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ILLEGAL PRIVATE HIRE TOUTING AND COUNTERMEASURES

CASE STUDY OF CITY OF WESTMINSTER, LONDON

Statement of original authorship

I can confirm that this thesis is completed by the author (Babatunde Alexander Owolabi-Ajao) in fulfilment of the requirement for the Professional Doctorate Degree in Policing, Security and Community Safety at the London Metropolitan University. While the author has fully acknowledged the work of others used in this thesis, no content of this thesis should be used without the acknowledgement of the author.

Abstract

Private Hire Operators, Drivers and Vehicles are regulated under the Private Hire Vehicle (London) Act 1998. The Secretary of State delegated the authority within this Act to Transport for London (TfL) as the Licensing Authority. Since the enactment of the PHV (London) Act in 1998, TfL has successfully licensed over 100,000 Private Hire Vehicles and Drivers in London. Private Hire Vehicles (PHV) are not permitted to be hailed and Private Hire Drivers (PHD) are not permitted to approach customers to offer them Private Hire Services (PHS) in London. However, the increasing number of PHVs and PHDs in London has stimulated the competition among the drivers. This appears to have made it very challenging for PHDs to earn a living and promoted illegal Private Hire (PH) touts. The PHV (London) Act 1998 was created to regulate the Private Hire Industry (PHI); while the legislation has promoted PHDs and PHVs to be licenced, the legislation has not prevented illegal PH touting in London. This thesis contributed to the author's knowledge and professional practice by demonstrating the complexity of the PHV (London) Act, which can be easily exploited by illegal drivers. Using a combination of qualitative and quantitative methods, this research critically analysed the complexity of the legislation through the views of the people that enforce the legislation, deliver the service and use the service. This research was able to demonstrate how the advent of technology in the PHI has made it difficult to enforce illegal PH touting. Due to some of these challenges, TfL fund a dedicated Police team to work with TfL Compliance Officers to undertake anti-touting activities. While TfL and Police partnership have reduced illegal PH touting, TfL Compliance Officers need enforcement powers to effectively manage illegal PH touting in London and minimise the risks on the customers which can be sexual harassment or unwanted sexual behaviour.

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List of Abbreviations

Abbreviation	Meaning
AO	Authorised Officer
ANPR	Automatic Number Plate Recognition
CJPOA	Criminal Justice and Public Order Act
CoLP	City of London Police
CPOS	Compliance, Policing and On-Street Services Directorate
CSAS	Community Safety Accreditation Scheme
DfT	Department for Transport
DoF	Department of Transport
GLA	Greater London Authority
H&R	Hire and Reward
IEO	Immigration Enforcement Officer
LRC	Licensing, Regulation and Charging Directorate
LU	London Underground
LA	Licensing Authority
MHC	Motor Hackney Carriage
MIB	Motor Insurance Bureau
MPS	Metropolitan Police Service
NYC	New York City
PCO	Public carriage Office
PCE	Public Carriage Examiner
PH	Private Hire
PHD	Private Hire Driver
PHI	Private Hire Industry
PHO	Private Hire Operator
PHV	Private Hire Vehicle
PHV (London) Act 1998	Private Hire Vehicle (London) Act 1998
PHS	Private Hire Service
SoS	Secretary of State
STaN	Safer Travel at Night
TfL	Transport for London
TLC	Taxi and Limousine Commission
T&PH	Taxi and Private Hire
T&PHC	Taxi and Private Hire Compliance
T&PHL	Taxi and Private Hire Licensing
T&PHPT	Taxi and Private Hire Policing Team
UK	United Kingdom
US	United States
1976 Act	Local Government (Miscellaneous Provisions) Act 1976

Chapter One

Introduction

1.0 Overview

London is the capital of England and one of the most visited tourist attractions in the world. The cosmopolitan city is known for its wide range of historical attractions and night time economy with a record number of 19.1 million visitors in 2016, Prynne (2017). London is approximately 1,572 km² and its night-time economy contributes £26.3bn to the annual gross domestic product (GDP), GLA (2017, p.5). This is equivalent to 40% of the United Kingdom's (UK) night time economy. As part of the process to regenerate London's night-time economy, the Mayor of London Sadiq Khan appointed Amy Lamé as the night Czar to continue to coordinate, champion and bring more innovation to the night time economy, GLA (2016a). As London is a 24 hours city, people demand door to door transport almost immediately and businesses are keen to ensure their customers and employees get home safely at the end of the night. The impact of the London night-time economy is rapidly driving the change in London's transport system, with the introduction of the night tubes and the arrival of Uber and other app-based private hire companies.

In August 2016, Transport for London (TfL) introduced the night tubes to operate throughout Friday and Saturday night to support workers and London's night time economy. Even though the night tubes operate on Friday and Saturday, both tourists and residents are still faced with the difficulty of getting to their next destination on other nights of the week. Alternative modes of transport are night buses, taxis and private hire vehicles (PHV). People get frustrated waiting at bus stops for night buses, especially in adverse weather conditions and taxis or PHVs can be very expensive depending on the distance of the journey. People with disabilities travelling at night who cannot use the night tubes or buses also rely on the taxis and PHVs to get to their next destination. Some of these circumstances contribute to the factors that make it easy for people to get touted by illegal private hire drivers (PHD). In addition, private hire (PH) touting is not predominantly a night time economy issue, this also happens in broad daylight at high profile public areas and transport hubs. Illegal PHDs loiter around London airports waiting to tout international visitors as soon as they exit airport terminals. These illegal drivers pretend to be legitimate and offer private hire services (PHS) to the people who have absolutely no knowledge of

the London PH regulation or industry and the majority of these people are not fully aware of the risks associated with using illegal PHVs.

The victims of touts usually end up in unbooked PHVs, making them vulnerable to all types of crime and this could put their lives in danger. According to the figures released by the Metropolitan Police Service (MPS) in 2016, approximately 521 licensed taxis and PH drivers were charged with sexual offences between January 2011 to December 2015, MOPAC (2016, p.5). The sexual offences include rape, attempted rape, sexual assault and digital penetration. These drivers use deception to tout the customers and pretend to be legitimate drivers before sexually harassing them. Some of these PHDs do not have the appropriate hire and reward (H&R) insurance policy to transport customers. While the vehicles may be covered by another type of insurance policy, it will not cover the customers and may lead to a long-protracted procedure in the case of an accident. These are some of the consequences of using illegal PHVs in London.

Touting for hire car services is a criminal offence under section 167(1) of the Criminal Justice and Public Order Act 1994 (CJPOA 1994). Section 167 (1) states, "*It is an offence, in a public place, to solicit persons to hire vehicles to carry them as passengers*", CJPOA (1994, p. 130). PH touting is often regarded as taxi touting in the taxi and private hire (T&PH) industry. Any person found guilty of this offence is liable for a summary conviction not exceeding level 4 on the standard scale. An example of touting is when drivers approach customers in a public place and offer to transport them for a monetary reward. It was argued that people get touted in London because they are misguided by the rules of hiring taxis and PH services. There is a two-tier system of taxis and PHVs in London; this is further explained later in this chapter.

Taxi touting has been a controversial and political issue over the years. In April 2015, the taxi trade association staged a protest on Oxford Street in London about the issue of illegal touting in London, BBC (2015c). They argued that touting is posing a threat to the regulations and their trade. They also staged other numerous protests outside TfL buildings in an attempt to show their frustration. The issue of touting has led to several reviews of the PH regulations and practices over the years. Some of these reviews were commissioned by TfL and Greater London Authority (GLA) to investigate the effectiveness of the regulations and MPS in policing illegal activities in the industry.

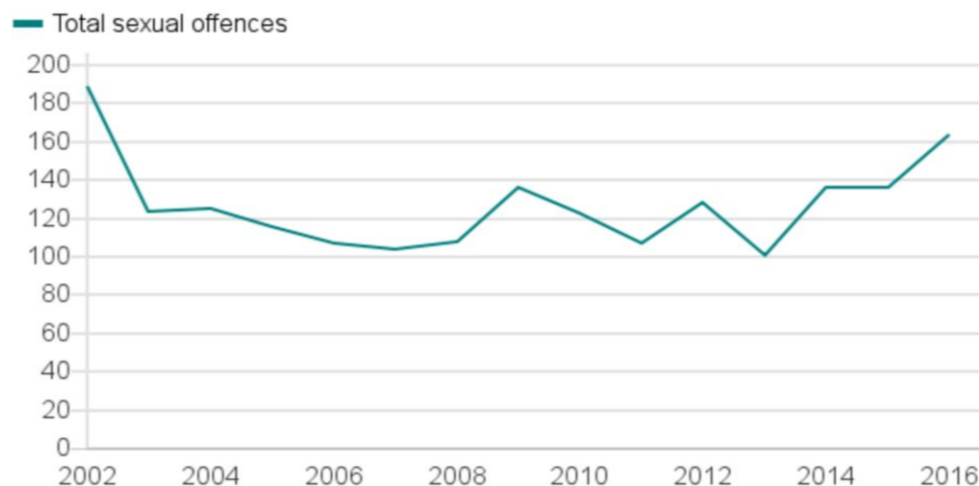
In July 2017, a PHD was convicted at Snaresbrook Crown Court for raping three drunken women in their sleep at the back of his PHV. Jahir Hussain was a 37-year-old who claimed to work for Uber as a PHD. The father of four targeted drunken women outside night clubs and bars in London. Mr Hussain tricked his victims to believe that he was their hired PHV before raping them in their sleep. However, the women were not aware that he was using his PHV as a deception for his sexual gain. He was eventually arrested by the MPS and jailed at the Crown Court for 12 years, Millar (2019).

One other obvious case of illegal activities in the T&PH industry that exposed the negligence of the MPS is the case of John Worboys. Mr Worboys was a licensed taxi driver who was initially arrested for an allegation of sexual assault in July 2007, but the MPS failed to charge him due to lack of evidence. After he was released by the MPS, he went on to sexually assault seven more women before he was eventually charged and convicted in 2009. Due to the fact that the MPS failed to investigate numerous allegations of rape by Mr Worboys, the independent police complaints commission (IPCC) set up an inquiry to thoroughly investigate the contentions. The IPCC investigation further established that Mr Worboys had sexually assaulted approximately 80 females within two years, IPCC (2010) and victims had reported the incidents to the MPS on many occasions but no further investigations were conducted. Even though Mr Worboys was eventually convicted and jailed indefinitely in 2009, his victims were overwhelmed with a sense of disappointment because the MPS failed to promptly investigate the issue.

It was announced by the prison parole board on the 6th of January 2018 that Mr Worboys is due to be released from prison by the end of January. Some of his victims were terrified to hear the news and they expressed their concerns about the fact that they were not informed directly prior to this announcement, BBC (2018). Kim Harrison, who represented 11 women in the cases against Mr Worboys said, *“they were absolutely terrified by the prospect of his release”*, BBC (2018, p.1). The Mayor of London also called on the parole board to review its decision to release Mr Worboys from prison. He said *“too often victims are at best treated as an afterthought or ignored altogether and this seems to have happened again in this case”*, BBC (2018, p.1). However, Nick Hardwick, the parole board chairman said that the board was confident that Mr Worboys would not commit a similar offence again in the future.

It can be argued that the Police's failure to properly investigate Mr Worboys case in the first instance has affected many people's confidence in reporting cases of sexual assaults in taxis and PHVs. This is not only disappointing to the victims but also to TfL as a regulator. TfL relies on the MPS to enforce T&PH related criminal offences that cannot be enforced by TfL Compliance Officers. Mr Worboys case may be unforgettable but definitely not the only case of sexual harassment reported in London taxis or PHVs. In 2017, TfL and MPS published the highest figure for T&PH sexual offences in 14 years. According to BBC (2017b, p1), 164 sexual related offences were reported to the MPS in 2016 and this figure is 21% higher in comparison to the cases reported in 2015. In spite of the increase in 2016, the record shows that the majority of the drivers charged and prosecuted are PHDs. **Figure 1.1** below shows the trends in sexually related offences reported in taxis and PHVs from 2002 to 2016.

Figure 1. 1 - T&PH reported sexually related offences (2002 – 2016)



BBC (2017b, p.1)

The graph shows that 198 sexual related offences were reported in taxis and PHVs in the year 2002. This was prior to the implementation of the PHV (London) Act in 2003 and this figure remains the highest. The graph also shows that the year 2016 recorded the second highest sexual related offences with 164 cases reported, most of these cases occurred in PHVs. Out of the 164 cases reported, only 34 cases resulted in a charge. Nevertheless, 26 cases out of the 34 cases that resulted in a charge occurred in PHVs that were legitimately booked from different PHOs, the majority from Uber and no taxi drivers were charged. Following these incidents, TfL

has revoked the licences of the PHDs that were charged. The TfL spokesperson said, “*Convictions were easier to secure if rides were booked via an operator or an app like Uber*”, Cox (2017).

It was argued that the percentage of cases that resulted in a charge was relatively small in comparison to the number of cases reported. Having considered this figure, it can be perceived that the MPS has not made much progress in resolving this issue over the years. There is no doubt that the enactment of the PHV (London) Act 1998 has encouraged many operating companies, drivers and vehicles to be licensed. However, the graph above shows that the legislation has not prevented sexually related offences in taxis and PHVs. It was argued that touting sometimes leads to sexual harassment and the flaws in the PHV (London) Act permits PHDs to operate illegally. One of the flaws in this legislation that permits unlicensed drivers to tout for hire using licensed vehicles is section 7 (2) of the PHV (London) Act 1998. This section permits anyone with a vehicle to apply for a London PHV licence without being a licensed PHD.

Section 7 (2) of the PHV (London) Act 1998 has prompted many people to apply for a PHV licence for personal use or to tout customers. Some vehicle leasing companies also licensed their fleet vehicles and rent them out to individuals without PHDs licence. The complexity of the PHV (London) Act has made it so difficult for TfL to enforce some aspects of it. The GLA and TfL are fully aware of some of these issues and this has led to several reviews of PH legislation and regulations. However, more work needs to be done to find a permanent solution to some of these issues. Some of the enforcement and regulatory actions taken by the GLA and TfL are fully discussed in chapters two and three.

1.1 Background of the study

The rivalry between the London taxis and PH trade in the 1960s was one of the significant factors that contributed to the introduction of the licensing regime in the PHI. The PHI has been a growing business in London since the 1960s and this was a major threat to the taxi trade. The taxi trade argued that they were being treated unfairly because the PH trade was unregulated. The taxi trade tried different approaches to stop the enactment of the PH legislation and to prevent customers from using the service but all their attempts were unsuccessful. Until 1968, the London taxi trade strongly argued that PHV should not be allowed to operate in

London because they felt apprehensive that there were high demands for PHVs. The customers believed that PHVs are cheap and affordable in comparison to taxis. So, the PHDs wanted the industry to be regulated in order to promote their services to the travelling public. A South London-based car service association was one of the groups that pushed for the PHI to be regulated; they suggested a system where operating companies, drivers and vehicles are thoroughly checked before they are permitted to operate.

On 15 October 1970, the Home Office (HO) committee that was established by Roy Jenkins in 1967 agreed that London PHI should be regulated alongside the taxi trade. However, they wanted both industries to be regulated and controlled by a new independent authority under the Greater London council. In the early 70s, there were approximately 15,000 PHVs in London and after the HO recommendation to regulate the PHI; the taxi trade lobbied the MPs to ensure the recommendation was not implemented. On 23 October 1972, approximately 4,500 taxi drivers led by Bill D'Arcy issued a high court summons against the MPS Commissioner for failing to enforce illegal PHVs in London. This was one of the approaches used by the taxi trade to stop the PH trade from operating in London and to prevent the industry from being regulated. Nonetheless, the argument to get the PHI regulated continued throughout the 70s, 80s and 90s despite all the taxi trade lobbying and protests to prevent the process. The pressure to get the PHI regulated became more eminent in the 80s because of the increase in the number of rape incidents reported in unlicensed PHVs. According to Sanderson (2009, p. 33), *“reported rapes in London went up from 570 in 1980 to 824 in 1985 (many by suspected illegal touts)”*. In 1989, the Department of Transport (DoT) conducted a review into the PHI to establish why many women are being sexually assaulted in PHVs and the findings suggested that the assaulted customers used illegal PHVs. The customers argued that it was difficult to distinguish between legitimate PHVs and illegal ones; hence it was important to bring in a regulation to improve customers safety.

On 5 August 1991, the Minister for transport in London, Steve Norris, demanded that the PHI should be regulated, Sanderson (2009). However, the taxi trade argued that the PHI should be regulated under the same system as taxis; which mean PHDs would have to complete the two to four years' knowledge examination. They were hoping that this would discourage PHDs and force them out of the business. In 1992, there was increased pressure and an urgent demand by the MPS to regulate the PHI. As a result, the MPS conducted another review of the PHI and they said PHVs

“are the most dangerous way to travel”, Sanderson (2009, p. 35) and women are more likely to be raped in PHVs than taxis. In 1995, Steve Norris, Minister of state for transport, announced that even though it was agreed that the PHI in London would now be regulated, the regulation would be different to the existing ones used in other parts of the country. This was during the conservative government under the leadership of John Major, but the labour shadow government produced the final PH legislation proposal.

In 1998, the PHV (London) Act was finally introduced but the law was not fully enacted until 2003. In 2000, a central governing body (TfL) was established to regulate the affairs of both the T&PH trades. The Secretary of State delegated the authority within the PHV (London) Act 1998 to TfL as the Licensing Authority, DfT (2004). The licensing function was delegated to the TfL Transport Commissioner, who gave written consent under TfL’s standing order to TfL Compliance Officers, to discharge the functions of TfL relating to T&PH, LTPH (2013a). TfL is a local government body formed in the year 2000 and was responsible for delivering the mayor’s transport strategy. TfL shares the function of licensing and regulating the T&PH industry between two directorates, the Licensing, Regulation and Charging Directorate (LRC) and the Compliance, Policing and On-Street Services Directorate (CPOS). Their individual functions are analysed in more detail in chapter 2. T&PH was formerly known as the Public Carriage Office (PCO) founded in 1850 directly under the supervision of the MPS and they were only responsible for the licensing and regulation of London taxis under the Hackney Carriage Act of 1831, 1843, 1853, the London Metropolitan Public Carriage Act 1869 and the London Cab Order of 1934.

After 150 years of the MPS regime as a regulator, TfL took over the role in the year 2000 as the new transport regulator. Prior to the PHV (London) Act 1998, the PHI in London was unregulated but they were regulated in England, Wales, Scotland and Northern Ireland. In England and Wales, the district council is responsible for the licensing and regulation of the PHI under part two of the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act). PHI in Scotland is regulated by the district council under part two of the Civic Government (Scotland) Act 1982 (1982 Act) and in Northern Ireland, taxi and PHV are regulated under the Taxis Act (Northern Ireland) 2008 (2008 Act), Butcher (2016). The 1976 Act shared some similarities with the PHV (London) Act 1998, but one of the obvious reasons why the 1976 Act was not adopted in London was because it is only applicable at the local

government level. As suggested by Steve Norris, Minister of state for transport, London needs legislation that can be used in all the 33 boroughs in London. However, if the 1976 Act were to be used in London, each borough would be an individual regulator and this would be very complicated to manage. To prevent this complication, separate legislation was enacted for London. Table 1.1 below outlines some of the similarities and differences between PHV legislations and practices across the UK.

Table 1. 1 – PHV legislations and practices across the UK

London	England	Wales	Northern Ireland
Regulated under the PHV (London) Act 1998	Regulated under the Local Government (Miscellaneous Provisions) Act 1976	Regulated under the Local Government (Miscellaneous Provisions) Act 1976	Regulated under the Taxis Act (Northern Ireland) 2008
Regulated by TfL	Regulated by a district council	Regulated by a district council	Regulated by a district council
PHV can be driven by an insured driver, licensed or unlicensed	PHV can only be driven by a licensed PH driver	PHV can only be driven by a licensed PH driver	PHV can only be driven by a licensed PH driver
PHV is identified by a licence disc affixed to the top left of the screens	PHV is identified by a licence plate affixed next to the vehicle registration plate	PHV is identified by a licence plate affixed next to the vehicle registration plate	PHV is identified by a licence plate affixed next to the vehicle registration plate
PHV does not have any distinctive features	PHV have distinctive features	PHV have distinctive features	PHV have distinctive features
PHV have to be booked through a licensed operator	PHV have to be booked through a licensed operator	PHV have to be booked through a licensed operator	PHV have to be booked through a licensed operator

The distinctive differences identified in the above table are as follows:

- Apart from London, PHI is regulated by district councils
- Apart from London, PHVs are only driven by licensed PHDs at all times
- Apart from London, PHVs are identified by licence plates affixed to the vehicles

It can be clearly argued that touting can be prevented in London if the PHI adopts some of the best practices from the 1976 Act. For example, more touts can be prevented in London if licensed PHVs are strictly driven by licensed PHDs, similarly to section 46 of the 1976 Act. In addition, it would also be helpful to have visible PHV licence plates in London. This would permit the customers and TfL Compliance Officers to easily identify licensed PHVs, as opposed to having a PHV licence disc affixed to the vehicle screens.

The PHV (London) Act was introduced in 1998 but the first PHD licence was issued in 2003 to Fred Leaney, who was also a licensed taxi driver and the co-owner of a prominent PH company, Sanderson (2009). Since 2003, TfL has successfully licensed over *"100,000 PHVs, 100,000 PHDs and 2,000 private hire operating companies (PHO)"*, TPHAP (2016, p.6). London PHVs are not permitted to be hailed by customers; the services can only be pre-booked through licensed PHOs. The PHOs have the responsibility to record the customer's name, destination, date, time and fare. After the journey is pre-booked, the PHDs are permitted to pick up customers anywhere in Britain. This is regarded as the rule of three in the legislation and the only circumstances where a PHS is considered legitimate.

The PHO and PHV regulations came into effect in the year 2000 and 2004 respectively. PHO, PHD and PHV are independently regulated under the PHV (London) Act 1998. Having highlighted the regulatory requirement for PHVs in London and out of London in table 1.1, it becomes clear why customers outside London are struggling to understand London's PH legislation. Some customers often assume that licensed PHVs are driven by licensed PHDs at all times but that is not the case in London. The survey conducted by TfL in January 2015 as part of the Safer Travel at Night campaign (STaN) also shows that 33% of the customers think PHVs can pick up customers in the street, 17% of the customers think PHDs can approach them in the street to ask if they want a minicab and 37% of the customers think PHVs can pick up customers without pre-booked jobs.

Apart from the disparities in London and outside London PHV practices, the other area people struggle to understand in London are the two-tier T&PH systems. As part of the process to clarify the differences between these two-tier systems, the former TfL Director of Licensing, Regulation and Charging Directorate (LRC) - Peter Blake, delivered a presentation on the differences between the two-tier systems to the trade in December 2015. Table 1.2 below summarised his discussion.

Table 1. 2 – Differences between London T&PH two-tier systems

London Taxi	London PHV
Regulated under the Hackney Carriage Act of 1831, 1843, 1853, the London Metropolitan Public Carriage Act 1869 and the London Cab Order of 1934	Regulated under the PHV (London) Act 1998
Taxi drivers are required to complete (two to four years) knowledge test	PH drivers are required to complete (1 day) topographic and English test
Taxi drivers have two types of licences (All London and Suburban)	PH drivers only have one licence
Driver and vehicle needs to be licensed by TfL	Operator, driver and vehicle need to be licensed by TfL
Can ply for hire on the street or at taxi ranks	Cannot ply for hire on the street or use a taxi rank, must be pre-booked through a licensed operator
Can be hailed by customers	Cannot be hailed by customers
Fares regulated and set by TfL – fare calculated by the meter	No fare regulation – fares are typically distance based
All vehicles are wheelchair accessible with additional accessibility features	Wide range of vehicles available
Not all taxis are black	Services include minicabs and executive cars

In London and other parts of the UK, most people often refer to a PHV as a taxi and they assume PHVs can ply for hire like taxis. However, it is an offence for PHVs to ply for hire in London. Section 2 (1) of the PHV (London) Act (1998, p.2) states; “*No person shall in London make provision for the invitation and acceptance of, or accept, private hire bookings unless he is the holder of a private hire vehicle*”

operator's licence.....” This is a licence breach and can be enforced by the TfL Compliance Officers because they have the power to enforce licence breaches. Section 2 (1) of the PHV (London) Act 1998 is very similar to the offence of touting but they are different and dealt with under different legislation.

According to section 167(1) CJPOA (1994, p. 130), touting...” *is an offence, in a public place, to solicit persons to hire vehicles to carry them as passengers*”. This is a criminal offence and it is enforceable under the CJPOA 1994 by the Police. But “*TfL takes a serious view of licensed operators and drivers who have been convicted for touting, and operators that use touts or encourage the practice of touting*”, LTPH (2013, p. 92). TfL Compliance Officers do not have the same power as the Police to enforce the offence of touting under section 167. The differences between section 2 (1) of the PHV (London) Act 1998 and section 167 (1) CJPOA 1994 are outlined below:

Table 1. 3 – Differences between section 2 (1) and section 167 (1)

Section 2 (1) – PHV (London) 1998 Act	Section 167 (1) CJPOA 1994
Customers approach the drivers for hire	Drivers or any individual approach the customers to hire
Licence breach but not a criminal offence	Licence breach (if the driver holds a valid PHD's licence) and a criminal offence
Enforced by TfL Compliance Officers and Police Officers	Enforced by the Police Officers
The driver (licensed PHD) can get a warning or prosecute	The driver or offender gets arrested, cautioned or prosecuted (licensed or unlicensed PHD). If licensed, TfL can revoke or suspend the driver's licence

TfL prosecutes licensed PHDs reported for touting under section 2 (1) of the PHV (London) Act 1998 and work in partnership with the Police to robustly enforce touting under section 167 (1). TfL directly funds a dedicated team of 68 Police Officers known as the Taxi and Private Hire Police Unit (T&PHPU). The T&PHPU has been in existence since 2003 but they were known as the Cab Enforcement Unit (CEU) until spring 2016, they have the responsibility to deal with all T&PH related offences, TfL (2016a).

In 2012, the Law Commission undertook a consultation on reforming T&PH legislations in England and Wales, including London. The consultation took 12 weeks and one of the recommendations from the consultation was to reform the laws regulating the T&PH industry across the country. Technology and persistent change in the legislation are causing anger and growing concerns for the T&PH trades in London, especially with the arrival of Uber. The trades argued that Uber is using a smartphone application as a meter to calculate fares and this was regarded as a breach of the PHV (London) Act 1998. The case of Uber was very controversial and that led to several trade protests outside TfL buildings in London, Simpson (2016).

The background of this study discussed some of the development and challenges encountered by the PHI over the years. It was suggested that Uber is taking over the PHI and emerging new technology also poses bigger threats to the industry. Although mobile phones were in common use in the 90s, no aspect of the PHV (London) Act refers to any technology, therefore limiting any regulations to support it. It is argued that the legislation is weak and cannot keep up with emerging technology in the PHI or prevent illegal touting.

1.2 Research problem

The key problem encountered by TfL Compliance Officers and the customers is the difficulty in identifying when a PHV is used to undertake a legitimate PHV work and when it is not. It is imperative for the readers to know the meaning of a PHV as set out in the PHV (London) Act 1998. PHV is *“a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver to the public for hire for the purpose of carrying passengers, other than a licensed taxi or a public service vehicle”* PHV (London) Act (1998, p. 3). The weakness in this definition is the use of the word “Public”. This permits all community transportation to be included under the legislation.

