1. **Recommendations**
2. Changes to primary legislation dealing with those that drive passengers for hire and reward and for the issuing of administrative criteria. Legislation will see regulation applied to everyone who drives passengers for hire and reward under the umbrella of tourism driving, including taxis, large passenger vehicles and tourist drivers.
3. **Additional Budgetary Implications**
   1. In respect of the preferred option, C, there are no negative outcomes in respect of FIG and no additional budgetary implications.
   2. Option B would see an increase in fees payable relating to the volume of permits issued and the introduction of a new annual insurance disc for vehicles.
4. **Executive Summary**

3.1 As it has been previously stated Government’s overriding concern is the protection of the public, particularly of its children and vulnerable adults, from violent and sex offenders and other forms of exploitation.

3.2 This paper presents policy and legislative proposal to strengthen the Government’s capacity to protect its population by ensuring that anyone who drives passengers for hire or reward is a fit and proper person. A series of disqualifying criteria will be applied to the ordinance prohibiting people with certain convictions or health issues from driving people for hire and reward.

3.3 Under the preferred option, there would be no requirement for any forms to be filled out or for any permits to be issued. In exchange for this legislative ‘lite’ approach, any breaches of the ordinance relating to carrying people for hire and reward would be seen as an aggravating feature of any offence and attract a greater sentence.

3.4 This paper seeks to clarify the law relating to all vehicles used to carry passengers for hire and reward and amend existing legislation relating to taxis. The main features of the paper are:

* Clear definition of what constitute carrying passengers for hire and reward
* Strengthened police powers to deal with any suspected infringements of the law
* Updated drivers licence ordinance relating to declarable medical conditions; as an alternative to medical self-declaration.
* Recognition of current insurance company practice of issuing fitness reports for vehicles insured to carry people for hire and rewards; as a means of offering reassurance as to vehicle standards.

3.5 Honourable Members are recommended to approve change to legislation to make the system effective and applicable to all those that drive others for hire and reward.

1. **Background [and Links to Islands Plan and Directorate Business Plan/s]**
   1. There has been a long running attempt to establish control over those that drive passengers for hire and reward. This is a contentious subject for many; a developing tourism industry has seen a proliferation of individuals and companies who are keen to take advantage of this boom in prosperity.
   2. This has to be balanced against the need for a modern society to protect the most vulnerable from any type of exploitation, be that financial, sexual or any other form of criminal act.
   3. The current situation that exists in relation to both large passenger vehicles and taxi driver licencing is confused. For example, by applying a generic catch-all to those that hold a D category drivers licence, the current law means a number of people who drive large passenger vehicles but who do not carry passengers for hire and reward are required to obtain additional permits to drive.
   4. To deal with a range of issues there are a number of changes that can be instituted to help to simplify the process of regulating all those that drive passengers for hire or reward, including volunteer drivers.
   5. By clarifying the law, clear guidance can be given so employers know who they can employ and drivers know if they can legally drive passengers for hire and reward.
2. **Options and Reasons for Recommending Relevant Option**

5.1 Option A - Maintain the current law

This is not a viable option, as there is ample evidence to show that the current system is unworkable and causing confusion. Furthermore it does not deal with regulating tourist drivers.

5.2 Option B- Amend the current law and administrative criteria as detailed below

[Ord63.1s5]Update the Road Traffic Ordinance as follows.

* Anyone who wishes to drive any class of vehicle for hire and reward must hold a permit issued by the police, authorising them accordingly
* Anyone who uses, causes or permits to be used a vehicle on any road in the Falkland Island must possess an insurance disc issued by the RFIP that covers the use of that vehicle for hire and reward.
* In table form the proposed system under this element is as follows:

|  |  |  |
| --- | --- | --- |
| Vehicle – Disc issued on valid insurance | Driver – CRO check – local or overseas | Permit fee |
| PSV disc (12 passenger seats and above) Prohibited from operating as a taxi, can’t normally ply for hire but can accept walk on passengers not pre-booked at tourist collection points. | D/D1 permit (to include tourist driving) – Renewable every 3 years | £15.00 |
| Taxi disc ( issued to company operating as a traditional taxi company 24/7 – 365) | Taxi driver permit -  Renewable every 3 years | £10.00 |
| Tourist disc – For use for those using vehicles in connection with transporting tourists on cruise ship days. Can extend to private transfer from airport. | Tourist driver permit  Renewable every 3 years | £10.00 |

