable and accessible service.
2. The legislative framework for the optional licensing and regulation of taxis and private hire cars is provided for under sections 10 to 23 and schedule 1 of the Civic Government (Scotland) Act 1982<sup>1</sup> (the "1982 Act"). Scottish local licensing authorities are responsible for the creation, management and enforcement of local taxi and private hire car licensing regimes. Differing approaches to aspects of the regimes are often adopted to allow individual authorities to respond most appropriately to local concerns and apply a regime that best meets the specific needs of their local area.

## **Guidance**

3. This non-statutory guidance relates to the discretionary power of local licensing authorities to refuse to grant private hire car vehicle licences on the grounds of overprovision as provided for in section 10 of the 1982 Act. This power was introduced into section 10 following amendments made by section 63 of the Air Weapons and Licensing (Scotland) Act 2015<sup>2</sup> ("the 2015 Act"), which came into force on 1 May 2017. These powers do not apply to the renewal of existing licences.
4. As a first step, local licensing authorities will have to decide whether or not they wish to undertake an assessment of overprovision of private hire cars.
5. If it is decided to proceed, the local licensing authority will need to undertake an assessment of whether there is any evidence of overprovision in their localities.
6. This guidance is intended to support licensing authorities in the use of the new power to refuse to grant a private hire car vehicle licence on grounds of overprovision.
7. Where possible the guidance provides examples of good practice for the assistance of local licensing authorities.
8. The guidance should not be taken as an authoritative statement as to the law. Local licensing authorities must ensure that their procedures enable them to comply with the requirements of the legislation. The interpretation of the law is ultimately a matter for the courts. This guidance should not be seen as a replacement for independent legal advice.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1982/45/contents>

<sup>2</sup> <http://www.legislation.gov.uk/asp/2015/10/section/63>



### **Legislative background**

9. During the parliamentary passage of the Bill for the 2015 Act, the Stage 1 report queried the need for different tests to be used for taxis and private hire cars but otherwise supported the proposal. The Scottish Government's response to the Committee explained that different tests were required as private hire cars must be pre booked and cannot be ranked and hailed like taxis. Existing unmet demand tests for taxis rely on the fact that taxis operate from taxi ranks and can be hailed.
10. The Scottish Government also agreed to develop guidance for the local licensing authorities to support the overprovision assessment for private hire cars.
11. The Scottish Government believes that this discretionary power will enable local licensing authorities to ensure the public, when they are customers, can expect a safe and appropriate service.

### **Deciding whether to undertake an overprovision assessment**

12. It is for individual licensing authorities to decide whether they wish to undertake an overprovision assessment. In considering this matter they may wish to take into account factors such as:
  - whether they already restrict taxi vehicle numbers
  - views from the trade, both taxis and private hire car businesses
  - overall trends in vehicle numbers, are private hire car vehicle numbers increasing?
  - churn, with licence holders failing to renew vehicle licences.

### **Determining localities**

13. If it is decided to undertake an overprovision assessment, then the licensing authority will have to determine localities within their area for the purposes of the overprovision assessment. In doing this, the licensing authority may determine that the whole of their area is to be treated as a single locality.
14. For the purposes of undertaking an assessment of overprovision of private hire car services, section 10(3B) of the 1982 Act allows the local licensing authority to determine localities within their area, allowing them to either treat the whole local licensing authority area as one locality or sub-divide it. In setting localities local licensing authorities may wish to distinguish between urban and rural areas, where the need for private hire car provision could potentially be very different.
15. In deciding on localities, the licensing authority may wish to take account of the full geographical extent of their area, the existing trading patterns and consumer behaviour. It should be borne in mind that deciding that there is overprovision within an area or areas, is likely to have an impact on future trading patterns.

### **Assessing Overprovision**

16. Under section 10(3C) of the 1982 Act, when assessing overprovision, the local licensing authority must have regard to the number of private hire cars operating in the locality and the demand for private hire car services in the locality. This should be informed by the need to ensure that customers are provided with a safe and reliable service, and that the full diversity of customers can continue to be provided with a safe and reliable service. This may take account of the provision of accessible vehicles, availability across the week, and at key times.
17. Other considerations could be waiting times for pre-booked private hire cars and whether anyone is likely to be disadvantaged through restrictions on or lack of provision of private hire cars at peak demand times.

### **Developing an overprovision policy**

18. The Scottish Government suggests that local licensing authorities who decide that they wish to use the overprovision power should develop and consult on a formal overprovision policy. This may take account of:
  - evidence of churn in applications, with private hire car vehicle licences not being renewed, which could suggest that there is insufficient trade available
  - evidence from meetings with relevant trade bodies, both taxis and private hire cars, as well as other businesses with an interest
  - evidence from consultation or engagement
  - overall trends in private hire car numbers
  - evidence of poor compliance by private hire cars, seeking to use taxis ranks or be hailed, which may suggest that there is insufficient trade available
  - evidence of private hire car driver hours, drivers working excessive hours in order to make a living or evidence of excess demand
  - overall ratio between the numbers of taxis and private hire car vehicles, many consumers are reliant on taxis to provide accessible vehicles etc. and an overprovision of private hire cars could endanger this
  - evidence of an adverse impact on viability of taxis which provide a vital service to many consumers
  - overall ratio between vehicle numbers and overall population within the area
  - any other additional factors that they consider useful.
19. As a matter of good practice, any evidence gathered in a survey, together with an explanation of what conclusions have been drawn from it (and why) should be published. If private hire car quantity restrictions are to be established, their benefits to consumers and the reason for the particular level at which the number is set should be explained.

20. However, it is not good practice for surveys to be paid for by the trade, except through general revenues from licence fees, as this could cast doubt on the impartiality and objectivity of the process.
21. During the development of this guidance, it became apparent that there is no simple numerical formula for pinpointing the threshold between provision and overprovision. The Scottish Government therefore commissioned Vector Transport Consultancy to provide proposals and specific information that could inform any assessment and how such information might be obtained. Their report, *Private Hire Overprovision Assessment – Potential assessment tools*<sup>3</sup>, outlines potential tests for overprovision and details sources of information which may be helpful to local licensing authorities in the development of a private hire car overprovision policy.

### **Refusal on grounds of overprovision**

22. Once a local licensing authority has completed its overprovision assessment, it will be in a position to refuse new private hire car vehicle licence applications in line with that policy. However, we would suggest that the policy be capable of exception and that it offers the scope to grant a private hire car vehicle licence in excess of the indicated number where for example, it provides disabled access.

### **Review of policy**

23. We suggest that local licensing authorities undertake a periodical review of their policy with regard to quantity restrictions on private hire car vehicle licences taking into account the wider policy direction. Local licensing authorities will wish to make sure that, in doing so, they regularly review the frequency and component parts of the surveys used to measure overprovision and carry out such surveys with sufficient frequency to ensure they are able to respond to any challenge to the satisfaction of a court. It will be for the individual local licensing authority to determine the timeframe for undertaking the reviews.

### **Appeals**

24. A decision not to grant a licence would be capable of appeal. An appeal can be to the Sheriff in the first instance and could be on the grounds that the authority erred in law, based their decision on an incorrect fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.
25. In the event of a challenge to a decision to refuse a licence, the local licensing authority concerned will be required to establish to the satisfaction of the court that it had satisfied itself that there was overprovision of private hire car services in a given locality or localities.

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<sup>3</sup> <http://www.gov.scot/ISBN/9781839602405>

### **Considering the competition impact of overprovision policy**

26. Any overprovision policy should balance the need to ensure customer safety alongside the need to ensure that it does not limit the ability of taxi and private car hire businesses to compete. Local licensing authorities may therefore wish to consider whether the refusal to grant a licence is likely to restrict free trade and competition between businesses which could result in a reduction in customer choice and increased costs. It is important that both the taxi and private hire car service being provided is working well and benefits customers in terms of value for money and quality of service. Licensing authorities may wish to be aware that the Competition and Market Authority has published guidance<sup>4</sup> for local authorities in considering the competition impact of licensing of taxis and private hire cars<sup>5</sup>.

### **Conclusion**

27. There is no obligation on a licensing authority to exercise the power to refuse to grant a private hire car licence on the grounds of overprovision.
28. The licensing authority should consider the facts of individual license applications and make decisions based on local priorities and circumstances.
29. The licensing authority should, where possible, ensure that there is consistency in the decisions made.
30. Any query about any overprovision policy for private hire cars should be directed to the local licensing authority.

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<sup>4</sup> <https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities>

<sup>5</sup> Please note that the CMA guidance was produced for licensing authorities in England and Wales, which operate under a similar but different regulatory regime.



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W W W . g o v . s c o t



## Appendix 2



Head of Licensing

From: John Kirkpatrick  
*Senior Director, Advocacy*

19 June 2017

Dear Head of Licensing,

**Guidance on the impact of taxi and private hire licensing on competition and consumer welfare**

The Competition and Markets Authority (CMA) is the UK's primary competition and consumer authority, and has a statutory duty to promote competition for the benefit of consumers. The Enterprise Act 2002 gives the CMA the function of making proposals or giving information or advice to any public authority on matters relating to any of its functions. HM Treasury has asked the CMA to consider how local authorities "can support competition and challenge them when they do not"<sup>1</sup>.

Hackney carriage (taxi) and private hire licensing conditions play a crucial role in ensuring that passengers are treated fairly, and that passengers and other road users are safe. However, the CMA's experience of competition in markets and how it can enhance consumer welfare shows that some licensing conditions may restrict or distort competition, potentially resulting in passengers paying higher fares or receiving a lower quality of service. Conditions most likely to reduce passenger welfare are ones which forbid aspects of service that passengers value, which specify to a high degree the nature of the service to be provided, which limit the number of providers in a market, or which restrict the ability of drivers to work for more than one operator. As licensing authorities seek to strike the right balance between safety and consumer welfare, they might like to consider whether the objectives behind such conditions might be achieved in ways that are less likely to reduce the welfare of passengers.

The CMA has produced [guidance for all licensing authorities in England and Wales](#) to assist them in understanding the effect that various licensing conditions can have on competition and passenger welfare.