In February 2008, TfL released a notice confirming that the PHV definition of the public in the PHV (London) Act 1998 has been amended by the Department for Transport (DfT). The new definition which took effect from 1st April 2008 eliminates the use of the word “public” in the initial definition and left it as “available for hire”, TfL (2008). TfL and the trade assumed that this change will close the flaws in this section but it did not. Post-2008, PHVs are licensed without any proof that they are owned by licensed PHDs or PHOs. It was suggested that by licensing a PHV without any

attachment to a PHD or PHO increases the chance of that vehicle being driven by unlicensed PHD and this could potentially promote the vehicle being used for illegal activity in London.

It was suggested that the app booking system is a good step towards reducing touting in the PHI. The system removed the cash payment and permits customers to use credit or debit cards to make payment. Uber is one of the major PHOs using the app booking system and most of the PHDs have joined Uber. TfL first licensed Uber in May 2012 and they developed a system that permits customers to pre-book a PHV with an app. Once the PHV is pre-booked, the app provides the details of the PHV and PHD, this permits the customer to monitor the vehicle in real time. The app also calculates customer fares and the payment is completely cashless because Uber automatically charges the customers' debit/credit card or PayPal, Uber (2016). By booking the PHV through the app booking system, the journey is registered on the PHO's system. This minimises problems in case an incident or accident occurs and this would make it easy to investigate. According to Silvera (2014, p.1), approximately 42,000 licensed PHDs joined Uber and due to the introduction of the app booking system, Uber customers have increased to approximately 500,000.

This growth has promoted new areas and the customers to use licensed PHVs driven by licensed PHDs. Uber represents a very small fraction of the PHOs in London, there are over 2,000 other PHOs who cannot afford this smart technology. In addition, the Uber app booking system only has the functionality to monitor PHD activities if they sign-on with Uber but some of the PHDs would refuse to sign-on to avoid paying commission to PHOs. Most of the PHDs use PHVs as personal vehicles and they are self-employed, so it is quite challenging for the app to monitor PHD activities if they are not signing on to the PHO. This demonstrates that the app booking system cannot entirely stop PHDs from touting but it has encouraged more journeys to be made in licensed PHVs. It was suggested that the unregulated rent or commission demanded by PHOs also contributes to some of the factors driving illegal touts in London.

The introduction of the Uber app booking system met some resistance from the T&PH trade. It was argued that the app monitors the movement of PHVs and calculates fares, this can be classified as a taximeter and only taxis are permitted to use a taximeter to calculate customer fares, Uber (2015). This led to a controversial argument between the T&PH trades, Uber and TfL. The case was referred to the

High Court for further clarification in October 2015. Section 11 (1) of the PHV (London) Act (1998, p. 7) states;

“No vehicle to which a London PHV licence relates shall be equipped with a taximeter”. By the virtue of this legislation, PHVs are prohibited from using taximeters. Nevertheless, the flaw in section 11 (1) is *“shall be equipped with a taximeter”*. So, Uber’s argument was their PHVs are not equipped with taximeters and the PHV (London) 1998 Act did not prohibit them from using a smart app to estimate customer fares. The case was heard in the High Court on the 5th October 2015 and the judge set out his views as follows. *“A taximeter, for the purposes of section 11 of the PHV (London) Act 1998, does not include a device that receives GPS signals in the course of a journey...”* TfL V Uber (2015, p.13).

These are some of the instances that make the PHV (London) Act 1998 complex to enforce. The legislation was first written in 1998 and since then, there have been many developments in the PHI that has improved customers’ experiences. The PHV (London) Act 1998 is out-dated and cannot meet up with the developments in the PHI. Therefore, instead of focusing on reactive measures to deal with the flaws in the PHV (London) Act 1998, it is now imperative to improve the legislation to address some of the key emerging issues and make it more robust to prevent known or potentially illegal activities in the PHI.

1.3 Research question and objective

The numbers of PHDs licensed by TfL has increasingly grown since 2003 and the constant changes in the PHI have improved customer experience. The enactment of the PHV (London) Act 1998 has promoted the licensing regime in London but the enforcement complexity still exists. In fact, it was suggested that the flaws in the legislation have made touting almost impossible to control. TfL Compliance Officers are not empowered within the PHV (London) Act to enforce illegal PH touts; this is why they rely on the Police for continued support to manage illegal activities.

The research question to be addressed in this thesis is:

How can TfL as a regulator work with other agencies inclusive of the GLA, Police, PH trade and the customers to resolve the issue of illegal PH touts in the City of Westminster, London?

For this research thesis to answer the above question, this study will undertake the following:

- Review the current London PHV legislation and regulations
- Identify areas of improvement to PHV legislation and regulation to prevent illegal PH touts
- Establish how TfL Compliance Officers can be better empowered and work smarter with other agencies to enforce illegal PH touts

The primary objective of this study is to investigate the issue of illegal PH touting and countermeasures in the City of Westminster, London. More so, using the guidelines outlined above to provide answers to the research question will contribute towards finding permanent solutions to the issues of PH touting in London.

1.4 Research perimeters and boundary

The scope of this research focuses on touting in the PHI because of the high volume of PHVs in London and the complexity of the PHV legislation. In the course of this research, it became very apparent that PHDs are more likely to tout customers than taxis and PHVs *“are the most dangerous way to travel”*, Sanderson (2009, p. 35). The initial scope of the research is to investigate illegal PH touting in London but having considered the level of work, costs and time involved, the author decided to narrow the scope to focus on the city of Westminster, popularly known as the Westend. The Westend is suitable for this research because of the busy nightlife with over 3,000 venues and 43,000 employees, TBR (2015, p.8). The Westend attracts different calibres of people that demand immediate door-to-door transportation and businesses are keen to ensure customers get home safely. These different activities make the Westend a hotspot location for PH touts, known as the “honey pot”.

Touting has been a controversial issue in the PHI since the early 80s and the PHV (London) Act was introduced in 1998 to regulate the PHI. But PH touting is still a problem in London and both TfL and Police officials who participated in the interviews

agreed that touting is a problem in London. The number of PHDs in London has increased dramatically over the years, from “59,191 in 2010 to 117,712 in 2017” (TfL 2017a, p.1). This figure shows that approximately 8,000 PHDs are licensed every year. It was argued that the inability to cap the number of PHDs in London contributes to the issue of PH touting.

This research focuses on the impact of touting in the PHI since 2010 because there have been quite a number of changes to the regulation and practice in the PHI. The impact of the London night-time economy over the last nine years has also driven the changes in London’s transport system, with the introduction of the night tubes and the arrival of Uber. The night tube means night revellers and workers now have more choice of getting to their next destination and the arrival of Uber has totally changed the ways the customers pre-book their PHVs. The customer surveys also showed that 56.1% of the participants now use the app booking system to pre-book their PHVs. The use of an app booking system has created some legal challenges for TfL. However, it was suggested that the introduction of the night tubes and the arrival of Uber would reduce PHV touting. So, this research seeks to understand if this has been the case.

1.5 Significance of the study

The study is significant to TfL, PHI and the customers’ in many ways as discussed below.

Firstly, how is it significant to TfL?

The Police budget and number of Police Officers in England and Wales have reduced immensely in recent years, IFS (2017). TfL fund a team of dedicated Police Officers (T&PHPU) to ensure continued Police support in managing illegal activities in the T&PH industry. Despite the fact that TfL funds them, as Police Officers their priority can change on a daily basis and they can be required at short notice to focus on other serious emerging issues in London. The last 15 years have seen several reviews in the PHI but none of these reviews has future-proofed the option to better empower TfL Compliance Officers. Since the author has started this research, TfL has received permission from the Metropolitan Police to use limited powers under the Community Safety Accreditation Scheme (CSAS) to deter and disrupt but it was

argued that those powers would not be sufficient to effectively undertake anti-touting activities.

In addition, the numbers of licensed PHVs and PHDs have grown over the years and it was argued that the growth has resulted in an excessive supply of PHS, which may have increased the number of illegal touts in London. With the reduction in the number of Police and changing political priorities, the T&PHPU may not have sufficient capacity to deal with illegal activities in the T&PH industry in the foreseeable future. This is why it is more imminent to review the option of empowering TfL Compliance Officers to allow them to effectively manage illegal activities in the PHI with less reliance on Police Officers.

Secondly, how is it significant to PHI and customers?

According to the survey conducted by TfL in January 2015, the findings show that 37% of the customers think PHVs can pick up customers without being pre-booked, provided that the customers can see licence stickers displayed on the vehicle screens. The review of the PHV legislation and regulations will prevent illegal drivers from driving licensed PHVs and ease the process of identifying legitimate PHVs. The legislation would be simple to enforce and TfL Compliance Officers can robustly manage illegal touting while minimising the risks on the customers which can be sexual harassment or unwanted sexual behaviour.

1.6 Research methods

A pragmatic approach is used in this research and it is one of the most suitable types of epistemology used in social science research because of its ability to seamlessly adopt mixed methods. As such, the author has decided to use the pragmatism approach due to the flexibility needed in this research to employ both qualitative and quantitative methods. The integration of both methods is important due to the variation of engagements required to find answers to the research question. It can be argued that using one method, either qualitative or quantitative, should be sufficient for this research but by doing so, the author may not be able to extensively engage with all relevant subjects and capture relevant information, Creswell & Clark (2011).

The qualitative research aspect would allow the author to undertake field research, which may result in interviewing the subject matter experts, Trochim (2006). The

quantitative aspect allows the author to use on-street surveys to collect data from the customers and drivers.

A quantitative method simply means the act of “*collecting and analysing numerical data*” Neville (2007, p3). Aside from the fact that a quantitative method would help the author to collect first-hand information about the problems encountered by the customers, it would also allow the author to employ a statistical model to establish the time, frequency, location and the occurrence of the problem.

In order to make a reasonable statistical presentation of the problem, the author has decided to use a probability sampling technique. Probability sampling allows the author to randomly select a unit of PH customers and drivers from the population in the Westend to get a representative sample, Lund (2012). It would be impossible to study the entire population in the Westend due to practicality, time constraints and the cost implication, but the feedback from a reasonable sample size would have a significant impact on the research findings and potentially minimise sampling bias.

A qualitative method is also used in this research and it is defined as the act of “*obtaining culturally specific information about the values, opinions, behaviours, and social contexts of particular populations*” FHI (2005, p. 1). On the contrary, the qualitative method seeks to describe people’s experiences or perceptions. Some of the methods used are interviews, observation and focus groups. The two methods used in this research are direct observations and face-to-face interviews.

The purpose of using direct observation as part of the qualitative method is to understand the pattern of behaviours of illegal drivers that operate during the night time economy. It also allows the author to study the perception of the customers that use the services of PHDs, QRCA (2018). In addition, face-to-face interviews allow the author to actively engage with the subject matter experts and probe their perceptions on the issues of touting in London. By combining these methods, the author will have a comprehensive understanding of the issues and recommend possible solutions.

1.7 Thesis outline

Chapter 1: Introduction

Chapter 2: Literature review

Chapter 3: Regulation and Intervention

Chapter 4: Methodology

Chapter 5: Analysis and Evaluation

Chapter 6: Findings and Recommendations

Chapter 7: Conclusion

Chapter Two

Literature Review

2.0 Overview

This chapter reviews the structure of the Licensing Authority (LA) and analyses how its functions are delegated between two directorates and departments. This chapter also examines some of the crime prevention theories and problem-solving approaches that have been adopted by law enforcement agencies to prevent and detect crimes. Finally, this chapter significantly considers previous publications by TfL and the GLA as part of the PHV legislation reviews and London night time economy.

2.1 The licensing authority (LA) structure and its functions

Before TfL was created in 2000, the Public Carriage Office (PCO), headed by the Assistant Commissioner and the Commissioner of Police, was responsible for the licensing and regulation of London taxis and taxi drivers since 1850. The PCO was a department within the MPS and was only responsible for the regulation of taxis under the Hackney Carriage Act of 1831, 1843, 1853, the London Metropolitan Public Carriage Act 1869 and the London Cab Order of 1934. However, after the introduction of the PHV (London) act 1998, the power to licence and regulate the London taxis was transferred to TfL under section 253 of the Greater London Authority (GLA) Act 1999 and similarly, the power to regulate London PHV was transferred to TfL under section 254 of the GLA act 1999, LTPH (2013a). So, TfL took over in the year 2000 as the new transport regulator with full responsibility to licence and regulate the T&PH industry. **Figure 2.1** further summarises the previous Licensing Authority (LA) structure.

Figure 2. 1 – Previous LA structure



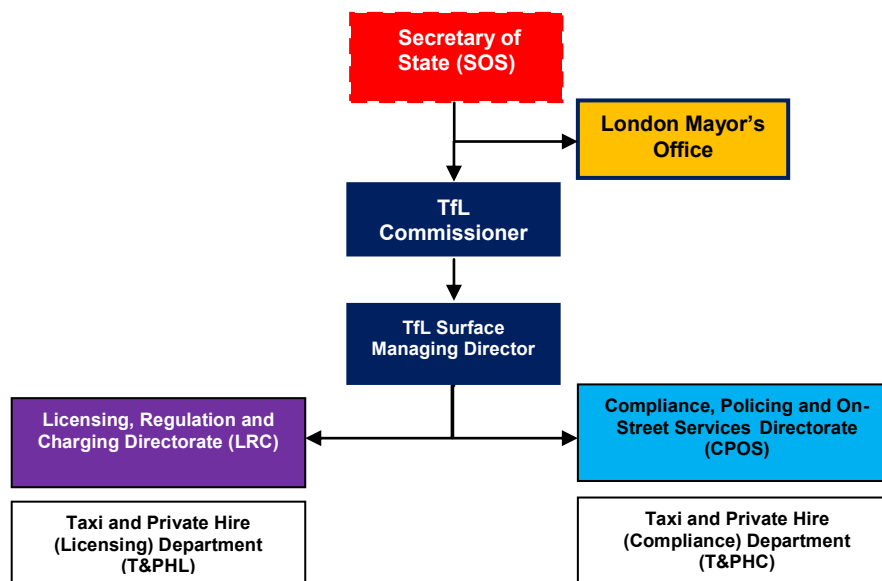
Having spoken to some of the staff that previously worked for PCO, it became clear that prior to the PHV (London) Act 1998, TfL Compliance Officers were known as the Public Carriage Examiners (PCE) and they only focused on inspecting London taxi drivers and vehicles between the hours of 08:00 – 18:00. After the PHV (London) Act was fully implemented in 2004, their role as PCE was changed to TfL Compliance Officers with an additional responsibility to inspect PHO, PHD and PHV in London. TfL Compliance Officers are regarded as PCE in the Hackney Carriage Act and as Authorised Officers (AO) in the PHV (London) Act 1998. Although their job title is regarded as TfL Compliance Officers, they have the dual authority to act as PCE and AO. Until 2010, there were approximately 30 TfL Compliance Officers covering the whole of London but their priority was more focused on daytime operations (08:00 – 18:00), to ensure that taxis and PHVs are complying with the legislation and regulations. In October 2010, a night compliance team was created and their priority was focused on tackling T&PH illegal activities taking place during the night time economy.

Since the PCO was transferred to TfL in the year 2000, the responsibility to licence and monitor the compliance of the T&PH industry was combined under the T&PH Directorate. However, after the TfL integration programme in 2013, T&PH ceased to be a single directorate and the licensing department was integrated as part of the Licensing, Regulation and Charging Directorate (LRC). The licensing function which includes; setting the licensing requirements, processing licence applications, setting policies and licence conditions are currently part of the T&PH licensing (TPHL) department but the Compliance department (also known as T&PH Compliance) was integrated with the Compliance, Policing and On-Street Services Directorate (CPOS). It was suggested that the integration of the Compliance department within CPOS would promote more robust enforcement in the industry because CPOS is an established enforcement directorate, TfL (2016d).

In 2015, the Compliance team was expanded under CPOS and the number of TfL Compliance Officers increased from 36 to 80, covering early, mid and night shifts. Approximately 25 dedicated TfL night Compliance Officers work with the MPS to tackle illegal activities taking place during the night time economy. Even though touting was a known issue in the T&PH industry before the night Compliance team was created in 2010, this offence was predominantly managed by the MPS. The night team that was created in 2010 was a relatively small team compared to the numbers of illegal activities they had to manage during the night time economy. The

T&PH industry was transferred from the MPS in the year 2000 but the MPS powers were not delegated as part of the function. However, since the author has started this research, TfL has received permission from the MPS to use limited powers under the CSAS accreditation scheme to deter and disrupt, but it was argued that those powers would not be sufficient to effectively manage anti-touting activities. The CSAS accreditation scheme is discussed in section 2.2.1. **Figure 2.2** further summarises the current Licensing Authority (LA) structure.

Figure 2.2 – Current LA structure



The Secretary of State delegated the authority to TfL as the licensing authority and TfL is also “*part of the GLA family of organisations led by Mayor of London.....*” TPHAP (2016, p.3). Apart from being the LA, TfL is also responsible for delivering the Mayor’s transport strategy. The LRC and CPOS work in collaboration as part of TfL Surface Transport to deliver the mayor’s strategy and plan for the T&PH industry. Despite the fact that both directorates and departments are part of the same organisation, they have different functions to ensure the T&PH industry is properly managed and regulated fairly. **Table 2.1** below summarises the functions of both departments as set out in TfL (2016b).

Table 2. 1 – Summary of T&PHL and T&PHC functions

LRC - T&PH Licensing	CPOS - T&PH Compliance
Act as the licensing authority	Compliance Officers act as a Public Carriage examiner and Authorised Officers
Set T&PH licences requirements	Conduct PHO pre-licence, compliance and renewal inspections
Set T&PH applicants character, medical and fitness requirements	Inspect driver licences to ensure they are complying with the legislation and regulations
Set T&PH licences application fees and process all applications	Inspect vehicle licences and standards to ensure they are complying with the legislation and regulations
Issue taxi driver and vehicle licences	Provide a high standard of customer safety through enforcement and customers engagement
Issue PHO, PHD and PHV licences	Report and take action on breaches of T&PH legislation and regulations
Set T&PH policies and conditions of the licence	Work in partnership with T&PHPU or MPS
Set T&PH licence business rules	Implement T&PH licensing and enforcement business rules and policies
Appoint taxi ranks	Manages taxi ranks
Set taxi fares	Undertake Safer Travel at Night (STaN) campaign
Power to warn, suspend and revoke T&PH licences	Power to warn and prosecute certain breaches

These functions of the LA as set out in the PHV (London) Act 1998 are discussed in more detail in chapter three. However, having considered the above table and with the author's nine years' experience in the industry, it can be argued that most licence decisions are made within the T&PH licensing team and the T&PH Compliance team is responsible for ensuring that both trades are adhering to the legislation and regulations. It was suggested that due to the fact that both departments are part of TfL, they should have an equal delegation of authority to make the same level of decisions but it was argued that the two departments with different levels of authority

show fairness and consistency in the way they regulate the T&PH industry. Nonetheless, it has been proven in the last six years that both directorates and departments have worked collectively to manage the T&PH industry despite all the challenges.

The next section reviews some of the crime prevention theories, problem-solving approaches and the enforcement framework used by enforcement agencies, including CPOS to tackle illegal activities in London.

2.2 Crime prevention theories, problem-solving and enforcement framework

Situational Crime Prevention (SCP) theory was created about 40 years ago and it *“seeks to reduce opportunities for specific categories of crime by increasing the associated risk”*, Clarke (1995, p.1). SCP is sometimes seen as a strategy instead of a theory. Painter (2014) suggests that SCP is a group of strategies used to reduce crime opportunities and increase the risk of capturing offenders.

Clarke (1997) suggested that SCP has proven to be successful in reducing opportunities to commit different types of crimes. For example, using a CCTV camera to prevent theft on buses or providing additional street lighting to prevent theft and vandalism at night. SCP was first introduced to the Home Office in the 70s and the aim was to make it difficult for offenders to commit crimes, Painter (2014). SCP comprises of three parts; theoretical framework, a standard approach for resolving certain crimes and opportunities to reduce crimes. The theoretical framework uses different opportunities to prevent crime; this includes the rational choice theory (RCT) and routine activity theory (RAT).

RCT is *“...One of the most influential and criticised criminological models to emerge....”* Leclerc & Wortley (2013, p.3)

Cornish & Clarke (2014) regard RCT as a perspective instead of a theory. They suggested that RCT was introduced for two main purposes. Firstly, to support the development of situational crime prevention and secondly, to provide a theory that can speculate the offenders' decision-making process. Arguably, the theory was deemed to be successful in its first purpose, this is because it has generated new ideas and employs practical methods that supported SCP pioneers to establish its success in the area of crime control, Clark (2013). Contrarily, it was deemed less successful in the area of speculating the offenders' decision-making process.

RCT framework is used to study the offenders' social and economic behaviours. The theory was first influenced by Derek Cornish and Ronald Clarke, Keel (2019) and it supported the view that offenders commit crimes for their personal gains, Cornish & Clarke (2014). The theory suggests that offenders are confronted with a rational decision to commit crimes based on the available opportunities, the benefits involved and the likelihood of getting caught. Although, it was argued that RCT should be more focus on crimes instead of speculating the rational decision of an individual (offender). In addition, it was also argued that the offenders' behaviours are unpredictable and the situation may vary, as such this theory may not be suitable to speculate all offenders rational decision process.

Nevertheless, some studies have considered different crimes that RCT may be applicable to. To mention a few; Lejeune's 1997 study of mugging, Athens 1980 study of rape and homicide, and Dobash and Dobash 1984 study of spouse abuse. It was suggested that all these crimes have some element of a decision-making process and rationally calculated, Cornish & Clarke (2014). However, it was argued that some studies have ignored the fact that an offender is not the only subject required for a crime to take place. Those studies have failed to consider other subjects such as the victim and the guardians, Leclerc & Wortley (2013). The routine activity, which is the foundation of the crime triangle theory, suggested that crime is eminent only when an offender and a victim come together at a particular place and time without a capable guardian, Cohen & Felson, (1979).

Derek Cornish and Ronald Clarke tested the RCT by conducting an assessment to understand the mind of an offender, Clayton (2014). They analysed the types of questions an offender will ask themselves before committing a crime. Using the PH touts as an example, a tout would think of the hotspots in London where they can quickly pick up customers (victims), they would think of the amount of money they can generate after few trips, and the capable guardian that may be present (TfL Compliance Officers or Police Officers).

Carroll (1978) presented some hypothesis on four aspects of crime opportunities that may influence an offender's decision-making process. These are; the likelihood to get caught, the likelihood to be successful, the amount of reward involved and the severity of the punishment. The result shows that 41% of the subjects were responsive to the likelihood of getting caught, 60% likelihood to be successful, 84% to the amount of reward involved and 67% to the severity of the punishment, Cornish

& Clarke (2014, p. 21). The hypothesis shows that some factors work as deterrence more than the others, depending on the offender and crime involved. Having considered these four aspects of the crime opportunities, RCT suggests that some of the criteria that influenced an offender's decision-making process are their social, economic, demographic and situational status. For example, if they live in a less privileged environment or originated from a poor home or peer pressure. Payne (1973) explained this in a simple contingent process model as follows;

1. Assess money in the pocket (if high, no crime; if low, go to step 2)
2. Assess certainty of success (if low, no crime, if high, go to step 3)
3. Assess the amount of gain (if low, go to step 4; if high, go to step 5)
4. Assess risk (if high, no crime; if low, go to step 5)
5. Commit crime (consist of sub-steps in the planning, techniques and execution)

In conclusion, Clayton (2014) argued that RCT is too generic and is not suitable to target certain crimes. Cornish & Clarke (2014) also argued that some studies have failed to consider the victims and capable guardians as part of the RCT as their actions at the crime scene may lead to a different outcome.

Routine activity theory (RAT) is a subsidiary of the rational choice theory. Contrary to RCT, RAT suggests that offenders or crimes are not influenced by social or demographic factors. This theory was created by Felson & Cohen (1979), similarly to the crime triangle; the routine activity theory requires three elements to come together at a particular place and time for a crime to occur; the offender, a suitable target and capable guardian. In a case of PH touts, a suitable target could be vulnerable women leaving night clubs and bars after a night out in London and the capable guardian could be the TfL Compliance Officers or Police Officers that may be present to deter the suspect.

As suggested by TfL and Police participants, some licensed and unlicensed PHDs are touting purposely to earn the money, while some are doing it for sexual gratification. Whichever of the two intentions, they may require a calculative act to target certain victims based on what they know about their routine activities and they would take advantage of that. Using the example of Mr Hussain, the illegal PHD that was cited in chapter one, he understood the routine of his victims after a night out in

London. It was argued that he targeted women and he knew that women often patronise that particular bar where he picked up his victims. He knew that they are drunk, vulnerable and they want means to get home. As such, he used deception by posing to be their pre-booked PHV, and because their judgements were clouded due to the intoxication, they did not check the details of the PHD or PHV. Therefore, RAT suggested that, because Mr Hussain has the experience of picking up vulnerable drunk women and raping them, he was fully aware of their routine activity and he took advantage of that. In essence, RAT argued that Mr Hussain's decision to rape the women was not based on his social or demographic status.

Lastly, Dr Painter of the Cambridge Institute of Criminology who was the lead for Stoke-on-Trent on street related violence crime gave a good illustration of how the SCP strategy works in a practical environment. According to Painter (2014), theft, robbery and burglary crimes were on the rise in Stoke-on-Trent, so she worked in partnership with a researcher to test how increasing the street lighting in the area might have an impact on crime. They identified three distinctive zones to test the process; experimental zone, adjacent zone and the control zone. The new lighting was installed in the experimental area but the adjacent and control areas were left unaffected.

After about a year, the researcher conducted surveys in the three areas to determine if the additional street lighting had increased, reduced or made no difference to violent crime in the areas. The result showed that crime and the fear of crime had reduced in the experimental and adjacent areas by 26% and 21% respectively, Painter (2014, p1). It was argued that the additional street lights reduce crime by increasing the quality of life and as such, help to build the confidence of the residents but it did not make the crime go away. While this may be true, the former TfL Director of CPOS also discussed some of the prevention theories and enforcement frameworks that are used to tackle crimes.

In September 2012, the former TfL Director of CPOS, Steve Burton, delivered a presentation on some crime prevention theories, problem-solving and enforcement approaches used by TfL to resolve transport crimes. At the seminar, Burton (2012) demonstrated that TfL shares and support different initiatives and developments used in the 21st century to combat crimes. According to BJA (2013), some of the initiatives used in modern policing started from grass root policing and has gone beyond traditional tactics such as random patrols, reactive investigation and arrest

your way out of crime. Modern policing now focuses on finding long-term solutions to problems by working smarter and some of the frameworks used are; Crime Triangle, Problem Solving, Intelligence-led policing, Crime Science and Evidence-led policing.

Adolfo Gonzales said; *"You cannot arrest your way out of a problem, intervention and prevention before suppression and enforcement"* Davis (2016, p.1). Mr Gonzales has four decades of law enforcement experience and was appointed as the San Diego County Chief probation officer in April 2016. He suggested that arresting offenders is not the only solution to crime and it is equally important to consider some preventive measures that can deter crimes.

Burton (2012) set out the framework used by CPOS to tackle crimes on the transport network in London. Some of the crimes include; sexual assault, hate crime, taxi touting, fare evasion, cycle theft and road reliability issue. The framework comprises of four Ps; Prevention, Problem solving, Partnership and Performance.