Option C – Preferred Option - agree the proposed changes as detailed below

* Revoke the definition of a public service vehicle under the Road Traffic Ordinance 1948. This takes driver of D and D1 class vehicles out of the requirements to adhere to any legislation governing large passenger vehicle, for example driving such a vehicle to a garage for repair or delivering such a vehicle. As there are no bus services on the island there is little call to retain the definition of a PSV as it currently sits within the existing 1948 Ordinance.
* Introduce prohibitions on individuals that make it an offence for them to drive people for hire and reward. This would apply to anyone who wanted to drive any class of motor vehicle and undertake any form or hire and reward driving.
* The main prohibitions relate to health and criminal history and are listed in brief below. More detail is available in the draft administrative criteria attached to this paper. There is already existing law that provides the Chief of Police with the power to revoke a person’s driver’s licence if it is suspected they have some form of medical impairment. The new proposals provide a more prescriptive list of medical conditions that would warrant revocation of a person’s driver’s licence. A licence can be restored if a medical practitioner declares a person fit to drive.
* Those that employ people who drive for hire and reward will also be liable under new legislation and could face prosecution if they employ anyone who is prohibited from driving people for hire and reward under the proposed prohibitions.
* Increase police powers to provide clear authority to stop any vehicle suspected or known to be carrying passengers for hire and reward. Also to seek information from the driver and/or owner of the vehicle to determine if an individual is barred from driving passengers for hire and reward. Powers to serve a notice on an individual barring them from driving pending the completion of police enquiries
* Revoke the Road Traffic (Taxi Drivers Permits) Order 2013

**Applicable requirements to drive for hire and reward.**

* You must be at least 21 years of age at the time of applying. There is no upper age limit, as long as you meet the other licensing requirements.
* You must have held a full driver’s licence for at least 24 months and currently hold a Falkland Islands full driver’s licence for the class of vehicle you wish to drive.(see Your Driver’s Licence section).
* You must have the right to live and work in the Falkland Islands.
* You must be of good character.
* You must be insured to carry passengers for hire and reward.
* You must be medically fit.
* If you employ people to drive for hire and reward you will be liable for any offences your drivers commit under this legislation as principle and/or aid, abet, counsel, or procure.

**Definitions**

* Hire or reward is any payment in cash or kind which gives a person the right to be carried, regardless of whether or not that right is exercised. It is also regardless of whether or not a profit is made.
* Taxi – is a vehicle habitually used to carry passengers for hire and reward all year round within Stanley. The definition also extends to private transfers from MPA, Stanley airport or any of the jetty’s where passengers disembark.
* Tourist driver – is a person who is either employed to drive passengers for hire and reward on specified cruise ship days or someone who is a self–employed driver who drives on specified cruise ship days, during the tourist season.
* A large passenger vehicle is one that requires a class D or D1 driver’s licence. These are generally mini-buses and coaches.

1. **Resource Implications**
   1. Financial Implications

None

* 1. Human Resource Implications

None

* 1. Other Resource Implications

None

1. **Legal Implications**
   1. The paper deals with amending existing law as well as introducing new legislation.
   2. Repeal the Road Traffic (Taxi Drivers’ Permits) Order 2013.
2. **Environmental & Sustainability Implications**
   1. None
3. **Significant Risks**

There is a risk that uninsured drivers present a danger to the reputation of the islands and damage the cruise ship industry. Similarly, sex offenders have been seen driving tourist about during previous seasons and the potential for damage to the reputation of the island’s tourism industry is plain.

Adopting this legislation will ensure the island is able to build better relationships with cruise companies by demonstrating that all drivers are regulated and there are laws in place to encourage responsible and lawful practise.

**Consultation**

* 1. Andrea Clausen/Reid brothers/Penguin Travel/RFIP staff / Licensing Officer / Hon Leona Roberts/ Estancia travel/Public information exercise

1. **Communication**

Press strategy and clear guidance for all to ensure clear understanding of the new criteria applicable to the hire and reward industry.

**Schedule of suggested deletions to enable publication of paper** [No suggested deletions]