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<sup>1</sup> HM Treasury's November 2015 [competition plan: A Better Deal](#)

The CMA's understanding of the taxi and private hire trades is informed by the OFT's 2003 Market Study of the regulation of taxi and private hire services, the OFT's 2007 evaluation of the 2003 market study, and the findings of the CMA's examination of a merger between private hire operators in Sheffield<sup>2</sup>. The CMA has also undertaken a review of proposed and existing conditions imposed by licensing authorities on the taxi and private hire trades. As part of this review, the CMA has been in touch with licensing authorities where it considers that licensing conditions may undermine competition and the interests of passengers<sup>3</sup>. Following this review, we have produced a short report which is available on request.

The CMA has also produced [general guidance](#) on carrying out a competition impact assessment, which you may find useful when updating or reviewing taxi and private hire licensing conditions.

I or one of my team would be very happy to discuss any of these issues further, if helpful.

Yours faithfully,

John Kirkpatrick  
*Senior Director, Advocacy*

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<sup>2</sup> Sheffield taxis [merger inquiry](#)

<sup>3</sup> In December 2015, the CMA [responded](#) to a TfL consultation, and in September 2016 the CMA [wrote](#) to Sheffield City Council about proposed licensing conditions.

# **Regulation of taxis and private hire vehicles: understanding the impact on competition**

April 2017



## About the Competition and Markets Authority



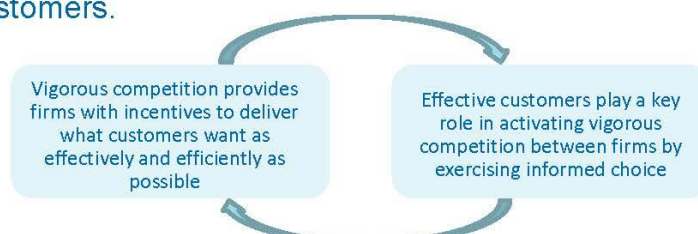
- On 1 April 2014, the Competition and Markets Authority (CMA) became the UK's lead competition and consumer body. The CMA brought together the competition and consumer protection functions of the Office of Fair Trading and the Competition Commission
- The CMA has a statutory duty to seek to promote competition for the benefit of consumers. The CMA has an advocacy function, which involves giving information or advice to public authorities on the impact on competition of public policy.
- As part of this work, HM Treasury has asked the CMA to consider how local authorities can support competition, and to challenge them when they do not.

[www.gov.uk/government/organisations/competition-and-markets-authority](http://www.gov.uk/government/organisations/competition-and-markets-authority)

## The purpose of this guidance note

- As part of our work on local authorities' impact on competition, the CMA has undertaken a review of taxi and PHV licensing conditions.
- The CMA recognises that taxi and PHV licensing conditions play a crucial role in ensuring the safety of passengers. Regulations on vehicle safety and driver suitability are clearly necessary to ensure safety.
- This guide is designed to help local authorities understand the impact some licensing conditions can have on consumers and hence help to reach the right balance between ensuring passenger safety and avoiding consumers having to face higher prices or lower service quality.
- The CMA has found that some licensing conditions are likely to restrict or distort competition in ways that may result in higher prices and/or worse service for consumers.
- The CMA recognises that licensing authorities face competing pressures and tough decisions over how to strike the right balance.
- The CMA's short report on the impact that licensing conditions can have on consumer welfare is available on request.

- Competition is a process of rivalry between firms that benefits consumers. Competition can exert downward pressure on prices and upward pressure on quality, because greater competition means that firms must fight harder to attract and retain customers.



- Effective and fair competition is underpinned by competition and consumer protection laws which govern how businesses can compete.
- Government may impose additional regulations in a market where, for example, there are concerns around consumer safety.
- The CMA's view is that competition should only be restricted by regulatory rules to the extent that is necessary to protect consumers.
- This guide illustrates how some licensing conditions can affect consumers' interests, in order to help ensure conditions are targeted and proportionate.

- The CMA's understanding of the hackney carriage and PHV markets is informed by the OFT's 2003 market study and the subsequent impact evaluation in 2007, the examination of a merger between private hire operators in Sheffield and our recent evidence review and analysis of licensing conditions. We also considered the 2014 Law Commission report on Taxi and Private Hire services.
- The OFT's 2003 market study found, among other things, that:
  - Passengers are in a relatively weak position to compare offers and negotiate prices in the hail and rank (taxi) trade. There is therefore a need for fare regulation of taxis. This also provides a justification for greater regulation of service standards of taxis compared to PHVs.
  - Quantity regulations on taxis are not necessary to ensure either the safety or quality of taxis, or that passengers are charged reasonable fares. However, quantity regulations may damage consumer welfare by reducing the availability and increasing waiting times for taxis.
- As part of our review of licensing conditions, the CMA has written to several licensing authorities, including Transport for London<sup>1</sup> and Sheffield City Council<sup>2</sup>, to highlight where conditions may restrict competition and harm consumer welfare.

<sup>1</sup> CMA [response](#) to TfL consultation

<sup>2</sup> CMA [letter](#) to Sheffield City Council



### ***The two tier system***

- Taxis' right to ply for hire necessitates different regulation for taxis and PHVs. Passengers are in a weak position to judge the quality or to compare prices of taxis; it is therefore necessary to regulate taxi fares (and service standards).
- The scope for competition between taxis and PHVs, increasing with the emergence of app-based models, can deliver benefits for passengers. To facilitate this, regulatory distinctions between taxis and PHVs should not go beyond what is required by legislation or necessary to protect passengers.

### ***Private Hire***

- Passengers are in a better position to assess the quality and compare the prices of private hire operators than they are with taxis. Competition can generally work well between private hire operators.
- There is a need to ensure passenger safety, but licensing conditions that go beyond this may reduce passenger choice, and increase cost and prices.
- Some conditions may also create barriers to entry, reducing the number of operators, and hence reducing competitive pressure on operators to reduce prices or improve service quality.

### ***Hackney carriages***

- As noted above, there is a need to regulate the prices and service standards of taxis, owing to their unique right to ply for hire. There is also a need, as with the private hire trade, to ensure the safety of passengers.
- Quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares.
- The CMA takes the view that concerns around congestion, air pollution and enforcement costs can generally be addressed through measures less harmful to passengers' interests than quantity restrictions.
- If the removal of quantity restrictions leads to increased waiting times for taxi drivers between journeys, this indicates that price competition which would benefit passengers is not occurring. Licensing authorities should monitor waiting times and consider adjusting the regulated fare cap to address mismatches between supply and demand. Addressing such mismatches is likely to benefit passengers.

## Licensing conditions that can have negative impacts on consumers

- The CMA's competition impact assessment guidelines can help those designing policy or regulations to assess their impact on competition and the interests of consumers.
- These guidelines contain four tests which help policy makers assess whether their proposals will limit competition:
  1. Will the measures directly or indirectly limit the number or range of suppliers?
  2. Will the measure limit the ability of suppliers to compete?
  3. Will the measure limit suppliers' incentives to compete?
  4. Will the measure limit the choices and information available to consumers?
- Considering these questions will help ensure local authorities are aware of the restrictions they may be introducing on competition and may encourage them to consider alternative courses of action where possible.

[www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers](http://www.gov.uk/government/publications/competition-impact-assessment-guidelines-for-policymakers)



# Examples of conditions that may harm the interests of passengers (1 of 2)

Competition Impact Assessment test	Examples	Nature of harm
1. Limiting the number or range of suppliers	Quantity restrictions on taxis	Quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles.
1. Limiting the number or range of suppliers	Restricting market development by: <ul style="list-style-type: none"> <li>- Banning drivers from working for more than one operator</li> <li>- Conditions on vehicle signage that make it difficult for drivers to work for more than one operator</li> </ul>	Such conditions make it difficult for firms to enter the market or expand by recruiting <u>existing</u> drivers on a <u>part time</u> basis. They may also encourage drivers to move to the largest operator. This may reduce the number of firms, thereby reducing competitive pressure to reduce prices or improve service quality.
2 & 3. Limiting the ability and incentives of suppliers to compete	Service provision is over-regulated beyond passenger needs/wants: <ul style="list-style-type: none"> <li>- Compulsory landline helpline, sometimes having to be based within the authority</li> <li>- <u>Minimum</u> number of days advance booking function</li> <li>- Extensive navigational skills assessments for PHV drivers</li> </ul>	<p>Private hire is a market where passengers are likely to be in a good position to trade off price and quality levels that best suit their needs. If sufficient numbers of passengers desire a high service standard, then it is likely that some operators will offer it.</p> <p>Over-regulation of service standards is likely to mean higher costs and therefore higher fares for passengers, especially those who would most value a low cost service. It may also create barriers to entry, thereby reducing the number of operators, and hence competitive pressure between them.</p>



## Examples of conditions that may harm the interests of passengers (2 of 2)

Competition Impact Assessment test	Example	Nature of harm
2 & 3. Limiting the ability and incentives of suppliers to compete	<p>Introducing restrictions on business models or unnecessary distinction between conditions imposed on PHVs and taxis:</p> <ul style="list-style-type: none"><li>- Prescribing the method in which pre-booked fares should be recorded (eg written records)</li><li>- Restrictions on advertising products on vehicles</li><li>- Restrictions on where PHVs can park</li><li>- Requirement to specify <i>exact</i> fare in advance</li><li>- Approval required for any changes to operating model</li></ul>	<p>Restrictions on how PHV operators must operate are likely to reduce innovation that could reduce costs or improve the quality of service for passengers.</p> <p>Conditions that apply to PHV operators and not to taxis may increase, relatively, PHV operating costs. Such conditions may therefore make it harder for PHV operators to attract passengers who might otherwise use taxis, potentially resulting in passengers paying higher fares or receiving lower service quality.</p>
4. Limiting choices and information available to consumers	<p>Banning aspects of service valued by passengers:</p> <ul style="list-style-type: none"><li>- Displays of vehicle availability in-app</li><li>- Compulsory <u>minimum</u> waiting times between booking and journey start</li></ul>	<p>Banning aspects of service that passengers might find valuable is likely to directly harm their welfare.</p>