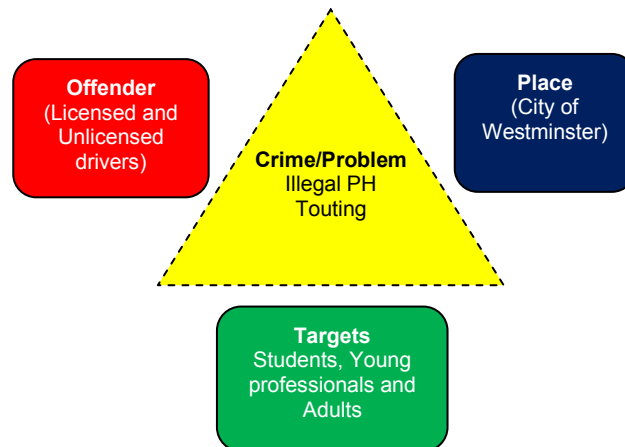
The following paragraphs review these four Ps, relate them to the theoretical foundation of policing and demonstrate how TfL has used them to police taxi touting in London.

2.2.1 Prevention

The prevention mechanism uses the problem analysis triangle (also called the crime triangle), CPOP (2016a). The problem analysis or crime triangle originated from one of the important theories of environmental criminology devised by Marcus Felson and Lawrence Cohen. They suggested that this theory helps to focus more on investigating the sources of crime and any conditions that may influence it, instead of focusing solely on the solution.

"..... predatory crime occurs when a likely offender and suitable target come together in time and place, without a capable guardian present", CPOP (2016a, p.1).

Figure 2.3 below shows how this theory works and how this is applicable to illegal PH touting problem.

Figure 2.3 - Crime triangle

Using **Figure 2.3** above, the offenders in this context are the illegal PHDs, the offence location is the City of Westminster and the targets are students, young professionals or adults that patronise night venues during the night time economy. The crime triangle theory suggests that if one of these elements in the crime triangle above is eliminated, the crime disappears. If the offender (i.e. illegal drivers) is eliminated, then the targets will pre-book legitimate PHVs. On the contrary, if an illegal PHD is present but the targets (i.e. students etc.) are not using the services, then there is no crime. However, if both the offender and target are present, then the crime can happen in other locations.

Burton (2012) suggests that the offenders can be eliminated through enforcement activities by increasing the visible presence of TfL Compliance Officers in the City of Westminster, to deter and disrupt illegal PHDs from touting. It can be argued that some of the challenges encountered in this process are the shortage of resources and the lack of appropriate powers to deal with certain offences. TfL created the night Compliance team in October 2010 and from 2010 - 2016, there were approximately 25-night TfL Compliance Officers covering London, which is approximately 611 square miles and they managed all T&PH related night-time activities. The numbers of licensed taxis and PHVs have increased over the years; however, the number of night Compliance Officers did not increase massively until 2017.

On Tuesday 2 August 2016, the London Mayor Sadiq Khan announced, "*An extra 250 Compliance Officers will be recruited over the next year.....*" ITV (2016 p.1). The mayor's proposal to increase the number of TfL Compliance Officers by an extra 250 was delivered in spring 2017, it was suggested that this was the biggest change

in T&PH history. With these additional Officers, the Compliance team are able to patrol more hotspots, increase visibility across London and act as a deterrence to prevent crimes. TfL Compliance Officers are appointed as Authorised Officers in the PHV (London) Act 1998, and section 36 of the PHV (London) Act (1998, p.18) states, “*Authorised Officer means an officer authorised in writing by the Secretary of State for the purpose of this Act*”.

TfL Compliance Officers are also appointed as Public Carriage Examiners in the London Cab Order 1934 (LCO 1934, p. 795) in pursuance of the Metropolitan Public Carriage Act as amended by Greater London Authority Act 1999. The Compliance Officers have the delegation of authority within these two remits and can only enforce breaches within these legislations and regulations. TfL Compliance Officers do not have devolution of MPS powers to enforce section 167 of the CJPOA 1994. However, TfL has started prosecuting illegal PHDs for touting under section 2 of the PHV (London) Act 1998. Since the author started this research, TfL has received permission from the MPS to use limited powers under the CSAS accreditation scheme to deter and disrupt but it was argued that those powers would not be sufficient to effectively manage anti-touting activities. As discussed in HO (2012), HO (2013a) and CSAS (2015), **Table 2.2** below compares the differences and similarities between the Police and TfL Compliance Officers powers.

Table 2. 2 – TfL Compliance Officers and MPS Officers

Powers	MPS Officers	TfL Compliance Officers
Arrest	√	×
Detention	√	×
Stop and search	√	×
Seizure and retention of the motor vehicle	√	×
Road checks	√	×
Search relating to DVLA driver's licence	√	×
Enforce traffic rules	√	×
Control traffic	√	√, CSAS accreditation. Only by uniformed Compliance Officers
Enforce parking violation	√	×
Issue summons and fixed penalty notice	√	√ only to London taxis but yet to be enacted
Issue criminal disposable option (Simple caution)	√	×
Investigation	√	√
Interview under caution	√	√
Demand name and address	√	√, CSAS accreditation. Only by uniformed Compliance Officers
Stop vehicle for testing	√	√, CSAS accreditation. Only by uniformed Compliance Officers

Of course, the CSAS accreditation scheme would put TfL Compliance Officers in a better position to stop licensed vehicles for testing and gives them the power to demand names and addresses when required. However, they do not have the power to detain anyone suspected for touting whilst waiting for the MPS to arrive, nor do they have the power to seize any vehicles used by touts. These are the powers that could serve as a serious deterrence for touting. In addition, the MPS Officers are able to use a criminal disposable option, also known as a simple caution. A caution is a:

"formal alternative to prosecuting someone for a minor offence were taking the offender to court is not seen as the best solution", HO (2013b, p.7).

This means that MPS Officers are permitted to administer a simple caution to offenders without going through the court processes. This could be regarded as a smart method of dealing with touts because a PHD's licence can be suspended or revoked if the driver is issued a simple caution for touting, LTPH (2013a). While TfL Compliance Officers may not be permitted to use a simple caution in the same context as the MPS Officers, it can be argued that giving them the power to use a simple caution or a similar sanction would make them more effective.

Nonetheless, **Table 2.2** shows that the MPS Officers have the delegation of powers within the Police and Criminal Evidence Act (PACE) 1984, Police reform Act 2002 and the Road Traffic Act 1988. Clearly, TfL Compliance Officers do not necessarily need all the MPS powers to enable them to undertake anti-touting activities but they can benefit from the powers to seize motor vehicles, issue fixed penalty notices and make use of simple cautions or similar sanctions. These powers would enable them to manage illegal activities more effectively. It is logical for them to share some of the MPS powers because the MPS Officers have a delegation of authority within the PHV (London) Act 1998; this Act regards them as Constables and they have the same level of authority as Authorised Officers.

Another direct comparison in this context is the New York City Taxi and Limousine Commission (TLC). New York is often compared to London in many ways and it is a city in the United States, popularly known as NYC. NYC is also a cosmopolitan city known for its wide range of historical attractions and night time economy. As of 2013, NYC and London had comparable populations; London was *"8.3 million while NYC was 8.4 million"*, Schmalbruch (2015, p.1). They both have similar transport systems, while London's tube only runs 24 hours on weekends; NYC's subway runs 24 hours daily. Due to their similarities, it is reasonable to compare TLC's functions and powers to TfL as a transport regulator.

TLC was created in 1971 under the local law number 12 of 1971 and it is responsible for the *"regulation and licensing of nearly 150,000 licensed drivers and 90,000 vehicles"*, TLC (2015, p. 1), this includes NYC yellow medallion taxicabs, for-hire vehicles and operators. They have a similar vision to TfL by ensuring that NYC residents and visitors have access to door-to-door transport services that are safe,

reliable and efficient. They have approximately 200 Enforcement Officers who are responsible for managing illegal activities and ensuring that licensed drivers and vehicles are complying with the legislation. They work in partnership with the New York Police Department (NYPD) to enforce illegal activities on taxis, PH and traffic enforcement. Between spring 2014 – 2015, they successfully completed “*147 joint operations combating safety-related traffic enforcement and 114 operations against illegal (unlicensed) commuter vans*”, TLC (2015, p.19).

Despite their shared vision and huge similarities, TLC Enforcement Officers are better empowered in comparison to TfL Compliance Officers. It could be argued that this is because TLC is in a different country and it is regulated under an entirely different regulation but the fact remains that TLC and TfL are both transport regulators of door-to-door services. So, it is interesting to understand the differences in the powers of their Officers as discussed in NYC (2010) and NYC (2017).

Table 2. 3 – TfL Compliance Officers and TLC Enforcement Officers powers

Powers	TLC Enforcement Officers	TfL Compliance Officers
Arrest	√	×
Detention	√	×
Seizure and retention of the motor vehicle	√	×
Issue summons and fixed penalty notices	√	×
Search relating to driver's licence	√	×
Enforce traffic rules	√	×
Enforce parking violations	√	×
Power to suspend or revoke T&PH licences	√	√, the power to suspend or revoke T&PH licence by LA but not by Officers
Issue points on T&PH licences (point-based system)	√	×
Requests for assistance e.g. Police	√	√, but TfL funded Police assistance
Investigation	√	√
Interview under caution	√	√
Demand name and address	√	√, only by uniformed Compliance Officers (CSAS Power)
Stop vehicles for testing	√	√, only by uniformed Compliance Officers (CSAS Power)

Having compared the powers of the MPS Officers, TLC Enforcement Officers and TfL Compliance Officers, it can be argued that the TLC Enforcement Officers have similar powers to the MPS Officers and these powers allow them to effectively manage illegal activities in the T&PH industry and also generate revenue for the organisation. On the contrary, TfL Compliance Officers do not have the provisions of these powers and as such, they rely on the MPS to enforce certain illegal activities.

Nonetheless, Burton (2012) suggested that TfL should work smarter by educating the customers and work with Police partners who have the appropriate powers to undertake anti-touting activities. In 2002, TfL, MPS and the City of London Police (CoLP) started an initiative called the Safer Travel at Night (STaN) campaign. STaN is coordinated by multiple agencies with the aim to raise the awareness and enforce illegal activities in the T&PH industry, MOPC (2016) and TfL (2014a). In 2014, TfL attended 29 Universities fresher's week and engaged with approximately 50,000 students, educating them about the dangers associated with illegal PHVs in London.

As part of STaN campaign, TfL also visited 494-night venues and distributed over 132,000 safe travel leaflets to the public in an attempt to prevent people from using illegal vehicles, TfL (2015a, p.1). During the STaN campaign in 2014, the MPS arrested over 170 people for T&PH related offences and checked approximately 5,000 licensed T&PH vehicles. The Vice president of Welfare at Queen Mary University London also made useful remarks regarding TfL's effort on STaN. Katarina Nordanger states: *"I think it is great to see TfL responding to the safety concerns of students and the general public in such a way - especially when the outcomes of the campaign have been so successful"*, TfL (2014a, p.1). As part of the effort to educate the public about the risks of using illegal PHVs, TfL also created a safer travel page on its website that explains the process of booking legitimate taxis and PHVs. The safer travel page is a good concept to educate the travelling public but TfL needs to measure the effectiveness of the page. As mentioned in the introductory chapter, touting is not predominantly a night time issue. STaN is only undertaken twice a year - September and December and it is very expensive to manage.

2.2.2 Problem-solving

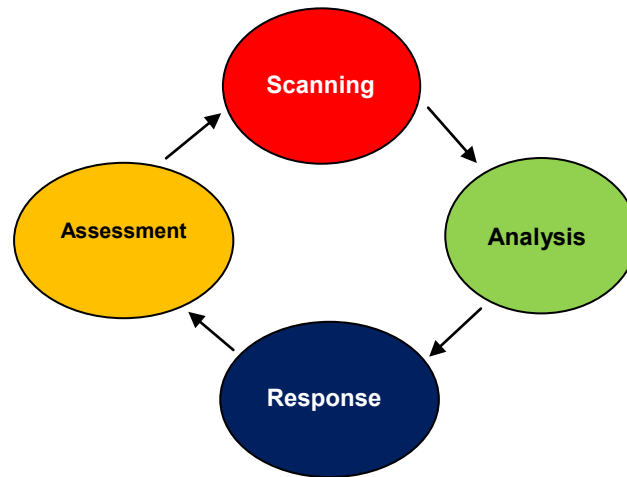
The SARA (Scanning, Analysing, Response and Assessment) model is the principle problem oriented policing approach that is easy to understand and categorise problem solving into four areas.

".....is a significant evolutionary step in helping law enforcement work smarter and not harder", Spelman & Eck (1987, p.1).

William Spelman and John Eck created the SARA model in 1987 at the Newport News Police department, Virginia, United States (US) and since then, the centre for problem-solving policing has promoted the use of this model in the law enforcement environment. SARA model is further broken down below and the subsequent

paragraphs demonstrate how TfL has used this model over the years to deal with crimes.

Figure 2. 4 - SARA model



Scanning: This involves the identification of a problem and measuring the impact of the problem on victims. The scanning process also helps the MPS and other law enforcement agencies to prioritise the problem based on the impact, establish the frequency of occurrence and set the objectives to resolve the problem. TfL uses this problem-solving approach to tackle a series of crimes reported on public transport. For example, this approach was used to reduce the impact of sexual assaults on women in illegal PHVs in 2006. TfL works in partnership with other agencies and collectively they scan the problem together to determine the offender, victim and the location. Even though TfL was already aware of the illegal PH touting issue, the scanning phase also helped significantly to further identify how the issue has increased over the years and the negative impact on women.

Analysing: This stage uses the information gathered during the scanning phase to establish the sources of the problem. This also takes into account any previous actions or measures that have been taken to resolve the problem. TfL and MPS conducted a detailed analysis, which shows that illegal minicab drivers committed high percentages of sexual harassment in PHVs. More so, the analyses also identified the patterns using the problem triangle which confirmed that *"50% of the victims were aged 24 or under and 91% were aged 35 or under"*, TfL (2006, p. 6).

Response: This is regarded as the planning stage where objectives are set, tactics are determined and resources are deployed. The analysis stage was used to establish the extent of the sexual assaults on women and helped to determine the

best tactics to tackle the problem, which was to use multifunctional agencies with appropriate authorities and powers to deal with the problem. TfL teamed up with the GLA and MPS to start up the STaN campaign initiative in 2002, which has eventually reduced the crime over the years. One of the methods adopted by MPS is using young specially trained Policewomen and allows them to be targeted by sexual predators. It was argued that this method was effective but it was very resource intensive and expensive.

Assessment: This stage evaluates the effectiveness of the plan, objectives and tactics to identify areas of improvement. TfL received the Herman Goldstein award in 2006 for excellence in problem-oriented policing and for demonstrating that the STaN campaign and SARA model has helped to reduce sexual assaults committed in PHVs from 18 to 10 per month. They also reduced the percentage of women using illegal PHVs in London from “18% to 7%”, TfL (2006, p.4). At the same time, it was agreed that this practice should be a continuous process to keep this issue under strict control.

The use of the **SARA** model may have contributed to the reduction of sexual assault in the T&PH industry but it can be argued that more work needs to be done to further reduce the percentage of people, not just women using illegal PHVs in London. One of the key contributing factors to the success of the STaN initiative was the major role played by the MPS who have the appropriate powers to deal with sexual assault and illegal touting. So far, the crime triangle theory and the SARA model have proven to be good frameworks used by TfL.

2.2.3 Partnership

Partnership working is regarded as one of the best methods used in modern policing to reduce crime and increase public protection. According to the College of Policing (CoP), partnership working encourages collaboration, improved information sharing and coordinated action to evaluate, govern and mitigate risk, CoP (2015). Partnership is “... more than one agency or group coming together to address a particular problem or problems”, Berry et al. (2011, p.4). The concept of partnership working is widely acceptable in local areas in England and Wales in tackling crime and this initiative has been used successfully to prevent and reduce youth gangs in the US and UK.

As part of the Mayor's commitment to improve transport safety and security, the London Transport Community Safety Partnership (LTCSP) was created and consists of organisations with similar objectives to make journeys within the capital safe. LTCSP is *"a non-statutory partnership, established in recognition of the importance of partnership working in dealing with crime and ASB on the transport system in London"*, A Safe Journey (2010-2013, p.55). The members consist of TfL, British Transport Police (BTP), CoLP, GLA, MPS, London Councils and many more. The STaN initiative is a typical example of partnerships working in TfL, which focuses on sexual assaults in illegal PHVs. There are other partnership working initiatives in TfL that focuses on other crimes like cycle theft, hate crime, road safety and reliability. The crime triangle theory and the SARA model are both used as problem solving approaches in partnership working and this has contributed to the success of partnership working in policing.

2.2.4 Performance

The management and performance of crime data have evolved over the years, many law enforcement agencies have moved on from traditional policing where old crime data is used to make informed decisions. Law enforcement agencies, including TfL, now focus on the 21st century policing where real-time information is used to analyse crime and measure the performance - this process is called "Compstat". Compstat simply means "Computer Statistics", which is a combination of knowledge and the management of Police departments. According to BJA (2013), Compstat was first introduced by the NYPD in the 90s and since then, Compstat has been promoted over the years across different countries forming a critical part of policing that helps law enforcement agencies to:

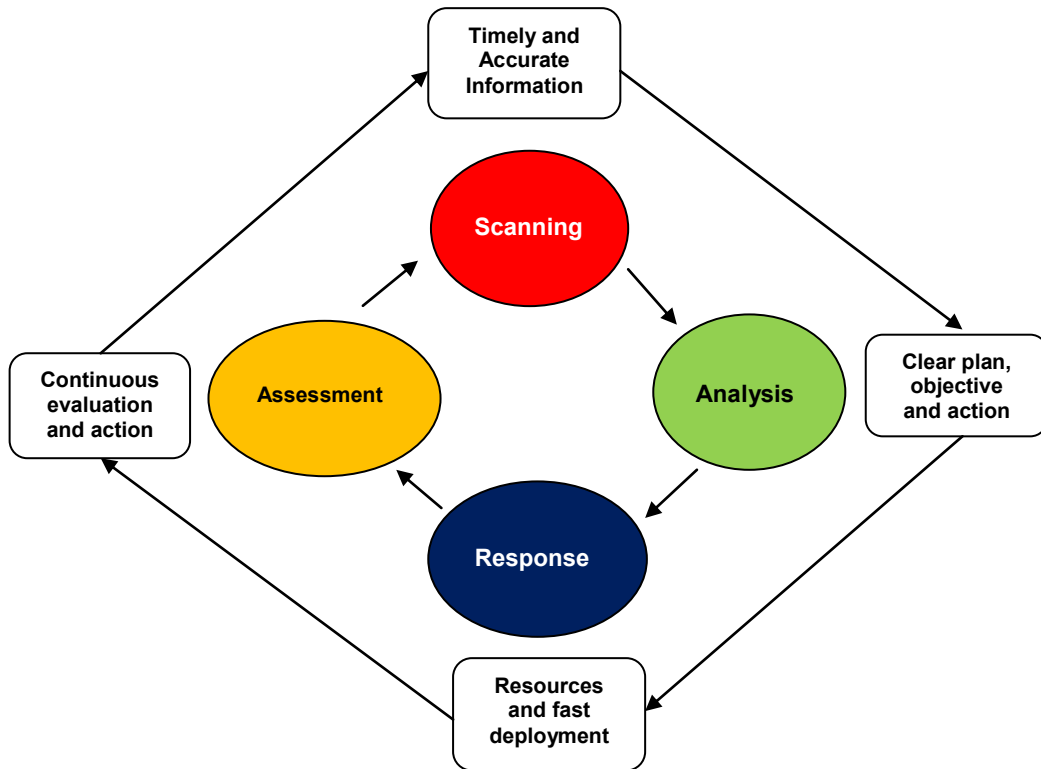
- Gather real-time and concise intelligence or information
- Rapid deployment and management of resources
- Effective plan and tactics
- Effective follow-up plan or action

It was also suggested that Compstat is a productive method of managing the team's performance and makes them more accountable for finding solutions to problems.

".....Compstat is a performance management tool based on the goal of continuous improvement", BJA (2013, p. 2).

It was suggested that Compstat and SARA model complement each other as demonstrated below;

Figure 2. 5 - SARA model and Compstat relationship



Compstat is a fundamental part of TfL's performance process and is used exactly how it was demonstrated in BJA (2013). TfL uses their operational staff and other reliable sources to gather real-time intelligence, analyse the intelligence, prioritise and deploy resources. Compstat brings people together across all levels to share information, ideas, manage performance and identify areas of continuous improvement. Dr George Kelling of Rutgers University argued that Compstat is predominantly crime focussed but it is less focused on other principles needed in policing. He went on to say *"I want Compstat to measure and discuss things like complaints against officers, and whether police are reducing the fear of crime....."* BJA (2013, p.1). Some law enforcement agencies may find Dr Kelling's argument viable and some may not but this could well be the future of Compstat.

So far, this chapter has reviewed some of the existing policing theories and problem-solving approaches that have been adopted by law enforcement agencies, including TfL, and some of these have proven to be successful. The next section of this

chapter discusses some of the measures taken by TfL and GLA to strengthen the PH legislation and regulations in an attempt to prevent illegal activities.

2.3 PH regulations review, consultation and changes 2015 - 2016

In 2015, TfL reviewed the regulations governing the licensing and compliance of the PHS in London. The review and consultation were as a result of the emerging developments in the PHI and the app booking system that has changed the method customers use to pre-book their PHS. The purpose of the consultation was to gather the opinion of the trade, customers and other organisations that may be interested in the PH trade. The consultation process started in March 2015 and ended in June 2015. According to TfL (2015b, p.2), *“almost 4,000 responses were received in total to the consultation, including 28 from stakeholders and over 1,400 sent by licensed PHDs....”*. TfL commissioned an individual company called Steer Davis Glove (SDG) to analyse all the responses from the consultation.

According to TfL (2015b), the objectives of the consultation were as follows:

- To educate the people about the background of the PHV regulations
- To evaluate the height of resistance or support available for any changes to the regulations
- To encourage people to provide proof to support or resist changes to regulations
- To encourage people to share their opinions and contribute to the changes in regulation

As discussed in SDG (2015, p.1) and TfL (2015b, p.8), the respondents argued for *“an effective regulated PH industry with clear legislation, firmer enforcement of the regulations and stricter reprimands for those breaking the law”*. The consultation had 13 closed questions and 20 open questions, the majority showed a large consensus to the closed questions with strong views in two areas; requirements for anyone applying for a PHD to be able to speak English to a certain standard (99% agree) and TfL should seek to revoke a PHV licence if the PHD’s licence is revoked as a result of touting (99% agree), TfL (2015b, p.8).

The open questions were focused on regulations, enforcement, operations, customers and driver's safety. Some of the issues and concerns that were raised around the open questions are discussed below.

2.3.1 Regulations

Some of the respondents argued that the PHV regulations are no longer fit for purpose and suggested that the regulations should be revamped to meet the changes in the PHI. Some of the proposals are; TfL should cap the number of PH licences they issue to both drivers and vehicles. However, TfL cannot refuse to issue licences if the applicants meet the requirements as stated in the PHV (London) Act 1998. In addition, the respondents also suggested that TfL or the regulation should set minimum UK residency requirements for applicants applying for PHD licences. So, they expect foreign nationals to have lived in the UK for a certain number of years before they are permitted to apply for a PHD licence.

2.3.2 Enforcement

This area drew a lot of interest and the discussion includes the difficulty to enforce current legislation and the lack of TfL Compliance Officers to cover the 32 boroughs and the City of London. They argued for tough sanctions for drivers reported for illegal activities or breached the legislation and regulations. As part of the Mayor's T&PH action plan 2016, Sadiq Khan has quadrupled the number of Compliance Officers, TPHAP (2016, p.8). This development has led to a better coverage and increase in the presence of uniformed Compliance Officers across London. However, the lack of appropriate powers for TfL Compliance Officers to manage some aspect of the legislation may still be an issue.

2.3.3. Operations

The respondents' suggestion in this area is mainly on how PHVs are identified, pre-booked and insured. They suggested that the customers should have the ability to pre-book a PHV well in advance and all PHVs should have distinctive features that allow customers to easily identify licensed vehicles. They also suggested that all PHV registration numbers should be linked to an automatic number plate recognition system (ANPR) where it can be monitored at all times to ensure they have the right H&R insurance policy.

2.3.4 Customer and driver safety

The respondents were very clear that TfL has a commitment to customer safety. TfL has to ensure that all applicants are thoroughly vetted and cleared of any relevant criminal activities that could put the customers at risk. TfL has the responsibility to ensure that all applicants meet the relevant requirements (e.g. fitness, English language) and are fully qualified to act in a professional manner. Nevertheless, it was argued in LTPH (2013a) that Disclosure and Barring Service (DBS) checks for applicants applying for PHD's licence are already part of the requirement but the respondents suggested that DBS checks should be extended to employees working for PHOs. The full licence requirements and the application process are further discussed in chapter three.

On Thursday 17 March 2016, at the end of the consultation, having considered some of the proposals suggested by the stakeholders, TfL's board approved some of the proposals, LTPH (2016a, p.1). According to LTPH (2016b, p. 1), the changes to PH regulation took effect on Monday 27 June 2016 and some of the changes include new requirements for PHOs, PHDs and PHVs. According to LTPH (2016b), all PHVs must now:

- Have a valid H&R insurance policy when they apply for a PHV licence and for the duration of their licence, which is usually one year
- Carry a copy of the H&R insurance policy in their PHV at all times and the driver of the vehicle should display the document or produce it for inspection upon request by the MPS or CoLP, TfL Compliance Officers and the customers

Due to the fact that H&R insurance policy is considered to be more expensive in comparison to other types of insurance, it was suggested that this change would deter licensed and unlicensed drivers using PHV for illegal activities. However, Uber disagreed with this change and challenged TfL at the High Court. According to FT (2017), the High Court overturned TfL's decision for all PHDs and PHVs to have a valid H&R insurance policy at all times. The judge suggested that it is reasonable for the PHDs or PHVs to have H&R insurance policy when they use the PHVs to undertake legitimate PHS. Some PHDs usually purchase an annual H&R insurance policy with an agreement to make instalment payments. Once they received the insurance certificate, they cancel the policy. Therefore, TfL Compliance Officers are

very proactive in checking the insurance documents. TfL has unique and direct access to the Motor Insurance Bureau (MIB) database to verify the validity of the documents.

According to LTPH (2016b), as part of the changes to the PHD's regulation, all PHDs must now:

- Carry a copy of the PHV valid H&R insurance policy at all times
- When required, provide proof they are insured to drive the PHV
- New applicants or drivers due to renew their licences are expected to meet the new English language requirement
- Provide their national insurance details when applying for a PHD's licence

The changes to the PHD and PHV regulations are very similar, especially with the H&R insurance policy requirement. TfL suggests that the English language requirement for drivers will enhance public safety and promote clear communication between the drivers and customers. However, this rule is exempted for applicants who can provide UK academic credentials as evidence to demonstrate they meet the requirement (e.g. minimum UK GCSE or O Level), TfL (2016c). According to BBC (2016a), Uber argued that this change would threaten PHDs' livelihood in London. Uber suggested that PHDs may be forced out of their jobs and this will promote illegal PH trading in the industry.