## What to do if you are considering reviewing your licensing regime

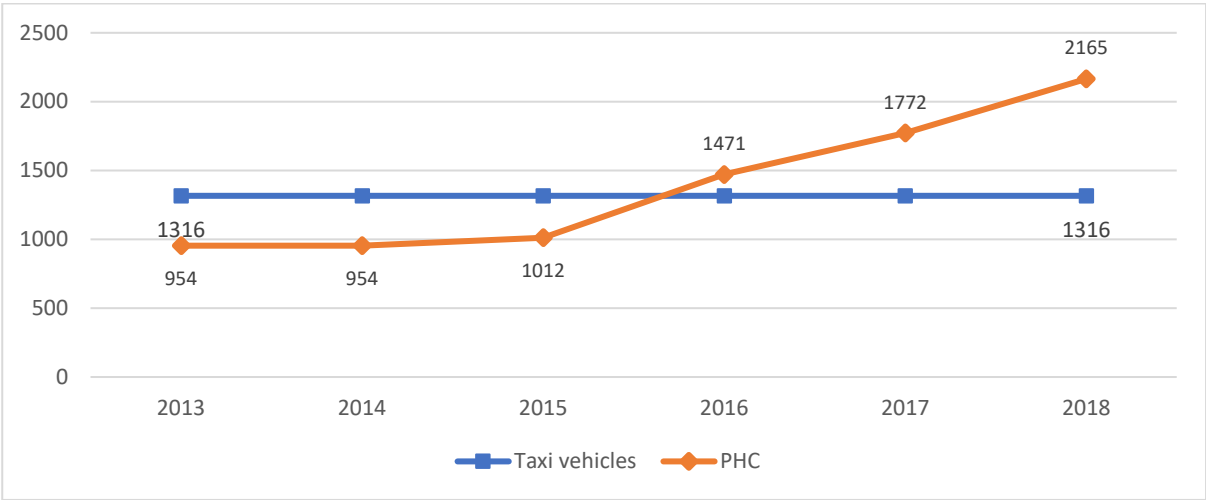


- Ensure your proposed measures are necessary to achieve your objective(s)
- Consider the questions set out in the CMA's competition impact assessment guidelines
- Where measures are likely to restrict competition and harm consumer welfare, consider whether alternative, less-restrictive measures could be employed to achieve your objective(s) and if not, whether the objectives really do necessitate the restriction
- The CMA's short report which contains further detail and information on our view on taxi and PHV licensing conditions is available on request.
- If you would like to discuss these issues, including issues not addressed in this review, you can contact [advocacy@cma.gsi.gov.uk](mailto:advocacy@cma.gsi.gov.uk) for further advice.

Appendix 3

Number of taxi and private hire cars licences in Edinburgh by year (2013-2018)

Chart



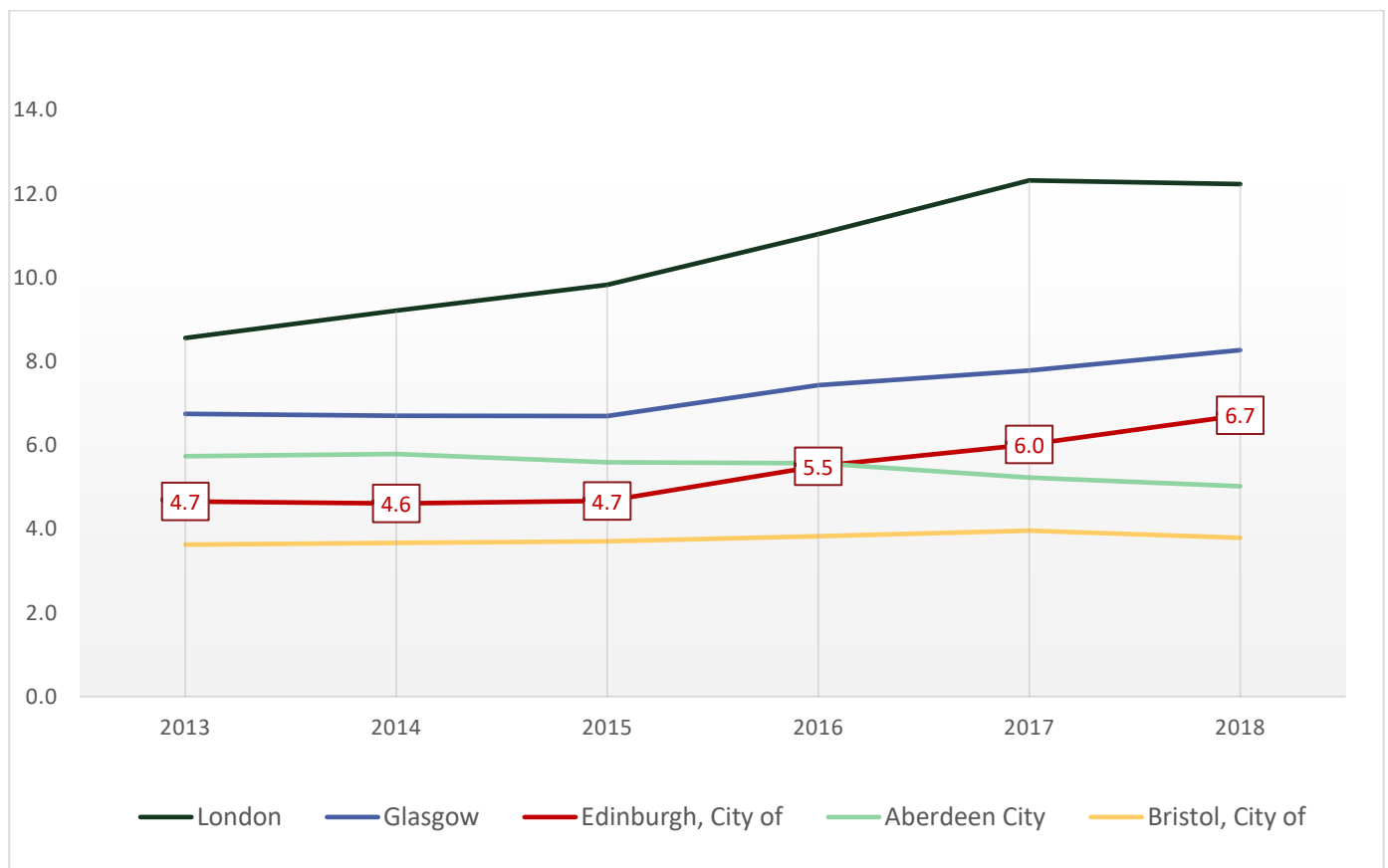
Table

Year	Taxi vehicles	Private Hire Cars
2013	1,316	954
2014	1,316	954
2015	1,316	1,012
2016	1,316	1,471
2017	1,316	1,772
2018	1,316	2,165

## Comparison between total number of taxi plus private hire licences per 1000 inhabitants: Edinburgh vs other major UK cities by year (2013-2018) – single chart

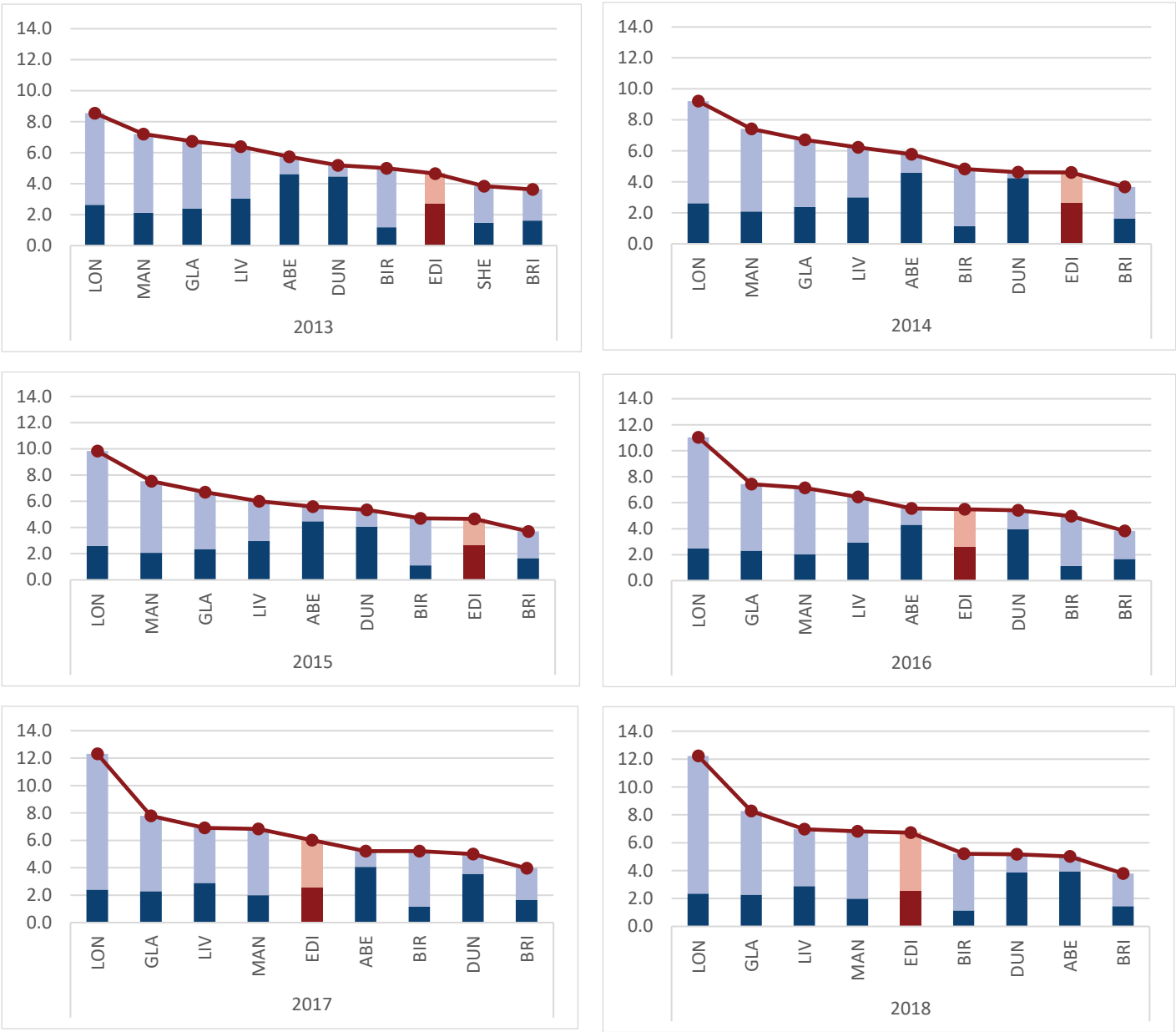
	Aberdeen City	Birmingham	Bristol, City of	Dundee City	Edinburgh, City of	Glasgow	Liverpool	London	Manchester
2013	5.7	5.0	3.6	5.2	4.7	6.7	6.4	8.6	7.2
2014	5.8	4.8	3.7	4.6	4.6	6.7	6.2	9.2	7.4
2015	5.6	4.7	3.7	5.3	4.7	6.7	6.0	9.8	7.5
2016	5.6	5.0	3.8	5.4	5.5	7.4	6.4	11.0	7.1
2017	5.2	5.2	4.0	5.0	6.0	7.8	6.9	12.3	6.8
2018	5.0	5.2	3.8	5.2	6.7	8.3	7.0	12.2	6.8

**Chart1: Cities comparison**



# Comparison between number of taxi and private hire licences per 1000 inhabitants: Edinburgh vs other major UK cities by year (2013-2018)

The darkest area of the column is the number of taxi licences, the top parts represent the private hire car licences, and the line represents the total.