According to LTPH (2016b), as part of the changes to the PHOs regulation, all PHOs must now:

- Provide PH booking confirmation to customers before their journey commences. This information should include driver's name, licence number, vehicle registration and provide a photo of the driver.
- Inform TfL of any proposed changes to their business models to ensure changes comply with the regulation
- Ensure all customer-facing staff has a basic DBS check or proof they have applied, and the requirement for all PHDs to have DBS checks remains unchanged
- Provide TfL with details of all PHDs and PHVs used or available to a PHO to undertake PH jobs, now called the operator upload

Not all changes to the operator regulations are listed above but these are the ones relevant to this thesis. The changes to the information provided to the customers before the start of their journeys can improve their sense of security. Prior to these changes, the two notable PHOs that provide this information to the customers through the app booking system are Uber and Addison Lee. Many PHOs could not afford the cost of developing and maintaining an app booking system. TfL Compliance Officers are making an effort to enforce these changes as part of their periodic compliance inspections, but these have been very difficult to enforce due to the technical challenges and out-dated legislation.

On the contrary, the customers are intrigued with the app booking system but not all of them are aware of their right to receive the PHD and PHV's details before the start of their journey. More so, another important change, as mentioned above, is PHOs now have the obligation to provide TfL with details of the PHDs and PHVs they use to undertake registered PH jobs. The difficulty with keeping track of this information is; PHDs are permitted to register with multiple PHOs and PHVs are also used by multiple PHOs.

So far, this chapter has reviewed the immense work and contribution CPOS and LRC Directorates have made to the PHI. CPOS has used different policing strategies, problem solving approaches and enforcement frameworks to minimise the issue of illegal PH touting in the capital. T&PH Licensing also conducted a review of PHV regulations and engaged with different stakeholders to develop the best approaches to strengthen the regulation and keep up with the challenges posed by technology in the PHI. The next section reviews some of the work that was done by the GLA prior to 2015 in an attempt to minimise illegal activities in the PHI.

2.4 Future proof taxi and private hire service in London – London Assembly 2014

Prior to TfL's consultation in 2015, the London Assembly conducted a review on the future of the T&PH service in London. The London Assembly is an elected body, which is part of the GLA.

In December 2014 Caroline Pidgeon, the chairman of the Transport Committee, led a consultation on the future of T&PH service in London. The first part of the consultation was focused on the issues faced by the trade and TfL as a regulator.

Some of the issues raised are the role of new technology and how this has impacted the accessibility, safety and security of the PHI. The second part of the consultation was trying to establish if TfL as a regulator has the capacity to effectively regulate and enforce the T&PH industry. The principle behind this consultation was to ensure that the Mayor of London and TfL has a proper understanding of the existing problem faced by T&PH trades. The feedback from the consultation would help them to develop a long-term strategy to resolve the issues. The objective of the 2014 consultation was similar to the consultation conducted by the GLA in 2008; however, the key questions of the consultation were different.

According to GLA (2014), the consultation used different methods to engage with the relevant stakeholders. Surveys were distributed to customers to gather their thoughts and experience on T&PH services. Members of the T&PH trades were also interviewed to find out the problems they were facing in the industry and encouraged them to put forward solutions. The consultation questions were designed around the following key areas: strategy, safety, availability, accessibility, new technology, enforcement, governance and communication. At the end of the consultation, 19 recommendations were provided to the Mayor of London and TfL. Subsequent paragraphs in this section explain some of the key issues they identified and the proposed recommendations.

2.4.1 Enforcement

Lack of enforcement is classified as one of the fundamental issues faced by TfL as a regulator. TfL's capability to enforce the T&PH industry was questioned in the London Assembly transport committee report in 2008, LATC (2008). The law commission report published in 2012 on T&PH industry reform also raised concerns about the lack of enforcement and the difficulty to enforce the current legislation, Law Commission (2012).

".... lack of any serious enforcement of legislation in London is placing the public at risk", GLA (2014, p.39).

The report argued that enforcement is the greatest challenge facing the T&PH industry. PH touting was seen as the greatest threat facing the customers, the trade and TfL as a regulator. When the GLA report was published in 2014, TfL had 68 dedicated T&PH Police Officers (formerly known as CEU officers) and 41 TfL

Compliance Officers. The T&PH Police Officers works in partnership with the TfL Compliance Officers to enforce T&PH illegal activities in London. At the time, it was argued that TfL does not have sufficient enforcement resources to meet the demand of the industry and perhaps have restricted powers.

2.4.2 Operations

As part of the strategy to promote PH customer safety in London, TfL introduced a policy that allows PHOs to have a supplementary licence that allow them to accept bookings from late night venues in 2007. This policy was made possible through the TfL Act 2008 and the intention was to increase the availability and accessibility of PHVs for night revellers, Law Commission (2012). However, GLA (2014, p.44) argued that the policy was *“an example of how a well-intentioned policy has turned out to cause more problems than it solves”*. The proposal to start varying PHO licences to late night venues came from the recommendation put forward through the London Assembly transport committee review in 2007. As a result of this policy, over 300 PHOs varied their licences to night venues in London.

The T&PH trade association argued in GLA (2014) that this policy has promoted more illegal activities outside nightclubs in London. PHDs park outside night venues and tout customers as they leave the venues. In addition, the venue staff (e.g. Security guard) sometimes builds relationships with illegal drivers with the intention to tout the customers on their behalf and pass the job to the drivers. This is challenging for TfL Compliance Officers to enforce because touting is a criminal offence. The next section discusses some of the issues associated with policing the night time economy.

2.5 The night time economy

London is approximately 1,572 km² and its night time economy contributes £26.3bn to the annual gross domestic product (GDP); this is equivalent to 40% of the UK night time economy. The 24 hours alcohol licence that was introduced in 2005 permits night venues in England and Wales to sell alcohol to the public at any time. There is no doubt that the 24 hours alcohol licence has resulted in the increase of night clubs in London with approximately 500,000 people visiting clubs in London on Saturdays and other nights of the week, GLA (2008, p8). It was argued that this law has increased the level of alcohol consumption from *“19% in 2005 to 40% in 2013”*, BBC

(2015b, p.1). The recent figures released by the Office of National Statistics also show that, “4.9 million people in Great Britain drink alcohol on 5 or more days in a week”, ONS (2017, p.1). Alcohol consumption is regarded as one of the contributing factors that influence violent incidents or crimes during the night time economy.

“53% of violent incidents, the victim thought their attacker had been drinking”, BBC (2015b, p.1). While the 24 hours alcohol licence contributes to the night time economy, it can be argued that it has increased the number of drunken customers picked up by illegal PHVs. The reason why people use public transport after a night out is because they do not want to drink and drive but the majority of them fail to plan their journey in advance, hence they end up in an illegal PHV. In a bid to support the travelling public at night, TfL created alternative means of travel (e.g. night tube and night buses) and invested in advertising campaigns to raise awareness and promote customer safety, GLA (2008) and TfL (2012). In spite of all that effort, some customers would still end up in an illegal PHV.

It was suggested that alcohol usually clouds their judgement and sometimes makes them unaware of their actions. This shows that alcohol consumption is one of the contributing factors that influence the attitude of the customers during the night time economy, the case of Mr Hussain cited in chapter one was able to demonstrate this. When the author was a Compliance Officer, he witnessed an unlicensed PHD who touted a drunken customer and he tried to stop the customer from boarding the unlicensed vehicle but the customer refused. The customer said, “*I don’t care; I just want to get home*”. The customer sounded very aggressive and the author could not do anything differently to stop the customer apart from passing the vehicle’s detail to the MPS for a follow-up investigation. The author believes the customer could have listened to the advice if he was not intoxicated, this shows that alcohol makes it challenging sometimes to police the night time economy.

2.5.1 Alcohol and policing the night time economy

The London Assembly Police and Crime Committee (LAPCC) conducted a review in 2016 to understand how alcohol promotes violent crimes during the night time economy, GLA (2016b). Joanne McCartney chaired the committee and the committee was tasked with the responsibility to review the level of crime in London and devise a plan to resolve it. The committee’s report suggested that the 24-hour of alcohol licence complements London as a 24-hour city and attracts diverse groups of

people to visit London, particularly the Westend. In the Westend, people can find so many night venues at close proximities to each other and some sell alcohol until 6 am in the morning. It was evident that alcohol and late-night venues in the Westend contribute to the economy but it also increases violent crime and disorder in the area.

“Alcohol features in a higher proportion of crimes in London that occur at night than during the day” GLA (2016b, p. 5).

The 24-hour alcohol licence not only complements London as a 24-hour city, but it has also changed the policing strategies and tactics to better police the night-time economy. This means that the MPS had to change their working practices to better police London, but this did not come without challenges. The local and licensing authorities also faced similar changes to promote a sense of shared responsibility.

“...licensing authorities and licensed premises need to contribute their fair share to tackling crime related to alcohol consumption”, GLA (2016b, p. 4).

As part of the partnership working arrangement with the MPS as described in section 2.2.3, TfL also contributed a substantial amount to reduce alcohol-related crime in London. This was undertaken by allowing PHOs to vary their licences to night venues, which allows customers to pre-book licensed PHV inside a night venue. This scheme was created to prevent the customers from getting touted by PHVs and minimise the level of disruption caused by drunkards at the end of the night, GLA (2008). However, this scheme was later criticised for promoting PH touting outside night venues in London. The T&PH trades suggested that PHVs should not be allowed to park outside night venues as this could be regarded as plying for hire. Nevertheless, TfL licensed a reasonable amount of night venues in a bid to reduce touting and promote customer safety. As part of the PHO licensing condition, only vehicles working under their controls are permitted to be parked outside the venue and other vehicles found parked outside night venues are usually moved on by TfL Compliance Officers.

“In 2013-14 in London, there were significantly more arrests for violence against the person offences that were linked to alcohol, than for other offences”, GLA (2016, p. 5).

Although the committee's report was able to establish the connection between alcohol and crime during the night time economy, this was subjective. It was argued that the data used to measure the level of "alcohol-related" crimes are not credible as there is no framework used to measure what alcohol-related crimes or violence is. Nevertheless, other academic research was able to establish the link between alcohol and violence. For example, the Institute of alcohol studies conducted a research on alcohol-related crimes in the UK. They suggested that "in a community of 100,000 people each year, 1,000 people will be a victim of alcohol-related crime", IAS (2017). Therefore, in order to minimise the impact of alcohol and violence during the night time economy, the MPS and its partners developed different countermeasures to minimise the risks caused by alcohol and violence during the night time economy. In spite of the reduction in the Police budget and headcount in England and Wales, the MPS is expected to control the level of violent and anti-social behaviour in London, IFS (2017). On the contrary, TfL recruited an extra 250 Compliance Officers to manage the affairs of the T&PH industry, ITV (2016 p.1).

".....Met struggles to fully understand the demand for its service", GLA (2016, p. 6).

The continuous reduction of Police budgets and headcount has created some challenges and uncertainty in the future of policing. This would definitely change the dynamics of how crimes are reported and resolved, both during the day and night time. It would put more pressure on MPS Officers and the MPS may be forced to abandon their continued support to local and licensing authorities such as TfL.

2.6 Summary

This chapter has reviewed the level of commitment and the work done by TfL and GLA to improve the T&PH industry and increase customer safety in London. Since 2006, the GLA and TfL have led several reviews into the T&PH industry and the key areas of the reviews are; regulation change, enforcement, operations, night time economy and customer safety. At the end of each review, recommendations were put forward on areas of improvement but not all of these recommendations were successfully implemented due to regulatory, budget and legal challenges. Nonetheless, TfL CPOS Directorate adopted a different problem-solving approach and framework to tackle illegal activities in the T&PH industry.

Arguably, the increase in the number of Compliance Officers has resolved the issue of resources, but further study is needed to establish how TfL Compliance Officers can be empowered to better manage illegal PH activities in London. Taxi touting is a criminal offence and is currently being dealt with by a TfL funded Police unit. TfL can benefit more if their Compliance Officers have the appropriate powers, which are similar to that of the MPS Officers and TLC Enforcement Officers. It was established that taxi touting is a criminal offence under section 167 of CJPOA 1994 and TfL Compliance Officers do not have appropriate powers to effectively manage it.

As discussed in 2.3.4, one of the key changes to the operator's regulation in 2016 is to ensure PHOs provide booking confirmation to customers before the start of the journey to improve customer safety. This regulation took effect in October 2016. Further studies are needed to establish other strategies that can be used to distinguish between PHVs that are legitimately used for PHS and the ones that are not. As shown in table 1.1, a PHV is identified under the 1976 Act with a licence plate affixed next to the vehicle registration plate. Although, section 10 of the PHV (London) Act created the same opportunity for London PHVs to use licence plate but the licence disc was the preferable option. The PHI can benefit by using a similar method to identify PHVs in London. This would promote the consistency of how PHVs are identified in England and Wales, and also make it easy for customers to identify licensed PHVs in London and law enforcement agencies would find it more convenient to undertake their compliance inspections.

Chapter Three

Regulation and Intervention

3.0 Overview

This chapter analyses the primary and secondary legislation that are currently being used to govern the affairs of the PHI in London. The primary legislation is the PHV (London) Act introduced in 1998 to regulate the PHI. While the secondary legislation is the additional regulations established post-1998 to further support the Act of parliament. However, before explaining this in detail, it is important for the reader to understand the meaning of regulation and the theoretical concept of regulation.

The English dictionary defined regulation as *“rules made by a government or other authority in order to control the way something is done or the way people behave”* Collins (2019, p.1).

Generally, the processes that seek to explain regulatory enforcement theory can be categorised into three; economic, social and normative factors, Winter & May (2001). The economic factor suggests that people adhere to regulation because of the fear of the punishment for failure to comply. However, the social factor suggests that an organisation or individual tends to comply with the regulation based on their desire to be recognised and to increase their social status. While the normative factor suggests that people, in general, have the responsibility to adhere to the regulation. The hypothesis presented by Carroll (1978) which was cited in chapter two demonstrated that 67% of the subjects considered the fear of the punishment in their decision-making process, Cornish & Clarke (2014).

“it appears that knowledge of penalties cannot act as deterrents since these are unknown....” ACCP, (1975, p. 78).

The RCT uses almost the same motivational factors as the responsive regulatory theory (RRT), Clayton (2014). As discussed in chapter two, the RCT suggested that an offender’s decision-making process is influenced by their economic, social and demographic status. This shows that the factors that influence crimes can also prevent crimes. Regardless, RRT has the capacity to identify that each individual has a different reason for complying with a regulation. In addition, an individual or organisation can have multiple factors that contribute to the reason why they comply

or breach a regulation, this is called “multiple selves” Ayres & Braithwaite (1992); Braithwaite (2002).

“responsive regulation is a leading approach to describing and prescribing how regulatory enforcement action best promotes compliance” Ayres & Braithwaite (1992); Braithwaite (2002) as cited in Nielsen & Parker (2009, p. 376).

RRT suggests that the punishment for failure to comply with a regulation should be categorised, this method is regarded as a “regulatory pyramid”. It was argued that the regulatory pyramid framework promotes regulatory compliance. In practice, TfL conducts regular compliance inspections with PHOs to ensure they are complying with the PHV (London) (Operator’s Licences) regulations 2000. As part of this process, they educate and support business owners on how to keep accurate PHDs, PHVs and customers booking records as discussed in chapter three. There are occasions that PHOs fail to comply, depending on the severity of the non-compliance issue, they are either given the opportunity to rectify the non-compliance issues or take a licensing decision against the PHO.

Ayres & Braithwaite (1992) suggests a regulatory pyramid for a licensing authority. This pyramid proposed that any organisation or individual that fail to comply with the regulation should be dealt with in the following order.

- Education and persuasion
- Warning
- Civil penalty
- Criminal penalty
- Licence suspension
- Licence revocation

Persuading the licensees means educating them on how to be self-reliant and self-regulated. However, if they fail to regain compliance after an attempt to educate and persuade, the penalty for failing to comply will move up the regulatory pyramid.

There is no doubt that the responsive regulatory theory and regulatory pyramid appears to be an effective method to enforce regulation and promote compliance. But, Ayres & Braithwaite (1992) did not propose how to deal with an out-dated regulation that is constantly challenged by technology and innovation.

Secondly, this theory did not propose how to deal with non-regulatory offences like PH tutoring.

Nevertheless, the subsequent sections of this chapter explain the pre-entry and post-entry requirements for a PHO, PHD and PHV as prescribed in the PHV (London) Act 1998, PHV (London) (Operators licence) Regulations 2000, PHV (London PHV Driver's licences) Regulations 2003 and PHV (London PHV licences) Regulations 2004.

Driving a licensed PHV in London does not automatically make the driver a licensed PHD.

Prior to the enactment of the PHV (London) Act 1998, customers felt uncomfortable and unsafe to travel in PHVs because there were no set procedures to verify the identities of PHDs. So, a PHD could be driving a PHV with a false identity or have a criminal record and picking up vulnerable young women outside night venues. According to the review conducted by the MPS in 1992, they concluded that PHVs *“are the most dangerous way to travel”*, Sanderson (2009, p. 35) and women are more likely to be raped in PHVs than taxis. The legislation was enacted to set the regulatory standard and intervention to prevent illegal activities in PHVs in London. Before analysing the requirements to be a PHO, PHD and PHV in London, this chapter briefly discusses the complexity of the PHV (London) Act 1998.

Section 1 (1) of the Private Hire (London) Act (1998, p.1) defined a PHV as *“a vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver to the public for hire for the purpose of carrying passengers, other than licensed taxi or a public service vehicle”*. On the other hand, Section 80 of the 1976 Act, as cited in DfT (2011, p.4), defines a PHV as *“a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the service of a driver for the purpose of carrying passengers”*. The PHV (London) Act 1998 is only used to regulate PHI in London but the 1976 Act as explained in **Table 1.1** is used across England and Wales.

Having considered the definition of the PHV as laid down in the PHV (London) Act 1998 and 1976 Act; it can be argued that both definitions share some similarities. The key words in both definitions are; seat fewer than nine passengers, available for

hire with a driver other than a public service vehicle or a licensed taxi or London cab. The definition did not clearly set out how a PHV is made available for hire and this is one of the problems faced by the public that use PHVs in London. Another problem with the definition of a PHV identified by Dft (2004) was the use of the words “available to the public”. PHO and PHD argued that if they are providing services to one or more companies, schools or hospitals or local authorities; they are not making their services available to the public and no PHV licence should be required.

The PHV (London) Act 1998 did not set out the definition of a PHD but section 12 of the PHV (London) Act (1998, p.7) clearly states the requirements for a PHD’s licence. The first requirement stated that; *“No vehicle shall be used as a private hire vehicle on a road in London unless the driver holds a private hire vehicle driver’s licence”*. The requirements to hold a PHD’s licence was further explained in section 13 of the PHV (London) Act 1998 and the PHV (London PHV Driver’s licences) Regulations 2003 (PHV (2003)).

A licensed PHD driving a licensed PHV by law cannot make provisions for hire without a PHO.

Most customers in London often mistook the service of a PHV to the service of a taxi. As shown in **Table 1.2**, taxis are regulated under the Metropolitan Public Carriage Act 1869. Taxis are permitted to be hailed by customers and they can pick up by the roadside or at designated taxi ranks in London. However, London PHVs cannot be hailed on the street or pick up from designated ranks. A PHD driving a licensed PHV needs to register with a PHO before they can accept a PH booking. A PHO as described in the PHV (London) Act (1998, p. 1), *“Operator means a person who makes provisions for the invitation or acceptance of, or who accepts, private hire bookings”*. The PHO accepts the PH bookings on behalf of the PHD and the bookings will be allocated to the PHD to be undertaken using a PHV.

3.1 Private Hire Vehicle Operators (PHO) in London

A licensed PHD or PHV cannot work independently without a licensed PHO. What are the requirements to be a licensed PHO?

As described in the PHV (London) Act 1998, a PHO is a person who makes provision for the invitation and acceptance of PH bookings. The PHO is the intermediary

between the customers and the PHDs. The customers pre-book PHVs with the PHO at a designated operating centre or through the PHO website or app booking system. The PHO accepts the bookings from the customers and assigns the bookings to PHDs, who finally undertake the journeys with PHVs.

As stated in Section 3 of the PHV (London) Act (1998, p.2)

“Any person may apply to the Secretary of State for a London PHV operator’s licence”.

The requirements to apply for a PHO licence as specified in the PHV (London) Act 1998 are; the applicant shall state in the application an address in London where the person intends to trade as a PHO and this is because PHOs can only accept PH bookings in London. TfL shall grant an application for a PHO licence if there is satisfactory evidence that the applicant is a “fit and proper” person to hold the licence, the requirements of the operating centre are met and a licence fee is paid. The PHV (London) Act 1998 did not define what a fit and proper person is or state categorically the requirements of an operating centre. This was a very controversial aspect of the legislation when the 1998 Act was enacted but this aspect was further clarified in the PHV (London) (operators’ licences) Regulations 2000 (PHV (2000)) and in the TfL licensing staff manual version 12.1.

According to PHV (2000) and LTPH (2013a), all PHO applicants must be 21 years on the day the application is made and the applicants can either be a sole trader, ordinary partnership or a limited liability company. The applicant must complete a (PHV/101) application form and every named person on the form must sign a declaration form (PHV/103) in accordance with the regulations. As mentioned in the above paragraph, the PHV (London) Act 1998 did not set the criteria for a “fit and proper” person that can apply for a PHO and also failed to specify the requirements for the premises or operating centre. However, TfL as the delegated licensing authority set an administrative rule in LTPH (2013a) that defined the criteria of a fit and proper person to hold a PHO licence. The criteria assessment for a fit and proper person is as follows:

- All applicants must declare any convictions subject to the Rehabilitation of Offenders Act 1974 but only unspent convictions are taken into consideration

- Declare if the applicant has been made bankrupt or has a disqualification order under the Company Directors Disqualification Act 1986
- Evidence that the applicant has the right to work and reside in the UK
- Declare if any person named on the application has made any previous application to TfL or had their previous licence suspended or revoked
- Evidence that the applicant is complying with any and all insurance requirements
- Evidence that applicants and their premises meet health & safety requirements
- Evidence that they have applied for or been granted planning permission for the premises to comply with local planning regulations
- Finally, provide evidence that the business is VAT registered, exempted or awaiting registration

If the applicants meet the requirements of a fit and proper person as specified above, TfL will verify if the applicant is a person of good character, has the right to work and reside in the UK, have no previous bad business repute and previous record of licence suspension or revocation. Afterwards, TfL then appoints Compliance Officers to visit the proposed operating centre to meet the applicant to conduct a pre-licence inspection. The Compliance Officers will confirm the identity of the operator by asking them to provide proof of identification such as a passport or other forms of photo identification. In addition, the Compliance Officer will also request the applicant to provide proof of their employer's liability insurance and public liability insurance. Under the terms of the Employer's Liability Act 1969, employer's liability insurance is a legal requirement for most employers and this will enable the applicant to meet the cost of compensation for its workers.

By law as cited in PHV (2000), the applicant must show proof of employer's liability insurance for at least £5 million, the Compliance Officer only needs to see proof; however, the health and safety executives are responsible for enforcing the employer's liability insurance. Furthermore, if the operating centre is accessible by the public, the applicant will be required to show proof of insurance for public liability risk with a minimum indemnity of £5 million in respect of any one event. The applicant will be required to show a system of record keeping that complies with the regulation; a system of handling complaints, lost property and proof of planning

permission to ensure the premises complies with the local planning regulations and a fixed landline telephone number for the purpose of accepting PH bookings. If the applicant applied for a licence to trade as an operator in a night venue (also known as a satellite office), additional checks are carried out by Compliance Officers, which are discretionary but regarded as best practice to ensure the operator's premise is suitable to trade. Night venues are sometimes busy and noisy, so Compliance Officers will ensure there is a designated booking area in the night venue for the PHO to accept PH bookings and a good location to park the PHVs without obstruction.

The pre-licence inspection is an opportunity for Compliance Officers to educate the applicant of the expectations of a licensed PHO. So, it was argued that the pre-licence inspection process is a pointless exercise and instead, PHOs should be issued a six months initial licence without a pre-licence inspection. Based on the author's experience, a pre-licensing inspection has proven valuable to ensure that new PHOs are fully aware of their regulatory requirements. During the first six months, the PHO should be observed to ensure they comply with the legislation before the extension of their licence. The PHO licence is usually granted for five years or less as stated in section 2(5) of PHV (London) Act 1998 and Section 5(a) of PHV (2000). The licensing authority has the power to grant the licence for less than five years or apply certain conditions to the PHO's licence.

Appendix A - A copy of a PHO's licence issued by TfL

It is important that all new applicants meet the application requirements to be a licensed PHO but it is more demanding for PHOs to comply with the legislation, regulation and the conditions of their licences. Once the PHO's licence is granted, there are certain conditions they need to comply with as prescribed by the PHV (London) Act 1998 and PHV (2000).

Section 4(3) of the PHV (London) Act 1998 states that a London PHO shall display a copy of their operator licence at the operating centre specified on the licence. Section (11) of the PHV (2000) states that the operator should keep a record of all accepted PH bookings at each operating centre. This will include the name of the person making the PH bookings, the name of the customers, date and time when the bookings are made, date and time when the journeys commence and end, the address or destination of the customers including street name and postcode and any

agreed fares. The booking records should be kept by the PHO for 12 months from the date the operator accepts the PH bookings from the customers.

Appendix B - A PHO booking sheet issued as a guide to operators by TfL

The PHOs should keep the particulars of the PHVs used to undertake PH bookings and the particulars of the PHDs that are available to the PHOs to undertake PH bookings.

Section (12) of the PHV (2000) further explained section 4(3)(d) of the PHV (London) Act 1998 which prescribed the details of the particulars of the PHVs the PHOs should keep before permitting the PHVs to undertake PH bookings. PHOs should keep the PHVs details as follows; the vehicles make, models and registration numbers, names and addresses of the registered keepers, current MOT test certificates (if the vehicles are more than a year old), current H&R insurance policy, the date of when the PHVs became and ceased to be available to the PHOs. PHOs are required to keep these records for all the PHVs used to undertake PH bookings and the records should be kept for 12 months from the date the PHVs ceased to be available to the PHOs.

Appendix C – A PHO vehicle record front sheet issued as a guide to PHO by TfL

Section (13) of the PHV (2000) further explained Section 4(3) (d) of the PHV (London) Act 1998. PHOs should keep the PHDs details as follows; the PHDs first and last names, addresses, date of birth, national insurance numbers, photographs of the PHDs, the date of when the PHDs became and ceased to be available to the PHOs. PHOs are required to keep these records for all the PHDs used to undertake PH bookings and the records should be kept for 12 months from the date the driver ceased to be available to the PHOs.

Appendix D - A PHD record front sheet issued as a guide to PHO by TfL.

Sections (14) and (15) of the PHV (2000) set out the conditions that the PHOs should maintain a record of complaints and lost property made in respect of PH bookings accepted by the PHOs. However, this condition was not stated in the PHV (London) Act 1998. The complaints records are used by PHOs to document all complaints made by the customers about PHDs or journeys. The lost property records are used by the PHOs to document all reports of lost items by the customers while in PHVs.

The complaints and lost property records are kept by PHOs for 12 months from the date the details are entered into the records.

Appendix E - A PHO complaints sheet issued as a guide to PHO by TfL

Appendix F - A PHO lost property sheet issued as a guide to PHO by TfL

It is the PHO's responsibility to ensure they comply with all the conditions as outlined in the legislation and regulation for the duration of their licences and failure to do so can lead to a summary conviction with a fine not exceeding level three on the standard scale, which is £1000 as stated in the TfL abstract of law published in June 2011, LTPH (2011a). TfL needs to ensure that PHOs are meeting the conditions of their licences and complying with regulations. TfL Compliance officers visit the PHOs once or more times in a year to undertake compliance inspections and if PHOs are reported for failure to comply with the conditions of their licences, they can be issued a warning and have their licence suspended or revoked.

Finally, any person found accepting PH bookings without a PHO licence is guilty of an offence under Section 2 (1) (2) of the PHV (London) Act 1998 and the person is liable for a summary conviction with a fine not exceeding level four on the standard scale, which is £2500 as stated in the TfL abstract of law published in June 2011, LTPH (2011a). PHOs cannot accept PH bookings without having access to licensed PHDs and PHVs.

3.2 Private Hire Vehicle Drivers (PHD) in London

Due to the ambiguity of the words used in PHV (London) Act 1998, Robert Kiley (Commissioner for Transport) signed the PHV (London PHV Driver's licences) Regulations 2003 (PHV (2003)) on the 6th March 2003 which came into force on the 1st April 2003 to help interpret section (13) of the PHV (London) Act 1998 which deals with the applicant's requirements to be a PHD in London.

Section (13) (1) of the PHV (London) Act (1998, p.10) states;

“Any person may apply to the Secretary of State for a private hire vehicle driver's licence for London”.

The applicant of a PHD's licence has to be 21 years on the date of the application with a minimum of three years authority to drive a motor vehicle. The applicant is also required to be a fit and proper person but the PHV (London) Act did not define a **fit and proper** person. The PHV (2003) and TfL set out the requirements of a fit and proper person.

PHV (2003) defined the physical fitness requirement of a fit and proper person to hold a PHD's licence. A physical fitness requirement means the applicant must hold a group 2 licence. A group 2 licence, in other words, is a licence issued to a person allowing them to drive a motor car under part 3 of the Road Traffic Act 1988. LTPH (2013a) summarised a fit and proper person into three categories; medical fitness, driving proficiency and appropriate knowledge of routes. Before TfL can consider an application, the applicant is required to complete driver's application form and a medical declaration form. Once the forms have been completed, the applicant is required to submit them with the following documentation; passport or birth certificate, a full current Driving and Vehicle Licence Agency (DVLA) licence or a full current European or European economic area driving licence, an enhanced disclosure and barring service (DBS) check, certificate of topographical skills and an application fee. TfL will consider the fitness of the applicant by assessing their character based on the information provided in their disclosure and barring service (DBS).

The (DBS) is a combined check carried out by the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). The (DBS) check can be a standard or enhanced check but they both contain the applicant's spent convictions, unspent convictions, any cautions, reprimands or final warnings. After the (DBS) certificate has been issued, TfL will only enter criminal convictions relating to T&PH offences. Any spent convictions, caution, suspended sentence, violent, dishonesty, sex offences, touting, driving offences relating to the loss of life and barred lists are equally considered when making the decision to grant an applicant a PHD licence. An applicant will be refused if they have a conviction for rape, assault by penetration, sexual assault, indecent assault or exploitation of prostitution. TfL considers the applicant's criminal history as part of the criteria to ascertain if the applicant is a fit and proper person to hold a PHD's licence. However, the criminal history sometimes will not automatically lead to the refusal of the application but TfL will expect the applicant to be free from all conviction for a period of three to seven years before a

licence can be granted. Any sexual offence is taken seriously and TfL would not licence any applicant with a history of a sexual offence.

TfL also checks the applicant's medical fitness because all applicants have to satisfy the medical fitness assessment to hold a PHD's licence. As part of the criteria to assess the medical fitness of the applicant set out in LTPH (2013a), all applicants and a doctor who has access to the applicant's medical history have to complete a form and sign a declaration. Applicants with visual acuity, hypertension or epilepsy may be refused but they are always given the opportunity to obtain additional verifications from their optician or doctor before a decision is made on their application. Applicants with any disability are expected to produce a report from a medical specialist detailing the nature of their disability or any known limitations; these are usually endorsed on their PHD's licence. Applicant's topographic knowledge is also considered as part of their fitness, therefore as part of the application, the applicant is expected to attend and pass a TfL topographic assessment test. However, some applicants are exempted from taking the topographical test if they have previously passed T&PH topographical skills assessment as licensed taxi drivers, a professional London tourist guide or can provide an NVQ qualification or equivalent in customer transport.

Finally, all applicants should provide TfL with proof to live and work in the UK, LTPH (2013a). The United Kingdom Border Agency (UKBA) provides TfL with a list of documents that applicants can provide in support of their applications. Some of the documents identified on the list are; a passport showing the holder is a British citizen or a citizen of the UK, a passport or national identity card showing the holder is a national of the European Economic Area or Switzerland, a residence permit, registration certificate or a document indicating permanent residence issued by the Home Office (HO) or UKBA, a biometric immigration document issued by UKBA indicating that the holder is allowed to stay indefinitely in the UK and many more. PHD's licences issued to a driver with a restriction to remain in the UK will only be valid for the duration of their restriction; however, their licence can be extended if they provide additional documents from the UKBA or HO that grants them the permission to continue to stay and work in the UK.

Once TfL is satisfied that an applicant meets all the requirements as stated in the PHV (London) Act 1998, PHV (2003) and LTPH (2013a), the applicant will be

granted a PHD's licence valid for three years or less, as deemed fit by TfL and will be issued a badge as prescribed in Section 14 (1) of the PHV (London) Act 1998.

Appendix G - A PHD's licence issued to a driver by TfL

Appendix H - A PHD's badge issued to a driver by TfL

Section 14 of the PHV (London) Act 1998 set out the condition of a licensed PHD and part of the condition is; a PHD should wear the badge in a manner that should be distinctly visible when driving a PHV. Failure to comply with this condition is a breach and the PHD is guilty of an offence which is liable on summary conviction to a fine not exceeding level three, LTPH (2013b). However, section 14 (4) of the PHV (London) Act 1998 permit PHDs to be exempted from displaying their badges and this is regarded as a flaw in this legislation.

Section 12 (1) PHV (London) Act (1998, p.7) also states that;

“No vehicle shall be used as a private hire vehicle on road in London unless the driver holds a private hire vehicle driver's licence”.

If under any circumstances a PHD or PHO breaches this section, they are both liable on a summary conviction to a fine not exceeding level four, LTPH (2013b). PHDs can only accept PH bookings from a licensed PHO and the journeys should be undertaken in licensed PHVs.

3.3 Private Hire Vehicles (PHV) in London

The PHV (London) Act 1998 was enacted to regulate the licensing of PHO, PHD and PHV in London. The three licence schemes work together to deliver a legitimate PHS in London. The two different definitions of a PHV were examined at the beginning of this chapter and the definition set out in the PHV (London) Act 1998 was accepted as the most suitable definition for London. This is because the PHV (London) Act was solely enacted to regulate PHI in London.

Section 1 (1) of the PHV (London) Act (1998, p.1) defined a PHV as:

“A vehicle constructed or adapted to seat fewer than nine passengers which is made available with a driver to the public for hire for the purpose of carrying passengers, other than licensed taxi or a public service vehicle”.

The definition did not clearly set out how a PHV should be made available for hire. This is one of the problems encountered by the customers that use PHVs in London. The definition also mentioned that the vehicle should be available for hire (element of commercial benefit or monetary reward) with a driver. But the definition did not include that the driver should hold a PHD's licence.

Due to the complexity of the words used in the PHV (London) Act 1998, Robert Kiley (Commissioner for Transport) signed the PHV (London PHV licences) Regulations 2004 (PHV (2004)) on the 16th February 2004 and came into force on the 8th March 2004. This regulation helps to interpret sections 7(2) (c) and (4), 10(2), 20(1), 23(1) (b) and 32(1) and (2) of the PHV (London) Act 1998. Section 7(2) of the PHV (London) Act 1998 states that the Secretary of State shall grant a London PHV licence for the vehicle if satisfied that the vehicle is suitable in type, size, design, safe, comfortable, suitable mechanical condition and is not a London cab. In addition, section 7(2) (b) also added that the vehicle should have a valid insurance policy or such security as complies with requirements of part VI of the Road Traffic Act 1988. Section 5 of the PHV (London) Act 1998 delegates the licensing of PHV in London to the Secretary of State as they may think fit. This Act did not clearly explain some of the keywords used to define the requirements to hold a PHV licence.

The vehicle requirement as stated in the legislation is, the vehicle has to be a light customer vehicle as defined by Section 85 of the Road Traffic Act 1988 and the vehicle steering must be on the right-hand side. According to TPH (2013), in March 2013 TfL contracted a third-party company called “NSL Limited” to take the responsibility to physically and mechanically inspect vehicles intended to be used as a PHV before they are licensed. Before March 2013, a third-party company called “SGS UK Limited” was responsible for these inspections. NSL limited has inspection centres in the following locations: Enfield, Staple Corner, Canning Town, Crayford, Couldson and Heston.

The registered keeper of a vehicle may apply for a PHV licence in London if the vehicle is five years old or less and meets Euro 4 standards for emissions at the time of licensing. The registered keeper means the person registered by Drivers and Vehicle Licensing Agency (DVLA) as being legally responsible for the vehicle. PHVs with an existing licence are allowed to renew their licence and must not exceed 10 years old. The registered keeper of the vehicle can contact the NSL inspection centre to book an appointment to complete the pre-licence inspection and have the vehicle licensed. Before contacting the centre, the registered keeper is advised to have the vehicle registration certificate (V5C) of the vehicle to hand and application fee, which can be paid using a credit card.

The vehicle's registered keeper will provide the following documents at the pre-licence inspection centre as listed in TPHVL (2014) before the vehicle can be inspected. The documents are; the vehicle registration certificate (V5C) or automatic first registration and licensing certificate (AFRL), certificate of motor insurance, MOT certificate confirming that the vehicle passed a MOT test not more than 14 days prior, existing licence disc (if the application is renewal), emission equipment and any modification certificate. MOT certificate is not required for a vehicle within the first 12 months from the date the vehicle was registered and a licensed PHV is required to have two standard (Class 4) MOT tests per year. Once the documents are produced, the vehicle will be physically and mechanically inspected to meet the following criteria; European whole vehicle type approval, driver compartment and control, customer's compartment, luggage compartment, obligatory lamps, engine compartment, condition of bodywork and paint, road tyres and wheels, under vehicle inspection, exhaust emission abatement system, steering manoeuvrability and aftermarket equipment fixtures and fittings. Once the vehicle has passed the inspection, the vehicle licence will be issued for a period of one year.

Section 4 of the PHV (2004) and section 10 of the PHV (London) Act 1998 set out the condition to hold a PHV licence. Identification discs are issued to all licensed PHVs and the identification disc should be affixed to the inside of the front windscreen on the customer side of the vehicle. The identification disc must be visible and contain the following information: vehicle registration mark, the maximum number of passengers the vehicle is licensed to carry, licence number and the licence expiry date. TfL Compliance Officers, the Police and the customers can check for the validity of a PHV licence when and where required.

Appendix I - A PHV identification disc issued to a vehicle by TfL**Appendix J – A PHV licence issued to a vehicle by TfL**

As stated in section 8 of the PHV (2004) and Sections 30 and 31 of the PHV (London) Act 1998, PHVs are prohibited from using certain signs, notices or advertisements. All signs, notices and advertisements are prohibited on PHVs except the following; emblems issued by an organisation providing vehicle repair or recovery services, temporary signs displayed on stationary vehicles of the name or business name and address of the person operating the vehicle or the name of a customer who booked a PHV. A PHV cannot display an advertisement, which includes the word or words "taxi or taxis, cab or cabs", and any words closely related to these words but they can use "minicab" because this is used to classify a PHV. Any person who breaches this section of the legislation is liable to a summary conviction to a fine not exceeding level four, LTPH (2011a).

The PHV identification disc appeared to be very visible as seen in Appendix I but this is difficult to read when seen on PHVs, especially the ones with tinted screens. **Figure 3.1** shows an example of how the disc appears on a normal screen and **Figure 3.2** shows an example of the disc on a tinted screen.

Figure 3. 1 – PHV disc on normal screens



For customers, the Police and TfL Compliance Officers to inspect the licence disc, they will have to step on the road and get closer to the vehicle. This could be dangerous on busy roads and difficult to inspect by the customers and TfL Compliance Officers. PHVs sometimes drive off when approached by Compliance

Officers to inspect their licence discs. TfL Compliance Officers often check the discs from the rear of the PHVs to prevent any accident. But the PHV in **Figure 3.2** is excessively tinted and as a result, the rear licence disc affixed to the rear screen can hardly be seen.

Figure 3. 2 – PHV displaying a licensed disc with tinted screens



In the case of the PHV in **Figure 3.2**, the customer or TfL Compliance Officers only have the option to check the front disc, which can be very difficult in a road where there are constantly moving vehicles. The method of displaying PHV licence discs in London under the PHV (London) Act is entirely different to other parts of England and Wales. PHVs in Luton are regulated under the 1976 Act and a PHV licence is printed on a licence plate instead of a disc, which is displayed at the bottom of the vehicle registration number (VRM). **Figure 3.3** shows how a licensed PHV is identified in Luton, Bedfordshire, which is approximately 38miles from London.

Figure 3. 3 - Luton PHV



The PHV licence is affixed at the bottom of the VRM and it can be easily seen from approximately 10 metres away from the vehicle. The licence plate does not have any interference with the vehicle screens. In a case where the vehicle screens are tinted, anyone can still see and check the vehicle licence without stepping on the road or leaning on the vehicle. In Luton, only a licensed PHD can drive PHVs. **Figure 3.4** shows the differences between Luton PHV and London PHV.

Figure 3. 4 – London and Luton PHVs



Looking at the direct comparison pictures above, the picture on the left is a London PHV used by a PHO called Addison Lee. Having examined both PHVs using their rear pictures, the London PHV has a licence disc affixed to the top left of the rear screen but the disc is not clearly visible because of the vehicle's tinted screen. Instead, the name of the PHO is displayed on the rear screen, which can be seen without any obstruction. The customers can be misled with the name of the PHO displayed on the rear screen; the feedback from the customer surveys showed that 26.3% of respondents use a PHO's name to identify a licensed PHV instead of the vehicle licence.

On the contrary, Luton's PHV licence plate is affixed at the bottom of the VRM without any obstruction. In addition to the licence plate, there is also a sign on top of the vehicle with the vehicle's licence details clearly displayed on it. See **Figure 3.5** below.

Figure 3. 5 – Signage on top of a Luton PHV

It can be argued that the clear visibility of the Luton PHV licence plate and the distinctive PHV signage displayed on top of the vehicle helps the customers to differentiate licensed PHVs from the unlicensed ones. The clear licence visibility and signage can also make it less challenging for Luton Licensing Officers to enforce the legislation.

3.4 PHO, PHD and PHV relationship in London

PHOs play a crucial role in coordinating PHS in London. The PHO, amongst other things, acts as an intermediary for both the PHDs and the customers. The customers make PH bookings by contacting the PHO via phone, app or a visit to the PHO's office. Once the booking has been accepted, the PHO deploys a PHD to undertake the booking using a licensed PHV. A licensed PHD can use a licensed PHV to undertake a PH booking in London. They are permitted to lease a licensed PHV to undertake PH bookings in London. The PHO can also provide a licensed PHV to a licensed PHD to undertake a PH booking in London. It is a common practice for the PHD to pay weekly rent or commission to PHOs for acting as the intermediary between them and the customers. A licensed PHD is not permitted to pick up customers on the street or road in London. TfL has the authority under the PHV (London) Act 1998 to prosecute an operator if found using an unlicensed PHD or PHV to undertake PH bookings.

3.5 The flaws in PHV legislation and practices in London

Section 11 (1) of the PHV (London) Act (1998, p. 7) states that:

“No vehicle to which a London PHV licence relates shall be equipped with a taximeter”.

A taximeter used in this context is a physical device used by the driver to calculate the fare of the customer with reference to the distance the customer has travelled in the vehicle. By the virtue of this legislation, a PHV is prohibited from using a taximeter and a PHO must set the journey fares before the start of the journey. Anyone in breach of this legislation is liable to a fine not exceeding level three. But Uber developed an app booking system where customers can book a PHV directly and the app is fitted with a GPS that shows the availability of PHVs in real time and the customers get the fares prior to the journey from the app server. Truly, section 11 (1) prohibits vehicles from being fitted with a taximeter but this section did not prohibit the use of an app to calculate fares.

TfL has the delegation of the licensing authority and they are responsible for licensing PHOs, PHDs and PHVs in London. The three licence schemes are regulated independently under the PHV (London) Act 1998 and this can be regarded as a flaw in the PHV (London) Act. According to the legislation, anyone can apply to hold a PHO, PHD or PHV licence, as long as the applicant meets the regulatory requirements. It can be argued that some of these PHVs are used solely for touting or used to exempt congestion charge, but since early this year, TfL now required PHVs to pay congestion charge.

Section 12 of the PHV (London) Act 1998 prohibits any vehicles to be used as a PHV in London unless the driver of that vehicle holds a PHD's licence. However, section 46 of the 1976 Act prohibits any unlicensed PHD from driving a licensed PHV. It was suggested that the condition of section 46 of the 1976 Act prevent unlicensed PHDs from using licensed PHVs for illegal activities. On the contrary, section 12 of the PHV (London) Act makes it easy for anyone to drive and use a PHV. And usually, when the drivers are caught or reported by TfL Compliance Officers, they often claimed that they are not working as a PHD and it is challenging to prove otherwise as the legislation permits them to drive a PHV without a PHD's licence. In addition, section 8

of the PHV (London) Act also allows licensed PHVs to be transferred or sold to anyone without a valid PHD's licence.

In conclusion, this chapter has clearly reviewed the pre and post entry regulatory requirements to hold a PHO, PHD and PHV. This chapter also examined the criteria used by TfL to assess a "fit and proper" person as part of the application process. The application process shows the level of scrutiny demanded before TfL licenses a PHO, PHD or PHV. As unlicensed PHDs do not go through any level of scrutiny and as such any customers using unlicensed PHDs face serious risk and security issues. A licensed PHD or PHV acting illegally also poses a threat to the public and community but this could be considered as less of a risk compared to unlicensed ones that have not undergone any criminal checks or security clearance.

Chapter Four

Methodology

4.0 Overview

The author has critically reviewed the primary and secondary legislation governing the affairs of the PHI in chapter three. The author also analysed some of the published works of literature on crime prevention theories, frameworks and problem-solving approaches adopted by law enforcement agencies in chapter two. This chapter focuses on defining the methodology and strategy used in this thesis. This chapter subsequently explains the research methods, subject selection, problems encountered and ethical issues. In addition, the author also took the opportunity to discuss the importance of this research and its relevance to his profession.

During the course of this research, the author has gained a better insight into the topic by perusing through the existing works of literature and understanding the process and methods used for data collection. Of course, there are different views on which methods are most suitable for data collection in a social science environment, Raddon (2010). Some argued that a scientific approach is a preferred method because it allows a hypothesis to be formulated and tested but others believe a scientific approach is not the best method for studying human behaviour, Bryman (2012). In addition to reviewing the PH legislation, this research seeks to understand the human behaviours that contribute to PH touting. Therefore, a social research process is recommended as one of the suitable approaches to study human behaviour because of the different research methods embedded in it, Raddon (2010).

However, before clearly analysing the research strategy and methods used in this thesis, it is important to remind the readers of the question the research seeks to address:

How can TfL as a regulator work with other agencies inclusive of the GLA, Police, PH trade and the customers to resolve the issue of illegal PH touts in the City of Westminster, London?

As part of the process to find answers to this question, it is important to understand and engage with the relevant internal and external stakeholders supporting the PHI.

This would help to clarify the perception of reality and also gather some evidence that can be used to formulate an outcome of this research. The next section introduces the author and explains how this research fits into the author's profession.

4.1 About the author

The author is very passionate about investigative practices and security matters in society. In 2008, the author went to the University of Greenwich to study a master's degree in Computer Security and Systems Audit. Having completed that, he took the opportunity to join the T&PH Directorate on a six months secondment to practise some of his investigative skills. The author was part of a small specialist Compliance team that was responsible for regulating the T&PH industry during the night time economy. Even though the night team was a relatively small team, they covered the 32 boroughs and the city of London.

The author was awarded investigative practice accreditations listed below as part of his role in TfL.

- Level 7 Advance professional certificate in investigative practice
- Investigative law, evidence, procedure and best practice
- Statement writing, report writing and giving evidence
- Investigative interviewing
- Civil and criminal case file preparation

Whilst working as part of the Compliance team, the author experienced some difficulties in enforcing the PH legislation. This experience exposed the inability of Compliance Officers to enforce certain PH offences due to the lack of powers, this was really frustrating. In 2012, the author was promoted to the role of a night Assistant Compliance Manager with the responsibility to manage a team of 8-night Compliance Officers. In 2013, the Compliance team was integrated as part of the Compliance, Policing and On-Street Services Directorate (CPOS). Shortly after the integration, the author was appointed to lead a business improvement review in the department.

During this review, the author developed the Compliance Operating Model. The model clearly shows all the activities in the department to prevent, detect and prosecute non-compliance activities. It became more apparent that there were

numerous flaws in the PH legislation and this exposed more challenges in the industry. In the same year, the author started his professional doctorate degree in Policing, Security and Community Safety and the thought of these challenges in the PHI stimulated the author's interest to commission this research.

Having successfully implemented the Compliance Operating Model in 2014, the author was appointed to temporarily join the directorate project team to deliver an enforcement transformation programme. Being part of the project team also broadened the author's horizon on different crime prevention and problem-solving models used by the Police team within TfL and other local authorities. In 2016, as part of the Mayor's pledge to increase the number of TfL Compliance Officers in London, the author was promoted to the role of a night Compliance Manager. The author was actively involved in the delivery of the recruitment project. The author now had the responsibility of managing five-night Assistant Compliance Managers and 50-night Compliance Officers, which has led to more visibility of Compliance Officers at night that promotes T&PH compliance activities across London. However, it would require more than just increasing the number of Officers but they need to be better empowered to work smarter and effectively.

In summary, the author has worked in the PHI for nine years and his experience contributed immensely to the decision to commission this research. It can be argued that the author's experience as a Compliance Manager could benefit this research or conceivably influence the outcome of the research due to his perception of the PHI. The author understands the legislation and he is knowledgeable about how the issue of touting has changed over the years; this would benefit the research. Furthermore, the author interviewed 19 TfL officials as part of this research; this was only possible within a short period of time because of his ability to gain the confidence of his colleagues and motivate them to participate in the interviews. The interview feedback will immensely contribute to the findings and help to develop a meaningful outcome. It is undeniably difficult for the author to be entirely detached from the research but the author would ensure that the findings are completely unbiased and are based on facts without any prejudice. The next section analyses the research philosophy that underpins the author's research strategy and methodology.

4.2 Research philosophy

This section discusses the philosophical stance that underpins the research strategy and methodology. There are two main theoretical perspectives in research, epistemology and ontology, Carson et al (2001). Epistemology was taken from the Greek word “episteme”, which means knowledge. Epistemology is regarded as a philosophy of knowledge, which seeks to establish the broader context of how people get to know or understand things, Trochim (2006). On the contrary, ontology is interested in understanding the state of things as they exist, Carson et al (2001). While epistemology focuses on knowledge, ontology is more concerned about the existence and reality of things. Fundamentally, there are predominantly two principles of epistemology and ontology, which are interpretivism and positivism.

The researcher can gather more evidence by using an adaptable research structure that is suitable for the people or society, Carson et al (2001). Despite the researcher’s prior knowledge of the problem, the researcher can gain more knowledge through human interaction and real-time observation. Interpretivism seeks to study human behaviour in different circumstances in order to understand the problem instead of using scientific prediction, Hudson & Ozanne (1998). Due to the subjective nature of interpretivism, the methods often used to establish the reason why things happen are observation and detailed interviews, this can be categorised under the qualitative approach, Raddon (2010).

On the contrary, positivism is of the opinion that a researcher should adopt an analytical approach when carrying out research, which means the research topic and methodology, has to be clearly defined and supported with hypotheses to be tested, Carson et al (2001). Unlike interpretivist, that uses an adaptable research structure, positivism uses an inferential approach to get a consistent result. So, the aim of positivism is to keep the researcher neutral from the research and use scientific logic to establish facts with less human interaction. Due to the logical nature of positivism, the methods often used to gather facts are random sampling, surveys and questionnaires, Raddon (2010). The methods used by positivism are categorised under the quantitative approach, this is because positivism’s aim is to gather statistical data that could be used to measure, correlate and verify the facts.

Having looked at both principles, it can be argued that they both have their advantages and disadvantages, which need to be considered carefully when

choosing the best approach for this research. Some of the approaches used by positivism could be very useful because of the methods it uses to collect high volumes of data, which can be used in this research to target the customers and drivers. Using surveys and questionnaires to reach out to the high volume of drivers and customers could be cost-effective and make it easy to analyse the information, Raddon (2010). However, some of the disadvantages of using the positivism approach are its inability to establish changes in society and adapt to different requirements. Nevertheless, this research can benefit from some of the methods used by positivism.

One of the advantages attributed to using the interpretive approach is the flexibility that allows the researcher to make necessary changes when required, especially during a face-to-face interview. Collecting or analysing high volumes of data may not be some of its greatest strengths but it is good at establishing the changes in the society through interaction and observation. In essence, this research can also benefit from using some of the methods used by interpretivist, particularly for face-to-face interviews and observation, Raddon (2010). So, after careful consideration of both approaches, this research would benefit from using both approaches and this is regarded as a pragmatist approach, Creswell & Clark (2011).

Pragmatism is one of the most suitable types of epistemology used in social science research because of its ability to seamlessly adopt mix methods in research. As such, the author has decided to use a pragmatism approach due to the flexibility needed in this research to employ both qualitative and quantitative methods. The integration of both methods is important due to the variation of engagements required to find answers to the research question. It can be argued that using a method, qualitative or quantitative should suffice for this research but by doing so, the author may not be able to extensively engage with all relevant subjects or may be unable to capture relevant information, Creswell & Clark (2011). The qualitative research aspect would allow the author to conduct field research, which may result in interviewing the subjects, Trochim (2006). The quantitative aspect would allow the author to use on-street surveys to collect data from the customers and drivers. The next section discusses the differences between qualitative and quantitative methods and how both methods are used for the data collection process.

4.3 Research methods

The section further explains the differences between qualitative and quantitative methods and how the integration of both methods has been used in this research.

A quantitative method simply means the act of “*collecting and analysing numerical data*” Neville (2007, p3). Aside from the fact that a quantitative method would help the author to collect first-hand information about the problem encountered by the customers, it would also allow the author to employ a statistical model to establish the time, frequency, location and the occurrence of the problem. Therefore, in order for this research to make a reasonable statistical presentation of the problem, the author has decided to use a probability sampling technique. Probability sampling allows the author to randomly select a unit of PH customers and drivers from the population in the Westend to get a representative sample, Lund (2012). It would be impossible to study the entire population in the Westend due to time constraints and the cost implication, but the feedback from a reasonable sample size would have a significant impact on the research findings and potentially minimise sampling bias.