**Table 1: comparing number of Taxi and PHC per 1000 population**

Year	Council	Taxi vehicles per 1000 people	PHC per 1000 people	Total
2013	ABE	4.6	1.1	5.7
	BIR	1.2	3.8	5.0
	BRI	1.6	2.0	3.6
	DUN	4.5	0.7	5.2
	EDI	2.7	2.0	4.7
	GLA	2.4	4.4	6.7
	LIV	3.0	3.4	6.4
	LON	2.6	5.9	8.6
	MAN	2.1	5.1	7.2
2014	ABE	4.6	1.2	5.8
	BIR	1.1	3.7	4.8
	BRI	1.6	2.0	3.7
	DUN	4.2	0.4	4.6
	EDI	2.7	1.9	4.6
	GLA	2.4	4.3	6.7
	LIV	3.0	3.2	6.2
	LON	2.6	6.6	9.2
	MAN	2.1	5.3	7.4
2015	ABE	4.5	1.1	5.6
	BIR	1.1	3.6	4.7
	BRI	1.7	2.0	3.7
	DUN	4.1	1.3	5.3
	EDI	2.6	2.0	4.7
	GLA	2.3	4.4	6.7
	LIV	3.0	3.0	6.0
	LON	2.6	7.2	9.8
	MAN	2.1	5.5	7.5
2016	ABE	4.3	1.3	5.6
	BIR	1.1	3.8	5.0
	BRI	1.7	2.2	3.8
	DUN	3.9	1.5	5.4
	EDI	2.6	2.9	5.5
	GLA	2.3	5.1	7.4
	LIV	2.9	3.5	6.4
	LON	2.5	8.5	11.0
	MAN	2.0	5.1	7.1
2017	ABE	4.1	1.2	5.2
	BIR	1.2	4.0	5.2
	BRI	1.7	2.3	4.0
	DUN	3.6	1.4	5.0
	EDI	2.6	3.5	6.0
	GLA	2.3	5.5	7.8
	LIV	2.9	4.0	6.9
	LON	2.4	9.9	12.3
	MAN	2.0	4.8	6.8
2018	ABE	4.0	1.1	5.0
	BIR	1.1	4.1	5.2
	BRI	1.5	2.3	3.8
	DUN	3.9	1.3	5.2

EDI	2.5	4.2	6.7
GLA	2.3	6.0	8.3
LIV	2.9	4.1	7.0
LON	2.4	9.9	12.2
MAN	2.0	4.8	6.8

## Comparison between % of private hire car licences against the total of taxis and PHC licences in Edinburgh vs other major cities in the UK by year (2013 – 2018)

### Chart 2

The chart represents the percentage of private hire cars against the total of licences provided both to taxis and PHC. For example, in 2018 Edinburgh had a 62% of PHC (and therefore a 38% of taxis).

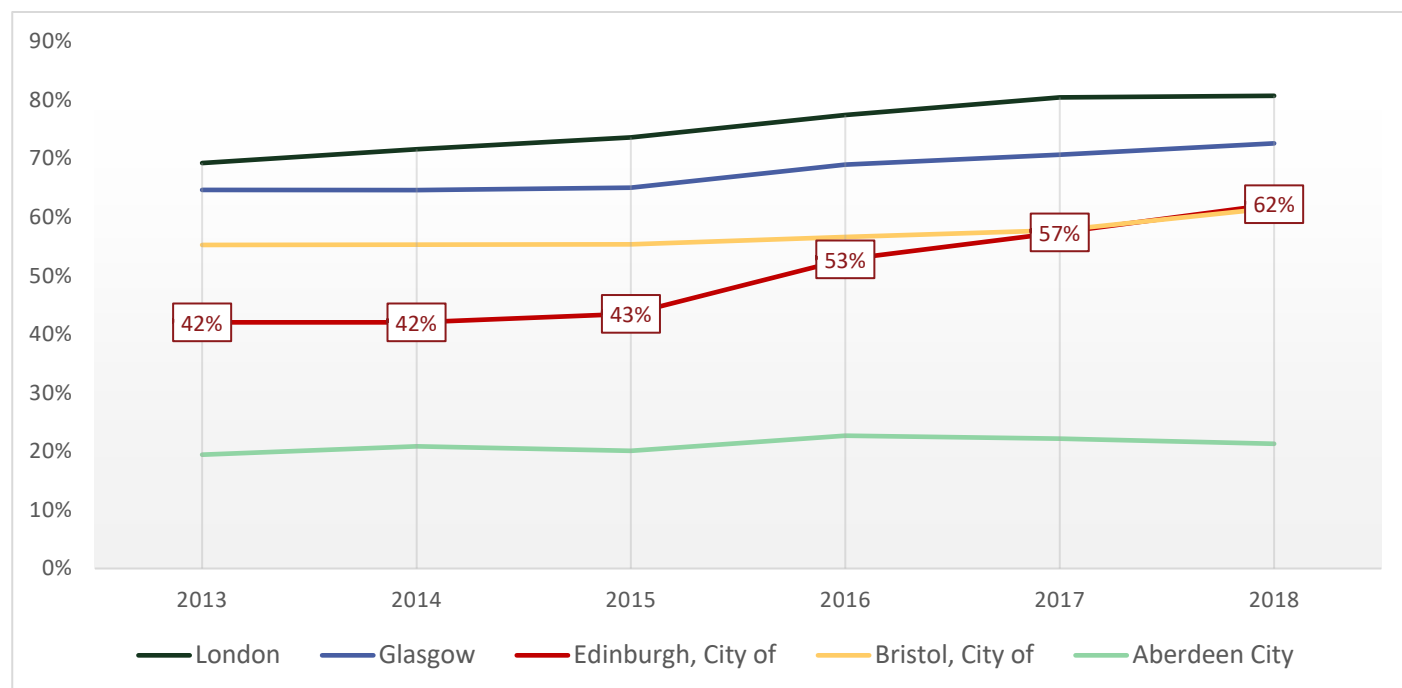


Table 2

	Aberdeen City	Birmingham	Bristol, City of	Dundee City	Edinburgh, City of	Glasgow	Liverpool	London	Manchester
2013	19%	76%	55%	14%	42%	65%	53%	69%	71%
2014	21%	77%	55%	8%	42%	65%	52%	72%	72%
2015	20%	77%	55%	24%	43%	65%	51%	74%	73%
2016	23%	77%	57%	27%	53%	69%	55%	77%	72%
2017	22%	78%	58%	29%	57%	71%	58%	80%	71%
2018	21%	78%	62%	25%	62%	73%	59%	81%	71%



## Appendix 4 – Questionnaire & Responses

### PHC Overprovision Questionnaire - PHC

1. Name of organisation

SEVEN SEVENS CARS LTD T/A CAPITAL CARS
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2. Who do you represent? Please tick the most appropriate from the below list

PHC	
Taxi	
Both	X

3. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	
No	
Don't know	X

4. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	
No	
Don't know	X

THE NEXT SECTION IS A REQUEST FOR INFORMATION FROM OPERTAORS OF A PHC BOOKING OFFICE ONLY

5. Do you operate an online, web-based or app-based booking system?

Yes	X
No	
Don't know	

6. If yes, please indicate what percentage of bookings do you take via online, web-based or app-based systems?

N/A (answered no above)	
0-25%	
26-50%	X
51-75%	
76-100%	
Don't Know	

7. Please indicate the method that you receive most of your bookings, other than through online, web-based or app-based methods:

Telephone	X
Text or Email	
Contract	
Other	

8. Please tick the appropriate box to give an indication if you are able to access the following data.

		Yes	No	Don't Know
a)	Number of vehicles operating on your circuit	X		
b)	Number of drivers operating on your circuit	X		
c)	Number of vehicles operating on a contract or pre-booked hire basis	X		
d)	Number of pre-bookings requested by customers per month on average (including any contract fulfilment)	X		
e)	Number of pre-booked journeys taken per month on average	X		
f)	Average total fare for pre-booked journeys	X		
g)	Peak customer demand hours	X		
h)	Peak driver operational hours	X		
i)	Average number of hours each driver is operating per month	X		
j)	Number of drivers joining your circuit each year	X		
k)	Number of drivers that have left your circuit each year	X		
l)	Number of complaints received by customers	X		
m)	How many wheelchair accessible vehicles you have within your circuit?  (please refer to conditions of licence for Taxi and PHC drivers and operators for wheelchair accessible definition)	X		

\*Any information provided would only be used for the purpose of developing an overprovision policy and would not be released into the public domain in a manner which the source of the information would be identifiable, as reasonably possible.

9. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

As the owner and proprietor of the largest independently owned PHC/ Taxi operator in Edinburgh, I obviously have a major interest in the potential study that will take place on the possible over provision of private hire licences in Edinburgh. and having a mixed fleet of both PHC and TAXI, I am in a relatively unique position.