Given the author’s experience of the industry and the historical data provided, it can be estimated that approximately 1000 customers use PHVs on a busy night in the Westend. Having considered the time required to complete this research and the level of precision the author desires, the author selected 10% (100 customers) as a sample size to represent the population of the customers that use PHVs in the Westend, Simon & Goes (2012). A similar approach was used to select the sample size for the PHDs too. TfL Compliance Officers interact with approximately 300 PHDs on a busy night in the Westend and the author selected 10% (30 PHDs) as a reasonable sample size to represent the population of the PHDs that pick-up customer in the Westend.

After the author had decided the appropriate sample sizes for both the customers and the PHDs and considered the volume of data required, it was clear that the most practical method required to collect the data is by using a survey. A survey is defined as “*the collection of information from a sample of individuals through their responses to questions*” Check and Schutt (2012, p.160). A survey is regarded as a common tool used in quantitative research to gather information from large populations; this increases the chances of participants’ contribution, Scheuren (2004). The author administered 15 open-ended questions that were completed by the customers and

drivers by the roadside during the night time economy. The survey questions were designed to gauge the knowledge and experience of the customers and drivers. The customer sample size was 100 but only 57 customers participated in the surveys due to the reasons outlined in section 4.6. In addition, the author interacted with 30 PHDs but only 24 participated in the surveys. The feedback from the surveys were collected, analysed and presented in chapter five.

As mentioned above, a qualitative method was also used in this research and it is defined as the act of “*obtaining culturally specific information about the values, opinions, behaviours, and social contexts of particular populations*” FHI (2005, p. 1). On the contrary to the quantitative method, the qualitative method seeks to describe people’s experiences or perceptions. Some of the qualitative methods used are interviews and observations. The two methods used in this research are direct observations and face-to-face interviews. The author interviewed 19 TfL officials out the estimated 300 officials that work within the specialist field. The author also interviewed two MPS officials that have been involved in the PHI for over 10 years.

More importantly, the author also conducted participant observations outside a nightclub. According to McLeod (2015), observation can be classified into the following categories; Controlled, Naturalistic and Participant observations. A controlled observation is often used in a structured environment, i.e. psychology laboratory and the researcher get to choose the location, time and the people that would be involved in the process. The researcher usually explains the observation process to the participants and this has been previously used to study aggressive behaviour in kids. By conducting this observation in a structured environment makes it easy and quick but the weakness is that the participants can be self-conscious as they are aware of the observation.

On the contrary, naturalistic observation is often unstructured and it is used to study spontaneous behaviour in a natural environment, i.e. in their natural habitat. In comparison to the controlled observation, naturalistic observation focuses on unpremeditated behaviours of the participants without raising their awareness. This observation is often used to generate innovative ideas but researchers sometimes find it difficult to get a high volume of participants and it is less reliable.

Finally, participant observation is an alternative form of naturalistic observation. As the meaning implies, the researcher gets to participate in a participant observation

process by becoming part of the observation group. This observation can be done overtly or covertly with or without raising the awareness of the participants. But it can be difficult to keep an accurate record of the observation if the observation is undertaken covertly, McLeod (2015).

The author conducted covert observation and acted in the capacity of a customer outside a night venue over a five-day period. The purpose of this observation is to gain first-hand experience of how PHDs tout customers. A supplementary observation was conducted in Luton for two days to understand the physical features of PHV and compare the findings to a London PHV.

This helped the author to understand the differences in the physical features of the two vehicles and the impact on customers' perception. As a result of these two observations, the author was able to experience some of the factors that contribute to touting and the difficulties customers encounter in identifying legitimate licensed PHVs in London. As part of these observations, the author took pictures of a London and Luton PHV, which was evidenced and critically analysed in chapter three.

The advantage of using observation in this research is the liberty attributed to it. The author did not need to seek permission to undertake observations in public places and the information was collected in real time, CDC (2007). However, the observations were time-consuming, expensive and dangerous, particularly during the night time economy. Nonetheless, the author is highly trained to undertake a dynamic risk assessment and he put some contingencies in place to mitigate the risks.

Face-to-face interviews were an essential part of this research because it was used at every stage of the data collection process. Even though a survey was used as a quantitative method, an interview was used to guide the participants in completing the surveys in order to minimise any errors or omit any important questions in the surveys. In addition, the subject matter experts in TfL and the MPS also participated in face-to-face interviews. The benefit of using a face-to-face interview in this research is the opportunity to have a direct encounter with the experts in the field and study both their verbal and non-verbal responses to the questions, Minter (2003). It is also easy to ask the experts additional questions or seek more clarity on any ambiguous responses. However, the disadvantage of using interviews is the time involved in arranging the interviews and gaining permission or agreement from the interviewee before the interview finally took place.

Having discussed the research strategy and methods above, **Table 4.1** below also simplifies the methods used for each group of participants.

Table 4. 1 – The research methods and tools used for each participant group

Participant Groups	Research Methods and Tools
The Regulator – A group of subject matter experts within TfL	Face to face interviews (Qualitative method)
The Service Users – A group of customers that uses PHVs	Surveys guided by Interviews (Quantitative method)
The Service Provider – A group of PHDs	Surveys guided by Interviews (Quantitative method) Direct observation (Qualitative method)
The Enforcer – A group of Police officials	Face to face interviews (Qualitative method)
Other Regulator – A subject matter expert from Crawley council	Face to face interviews (Qualitative method)

4.4 Subject Selection

The subjects were selected based on their influence and significance to the research. The research topic is based on PH touting in the City of Westminster (Westend) and the subjects regarded as stakeholders in the PHI are the regulator, service users, service providers and the enforcer.

4.4.1 The regulator

As previously mentioned, TfL is responsible for regulating the T&PH industry and it is important to gather the views of the experts in this field. As a result, the author categorised the experts into 4 groups to ensure their views are well represented. The four categories are; senior management team, middle managers, frontline operational staff and support staff. A senior management team are a group of people who are actively involved and responsible for making decisions on policies and regulation change in the industry. The middle managers are responsible for the day-to-day management of frontline staff and they have a good knowledge of the regulations and industry. Finally, the frontline staff are highly skilled Compliance Officers with the first-hand experience in dealing with all types of issues on the street.

To ensure the proportionality of each group, the following numbers from each group participated in a face-to-face interview:

- Four senior managers within the directorate
- Eight middle managers within the department
- Three frontline staff within the department

Furthermore, four out of the middle line managers have frontline operational experience. Therefore, they are equally aware of some of the issues encountered by frontline staff. Both the middle managers and frontline staff who were interviewed have the experience of working at different times and locations and these have contributed to their understanding of the issues that occur in the T&PH industry.

In addition, two members of the prosecution and legal team were interviewed because they are directly involved in the prosecution of illegal drivers. Two members of the data analysis team were also interviewed because they are responsible for analysing crime data, which is used to task and deploy the Compliance Officers.

Overall, 19 TfL officials participated in the face-to-face interviews and they were fully aware of the purpose of the interview. A semi-structured interview technique was used to set out the guidelines and manage the interview process. The interview questions were open-ended and this gave the author the opportunity to deviate from the guidelines when needed, Bryman (2012). The common patterns in the interview responses were identified and critically analysed in chapter five.

4.4.2 Service Users

It is essential to gather their views and understand the challenges the customers encounter when using the PHS. For this process, a probability sampling technique was used and the sample frame was aged between 18 – 64 male and female who visit hotspot locations in the Westend. The service users were guided when completing the questionnaire to minimise time and error.

4.4.3 Service Provider

The service providers are the PHDs that transport the customers from one destination to the other. The author targeted both licensed and unlicensed drivers, male and female between the ages of 21 – 75 years, especially the ones that pick up

or drop off customers in the Westend. A structured interview survey was used to guide the drivers when completing the questionnaire.

4.4.4 The Enforcer

Touting is a criminal offence and it is enforceable under the (CJPOA) 1994. Despite the fact that TfL regulates the PHI in London, they need the MPS and CoLP to support them in dealing with touts. This is why the Police are regarded as the enforcer and it is crucial to understand how they currently police touting activities, the types of powers they have and tactics used. The author conducted a face-to-face interview with two MPS officials who were members of T&PH Policing team. One of the MPS officials was a Detective Sergeant and the other was a Police Constable. Both of them have over 10 years' experience of working in the PHI.

In summary, the author interviewed 19 TfL officials, two MPS officials and interacted with 57 customers and 24 drivers. TfL and MPS officials were interviewed face to face in an office environment. However, the customers and drivers were approached on the street during the night time economy. All interviews and surveys took place between September 2016 to June 2017 and all participants were given an undertaken to assure them that their personal details will not be disclosed.

4.5 Ethical consideration

The author is fully aware of the ethics of research as set out by the British Society of Criminology. According to BSoC (2015), all researchers have the responsibility to adhere to the British Society of Criminology's code of ethics and the author has considered these codes of ethics in the cause of this research. The code of ethics is simply categorised as follows: "*honesty, accountability, professional courtesy and good stewardship*", BSoC (2015, p.4).

With honesty being the first responsibility of a researcher, the author ensures that he is unbiased throughout the process of this research. The author followed all due processes to avoid bringing the organisation (TfL) into any disrepute. For the entire duration of this research, the author did not use his employment status with TfL to influence or acquire any information from his colleagues, PHDs or customers. The author conducted this research and collected the data required for this research following ethical approval by London Metropolitan University. The feedback received

from TfL, Police, PHDs and customer participants contributed to the research recommendation and conclusion.

The author works in a vetted and restricted environment and as such, he did not abuse his access to unpublished data or information within TfL. The author ensures that the information used in this research is collected through primary and secondary research methods. The information is collected through interviews, surveys, observation and the information available in the public domain.

Despite the author's direct access to participants, he had to seek a written informed consent from the interviewee and the informed consent clearly stated the purpose and objective of the research, Fox (2009). The author is fully aware of the ethical consideration in this process and ensures it is duly adhered to. All participants were treated with respect and the purpose of the data collection was clearly communicated to them. In addition, the author also undertook a risk assessment of the key areas in the Westend, which were used for the quantitative data collection. A similar risk assessment was conducted for the office that was used for the qualitative data collection.

The author used the assessment results to develop control measures that helped to minimise and mitigate the risks that may harm the participants. For example, part of the control measures that were used during the quantitative data collection was ensuring that all participants were not intoxicated and they completed the surveys while standing in a safe environment. The same principle applied to the participants that were interviewed in an office environment, the author ensured the interviews were conducted outside their working hours, in a secure and private location.

Finally, all the ideas and materials used in this thesis are directly referenced in accordance with the Harvard standard of reference. The integrity of all participants is protected and their names will remain anonymous to avoid any distress.

4.6 Difficulty encountered and amendment

The author embarked on this research because of his experience and understanding of the difficulties encountered by TfL Compliance Officers in enforcing the complex aspect of the PHV legislation and the risk associated with customers using unbooked PHVs. In the course of this research, the author encountered a number of

challenges, which would have changed the scope of this research. However, due to some of the pre-planned contingencies and support from colleagues and friends, the author managed to overcome most of the challenges.

Despite the fact that the author is an employee of TfL and has access to internal information that could be very useful for this research, the first challenge was ensuring that this research did not contain any unpublished materials that could bring TfL and its partners into disrepute. The author was able to manage this effectively by ensuring that all information relating to TfL or its partners used in this research are available in the public domain and did not breach any confidentiality rules. The author struggled to get some of his colleagues involved in the face-to-face interview process because some of them did not feel comfortable to grant interviews. As such, the author was not able to complete all the TfL staff interviews in due time, which automatically affected the deadline of this thesis.

The author ensures that none of the participants was asked any leading questions and they were assured that their personal details would remain anonymous. The author initially planned to interview five members of the MPS officials but there were quite a number of changes to the structure of the team and as such, most of MPS officials were not confident to grant an interview. Nonetheless, the author eventually interviewed two members of the team with over 10 years' experience and that was extremely helpful, but the process was delayed longer than anticipated.

The busy night-time economy and the adverse weather conditions also added to the list of challenges encountered during the primary data collection. All of the customers and drivers survey were completed on the street during the night time economy. It was extremely difficult to complete this at night, especially in cold or wet weather. These surveys were captured using an iPad and it was difficult to use this in the rain or extremely cold weather. The older generations that visit the Westend during the night time economy are always rushing to get to their destination and did not like to be disturbed. However, the younger generations between the ages of 18 – 34, especially the females were very interactive and willingly participated in the survey. And out of the 63 customers that took part in the survey exercise, six of them failed to complete all the questions.

With regards to the driver surveys, 24 drivers participated in the surveys but the majority of them drove off as soon as the author approached them and mentioned

the topic of the research. Some of them also pretended not to understand the English language to avoid any interaction. Nonetheless, the author tried to approach more customers and drivers but it was becoming increasingly dangerous. Some intoxicated customers started to get a bit violent towards the author and the drivers were increasingly driving off. These associated issues raised the author's awareness of the dangers in the Westend and as such, the author changed the dynamics of undertaking an observation outside clubs in the Westend. Instead, the author carried out an observation outside a night venue in East London, which was a less busy environment to minimise the risk. Some parts of East London are also known as popular hotspots for touts and a licensed PHD touted the author during the observation. This is included in the findings and analysis chapter and clearly supports the research.

In conclusion, this research and the data collection process have been challenging and stimulating. The author's colleagues, customers and drivers have contributed to the interviews and surveys and they have expressed their views on the subject matter. All their feedback and views are analysed in chapter five of this thesis and it would be intriguing to see how the feedback and views have influenced the conclusion and recommendation of this research.

Chapter Five

Analysis and Evaluation

5.0 Overview

This chapter focuses on analysing and evaluating the participants' feedback by using both qualitative and quantitative methods. This chapter is divided into two categories; the first part presents the analysis from TfL and Police interviews, including the observation, while the second phase presents the analysis from the customers and drivers surveys. The author interviewed both TfL and MPS officials to rigorously measure their awareness and knowledge on the issue of touting, understand what strategies are currently being used to tackle the problem and identify possible future solutions. The author also administered questionnaires which were distributed to PH customers and drivers during the night time economy to measure the impact of technology and the new ways of delivering PHS in London, in order to establish some of the factors that contribute to PH touting and identify the gaps in the PHV (London) Act 1998.

5.1 Interviews and observation

As mentioned previously in chapter four, the two key qualitative methods used in this research are interviews and observations. Face to face interviews were conducted with 19 TfL officials across different levels and with two Police officials, the breakdown of TfL and Police participants are presented below.

TfL participants

- Four senior managers within the directorate
- Eight middle managers within the department
- Three frontline staff within the department
- Two members of the prosecution and legal team
- Two members of the data analysis team

Police (MPS) participants

- A Police constable (Retired)
- A Detective sergeant

Looking at the above breakdown of TfL and Police participants; four of the senior managers participated, eight of the middle managers participated, three of the frontline staff participated, two of the regulatory and legal team participated, two of the analyst team and two Police officials participated.

The author's initial intention was to interview a minimum of five Police officials but due to the unforeseen circumstances explained in section 4.6, the author was only able to interview two experienced Police officials.

Both the TfL and Police participants were interviewed in an office environment and the interviews ran from 7th April to 10th July 2017. The key areas that gained most agreements are; PHV touting is a problem in London, acquiring untaxed, undeclared money easily influences touting, the ratio of licensed touts is higher in comparison to the ratio of unlicensed touts, TfL Compliance Officers can benefit from being given more powers, tougher sanctions are required and the industry can benefit from a robust, updated and simple legislation. The outcomes of the interviews are analysed in more detail in the subsequent paragraphs.

5.1.1 Roles and experience of participants

It is important that this research considers the experience and years of service of the TfL participants. This would help to determine their level of involvement in the industry and the credibility of their responses to the interview questions. The feedback shows that fourteen participants have worked for TfL for more than five years while five participants have worked for TfL for less than five years. The author also considers the duration of the participants in their current roles. The feedback shows that eight participants have been in their current roles for more than five years and eleven participants have been in their current roles for less than five years. However, the participants with less than five years in their current roles are still very experienced and knowledgeable about the industry. Their previous roles were within the same department, directorate or the Police force and over the years they were promoted. In essence, their opinions and suggestions are equally important and have the same level of credibility of participants that have been in their current roles for more than five years.

Both MPS (Police) participants have spent more than five years in the Police force dealing with T&PH related issues.

5.1.2 Age of participants

As part of the interviews, it was not mandatory for participants to be specific about their ages, but they were required to provide their age brackets which are presented below in table 5.1 and 5.2 respectively.

Table 5. 1 – Age of participants (TfL)

Age Brackets	Number of Participants
25 – 34	2
35 – 44	4
45 – 54	10
55 – 64	3

Table 5. 2 – Age of participants (Police)

Age Brackets	Number of Participants
45 – 54	1
55 – 64	1

The tables above show that participants between the ages of 45 – 54 participated more than any other age bracket and this can be used to measure their years of experience in the organisation and industry.

5.1.3 Is there a PHV touting problem in London?

The aim of the question is to gain the experts' opinion on the issue of PHV touting in London. All the nineteen TfL participants and the two Police participants agreed that PHV touting is a problem in London. When this question was directed to TfL participants, two of them said:

“Yes, especially on nights and weekends”. Interview five, TfL participant

“Yes, they take 3 forms – event, iconic sites and night time economy”. Interview fifteen, TfL participant

In search of the evidence to establish if PHV touting is a problem in London, the author carried out an observation outside a night venue in East London. This was

carried out on the 31st December 2016 between the hours of 3 am – 5 am. The author was standing by the entrance of a night venue and as the author tried to cross the road, a male PHD approached him; approximately 5ft 7inch tall and medium build. As part of the observation, the author recorded the incident on his mobile phone but the video could not be used due to ethics consideration. However, the author has presented the incident conversation below in direct speech for the readers to understand the true reflection of the incident.

The male appeared to be in his 50s and he was standing on the pavement opposite the night venue. The author knew he was a licensed PHD because he was wearing a PHD badge on his neck. At approximately 4 am, the male approached the author and said; "Do you want cab, minicab?" the author replied; "where do you park?" The male said; "it is there, a white car", he pointed at the direction of his vehicle. The author looked at the direction of the white vehicle and noticed that the vehicle was a licensed PHV. The author said; "I want to go to Camden, how much?" The male replied; "Camden Town, it is £30". The author said; "that is too expensive, I can only pay £20" and the male replied; "I will accept £25". The author asked again for further clarification, what vehicle are you driving and the male replied, "The Prius". The author said thanks anyway and he replied; "you do not need it?" The author said: "No, I can't pay £25 to Camden". The conversation ended and the author left the area because it was getting really busy. In essence, with the participants' feedback and the author's observation, it is fair to say there is clearly a PH touting problem in London.

5.1.4 Why is PHV touting still a problem?

One of the fundamental reasons the PHV (London) Act 1998 was enacted was to improve public safety and minimise touting. All the participants agreed that there is a touting problem in London, so this question was to gauge their opinion on why they think touting is a problem. Six participants suggested that touting is still a problem because the customers lack the knowledge of the PHV legislation and as such, they are unaware of the consequences. Two of the six participants took the views that:

"It is a problem because tourists and people do not know the laws of the country and young people want a cheap ride home". Interview one, TfL participant

“It is because touting is fed by the members of the public and many people do not know the law”. Interview ten, TfL participant

They suggested that PHV touting would not be a problem if the PH customers stop patronising the touts. This underpins the crime triangle theory that was discussed in section 2.2.1.

“..... predatory crime occurs when a likely offender and suitable target come together in time and place, without a capable guardian present”, CPOP (2016a, p.1).

The crime triangle theory argued that PH touting would cease to exist if the customers stop using illegal PHS. However, it is difficult to prove at this point if the customers are knowingly patronising touts for cheap fares or they are oblivious of the consequences. Three participants suggested that touting is still a problem because the PHV (London) Act is so complicated to enforce and sanctions are not tough enough to deter touts. One of the three participants said:

“The laws around PHV are too complex and varied. It is hard to enforce and when the law is hard to enforce, it gets exploited” Interview fifteen, TfL participant.

This supports the argument that the PHV (London) Act is too complex to enforce as discussed in section 1.1 in the case of TfL Vs. Uber. If the regulator is finding it difficult to enforce the legislation, how are the customers expected to understand the legislation? This can be argued that the customers are patronising touts because they lack the knowledge of the legislation. Two participants suggested that there is an excessive number of PHDs in London; the supply of PHV is higher than the demand and as such licensed PHDs are struggling to get customers. One of the two participants is of the view that;

“When you have excessive of over 100 thousand vehicles in London, there is competition for work and people will always find a way to avoid complying because it is cheaper to do so” Interview seventeen, TfL participant.

This view supported the discussion in section 1.4 about the number of PHDs that are licensed in London. PHDs in London have increased tremendously over the last seven years, risen from 59,191 in 2010 to 117,712 in 2017 (TfL 2017a, p.1). It was argued that the inability to cap the number of PHDs in London contributes to the

touting issue. Five participants suggested that there is easy money in touting and PHDs do not have to pay tax. The other three participants suggested that touting is easy to do because anyone with a vehicle can tout. One of the five participants took the view that:

“Touting is free money and it is very hard to control. It is the supply and demand because people make a great deal of money out of it and also the black economy with no tax” Interview nine, TfL participant.

This supported the fact that all PHDs are self-employed and they are responsible for paying their taxes to the HM Revenue and Custom (HMRC). One of the reasons why a PH tout would not register with a PHO is to avoid paying tax. The HMRC suggested that tax evasion costs the UK economy £14 billion a year, CPS, (2013, p.1) and tax evasion is also a criminal offence. This is another flaw in the tax regulation and this has been identified as one of the factors that contribute to PH touting. In addition, the two Police participants shared similar views with TfL participants on this question. The two participants are of the view that touting is still a problem because;

“There is no cap to the number of PHVs in London so it is getting harder to earn a living” Interview one, Police participant.

“Easy money and is a tool of the trade for sex offenders” Interview two, Police participant.

The view of the first Police participant supported the view of the TfL participant (interview seventeen). They both suggested that the excessive number of PHVs in London has led to competition and touting. The second Police participant supported the argument that some PHDs are touting because of sexual gratification. The MPS took a detailed analysis that underpins the fact that the majority of sexual harassments reported in illegal PHVs were committed by sexual offenders pretending to be PHDs, TfL (2006). Additionally, the figures released by the MPS under the freedom of information request in 2016, shows approximately 521 taxis and PHDs were charged with sexual offences and 1427 for other offences in the past five years, the sexual offences include rape, attempted rape, sexual assault and many more, MPS (2016, p.5). This shows that not all PHDs are touting for easy money, but some of them are interested in sexual gratification.

5.1.5 Has the issue of PHV touting changed over the years?

The aim of this question is to gain the experts' opinions on whether touting has increased or decreased over the years. Seven participants suggested that touting has increased over the years. One of the seven participants took the view that:

"It has grown because it is easy to buy licenced vehicles...." Interview four, TfL participant.

This view identified the flaw in Section 7(2) of the PHV (London) Act 1998, which permits any suitable vehicle to be licensed as a PHV. Anyone is permitted to purchase a licensed PHV without a PHD licence or a valid H&R insurance policy. The author conducted a random search on the internet to establish if licensed PHVs are advertised for sale and the result showed that 250 licensed PHVs were available for sale, Gumtree (2000-2017b). A similar search was conducted to establish the number of licensed PHVs available for rent and the result showed that 280 licensed PHVs were available for rent, Gumtree (2000-2017a). It can be argued that the fact that these vehicles are readily available to purchase or rent by anyone without any restrictions has promoted PH touting in London. Eight participants suggested that touting has reduced over the years due to the joint efforts of TfL and the Police in enforcing illegal activities. Also, the introduction of PHV app booking system has contributed to the reduction of PH touts in London. Two of the eight participants took the views that:

"It has reduced dramatically due to the Police unit growing and the work of the TPHC compliance team, including the STaN campaign", Interview ten, TfL participant.

"It has reduced because of the introduction of the APP based booking system", Interview two, TfL participant.

The view of the TfL participant (interview ten) underpins the theory of partnership working used by TfL to prevent and deter touting activities, discussed in section 2.2.3. Partnership working encourages collaboration, improved information sharing and coordinated action to evaluate, govern and mitigate risk, CoP (2015). TfL works in partnership with the Police to enforce illegal activities and educate the customers of the dangers associated with using illegal PHVs. This has been successful over the years because of TfL's commitment to fund a dedicated Police team that supports

TfL Compliance Officers. The view of the TfL participant (interview two) also supported the feedback from the customer surveys. The feedback from the survey shows that the majority of respondents (56.1%) now pre-book their PHVs through an app booking system. It was suggested that the app booking system has promoted more journeys to be made in licensed PHVs. However, the last TfL participant suggested that there is no baseline to measure if touting has increased or reduced over the years. The two Police participants supported the views that touting has reduced over the years due to the collaboration between TfL and their Police counterparts. One of the two participants suggested that:

“The statistics show that the offence has dropped over the years because of TfL and Police partnership working. They use to have up to 20 arrests on a weekend but now it is hard to get one”, Interview one, Police participant.

5.1.6 What influences PHV touting?

The aim of this question is to gain the experts' opinions on what influences PHV touting. All the nineteen TfL participants suggested that the ability to make easy money is the number one factor that influences touting. Two of the nineteen participants suggested that:

“Touting is an easy way of earning money to feed your family”, Interview four, TfL participant.

“It is easy money and an option to make a living for people. The chance of being detected is also low. Some people are also doing it for sexual gratification”, Interview eight, TfL participant.

The views of TfL participants' supported the argument of Cornish & Clarke (2014) about the rational choice theory. They suggested that people commit crimes for their personal gains. The situational crime prevention (SCP) theory discussed in chapter two also suggested that if the opportunities to commit crimes are not reduced and the chances of being detected are low, the likelihood is the offender would continue to commit the crime. These views make it very apparent that the purpose of touting is for financial and sexual benefits. Touting is perceived as the easy option to make money without taxation, H&R insurance policy or commission to the PHO. Most of the PHVs rented out by lease companies are covered with comprehensive insurance

policies. So, it is the responsibility of the drivers to ensure these vehicles have the right H&R insurance policies before using them to undertake PHS. The two Police participants fully supported the views of TfL participants. One of the two participants suggested that PH touting is influenced by:

“The ability to earn easy money and sexual gratification”, Interview two, Police participant.

The legislation makes it easy for anyone to acquire a PHV without any restriction. This is why anyone can purchase or rent PHVs without a PHD’s licence. As such, the legislation has arguably increased the opportunities for offenders to use PHVs for illegal activities. As seen in figure 1.1, some of these PHVs are being used to transport female passengers and sexually harassing them hence the number of sexual harassment cases reported for the year 2016 remains the second highest since 2002.

5.1.7 Are there more licensed or unlicensed PHV touts?

Following on from the question 5.1.5, the majority of both TfL and Police participants agreed that touting has reduced over the years. The aim of this question is to gain the experts’ opinions on the ratio of licensed to unlicensed touts in London. Eleven TfL participants suggested that there are more licensed PH touts than the unlicensed ones. One participant suggested that there is a mix of both licensed and unlicensed touts, while the rest of the TfL participants refused to comment on this question. The one participant suggested that:

“It is a good mixture of licensed and unlicensed touts, especially the ones that have their licence revoked” Interview five, TfL participant.