I do not know whether there is or not an overprovision of PHC, and at this stage i am happy to provide the council with the information that's been requested.

However, I do not think it is right or fair that this is only a requirement for PHC vehicles. We are talking here about supply and demand, and both taxi companies in Edinburgh also take pre-bookings, it is safe to say then that they also are part of the demand requirement of pre-booked hires, and it will not be a true survey unless the entire market demand is assessed.

My second point with all of this is the use of the wording over provision. To my mind over provision is a relatively simple concept, it is one of supply and demand. If there is too much supply to satisfy the demand, then an overprovision would exist. If conversely there is not enough supply then no over provision would exist, it would be an under provision, relatively simple I would suggest.

The survey should also reflect the population of Edinburgh (and tourist fluctuation) and assess the level of service per head of population.

There is also an anomaly in terms of the actual number of PHC vehicles in operation in Edinburgh.

As a group , the 3 main operators, Capital Cars, ECPH and Uber did a survey of the vehicles on our respective systems, and also an estimate of the other 2 companies with booking office licences, our total estimate can be accurately assessed at around 1600 vehicles. based on the council's own register of 2600 PHC vehicles currently in Edinburgh, that leaves 1000 vehicles unaccounted for.

Are these vehicles all doing school contract work for the council, or where are they?

If they are on school runs etc, and covering a job or 2 per day, they can hardly be included in the overall figure for provision of service. I feel that we must find out where these vehicles are and what they are doing, as it will impact on any survey quite dramatically.

I am obviously concerned that any survey is conducted on a factual basis, and not based on unfounded allegations of sea gulling and illegal practices that are the main stay of the taxi trade's representative's argument. They do not have the facts, and indeed the councils own recent report on complaints etc showed a very small number of allegations against PHC, in fact there were more complaints of that nature levelled at the taxi trade.

I also can say that to my knowledge there have been approximately 3000 tickets for illegal pickups issued by the parking authorities at Edinburgh airport, a matter which i am sure will have court proceedings in the very near future. That will give you an idea of the level of illegal pickups that are probably 10 times the small number the council deals with over PHC drivers.

As i said earlier i am happy to assist the council in this matter, and my only concern is that the survey is conducted on a factual basis, and that we make a decision that is not based on representatives of the taxi trade's opinion of the situation, the facts are pretty easy to define based on the info contained in my reply.

Thank You

Stephen Rose.

## PHC Overprovision Questionnaire - PHC

10. Name of organisation

Central Executive Travel Ltd
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11. Who do you represent? Please tick the most appropriate from the below list

PHC	<input checked="" type="checkbox"/>
Taxi	<input type="checkbox"/>
Both	<input type="checkbox"/>

12. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

13. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

THE NEXT SECTION IS A REQUEST FOR INFORMATION FROM OPERTAORS OF A PHC BOOKING OFFICE ONLY

14. Do you operate an online, web-based or app-based booking system?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

15. If yes, please indicate what percentage of bookings do you take via online, web-based or app-based systems?

N/A (answered no above)	<input type="checkbox"/>
0-25%	<input type="checkbox"/>
26-50%	<input type="checkbox"/>
51-75%	<input type="checkbox"/>
76-100%	<input type="checkbox"/>
Don't Know	<input checked="" type="checkbox"/>

16. Please indicate the method that you receive most of your bookings, other than through online, web-based or app-based methods:

Telephone	x
Text or Email	
Contract	
Other	

17. Please tick the appropriate box to give an indication if you are able to access the following data.

		Yes	No	Don't Know
n)	Number of vehicles operating on your circuit	x		
o)	Number of drivers operating on your circuit	x		
p)	Number of vehicles operating on a contract or pre-booked hire basis	x		
q)	Number of pre-bookings requested by customers per month on average (including any contract fulfilment)	x		
r)	Number of pre-booked journeys taken per month on average	x		
s)	Average total fare for pre-booked journeys	x		
t)	Peak customer demand hours	x		
u)	Peak driver operational hours	x		
v)	Average number of hours each driver is operating per month	x		
w)	Number of drivers joining your circuit each year	x		
x)	Number of drivers that have left your circuit each year	x		
y)	Number of complaints received by customers	x		
z)	How many wheelchair accessible vehicles you have within your circuit?  (please refer to conditions of licence for Taxi and PHC drivers and operators for wheelchair accessible definition)	x		

\*Any information provided would only be used for the purpose of developing an overprovision policy and would not be released into the public domain in a manner which the source of the information would be identifiable, as reasonably possible.

18. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

Due to the number of licences granted in the last five years there is a requirement to cap the number of PHCs. The amount of vehicles in this period has increased by over 150% however the work has not increased at the same rate and therefore everyone is working longer hours for the same income to meet the costs of owning and operating a vehicle. This saturation will result in a point where it is no longer viable to make a living and cover operating costs. Drivers are already waiting longer and longer between jobs and this is getting progressively worse as more licenses continue to be granted. When we launched into the private hire market and purchased and plated vehicles our intention was to expand the fleet. We started off with a small number of vehicles with the intention of increasing when we recruited drivers. Unfortunately due to the lack of work and inability to earn a living legitimately the turnover of drivers was a constant battle and has resulted in us reducing the fleet by half. CEC cannot expect self-employed people who provide their own vehicles to make enough money to continue unless the floodgates are closed. These operators are taking on huge debts over a number of years in order to work only to find the work on a constant decline.

# PHC Overprovision Questionnaire – Non PHC

## 1. Name of organisation

Central Radio Taxis (Tollcross) Ltd
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## 2. Who do you represent? Please tick the most appropriate from the below list

PHC	
Taxi	x
Both	

## 3. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	x
No	
Don't know	

## 4. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	x
No	
Don't know	

## 5. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

<p>Due to the excessive number of private hire vehicles now working in Edinburgh the pool of available work has been diluted to a level that cannot be sustained. EVERYONE (Taxi &amp; PHC) is now working longer hours for the same recompense. Sea-gulling (PHC picking up an un-booked fare from the street) is prevalent on the streets of Edinburgh and its witnessed day in and day out. The lack of enforcement allows this practise to go unaddressed in the vast majority of cases and an under resourced department means than complaints are not thoroughly investigated. The un-booked journeys that are being undertaken constantly by PHC are in breach of the CEC licencing conditions and they are uninsured and therefore illegal. This activity is a criminal offence. We have also communicated with the licencing department about the breaches of PHC Licence conditions 203 and 204 which address picking up and waiting on public streets amongst other things. Again we have not yet seen any action taken to prevent this and are awaiting action despite the first letter to licencing being sent 9 months ago. The sheer numbers of vehicles now involved is at the detriment of the Taxi Trade and the lack of adherence is resulting in the lines being blurred and the public unwittingly partaking in illegal uninsured journeys.</p> <p>Also PHC drivers who work on a circuit are obliged by their conditions to only pick up bookings and charge what is on the meter (or less) however it is common place for these drivers to undertake work from UBER and not operate the meter. PHC drivers cannot do both yet they do. If a meter is available then it MUST be used. This doesn't work with UBERs surge pricing model but again it goes unchallenged. All of the above is having a huge financial impact on the Taxi trade and if there is no cap introduced as a matter of urgency</p>
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then it will not be long until the Taxi operators business model collapses and people who have taken on a debt of circa £50k or more have no confidence in what level of earnings they can expect to achieve during the years of the finance. The fact PHC are undertaking journeys either illegally from the street or from multiple streams (circuits and UBER) implies that they are not making a good enough living by simply doing the work dispatched by the company whose circuit they are on.

I think it's fair to say that a PHC can only do some of the work a Taxi can do but not all (no rank, hail or wheelchairs) and if an Taxi unmet demand survey advises there is no further requirement for anymore Taxis who can do all the work, then how is it possible that there's a requirement for a vehicle that can only do some of the work? The unmet demand survey conducted to ensure there is enough Taxis has concluded for more than a decade now that there is no requirement for any additional Taxis.

# CityPHC Overprovision Questionnaire – Non PHC

## 1. Name of organisation

City Cabs (Edinburgh) Ltd
---------------------------

## 2. Who do you represent? Please tick the most appropriate from the below list

PHC	
Taxi	x
Both	

## 3. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	x
No	
Don't know	

## 4. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	x
No	
Don't know	

## 5. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

The introduction of the City and Guilds entrance level would help stem the flood of new applicants in a more natural way.

The current model of an open market with no restrictions and no qualifications being required is pretty much unsustainable. The PHC is being fed by the part-time "free" Gig economy, the lure of surge pricing at peak times and the free attitude to 2<sup>nd</sup> and 3<sup>rd</sup> streams of income making it almost impossible for a full-time service to survive. At some point, this unrestricted and unqualified low-level of entry will have to be confronted if a level of service and passenger safety are to be considered. Legislation is being brought in to help stem the rise of the App Airbnb business and the harm this new technology is bringing to the City we think it only reasonable for the City Council look at the effects this new disruptive technology is having on the taxi trade.

If nothing is done soon and we are left to hope that one day a qualification entrance level will be introduced it will mean that inevitably there will have to be a redress in balance where, either the Public Hire trade are allowed to compete with the Private Hire sector. Either the Public Hire service is enabled to drop some of the requirements placed upon it, ie to be fully wheelchair accessible or the Private Hire sector will have to have some sort of control placed upon it, whether that be through a numbers game, a qualification entry or the requirement that all Private Hire vehicles should be fully wheelchair accessible. Or perhaps all three.