It is an obligation for a PHD under section 22 (3) of the PHV (London) Act 1998 to return his or her licence within 7 days if revoked or expired. However, some of the revoked PHDs usually refuse to return their licences to TfL. Instead, they continue to display the badges and act as legitimate licensed PHDs. In addition, the feedback from the customer surveys also shows that only 28.1% of respondents were able to identify PHDs with their badges and this is a relatively low percentage.

On the contrary, the two Police participants argued that the ratios of licensed touts to unlicensed ones are the same. They suggested that TfL deals with licensed PH touts hence most of the participants assumed that there are more licensed touts to the unlicensed ones. TfL Compliance Officers have powers within the PHV (London) Act to only deal with licence breaches but the Police have the power to deal with both licensed and unlicensed.

5.1.8 What are the implications for PHV tout victims?

In response to question 5.1.3, both TfL and the Police generally agreed that touting is a problem in London but the associated dangers were not explained. So, this question seeks to gain the experts' opinion on the dangers associated with tout victims. Ten TfL participants suggested that PHV touting is a serious public safety issue. Two of the ten participants suggested:

“Public safety, people never think of the implication of what they are doing”, Interview four, TfL participant.

“They can be physically attacked, mugged and being involved in an accident where they are uninsured”, Interview eight, TfL participant.

Most of the serious violent crimes reported in London during the night time economy are alcohol-related, GLA (2016b). Many people use PHVs because they do not want to drink and drive after a night out in London. People are also vulnerable when they are drunk and illegal PHDs sometimes take advantage of that, the case of Mr Hussain discussed in chapter one is an example of this. The feedback from question 5.1.6 shows that (according to the Police and TfL participants) people tout for money and sexual benefits but customers can potentially be robbed and attacked too. Illegal PHDs can easily take advantage of the customers when they are drunk because they are unlikely to be conscious of their actions.

Six participants suggested that customers could be sexually assaulted because some of the PHDs are touting for the sexual benefit. One of the six participants suggested;

“They could be sexually assaulted, raped or get involved in an accident in an uninsured vehicle”, Interview one, TfL participant.

As seen in **Figure 1.1**, some of these PHVs are being used to transport female passengers and sexually harassing them hence the number of sexual harassment case reported for the year 2016 remains the second highest since 2002. As explained in section 5.1.5, anyone can rent or purchase licensed PHVs on the internet without any set criteria or a requirement to hold a PHD's licence or H&R insurance policy to drive the vehicle. So, it can be argued that the gap in the legislation and practice makes it easy for anyone to use a PHV for a malicious act.

The other three TfL participants suggested that illegal drivers do not have the right insurance policy to transport passengers and this may lead to a long-protracted procedure in the case of an accident. One of the three participants suggested;

“They are travelling in an uninsured vehicle and sometimes unregulated driver that might have a criminal record”, Interview seventeen, TfL participant.

As discussed in section 2.3.4, PHV and PHD are required to have a valid H&R insurance policy when undertaking a PHS. Vehicle rental companies usually lease PHVs with comprehensive insurance policies. So, it is the responsibility of the drivers to ensure all leased PHVs are covered with the right insurance before undertaking a PHS. If not, any customers travelling in an uninsured PHV would not be protected. In addition, it is also challenging for TfL Compliance Officers to enforce this aspect of the legislation because they would need to inspect every licensed PHVs to establish if they are undertaking a PHS or not.

The two Police participants supported the views of the TfL participants. They think it is dangerous for customers to travel in an uninsured vehicle and they can be sexually assaulted. One of the two participants said:

“The vehicle will not meet the right standards and drivers are not licensed. And out of the 100 million journeys made in minicabs in a year, we have received approximately 40-60 sexual related offences reported on minicabs”, Interview one, Police participant.

Majority of the TfL and Police participants agreed on the views that touting is a public safety issue because the vehicles may not be insured and the customers are likely to be sexually assaulted.

5.1.9 What are the implications of touting for TfL and Police?

The question was directed to TfL participants first to understand the implication of touting to TfL as a regulator. Twelve TfL participants suggested that the travelling public are unaware of the complexity of the touting issue and the perpetual circle of trying to resolve it. However, it is a reputational risk if the public perceived that TfL is not tackling the issue. Two of the twelve participants said:

"It is a reputation impact. As a regulatory authority, we are expected to solve the issue but the public doesn't understand the complexity of the issue", Interview fifteen, TfL participant.

"Damaging to our reputation because it's our job to ensure the trade is regulated", Interview seventeen, TfL participant.

The customers have high hopes and expectations on TfL to deliver a safe and secure door-to-door transportation in London. However, the customers are not aware of the complexity of the legislation and the difficulty TfL encounters every time they try to enforce the legislation. One participant suggested that the issue of touting has undermined the PHV (London) Act. Ideally, the customers would expect TfL Compliance Officers to be capable of undertaking anti-touting activities or deal with any T&PH related offences that could potentially jeopardise their safety. But if the Compliance Officers fail to deal with these issues due to the flaws in the legislation and lack of powers, the customers may lose confidence in the services and this could be detrimental for TfL.

Five participants suggested that it would have a negative impact on TfL's goal to deliver a safe and secure door-to-door transportation to the travelling public. One of the five participants said:

"TfL is responsible for regulating the trade and ensuring people get home safe", Interview nineteen, TfL participant.

TfL is a strong advocate of safety and security on public transport, it was also stated in TfL's business plan in December 2016 that *"Our goal is to create an environment where people are safe and feel safe, however, they choose to travel"*, TfL (2016, p.12). However, the PHV (London) Act poses a greater threat to TfL by preventing it

from robustly delivering its responsibility as a regulator. The last TfL participant argued the risks of unbooked journeys are not associated with PHVs only but also applies to the people that use taxis. If customers are not required to pre-book taxis, why should they be required to pre-book PHVs? The author explained the differences between London taxis and PHVs in section 1.1. It can be argued that customers are not required to pre-book taxis because taxis are regulated under different legislation. Taxis are very distinctive, easy to identify and taxi drivers are required to take two to four years of knowledge examination.

On the contrary, the two Police participants are of the opinion that touting issue has more implication to TfL than the Police. One of the two participants said:

“If we didn't have the TfL funded Police team, touting won't feature as one of our priorities”, Interview one, Police participant.

As discussed in section 2.4.1, TfL directly funds a dedicated team of 68 Police Officers, TfL (2016a). The Police participant suggested that touting would not have featured as a Police priority without this commitment. In addition, the analysis conducted by the institute of fiscal studies also shows that the number of Police Officers in England and Wales has reduced by 14%, between 2009 – 2016, IFS (2017, p.1). It can be argued that this reduction would have an impact on Police priorities and how they manage crimes.

5.1.10 What is the impact of the PHV legislation on illegal touting?

As explained in the background of the study, it became very important to regulate the PHI in the 80s because of the increase in the number of rape incidents reported in unlicensed vehicles. The aim of this question was to evaluate the impact of the PHV (London) Act in the PHI since introduced. Six participants suggested that the legislation has strengthened the licensing regime. This means that more journeys are being undertaken by licensed PHDs who have passed the DBS check. One of the six participants said:

“The introduction of the licensing regime has been more accepted but the criminal element still exists within the regime as they do in general”, Interview three, TfL participant.

The feedback to question 5.1.7 suggested that there are more licensed PH touts to unlicensed ones. This feedback supports the views that the legislation has encouraged more drivers to be licensed but it has not prevented the touting element. Nine participants suggested that there are so many flaws in the PHV (London) Act 1998 and it needs to be more robust with a clear delegation of enforcement powers to TfL Compliance Officers. They strongly believe that the introduction of the legislation has not prevented illegal activities in the industry; hence the legislation has not fully fulfilled its purpose.

Two of the nine participants suggested;

“No impact because the legislation actually increases touting and there are loopholes in every single section of the PHV 1998 Act”, Interview eight, TfL participant.

“Regulating the industry is a good thing but it’s more about public safety and needs powers to enforce it. We don’t have the power of arresting and recording interviews”, Interview nine, TfL participant.

These two views show that there are clear distinctions between regulation and enforcement. It can be argued that the legislation has encouraged more people to operate within the licensing territory but it has not stopped people from committing crimes. It is difficult to enforce legislation that has created many ways for suspects to get away with crimes. Three participants suggested that the legislation made it possible for TfL to prosecute licensed touts under section 2 of the legislation and that has reduced the number of licensed PH touts. However, the last participant does not have an opinion on this question. One of the two participants said:

“The legislation promotes the implication of touting and the legislation has helped to prosecute some drivers under section 2” Interview seven, TfL participant.

The two Police participants also agreed that the PHV legislation has not prevented PH touting but it has strengthened the licensing regime, which has helped to reduce the level of illegal activities in the industry. Most of TfL and Police participants are convinced that the PHV (London) Act has not prevented touting but it has encouraged more drivers and vehicles to be licensed and encourage more journeys to be made in licensed PHVs.

5.1.11 Do TfL Officers have the Power to deal with illegal touting?

Some of the key points TfL participants emphasised on in question 5.1.10 are the flaws in the PHV (London) Act 1998 and lack of enforcement powers for TfL Compliance Officers. The aim of this question was to establish if TfL Compliance Officers currently have any delegation of power within the PHV have (London) Act to enforce illegal PH touting.

Ten TfL participants suggested that TfL Compliance Officers do not have any power to deal with illegal PH touting because it is a criminal offence, which is dealt with by the Police. To enable TfL Compliance Officers to deal with touting, they will require the power to use a simple caution, seize vehicles and issue fixed penalty notices. As discussed in section 2.2.1, the Police caution is a simple caution but the Compliance Officer's caution is not. Two of the ten participants said:

"No, it's a criminal offence and it's not a regulatory offence and when someone isn't licensed at all, there's no sanction available other than a criminal offence", Interview three, TfL participant.

"There is no power under the 1998 Act to deal with touting but it's dealt with through prosecution. There's no delegation of authority to deal with touting or arrest or caution", Interview twelve, TfL participant.

Eight participants suggested that TfL Compliance Officers only have the powers to deal with licensed PH touts but the powers are very limited. They can prosecute licensed touts under section 2 of the PHV (London) Act but the prosecution process can take between 8 - 12 months. TfL should enact their powers under section 17 of the Transport for London Act 2008, which would allow the Compliance Officers to issue a fixed penalty notice (FPN) to taxis and PHVs. The last participant is not sure if they have the powers to deal with illegal touting. Two of the eight participants suggested that:

"Yes, but with perimeters, they can prosecute drivers under plying for hire offences but the hardest part is when it is an unlicensed driver or vehicle", Interview ten, TfL participant.

The two Police participants supported the opinion of the TfL majority that suggested that TfL Compliance Officers do not have the Power to deal with illegal touting. One of the two Police participants said:

“There’s no enforcement power within the 1998 Act to deal with touting, it is an offence under the CJPOA. They didn’t add it to the 1998 Act because there was already existing legislation for touting”, Interview two, Police participant.

It can be argued that the offence of touting has been in existence before the PHV (London) Act was introduced. As such, the offence was not deemed necessary to be included in the PHV (London) Act. As explained in section 2.1, the MPS was responsible for regulating the T&PH industry prior to the year 2000; hence most of the Acts that were introduced prior to the PHV (London) Act were formed based on Police powers. Therefore, the PHV (London) Act was formed to regulate the industry but not to enforce criminal activities.

5.1.12 How does TfL and the Police currently deal with PHV touting?

Some of the TfL participants mentioned in their feedback to question 5.1.11 that TfL prosecute touts under section 2 of the PHV (London) Act 1998. This question seeks to understand what other methods are used to deal with touting. Eight TfL participants suggested that TfL deals with PH touting by working in partnership with the Police, by sharing intelligence, joint operations and educating the travelling public. One of the eight participants said:

“Working in partnership with the MPS to deal with it, share intelligence and planned operation together to deter crime, the offences itself is dealt with by the Police”, Interview seventeen, TfL participant.

The fact that the Police deal with the offence supports the argument that TfL Compliance Officers do not have the power to effectively enforce touting without Police assistance. With the recently completed recruitment, TfL now boasts of more Compliance Officers and this outweighs the number of dedicated Police Officers available to support them. Having considered the number of existing TfL Compliance Officers to the number of TfL funded Police team, it would be ratio 4 to 1; this means one Police Officer to every four Compliance Officers. This calculation did not put into consideration any future reduction in the Police headcount, change in Police

priorities, staff sickness and annual leave. In essence, it can be argued that TfL has more resources and cover more areas in comparison to the dedicated Police team but they might not be as effective if they do not have powers to deal with all eventualities in the T&PH industry.

Another eight participants suggested that TfL only deals with licensed PH tout through regulatory actions byways of policy and prosecution. However, they need the Police support to deal with unlicensed PH touts because TfL Compliance Officers do not have the power to deal with it. One participant suggested that TfL does not deal with touting unless it is political. The last two participants suggested that because TfL does not have the power to independently deal with touting, it is difficult to measure how well they have succeeded in dealing with it.

The same question was put to the two Police participants and both of them suggested that they have the power to independently deal with both licensed and unlicensed PH touts. They deal with them by means of a criminal disposal option, arrest and prosecution. One of the two Police participants said:

“Majority of touts are arrested and cautioned or charged for touting”, Interview one, Police participant.

It can be argued that a Police caution is an effective method to deter drivers from touting. As explained in section 3.2, any driver issued with a simple caution can lose their PHD's licence and TfL has the authority to refuse a PHD's application if they have been issued a simple caution. In addition, the PHV (London) Act can be enforced by both the Police and TfL Compliance Officers but TfL Compliance Officer cannot enforce touting under section 167 of the (CJPOA).

5.1.13 How would you rate Police support to TfL?

As mentioned in the Police participant's feedback to question 5.1.9 that touting only features as Police priority because TfL fund a dedicated team of Police unit to support them. This question was only directed to TfL participants to rate the level of support they receive from the Police. TfL participants were asked to rate Police support on a scale of 1 – 10 (10 meaning excellent and 1 meaning poor) and the feedback was analysed in descending order in **Table 5.3**:

Table 5. 3 – Police Support Rating

Number of Participants	Rating out of 10
2	10
4	8
1	7
2	6
2	5
2	4
3	3
3	No comment

The majority of the participants rated Police support as 8 out of 10, this emphasised that their priority also includes preventing sexual offences in PHVs. On the other hand, this data is also presented using Mean and Median methods. Considering that there were 19 TfL participants, the median rating is 5, and the mean rating is 5.2. Therefore, this shows that TfL participants rated Police support as an average level of service.

5.1.14 What can be done smarter and differently to resolve the issue of PHV touting?

The aim of this question was to gather the experts' opinions on what can be done smarter and differently to resolve the issue of touting. Both TfL and Police participants generally agreed on four key areas that need improvement to resolve the issue of PHV touting. The four key areas are; PHV legislation review, TfL Compliance Officers empowerment, stronger sanctions and educating the travelling public.

The nineteen TfL participants and two Police participants suggested that the PHV legislation needs to be consolidated to reduce the complexity of the current status and make it easy to enforce. The PHV (London) Act 1998 should be reviewed to delegate more powers to TfL Compliance Officers, similarly to that of the TLC Enforcement Officers. A member of TfL and Police participants said:

“Consolidate law to reduce the complexity of the current status, encourage the public to change their behaviour, by supporting App based pre-booking system”, Interview fifteen, TfL participant.

“Review the legislation to give TfL Officers more powers like the Heathrow bylaw powers and the UKBA Officers powers within the immigration act”, Interview one, Police participant. Under section (section 165A), the Police have the power to seize any vehicle that is being driven without a valid insurance policy or driver’s licence with a fixed penalty notice of £300, Road Traffic Act (1988).

Two TfL participants suggested;

“Stronger sanctions or penalty for anyone caught touting. A minimum of a custodial sentence which will be more of deterrence for other people”, Interview four, TfL participant.

“Delegate powers to TfL Officers under the Road Traffic Act (section 165A) to seize vehicles for no HR insurance. Use TfL Powers under Transport Act 2008 to issue fixed penalty notices”, Interview twelve, TfL participant.

Under section (section 165A), the Police have the power to seize any vehicle that is being driven without a valid insurance policy or driver’s licence with a fixed penalty notice of £300. More importantly, they agreed that customers’ education is very important because most of them are not aware of the implication of using unbooked PHVs. Two of the TfL participants said:

“Customer education is very significant and driver education is very important too, publicity of sanctions as well would be helpful to deter drivers from touting”, Interview fourteen, TfL participant.

“Educating the passengers and the taxi fares could be made cheaper”, Interview nineteen, TfL participant.

Carroll (1978) hypothesis discussed in chapter two supported the view of interview nineteen, TfL participant. The hypothesis confirmed that 67% of the subjects were responsive to the fear of punishment. ACCP (1975) also suggested that knowledge of penalties can only act as deterrents if known by the offenders, and the best way to raise their awareness is by publicising the penalties.

Apart from the four key areas that gained general consensus, some TfL participants also expressed their views on other things that can be done to resolve touting. Three TfL participants suggested that more resources (staff) are needed to cover wider geographical areas in London and this will serve as deterrence to touts. Since completing these interviews in July 2017, TfL has recruited an extra 250 Compliance Officers as part of the Mayor's transport strategy for the T&PH industry. So, it can be argued that the issue of resources has been resolved. An additional three TfL participants suggested that the UK court of law should be more educated on the implication of touting to enable them to issue appropriate sanctions on perpetrators. It is also important to minimise the prosecution processing times to increase the number of cases and prevent suspects from working while the cases are awaiting trials.

One of the three participants said:

“Educating the court into what touting can lead to so they can start issuing appropriate penalties; a prison sentence should be introduced for repeat offenders”, Interview twelve, TfL participant.

One TfL participant and one Police participant suggested that specially built vehicles should be used as PHVs for easy identification and the commercial aspect of the trade should be regulated to prevent PHOs extorting legitimate PHDs for rents and commissions. They both said:

“Make PHVs more visible to customers for easy identification”, Interview sixteen, TfL participant.

“Have purposely built or dedicated minicab vehicles e.g. yellow vehicles in New York”, Interview one, Police participant.

The last TfL participant suggested that better transport at night would resolve the issue of touting. These interviews were completed in July 2017, but the night tube started in August 2016.

5.1.15 Has the night tube minimised PHV touting?

As part of the feedback in response to question 5.1.14, the last TfL participant suggested that better transport at night would resolve the issue of touting and the night tube was introduced in August 2016. The aim of this question was to gauge if the night tube has made any significant changes to the touting issue. Thirteen TfL participants suggested that the night tube will not minimise PHV touting but the issue will be displaced to the end of the tube lines, which will be more dangerous. They also think there are certain areas that did not benefit from the night tube (e.g. Bromley, Bexley and Greenwich). Some drunken customers will not use the tube because they are only interested in door-to-door transportation. Two of the thirteen participants said:

"Not at all, the reason being people don't want to walk anywhere when they are pissed and the night tube only runs Friday and Saturday, London is busy every day", Interview fifteen, TfL participant.

"No, it will increase touting because touts will be plotting outside tube stations to pick passengers", Interview eighteen, TfL participant.

However, six TfL participants suggested that the night tube would help minimise PHV touting in London because the night tube serves as an alternative transport for the customers willing to use it. Furthermore, the two Police participants supported the views of the TfL majority that the night tube would displace the problem to the end of the tube lines. One of the two Police participants said;

"No, I don't think it will but it will move touting away from central London", Interview two, Police participant.

After carefully analysing the feedback from both TfL and Police participants, it is reasonable to conclude that they shared similar views in certain areas and differing views in others.

In summary, all the participants agreed that touting is a problem in London and the author also conducted an observation outside a night venue that confirmed these views. The majority suggested that the key factor that promotes touting is the complexity of the PHV (London) Act 1998. The legislation is also perceived as too

complicated for the customers to understand and too ambiguous for TfL to enforce. The majority suggested that the introduction of the app booking system and the collaboration between TfL and the Police have reduced touting in the last five years. The majority agreed that more journeys are made in licensed PHVs but the criminal element of touting still remains. Finally, the participants identified four different areas that need improvement: PHV legislation review, TfL Compliance Officers empowerment, stronger sanctions and educating the travelling public. It was very intriguing to listen to the views of the people that are directly involved in the day-to-day management of the organisation and industry. While they work in the same environment, they have different views of how the issue of touting can be tackled.

The interviews conducted with TfL and the Police participants have been productive but it is also important to understand the views of the customers that use PHVs on a daily basis. The next section of this chapter focuses on the surveys conducted with the customers.

5.2 PHV customer or passenger surveys

While analysing the feedback from the experts' interviews, some references were made to the customers. An example is feedback to question 5.1.4, 31.56% of TfL participants suggested that touting is still a problem because the customers do not understand the process of how PHVs operates in London. One of the participants said:

“It is a problem because tourists and people do not know the laws of the country and young people want a cheap ride home”. Interview one, TfL participant

Therefore, this research would benefit from gaining an insight into the customers' perspective, particularly on the London PHV legislation and practice.

The customer surveys ran from 2 February 2017 – 27 July 2017 and the purpose of the survey was to establish the customers' understanding of how they pre-book PHVs at the end of the night and their level of confidence in identifying legitimate PHS. The surveys were conducted with 63 customers during the night time economy in the Westend but only 58 customers fully completed the questionnaire. The feedback from the survey respondents is analysed below. It is also important for the readers to understand that PHV means minicab and the author used the word

“minicab” in this survey because the customers relate more to it compared to PHV, this would minimise any confusion.

5.2.1 Respondents gender

There were 72.4% female respondents and 27.6% male respondents. The analysis conducted by TfL in 2006 shows that "nearly 50% of tout victims were aged 24 or under and 91% of victims were aged 35 or under", TfL (2006, p. 6). As a result of this, the author decided to engage with more females in order to raise their awareness of the danger associated with PH touts.

5.2.2 Respondents age group

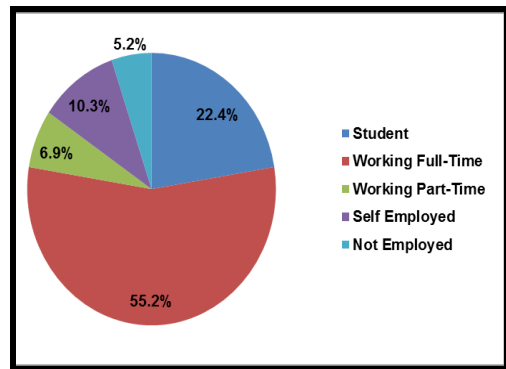
As part of the surveys, it was not mandatory for participants to specify their age, but they were required to select their age brackets which are presented below in **Table 5.4**.

Table 5. 4 – Respondents age group and gender

Age Brackets	Male	Female	Total	Total %
18 – 24	4	12	16	27.6%
25 – 34	3	25	28	48.3%
35 – 44	6	4	10	17.2%
45 – 54	2	1	3	5.2%
55 – 64	1	0	1	1.7%

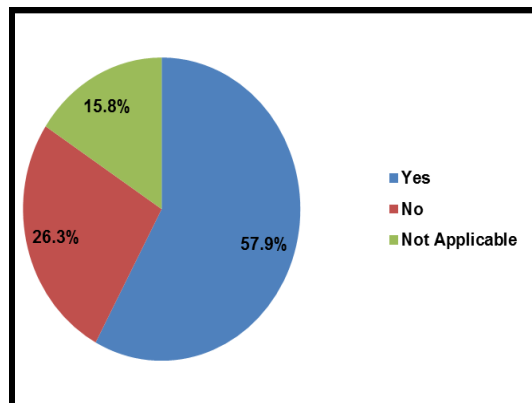
Table 5.4 shows that younger people between the ages of 18 – 34 participated more in the survey. This is likely because they visit the Westend more during the night-time economy and they are more interactive. Ages 25-34 gained the majority of 48.3%, followed by ages 18-24 with 27.6%.

5.2.3 Respondents Employment Status



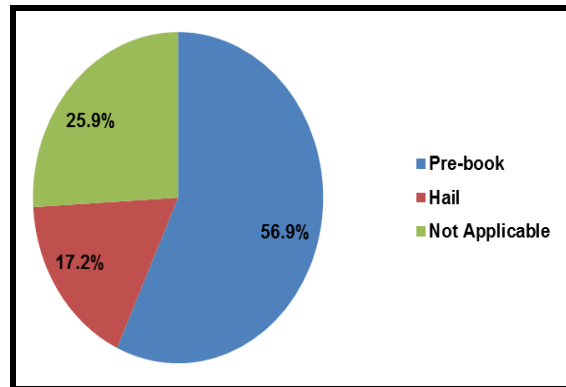
The above chart shows that students and people working in full-time employment contributed more to the surveys. The percentage of student respondents was 22.4% and full-time workers were 55.2%. The respondents' employment status reflect on the age categories of the respondents. A high percentage of students fall between the ages of 18-24 and full-time workers fall between the ages of 25-34.

5.2.4 Do you use minicabs after a night out in the Westend?



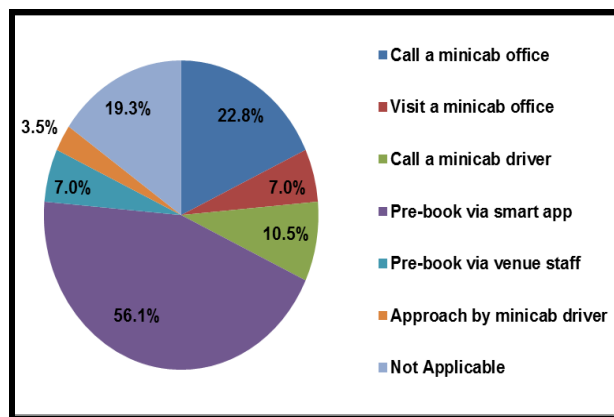
The above chart shows that majority of the respondents (57.9%) use minicabs after a night out in the westend, 26.3% of respondents do not use minicabs after a night out but they use it occasionally when needed hence they agreed to complete the survey. However, 25.8% of respondents selected not applicable, this may be because they do not use minicabs but use other modes of transportation.

5.2.5 Do you hail or pre-book a minicab?



The above chart shows that majority of the respondents (56.9%) pre-book their minicabs but 17.2% of respondents still hail minicabs. As explained in table 1.2, it is a breach of the legislation for minicabs to ply for hire or be hailed by customers on the roadside. The 17.2% of respondents that hail minicabs may fall in the category of customers that are oblivious of how PHVs operates in London.

5.2.6 How do you pre-book your minicab?



The respondents were permitted to select multiple answers to this question. The above chart shows that majority of respondents (56.1%) pre-book their PHVs through an app booking system. In response to question 5.1.5, TfL participants also suggested that the introduction of the app booking system has encouraged more customers to legitimately pre-book PHVs.

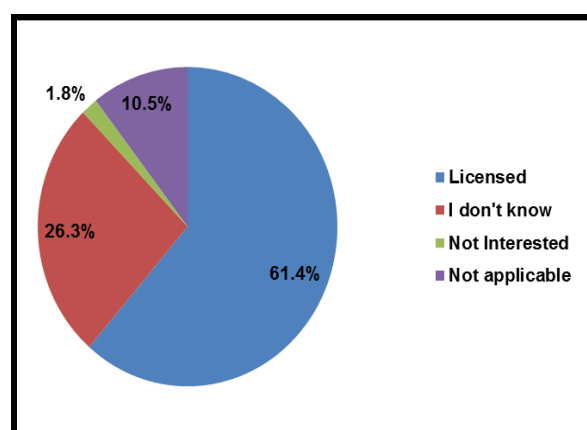
Despite the fact that 22.8% call a minicab office and 7.0% of the respondents visit the minicab office directly, it is evident that technology has improved the customers' experience and the way they pre-book PHVs. Technology may have improved the

customers' experience but the PHV (London) Act has not kept up with this improvement. The T&PH trades argued that the app-based booking system allow the customers to monitor PHVs in their environment in real-time. This can be regarded as "Plying for Hire" and the customers can approach and book the PHVs without going through a licensed PHO.