## PHC Overprovision Questionnaire - PHC

19. Name of organisation

Edinburgh Private Hire Drivers (EPHD)
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20. Who do you represent? Please tick the most appropriate from the below list

PHC	X
Taxi	
Both	

21. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	
No	
Don't know	X

22. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	
No	X
Don't know	

THE NEXT SECTION IS A REQUEST FOR INFORMATION FROM OPERTAORS OF A PHC BOOKING OFFICE ONLY

23. Do you operate an online, web-based or app-based booking system?

Yes	
No	
Don't know	

24. If yes, please indicate what percentage of bookings do you take via online, web-based or app-based systems?

N/A (answered no above)	
0-25%	
26-50%	
51-75%	
76-100%	
Don't Know	

25. Please indicate the method that you receive most of your bookings, other than through online, web-based or app-based methods:

Telephone	
Text or Email	
Contract	
Other	

26. Please tick the appropriate box to give an indication if you are able to access the following data.

		Yes	No	Don't Know
aa)	Number of vehicles operating on your circuit			
bb)	Number of drivers operating on your circuit			
cc)	Number of vehicles operating on a contract or pre-booked hire basis			
dd)	Number of pre-bookings requested by customers per month on average (including any contract fulfilment)			
ee)	Number of pre-booked journeys taken per month on average			
ff)	Average total fare for pre-booked journeys			
gg)	Peak customer demand hours			
hh)	Peak driver operational hours			
ii)	Average number of hours each driver is operating per month			
jj)	Number of drivers joining your circuit each year			
kk)	Number of drivers that have left your circuit each year			
ll)	Number of complaints received by customers			
mm)	How many wheelchair accessible vehicles you have within your circuit?  (please refer to conditions of licence for Taxi and PHC drivers and operators for wheelchair accessible definition)			

\*Any information provided would only be used for the purpose of developing an overprovision policy and would not be released into the public domain in a manner which the source of the information would be identifiable, as reasonably possible.

9. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs.

If Edinburgh Council develops an overprovision policy then the council would be interfering in a competitive, commercial market.

Entering into a practice of protectionism for or against companies competing in a market to assist one failing sector of the hire trade compete whilst restricting the growth of their competition, who are providing the public with the service they prefer, cannot end well.

Restricting competition and growth of a preferred service provider to protect a similar service in a market sector cannot be in the public interest.

I'm sure Edinburgh Council understand the impact licensing conditions can have on consumers and the need to reach the right balance between ensuring passenger safety and avoiding consumers having to face **higher prices** or **lower service quality**.

Competition between Hackney vehicles and PHVs should be encouraged not legislated against because greater competition means that firms must fight harder to attract and retain customers.

The competition between taxis and PHVs, increasing with the emergence of app-based models, has delivered benefits for passengers.

Passengers now prefer the prompt service and cost provided by PHVs over that of Hackney Vehicles. This has resulted in the growth of PHVs in Edinburgh.

Edinburgh Council having established and maintained an upper limit on the number of Hackney licences has created a "latent demand" which is partly responsible for the growth of PHVs. This example is not unique to Edinburgh, many more can be found across the country.

Regulatory distinctions between taxis and PHVs should not go beyond what is required by legislation or necessary to protect passengers.

The Competition and Markets Authority's "**competition impact assessment guidelines**" can help Local Authorities when designing policy or regulations to assess their impact on competition and the interests of consumers.

These guidelines contain four tests which help policy makers assess whether their proposals will limit competition:

1. Will the measures directly or indirectly limit the number or range of suppliers?
2. Will the measure limit the ability of suppliers to compete?
3. Will the measure limit suppliers' incentives to compete?
4. Will the measure limit the choices and information available to consumers?

Considering these questions will help ensure Edinburgh Council are aware of the restrictions they may be introducing on competition and should encourage Councillors to consider alternative courses of action where possible.

#### **Examples of conditions that may harm the interests of passengers**

<b>Competition Impact Assessment test</b>	<b>Examples</b>	<b>Nature of harm</b>
---	-----------------	-----------------------

1. Limiting the number or range of suppliers	Quantity restrictions on taxis	Quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles.
1. Limiting the number or range of suppliers	Restricting market development by: <ul style="list-style-type: none"> <li>- Banning drivers from working for more than one operator</li> <li>- Conditions on vehicle signage that make it difficult for drivers to work for more than one operator</li> </ul>	Such conditions make it difficult for firms to enter the market or expand by recruiting existing drivers on a part time basis. They may also encourage drivers to move to the largest operator. This may reduce the number of firms, thereby reducing competitive pressure to reduce prices or improve service quality.
2 & 3. Limiting the ability and incentives of suppliers to compete	Service provision is over-regulated beyond passenger needs/wants: <ul style="list-style-type: none"> <li>- Compulsory landline helpline, sometimes having to be based within the authority</li> <li>- Minimum number of days advance booking function</li> <li>- Extensive navigational skills assessments for PHV drivers</li> </ul>	Private hire is a market where passengers are likely to be in a good position to trade off price and quality levels that best suit their needs. If sufficient numbers of passengers desire a high service standard, then it is likely that some operators will offer it. Over-regulation of service standards is likely to mean higher costs and therefore higher fares for passengers, especially those who would most value a low cost service. It may also create barriers to entry, thereby reducing the number of operators, and hence competitive pressure between them.
<b>Competition Impact Assessment test</b>	<b>Examples</b>	<b>Nature of harm</b>
2 & 3. Limiting the ability and incentives of suppliers to compete	Introducing restrictions on business models or unnecessary distinction between conditions imposed on PHVs and taxis: <ul style="list-style-type: none"> <li>- Prescribing the method in which pre-booked fares</li> </ul>	Restrictions on how PHV operators must operate are likely to reduce innovation that could reduce costs or improve the quality of service for passengers. Conditions that apply to PHV operators and not to taxis may increase, relatively, PHV operating costs. Such conditions may therefore make it harder for PHV operators to attract passengers



should be recorded (e.g. written records)

- Restrictions on advertising products on vehicles
- Restrictions on where PHVs can park
- Requirement to specify *exact* fare in advance
- Approval required for any changes to operating model

who might otherwise use taxis, potentially resulting in passengers paying higher fares or receiving lower service quality.

4. Limiting choices and information available to consumers

Banning aspects of service valued by passengers:

- Displays of vehicle availability in-app
- Compulsory minimum waiting times between booking and journey start

Banning aspects of service that passengers might find valuable is likely to directly harm their welfare.

#### Summary

Edinburgh Council should ensure your proposed measures are necessary to achieve your objective(s)

Consider the questions set out in the CMA's competition impact assessment guidelines

Where measures are likely to restrict competition and harm consumer welfare, consider whether alternative, less-restrictive measures could be employed to achieve your objective(s) and if not, whether the objectives really do necessitate the restriction.

-Ends-

27. Name of organisation

KSW COSULTANTS LTD

28. Who do you represent? Please tick the most appropriate from the below list

PHC	X
Taxi	
Both	

29. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	
No	
Don't know	X

30. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	
No	
Don't know	X

THE NEXT SECTION IS A REQUEST FOR INFORMATION FROM OPERTAORS OF A PHC BOOKING OFFICE ONLY

31. Do you operate an online, web-based or app-based booking system?

Yes	
No	X
Don't know	

32. If yes, please indicate what percentage of bookings do you take via online, web-based or app-based systems?

N/A (answered no above)	X
0-25%	
26-50%	
51-75%	
76-100%	
Don't Know	

33. Please indicate the method that you receive most of your bookings, other than through online, web-based or app-based methods:

Telephone	
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Text or Email	
Contract	
Other	

34. Please tick the appropriate box to give an indication if you are able to access the following data.

		Yes	No	Don't Know
nn)	Number of vehicles operating on your circuit			
oo)	Number of drivers operating on your circuit			
pp)	Number of vehicles operating on a contract or pre-booked hire basis			
qq)	Number of pre-bookings requested by customers per month on average (including any contract fulfilment)			
rr)	Number of pre-booked journeys taken per month on average			
ss)	Average total fare for pre-booked journeys			
tt)	Peak customer demand hours			
uu)	Peak driver operational hours			
vv)	Average number of hours each driver is operating per month			
ww)	Number of drivers joining your circuit each year			
xx)	Number of drivers that have left your circuit each year			
yy)	Number of complaints received by customers			
zz)	How many wheelchair accessible vehicles you have within your circuit?  (please refer to conditions of licence for Taxi and PHC drivers and operators for wheelchair accessible definition)			

\*Any information provided would only be used for the purpose of developing an overprovision policy and would not be released into the public domain in a manner which the source of the information would be identifiable, as reasonably possible.

35. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

IN MY CAPACITY AS AN EXTERNAL CONSULTANT, PREDOMINATELY DEALING WITH THE 2 MAIN PRIVATELY OWNED PHC COMPANIES, I FEEL UNIQUELY EXPERIENCED ( SOME 30 YEARS ) IN BEING ABLE TO ASSESS AND COMMENT UPON THE POTENTIAL OVER PROVISION OF PHC VEHICLES IN EDINBURGH. I DO NOT KNOW WHETHER THERE IS OR IS NOT AN OVERPROVISION, HOWEVER I DO FEEL THAT THE MAIN THRUST OF THE WHOLE DEBATE HAS COME ON THE BACK OF AN ALLEGATION FROM THE TAXI TRADE ( UNITE UNION ) IN PARTICULAR, THAT THERE ARE HUNDREDS OF ILLEGAL PICK UPS FROM THE PHC SECTOR EVERY DAY OF THE WEEK. NOW, IF THIS ALLEGATION IS TO BE BELIEVED, WHICH I DO NOT, THEN WE MUST ASK THE QUESTION AS TO WHY THIS WOULD BE. IS IT AS THEY ALLEGE THAT THERE ARE SQUADS OF PHC DRIVERS, PARKING UP IN EDINBURGH AND WAITING TO BE FLAGGED DOWN BY UNSUSPECTING CUSTOMERS. FIRSTLY MAY I POINT OUT THAT ANY CUSTOMER DOING SO MUST HAVE A REASON FOR THEIR ACTIONS, AND IT CAN ONLY BE THAT THEY ARE FLAGGING DOWN THE ONLY VEHICLES THEY CAN FIND, WHICH BEGS THE QUESTION, WHERE ARE ALL THE HACKNEY CABS?.....MY ASSERTION IS THEN THAT IF THE ALLEGATION IS TRUE, THEN ITS NOT BECAUSE THERE ARE TOO MANY PHC, RATHER IT IS BECAUSE THERE ARE NOT ENOUGH HACKNEY CABS, AND PERHAPS WE SHOULD BE DEBATING THE UNDER PROVISION OF HACKNEYS, AS OPPOSED TO THE OVER PROVISION OF PHC!

MY SECOND POINT WITH ALL OF THIS IS THE USE OF THE WORDING OVER PROVISION. TO MY MIND OVER PROVISION IS A RELATIVELY SIMPLE CONCEPT, IT IS ONE OF SUPPLY AND DEMAND. IF THERE IS TOO MUCH SUPPLY TO SATISY THE DEMAND THEN AN OVERPROVISION WOULD EXIST. IF CONVERSLY THERE IS NOT ENOUGH SUPPLY THEN NO OVER PROVISION WOULD EXIST,IT WOULD BE AN UNDER PROVISION, RELATIVELY SIMPLE I WOULD SUGGEST.

SO REALLY WE NEED TO CONCENTRATE OUR EFFORTS ON THE DEMAND FIGURE, AS THE SUPPLY FIGURE ALREADY EXISTS AT A LEVEL OF WHICH WE KNOW, WE DO NOT KNOW ANY DETAIL AT THIS STAGE AS TO THE DEMAND FIGURE.

PHC DRIVERS CAN ONLY LEGALLY ACCEPT “ PRE BOOKED HIRES “, AND WITH THAT IN MIND THEN WE MUST UNDERSTAND WHAT THAT FIGURE IS. HOWEVER TO ONLY ACCEPT THAT INFORMATION FROM PHC OPERATORS DOES NOT GIVE YOU A TRUE REFLECTION OF THE DEMAND, WHY IS THAT I HEAR YOU ASK. WELL THE ANSWER IS QUITE SIMPLE, THE DEMAND FOR PRE BOOKED HIRES IS FOR ALL CUSTOMERS THAT PRE BOOK THEIR JOURNEYS. WE HAVE CURRENTLY IN EDINBURGH 7 COMPANIES WITH COUNCIL BOOKING OFFICE LICENCES, WITH OTHERS PENDING. THE LEGISLATION STATES THAT A BOOKING OFFICE LICENCE IS REQUIRED FOR ALL COMPANIES WITH A PREMISES IN EDINBURGH, AND WITH 3 OR MORE VEHICLES, SO THOSE ARE THE NUMBERS THAT WILL SATISFY THE DEMAND FIGURES. ALL COMPANIES WILL RECEIVE PRE BOOKED HIRES AND THEN THOSE WILL BE DESPATCHED TO THE AVAILABLE VEHICLES. THE ENTIRE MARKET HAS CHANGED WITH THE INFLUX OF APP TECHNOLOGY AND NOWADAYS THERE ARE FEWER AND FEWER CUSTOMERS WHO DO NOT BOOK A VEHICLE, WETHER THAT BE TAXI OR PHC, AND OBVIOUSLY THIS HAS A KNOCK ON EFFECT ON THE SO CALLED “STREET CABS”, THOSE WHO DO NOT OPERATE ON ANY BOOKING SYSTEM. IT IS MY ASSERTION THAT IN ORDER TO CALCULATE THE DEMAND THAT EXISTS IN ORDER TO COME TO ANY CONCLUSION, WE MUST ASSIMILATE THE FIGURES FROM ALL BOOKING OFFICES, AND NOT JUST PHC. THE LEGISLATION THAT EXISTS CURRENTLY MEAN THAT ALL PREBOOKED HIRES GO THROUGH A BOOKING OFFICE AND THEY MUST BE LICENSED, THERE ARE NOT 2 TYPES OF BOOKING OFFICE LICENCES, ONLY 1. DEMAND MUST IN MY OPINION BE ASSESSED IN THIS MANNER.

WE ALSO NEED TO ASSESS THE NUMBER OF VEHICLES AGAINST THE POPULATION, AND COMPARE THE ANALYSIS TO CITIES OF SIMILAIR SIZE AND POPULATION, TO DETERMINE A

FORMULA THAT WOULD BE ACCEPTABLE TO THE ENTIRE TRADE IN ORDER TO EVALUATE OVER OR UNDER PROVISION, IN WHATEVER SECTOR OF THE TRADE IT MAY APPLY TO. AS I PREVIOUSLY STATED THE NUMBER OF PASSENGERS WHO NOW BOOK USING TECHNOLOGY HAS INCREASED DRAMATICALLY, AND UNLIKE THE DAYS OF MY YOUTH WERE YOU WOULD WALK TO THE NEAREST RANK AND JOIN THE QUEUE, OR SIMPLY WALK TOWARDS HOME UNTIL YOU SAW THAT LITTLE YELLOW LIGHT SHINING THROUGH THE DARKNESS, THOSE DAYS HAVE GONE, CUSTOMERS EXPECT, AND DESERVE A BETTER LEVEL OF SERVICE THAN THAT, AND ARE MORE SAVVY THAN EVER BEFORE TO DEMAND SUCH A SERVICE.

MY LAST POINT ON THE SUBJECT IS THAT OF THE ACTUAL NUMBERS OF VEHICLES CURRENTLY LICENSED IN THE PHC SECTOR. THE REGISTER OF VEHICLES IS CURRENTLY SITTING AT ROUGHLY 2600 PHC VEHICLES. A SHORT SURVEY CONDUCTED INTERNALLY BETWEEN ALL THE MAIN PHC OFFICES INDICATE A NUMBER OF ACTIVE VEHICLES ON ALL OF THE CIRCUITS AT APPROXIMATELY 1600/1700 VEHICLES, MEANING THAT WE HAVE BETWEEN 900 AND 1000 VEHICLES WORKING ALONE, AND NOT REGISTERED WITH ANY OF THE BOOKING OFFICES. NOW SOME MAY BE ONLY COVERING COUNCIL SCHOOL WORK, AND THE COUNCIL WOULD PROBABLY BE ABLE TO FURNISH THAT INFORMATION AND CROSS REFERENCE THAT ALONGSIDE THE PHC BOOKING OFFICES. WE WOULD THEN GET CLOSE TO AN ACCURATE NUMBER, BUT IF WE ASSUME AT THIS STAGE THERE ARE APPROXIMATELY 300 OF THOSE TYPES OF DRIVERS WHO ARE DOING NO OTHER WORK, WE ARE STILL BETWEEN 600/700 SHORT IN NUMBERS, SO WHERE ARE THESE INDIVIDUALS AND WHAT ARE THEY DOING, OR ARE THEY EVEN WORKING AT ALL.

THIS INFORMATION IS IMPERATIVE IF WE ARE TO PROPERLY UNDERSTAND AND ASSESS WHETHER THERE IS AN OVER PROVISION AT ALL.

WHATEVER DECISION IS ARRIVED AT IT MUST BE BASED ON FACTS AND NOT RUMOUR OR INUENDO, AS HAS BEEN THE CASE UP UNTIL THIS POINT. THE COUNCILLORS ON THE LICENSING COMMITTEE, WHO WILL ULTIMATELY HAVE TO MAKE THIS DECISION NEED TO KNOW ALL OF THE FACTS, AND NOT A SAMPLE OF STORIES FROM A FEW DIGRUNTLED SOURCES WHO HAPPEN TO SHOUT THE LOUDEST.

IF THIS IS DONE CORRECTLY AND A FACTUAL ASSESSMENT IS MADE THEN I AM SURE THAT THE MAJORITY OF THE TRADE WILL ACCEPT THE DECISIONS TAKEN. WITHOUT IT BEING FACTUALLY BASED, CUSTOMERS WILL SUFFER, DRIVERS WILL SUFFER, AND THAT WOULD BE HUGEY DETRIMENTAL TO OUR GREAT CITY. WE ARE BETTER THAN THAT, AND CERTAINLY SHOULD NOT GO DOWN THE ROAD, AS ANOTHER LARGE SCOTTISH CITY HAS DONE RECENTLY, AND ARBITRERALLY DECIDE ON THE BASIS OF "HE WHO SHOUTS THE LOUDEST".

THANK YOU FOR TAKING THE TIME TO READ MY "STORY", AND I LOOK FORWARD TO ASSISTING THE COUNCIL IN ANY WAY POSSIBLE TO ENSURE A SMOOTH TRANSITION TO A POLICY THAT WORKS FOR EVERYONE INVOLVED.

## **PHC Overprovision Questionnaire – Non PHC**

### **1. Name of organisation**

Unite the Union, Edinburgh Cab Branch

1. Who do you represent? Please tick the most appropriate from the below list

PHC	
Taxi	X
Both	

2. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	X
No	
Don't know	

3. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	X
No	
Don't know	

4. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

We are disappointed that in the 4 months that the motion was passed this is the questionnaire you send out to the trade for their opinion.

There is clearly an over provision of PHC's as they are parking in taxi ranks, illegally plying for hire, causing congestion in areas like the Cowgate and working long hours.

For over 10 years, no new Taxi Licences have been issued as according to the Unmet demand survey's carried out, they are not required yet we have gone from 1012 phc licenses to over 2600 in 5 years with this number now doubling the amount of Taxis licenses capped at 1316.

Can licensing then explain why they think there is a demand for PHC and jeopardising the viability of the taxi trade?

## PHC Overprovision Questionnaire - PHC

1. Name of organisation

Uber Scotland, Ltd.
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2. Who do you represent? Please tick the most appropriate from the below list

PHC	<input checked="" type="checkbox"/>
Taxi	<input type="checkbox"/>
Both	<input type="checkbox"/>

3. Do you think there is an overprovision of PHCs operating in Edinburgh?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
Don't know	<input type="checkbox"/>

4. Do you think that the City of Edinburgh Council should introduce a cap on PHCs?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
Don't know	<input type="checkbox"/>

THE NEXT SECTION IS A REQUEST FOR INFORMATION FROM OPERATORS OF A PHC BOOKING OFFICE ONLY

5. Do you operate an online, web-based or app-based booking system?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>



6. If yes, please indicate what percentage of bookings do you take via online, web-based or app-based systems?

N/A (answered no above)	
0-25%	
26-50%	
51-75%	
76-100%	✓
Don't Know	

7. Please indicate the method that you receive most of your bookings, other than through online, web-based or app-based methods:

Telephone	
Text or Email	
Contract	
Other	

8. Please tick the appropriate box to give an indication if you are able to access the following data.

		Yes	No	Don't Know
a)	Number of vehicles operating on your circuit	✓		
b)	Number of drivers operating on your circuit	✓		
c)	Number of vehicles operating on a contract or pre-booked hire basis	✓		

d)	Number of pre-bookings requested by customers per month on average (including any contract fulfilment)	✓		
e)	Number of pre-booked journeys taken per month on average	✓		
f)	Average total fare for pre-booked journeys	✓		
g)	Peak customer demand hours	✓		
h)	Peak driver operational hours	✓		
i)	Average number of hours each driver is operating per month	✓		
j)	Number of drivers joining your circuit each year	✓		
k)	Number of drivers that have left your circuit each year	✓		
l)	Number of complaints received by customers	✓		
m)	How many wheelchair accessible vehicles you have within your circuit?  (please refer to conditions of licence for Taxi and PHC drivers and operators for wheelchair accessible definition)	✓		

\*Any information provided would only be used for the purpose of developing an overprovision policy and would not be released into the public domain in a manner which the source of the information would be identifiable, as reasonably possible.

9. Please provide any other comments you may have in respect of the Council developing an overprovision policy to limit PHCs

Uber welcomes the invitation to contribute to the City of Edinburgh Council's Questionnaire on Overprovision of PHC (Private Hire Car) Policy.

Advances in technology over the past decade have enabled passengers to summon a PHC at the push of a button on their phone and this has resulted in a huge increase in the demand for these services (both locally and globally). Many people now see the convenience and affordability of such services as a viable alternative to owning their own car.

Recent guidance published by the Scottish Government stated that PHC:

*"play an essential part in local transport networks, providing an invaluable service for both residents and visitors to Scotland."*<sup>1</sup>

Uber has been operating in Edinburgh since 2015 and our experience is that the PHC market in Edinburgh is significantly under supplied for the demand we receive for our service.

For reasons outlined below Uber's view is that the City of Edinburgh Council should not introduce a cap on PHC numbers in Edinburgh because such a restriction would be bad for the city's residents and visitors, bad for competition and have potentially significant safety implications.

However we also recognise that the Council is likely press ahead with the commissioning of a PHC over provision study and therefore, if the Council is nevertheless minded to introduce one, such as cap needs to be set sufficiently high to account for actual levels of peak demand for PHCs and evidence of the continuing projected growth in the demand for PHCs.

### **Impact on competition**

Quantity restrictions have consistently led to bad outcomes for customers and many stakeholders have warned of the negative impact that caps on taxi and PHCs can have on consumers. In the UK Department for Transport's Taxi and PHV Task and Finish Group report Dr Michael Grenfell, Executive Director, Enforcement, Competition and Markets Authority stated that:

*"(a) numerical cap on the number of providers of taxi/PHV services risks having the effect of artificially and unnecessarily constraining competition, to the detriment of passengers - depriving them of the best prospect of high service standards, value for money and innovation in*

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<sup>1</sup> Private hire car licensing: guidance on power to refuse on grounds of overprovision, October, 2019: <https://www.gov.scot/publications/civic-government-scotland-act-1982-guidance-power-refuse-grant-private-hire-car-licences-grounds-overprovision/>

*service provision.”<sup>2</sup>*

Caps on taxis and PHCs have been condemned by the Office of Fair Trading (OFT) / Competition and Markets Authority<sup>3</sup> and the Organisation for Economic Co-operation and Development.<sup>4</sup> The OFT found that local authorities imposing quantity restrictions led to reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares, less choice and compromised safety. The CMA maintains this view and strongly discourages the use of quantity restrictions for taxis and PHCs.<sup>5</sup> While licensing authorities have argued that caps are necessary to manage concerns around congestion, air pollution and enforcement costs, the CMA has made clear that imposing quantity restrictions for these reasons would be disproportionate as such concerns can:

*“generally be addressed through measures less harmful to passengers’ interests”.<sup>6</sup>*

### **Impact on safety**

The provision of licensed vehicles has important safety implications for Edinburgh’s residents and visitors. Caps on the supply of licensed vehicles lead to reduced reliability, longer wait times and unfulfilled trips for passengers, which increases their vulnerability, often on Friday and Saturday night when passengers are potentially at their most vulnerable. Saskia Garner Policy Officer, Personal Safety, Suzy Lamplugh Trust, stated in the DfT Taxi and PHV Task and Finish Group report that:

*“Our concern would be a situation where a cap resulted in demand outweighing supply, which may put passengers at risk if they are unable to hire a licensed vehicle for their journey.”<sup>7</sup>*

<sup>2</sup> DfT report Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system, October 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/745516/taxi-and-phv-working-group-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745516/taxi-and-phv-working-group-report.pdf)

<sup>3</sup> OFT Final report “The regulation of licensed taxi and PHV services in the UK”, November 2003:

[https://webarchive.nationalarchives.gov.uk/20140402181227/http://www.offt.gov.uk/shared\\_offt/reports/comp\\_policy/oft676.pdf](https://webarchive.nationalarchives.gov.uk/20140402181227/http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft676.pdf) and CMA open letter to local authorities “Regulation of taxis and private hire vehicles: understanding the impact on competition”, April 2017:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624539/taxi\\_phv\\_la\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/624539/taxi_phv_la_guidance.pdf)

<sup>4</sup> OECD Policy Roundtables, Taxi Services: Competition and Regulation, Section 2.2.4.:

<http://www.oecd.org/regreform/sectors/41472612.pdf>

<sup>5</sup> CMA open letter to local authorities “Regulation of taxis and private hire vehicles: understanding the impact on competition”, April 2017.

<sup>6</sup> CMA Press Release dated 12 July 2017.

<sup>7</sup> DfT report Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system, October 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/745516/taxi-and-phv-working-group-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745516/taxi-and-phv-working-group-report.pdf)



*"To limit PHV numbers across the board would possibly endanger passengers in those areas where supply is short, to the extent that those passengers could seek transport in unlicensed vehicles, drive their own vehicle when over the alcohol limit, or even attempt to walk to their destination and put themselves at risk."*

The growth in use of PHC services has significantly benefited previously underserved areas of the city where taxi ranks are not prevalent and therefore not as reliable a service.

# Public transport across the city

**KEY POINTS**

- Identifies areas of the city with high concentrations of people but with low levels of access to public transport
- Several of these areas are zones of multiple deprivation
- These areas also tend to have high levels of households without access to a car
- Many other areas of the city have low levels of access to public transport but are not illustrated (only high concentrations of people are shown)

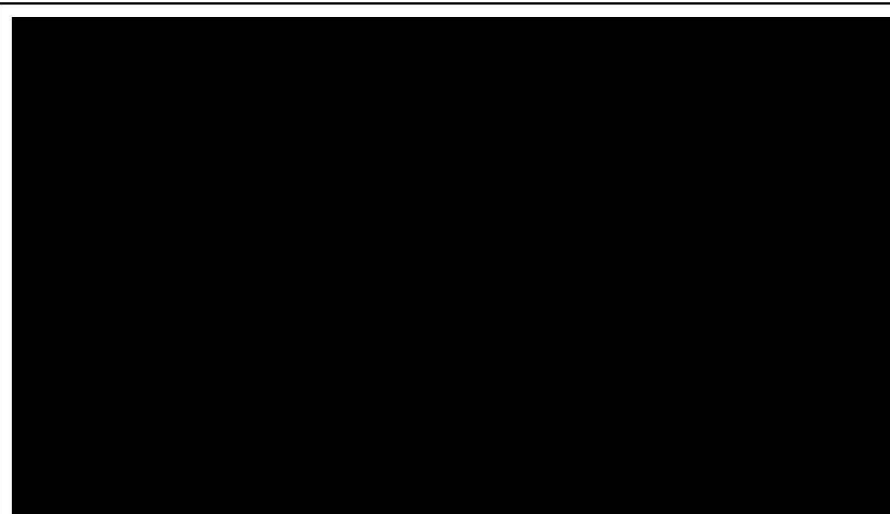
Note: Public transport accessibility levels are based on the number and frequency of available bus, tram and train services, and walk distances to stations and stops.

According to the Council's City Mobility Plan, 31% of the city's population live in areas of the city least served by public transport. Many of these communities, such as Muirhouse, Granton, Clermiston, Wester Hailes, Gilmerton and Seafield have relatively high levels of population but low levels of car ownership and low levels of public transport accessibility. They must travel longer distances to access education, employment and public services which are often in city centre locations, or on opposite sides of the city.<sup>9</sup>

<sup>9</sup> City of Edinburgh Council City Mobility Plan, January 2020:

[https://consultationhub.edinburgh.gov.uk/sfc/city-mobility-plan/user\\_uploads/city-mobility-plan---draft-for-consultation-1.pdf](https://consultationhub.edinburgh.gov.uk/sfc/city-mobility-plan/user_uploads/city-mobility-plan---draft-for-consultation-1.pdf)





#### **Booking records and vehicle utilisation**

When developing an overprovision policy we would encourage the Council to ensure that its analysis of PHC provision is based on data and not the opinion of some organisations involved in the taxi and PHC industry that may wish to exploit the process in order to put up barriers to competition.

Glasgow City Council's PHC over provision study was based on booking records provided by just 3 of 14 operators from which records were requested and only 3 days worth of data was requested. We would encourage this Council to build a picture of PHC demand using the records from all the PH Operators it licenses ensuring that it can build a picture of demand throughout the week, 24 hours a day 7 days a week, and not just at certain times of the day or night.

Contrary to what some stakeholders in the taxi and private hire sector have suggested, licensed vehicle numbers on their own do not give an indication of vehicle provision. And we would encourage this Council to ensure that its analysis of PHC provision recognises vehicle utilization varies significantly between individual drivers and operators and therefore, for example, a small number of intensively utilised PHCs can have the same impact as a larger number of less intensively utilised PHCs.

Glasgow City Council's PHC over provision study included input from just one non-taxi or PHC stakeholder and we would encourage this council to proactively seek input from key stakeholders in sectors such as tourism, the night time economy, and health and social care, whose businesses depend on the provision of PHCs. We would also encourage the Council to have regard for the



fact that Edinburgh sees significant visitor numbers at certain times of the year, and any over provision policy must take account of the demand seen during these periods.

Uber is keen to continue dialogue with the Council regarding this issue and will look at providing further information regarding the provision of PH in Edinburgh in due course.