As explained in section 1.2, the case of TfL Vs Uber also demonstrated how the app-based booking system has posed some legal challenges in the PHI. It was argued that because the app is used to calculate customer fares, it could be regarded as a meter and PHVs are not permitted to use a meter as stated in section 11 (1) of the PHV (London) Act 1998. TfL had to seek clarification from the High Court before this case was resolved.

The categories of respondents that call the minicab drivers directly (10.5%) and the ones that waited to be approached by minicab drivers (3.5%) are clearly not adhering to the PHV (London) Act. The rest of the 7.0% of respondents that pre-book their minicabs through the venue staff may have booked it legitimately if there is a PHO at the venue or there is a direct phone line which is linked to a PHO's office. Overall, the chart shows that the app booking system has improved customers experience because of their preferred method of pre-booking minicabs, but this did not come without some challenges to TfL and the PHV (London) Act 1998.

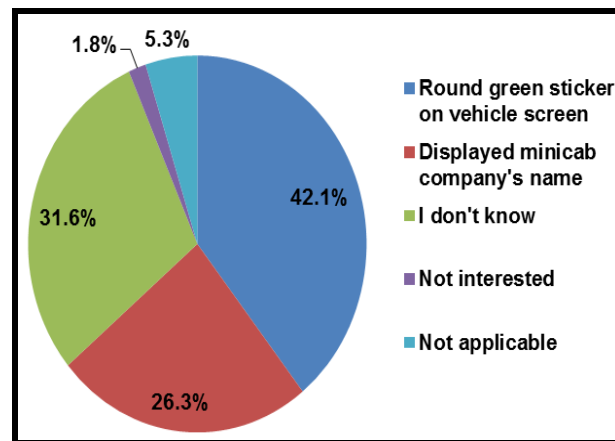
5.2.7 Do you often board a licensed or unlicensed minicab?



The above chart shows that majority of respondents (61.4%) are confident that they use licensed minicabs. On the contrary, 26.3% of respondents seem unaware if they use licensed or unlicensed minicabs. This could be because they pre-booked the

minicab through a PHO and they automatically assumed the minicab is licensed, or they are unaware of how minicabs operate in London. In addition, some of the customers may be worse for wear and forget to check if the minicabs are licensed. It is important that the customers are aware of how to undertake spot checks on the drivers and vehicles to ensure they are licensed. Although the changes to the PHV regulation in 2016 has made it mandatory for PHOs to send the details of PHDs and PHVs to the customers in advance, this was discussed in section 2.3.4. However, the customers should still be aware of how to check those details when boarding the PHVs.

5.2.8 How do you identify a licensed minicab?

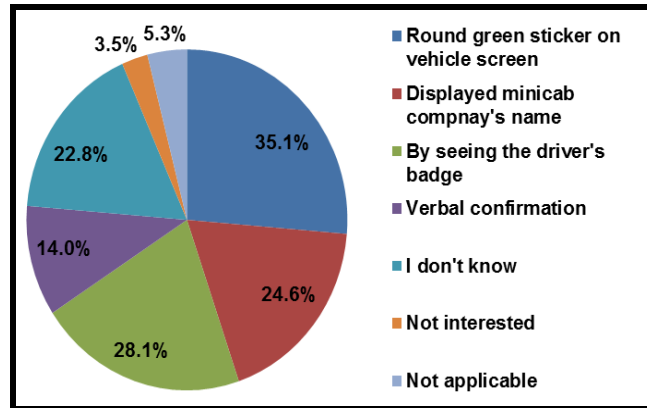


In question 5.2.7, 61.4% of respondents are confident that they use licensed minicabs. The above chart shows that only 42.1% of respondents know how to identify licensed minicabs. The round green stickers on the front and rear screens of the minicabs are the vehicle licences, this was discussed in section 3.3 and shown in **Figure 3.1**.

The fact that only 42.1% of respondents know how to identify licensed minicabs creates doubts that 61.4% of respondents actually use licensed minicabs. Furthermore, the respondents were permitted to select multiple answers, as a result of this 7.1% of the 42.1% respondents that selected the round green stickers option also selected 'displayed minicab company's name'. So in essence, only 35% of respondents are able to correctly identify licensed minicabs. If the author disregards the 5.3% of respondents that selected not applicable, 26.3% selected displayed minicab company's name, 31.6% selected I don't know and 1.8% selected not interested, this means that 59.7% of respondents cannot identify a licensed minicab.

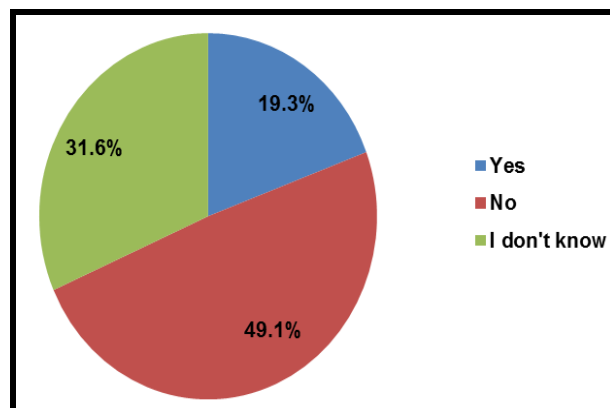
This is a high percentage, which can be argued that some customers are potentially using unlicensed minicabs.

5.2.9 How do you identify a licensed minicab driver?



This question appears similar to question 5.2.8 but they are different. As discussed in section 3.2 and 3.3, a minicab vehicle licence is different from a minicab driver's licence but people often think they are the same. The above chart shows that only 28.1% of respondents know how to identify a licensed minicab driver. The majority of the respondents (35.1%) use the same principle that was used to identify a licensed minicab vehicle, which is totally wrong. This could be misleading and the customers may potentially end up with an unlicensed minicab driver driving a licensed minicab. There is another group of 22.8% of respondents that are totally unaware of how to identify a licensed minicab driver. In essence, 66.6% of respondents are not aware of how to identify a licensed minicab driver. This is a high percentage, which can be argued that some customers are potentially making journeys with unlicensed minicab drivers.

5.2.10 Are all licensed minicabs driven by licensed minicab drivers?



The above chart shows that a large number of respondents (49.1%) are fully aware that not all licensed minicabs are driven by licensed minicab drivers. As discussed in section 1.0, licensed minicabs are transferable and can be driven by anyone. On the contrary, 19.3% of respondents assumed that licensed minicabs are always driven by licensed minicab drivers. There is another group of respondents (31.6%) that do not know the answer to this question. Therefore, if the percentage of respondents that do not know the answer is added to the respondents that said “Yes”, it can be argued that 50.9% of respondents are potentially at risk of using illegal minicabs. Again, this supports the argument that customers need to be educated to raise their awareness of illegal minicabs.

In summary, after careful analysis of the survey feedback, it becomes very apparent and obvious to what extent the customers lack the knowledge of the PHV (London) Act and practice in London. It is interesting to know that more customers are legitimately pre-booking their minicabs with the help of an app booking system. The app booking system has arguably improved the customers' experience but it has also posed some challenges to the PHV (London) (Operators' Licences) Regulations 2000 and the PHV (London) Act 1998. As specified in the PHV (London) (Operators' Licences) Regulations 2000, all PHV bookings are required to be accepted and kept at a designated PHO's office. But with the introduction of the app booking system, it is becoming more challenging to prove this, especially with the way technology works. It is really paramount for the customers to be educated on a basic understanding of the risk associated with illegal PHVs. This is crucial at this stage because the customers play key roles in the industry and no amount of legislative review and delegation of powers to TfL can resolve this issue without the customers' involvement and knowledge of the legislation.

The crime triangle theory discussed in section 2.2.1 also suggested that if one of the elements of the illegal minicab crime triangle were eliminated, the crime would disappear. In this case, if the customers are well educated and stop using illegal minicab services in London, then illegal drivers will cease trading. This can also change the attitude of the illegal drivers and encourage them to become legal.

5.3 PHD surveys

Following the feedback from the customer surveys, it is very evident that the customers need to be better educated on the basic aspect of the PH practice in

London. The challenges posed by technology have also made the majority of the PHV (London) Act obsolete and not fit for purpose. The PHD surveys ran parallel with the customer surveys and the purpose of the survey was to understand from the drivers' perspective, why they think customers are vulnerable to touts. The author distributed the survey to 25 drivers observed sitting in licensed PHVs at night in the Westend but only 24 PHDs fully completed the questions. As part of the familiarisation with the drivers, the author established the challenges the drivers' encounter; 95.8% of the drivers raised their concern about the excessive number of licensed PHDs and PHVs in London, which has made it extremely difficult for them to earn a living. This situation has frustrated many PHDs to join Uber while some of them end up becoming touts. This discussion was not part of the survey questions but it was intriguing to get a first-hand understanding of some of the challenges the PHDs encounter.

Similar to the customers' survey, the author used the word "minicab" in this survey because the drivers relate more to this terminology, this would minimise any confusion. 100% of the drivers that participated in the surveys were male. This does not mean that there are no female drivers; there are few but the author did not come across any as part of this process. The rest of the feedback is analysed below.

5.3.1 Respondents age group

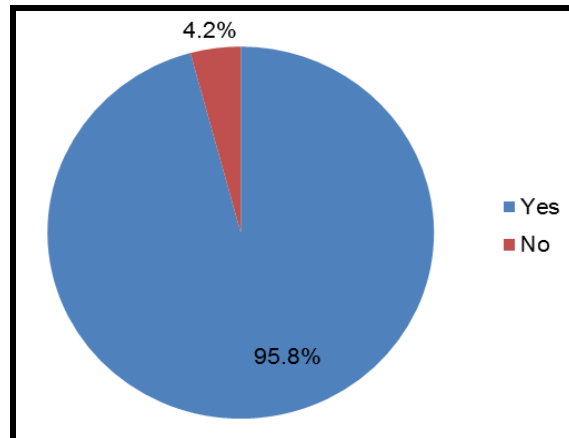
As part of the surveys, it was not mandatory for respondents to be specific about their ages, but they were required to select their age brackets which are presented below in table 5.5.

Table 5. 5 – Respondents Age Group

Age Brackets	Number of Respondents	Percentages
18 – 24	0	0%
25 – 34	2	8.3%
35 – 44	10	41.7%
45 – 54	10	41.7%
55 – 64	2	8.3%

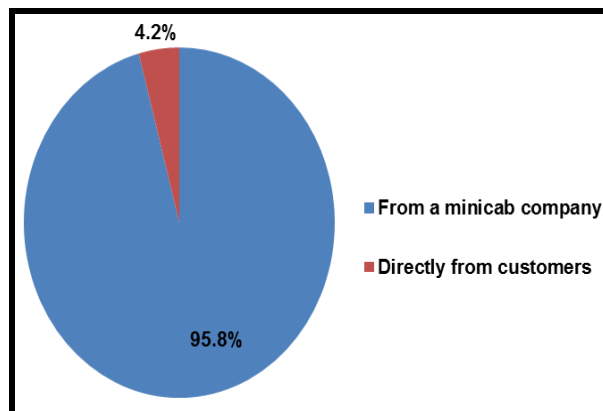
The above chart shows that majority of the respondents are middle-aged (or close to middle-aged) men between the age of 35-44 (41.7%) and 45-54 (41.7%). This is likely because there are more middle-aged people working in the PHI.

5.3.2 Do you hold a minicab driver’s licence?



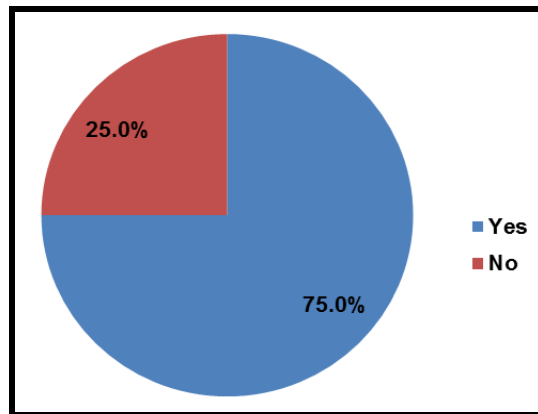
The above chart shows that 95.8% of the respondents hold a minicab driver’s licence but 4.2% of respondents were observed behind the wheel of a licensed minicab vehicle without a minicab driver’s licence. The 4.2% of respondents agreed to be a minicab driver even without a minicab driver’s licence. This supports the argument that unlicensed minicab drivers are permitted to drive licensed minicabs but they are not permitted to trade in the capacity of licensed minicabs. The 4.2% of respondents could arguably be a tout. This is misleading and a potential risk for the group of 17.2% respondents who hail minicabs in question 5.2.5 and 59.7% of respondents who are unaware of how to correctly identify licensed minicab drivers in question 5.2.9.

5.3.3 How do you get your minicab bookings?



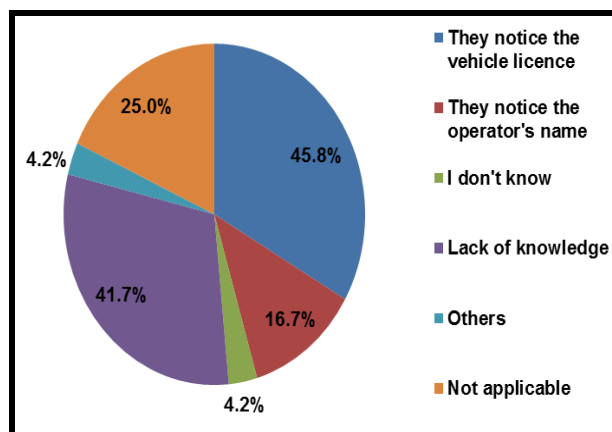
The above chart shows that 95.8% of respondents get their bookings through a licensed minicab office but 4.2% of respondents receive their bookings directly from the customers. This could be through a phone call or being approached on the street during the night time economy.

5.3.4 Do you get approached on-street by people who want minicab service?



The above chart shows that 75.0% of respondents confirmed that people who want minicabs approach them. The author also observed quite a number of minicabs waiting outside night venues, tube stations and hotels. It can be argued that parking minicabs in high profile locations where they are visible to customers can encourage touting.

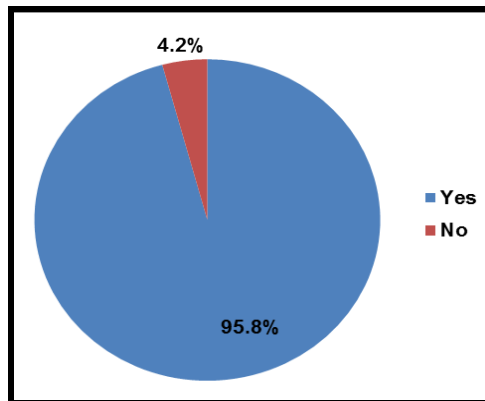
5.3.5 Why do you think people approach you?



The respondents were permitted to select multiple answers to this question. The above chart shows that 45.8% of respondents think people approach them because they notice they are licensed minicabs. In addition, 41.7% of respondents think

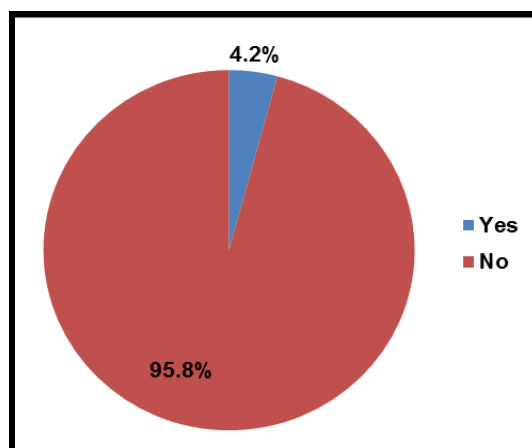
people approach them because they lack the knowledge of the PHV legislation, and 16.7% think people approach them because they notice the name of a minicab firm on the vehicle. If the author disregards the 25.0% of respondents that selected not applicable, this means that 75.0% of the customers are not aware that they should not be approaching minicabs on-street.

5.3.6 Do you carry or display your driver's badge at all times



The above chart shows that 95.8% of respondents usually carry or display their badges at all times but 4.2% of respondents do not carry or display their badges. The author also observed the minicab drivers displaying their badges and this could be regarded as good practice as they are complying with the PHV legislation.

5.3.7 Do customers request to see your driver's badge?



The above chart shows that 95.8% of respondents suggested that customers never request to see or inspect their badges. The customers may not be aware that they are permitted within the PHV (London) Act to request to see a driver's badge. It is important for a customer to always request to see a PHD's badge when boarding a

minicab. They are more than likely to see the driver's company issued identity card, which has no legality, instead of the PHD's badge.

In summary, it became very apparent that touts and the increasing number of PHVs in London also pose some challenges to PHDs. The issue of increasing numbers of PHVs has increased the number of PHDs joining Uber to guarantee continuous work. Some of the drivers that could not afford to join licensed PHOs have resolved to tout. It appears that PHDs are fully aware that most customers lack the knowledge of the legislation and some of them are willing to exploit their weakness for easy money or sexual gratification.

Chapter Six

Findings and Recommendations

6.0 Overview

This chapter focuses on some of the key findings of this research that highlights the complexity of policing illegal PH touts in London. This chapter underpins the fact that the PHV legislation and regulations are too complex and confusing. During the course of this research, it was evident that one of the consequences for customers using illegal PHV is sexual harassment. However, the introduction of the PH app booking system has increased the number of customers that use legitimate PHVs. While the app booking system may have positively influenced the customers' attitude, it has also created additional gaps in the PHV legislation. The app concept has created an avenue for technology experts and companies to create a PH booking platform that accepts PH bookings without a PHO's licence. This is a new method used to legitimise PH touting with the help of technology.

6.1 General findings

PHVs *"are the most dangerous way to travel"*, Sanderson (2009, p. 35).

With the author's experience of the PHI, it was clear from the beginning that PH touting is a problem in London, which has been confirmed by this research. The preceding chapters in this research were able to establish that touting is a criminal offence and victims of touts can be subjected to unwanted sexual behaviour. TfL Compliance Officers work in partnership with a TfL funded Policing team to tackle this crime in London. While the PHV (London) Act has clearly promoted the licensing regime of the PHI, touting has undermined the licensing process and TfL Compliance Officers do not have a delegation of Police powers to undertake anti-touting enforcement. TfL may have devised a policy to prosecute illegal PH touts under section 2 of the PHV (London) Act but this is discretionary and involves protracted court procedures.

"..... clear legislation, firmer enforcement of the regulations and stricter reprimands for those breaking the law", SDG (2015, p.1) and TfL (2015b, p.8).

"..... lack of any serious enforcement of legislation in London is placing the public at risk", GLA (2014, p.39).

As discussed in section 2.3 and 2.4, TfL and GLA conducted a number of reviews into the PHI in 2014 and 2015. One of the outcomes of the reviews strongly demands the overhaul of the PHV (London) Act. It was suggested that the ambiguities in the legislation and the persistent change in technology has rendered the legislation obsolete. While the author may agree with this suggestion, the aims of these reviews were more focused on PHO and PHD. These reviews did not clearly identify the flaws in the legislation and neither did it explore in great detail how the legislation can be improved to make enforcement and prevention measures more robust.

Nonetheless, the 2015 review strongly emphasised the importance of increasing the number of TfL Compliance Officers to improve the high visibility of uniformed Officers, better coverage and promote customer safety. Since this review, the number of TfL Compliance Officers has increased by 250 but their powers are limited as defined under section 36 of the PHV (London) Act. Since the author started this research, TfL has received permission from the MPS to use limited powers under the CSAS accreditation scheme to deter and disrupt but it was argued that those powers would not be sufficient to effectively undertake anti-touting activities. In essence, TfL Compliance Officers still need the support of TfL funded Police team to undertake anti-touting activities in London. The changes to the regulation were embraced by PHOs; this means that customers would be able to receive their PH booking confirmation in advance with the details of the PHV and PHD. While the author may agree that this is a reasonable preventive measure to improve the customer's safety, more work needs to be undertaken to promote the customer's sense of security due to the increasing number of sexual harassment cases reported in taxis and PHVs in London.

6.2 Specific findings and Recommendations

The specific findings are focused on the following five key areas: powers and policing the PHI, PHO regulation and technology, PHV and PHD regulations, PH standard and practice and PH customers.

6.2.1 Powers and policing the PHI in London

As discussed in section 2.2.3, partnership working is regarded as one of the best methods used in modern policing to reduce crime and increase public protection. Partnership working encourages collaboration, improved information sharing and coordinated action to evaluate, govern and mitigate risk, CoP (2015). TfL uses the partnership approach in policing illegal PHVs in London. It was evident that

partnership working between TfL and the Police has reduced illegal activities by using a coordinated approach called the Safer Travel at Night (STaN) campaign. The objective of STaN is to prevent illegal activities in the PHI and also raise the awareness of the travelling public about the implication of using unbooked PHVs in London. TfL directly funds a dedicated team of 68 Police Officers known as the (T&PHPU), TfL (2016a). TfL and the Police delivered multiple roadside operations that led to over 170 arrests of T&PH drivers in 2014, TfL (2014a). TfL started this initiative in 2003 and their collaboration with the Police has seen over 8,000 arrests for touting and other T&PH related offences, TfL (2014b). This considerable level of arrests was only possible because the TfL Policing funded team were involved in these operations and they were able to use their powers to undertake anti-touting activities. They have supported TfL in enforcing offences the Compliance Officers are not empowered to enforce and without this commitment, touting would not have featured as one of their priorities.

“If we didn't have the TfL funded Police team, touting won't feature as one of our priorities”, Interview one, Police participant.

The Police funding has a cost implication to TfL's budget and despite TfL's financial commitment; the priorities of the dedicated Police team can change due to other emerging issues in London. The number of Police Officers in England and Wales has reduced by 14%; the significant reduction of the Police budget and workforce in recent years has contributed to changes to Police priorities, IFS (2017). Scotland Yard also announced its intention to save approximately £400million by 2020, BBC (2017a, p.1). As a result of this additional saving, the Mayor of London has set out his plans to close more Police stations in London, this will change the dynamics of how crimes are reported and tackled. With the pressure on Police budget reduction and changing priorities, touting may not feature as one of the Police priorities by 2020. It would be challenging for TfL Compliance Officers to undertake anti-touting activities without sufficient powers and support from the specialist Policing team.

Furthermore, the author spoke to a Senior Licensing Officer (SLO) in Crawley council to gain an insight into how their police partnership arrangement works. Crawley is in West Sussex; England and they regulate their T&PH under the 1976 Act. They have approximately 573 PHVs and 124 Taxis; these figures are relatively small in comparison to the number of PHVs and Taxis operating in London but it is relevant. The SLO admitted that Crawley is also experiencing the issue of PHV touting and

they regularly work with the local Police Officers to undertake anti-touting activities. However, they are not committed to any Police funding or contract to guarantee continuous support from the Police. They have a mutual agreement with the Police and other enforcement agencies to collectively tackle the issue of touting in their area. The Police mutual agreement in Crawley without any financial commitment has questioned Police practice in London. Undoubtedly, touting is a public safety issue and it falls under the jurisdiction of the Police, why should they be funded by TfL to prevent crime in the T&PH industry?

Historically, it can be argued that the Police were responsible for regulating the taxi industry from 1850 to 2000 and most of the taxi legislation was enacted in line with Police enforcement powers before the PH legislation came into effect. However, when TfL took over in the year 2000 as the new transport regulator, TfL was not given the same level of enforcement powers used by the Police to regulate the T&PH industry. The importance of the enforcement powers was also not considered when the PH legislation was enacted, that is why TfL still relies on the Police after 19 years of being the transport regulator. Not to mention that the numbers of licensed PHVs and PHDs have increased tremendously over the years and it was argued that this growth has resulted in an excessive supply of PHVs, which may have increased the number of PH illegal activities in London. If no collective and effective actions are taken, the Police team will not have the capability to deal with illegal activities in the PHI. This is why it is important to consider the option of better empowering TfL Compliance Officers to be able to effectively police the PHI in the 21st century with less or no support from the Police.

Notwithstanding, the increase in the number of Compliance Officers has improved the level of T&PH Compliance in London. TfL Compliance Officers are now deployed 24/7 to cover wider geographical locations and that has increased the numbers of PHDs and PHVs inspections. However, the Compliance Officers have limited powers to effectively enforce illegal touting in the PHI. Most people that participated in the research interviews strongly emphasised on the lack of powers for Compliance Officers and their limitation within the T&PH industry.

“There is no power under the 1998 Act to deal with touting but it’s dealt with through prosecution. No delegation of authority to deal with touting or arrest or caution”, Interview twelve, TfL participant.

Clearly, TfL Compliance Officers would be more productive if they are empowered within the PHV (London) Act or by devolving relevant Police powers that will be useful to enforce illegal activities in the PHI. TfL Compliance Officers will benefit from powers to seize vehicles used by touts, issue fixed penalty notices and many more. Furthermore, TfL commissioned a public consultation in 2015 to gather the views of the public on PHV regulations, two important feedback from the participants were; lack of enforcement and the difficulty to enforce the current legislation, SDG (2015) and TfL (2015b). Mainly, touting is a criminal offence, which is enforceable by the Police but it can lead to a reputational risk for TfL if the Compliance Officers are perceived as not dealing with it due to the lack of enforcement powers.

Despite the lack of enforcement powers, TfL has devised the means of prosecuting licensed drivers reported for touting and section 2 offences. In 2014 and 2015, TfL summoned 48 T&PH drivers to court but only 15 were convicted, TfL (2016a). The frustrating aspect of the prosecution is the delay in the court processes and the lack of tougher sanctions. Based on the feedback from TfL participants, the minimum duration to process a prosecution case is between 8 to 12 months. During this period, the driver is permitted to continue working until the outcome of the case. On the contrary, the Police can either use a simple caution or prosecute licensed and unlicensed drivers for touting. While TfL Compliance Officers may not be permitted to use a simple caution in the same context as a Police Officer, similar powers can be incorporated in the PHV (London) Act or policy that allows a Compliance Officer's caution to attract the same level of sanction as a Police's simple caution for licensed T&PH drivers. This would save court costs and time, which would serve as deterrence for touting and Compliance Officers would be more productive and effective.

Some recommendations to resolve this issue are listed below and these recommendations are based on the research analysis discussed in chapter five. The responses to question 5.1.11 show that both TfL and Police participants agreed that TfL Compliance Officers do not have the powers to undertake anti-touting activities. Their responses to question 5.1.14 suggested that the legislation should be reviewed to better empower TfL Compliance Officers to undertake anti-touting activities. Recommendations 1 - 4 explains how TfL Compliance Officers can be empowered, develop a robust sanction matrix, educate the stakeholders and introduce a smart partnership working.

Recommendation 1 - Improve enforcement powers

TfL Compliance Officers can independently manage and enforce anti-touting activities if they have the delegation to use the following enforcement powers:

- Delegation of authority under section 16 of the PHV (London) Act 1998, to immediately suspend the licence of a PHD and PHV in breach of section 167 (1) of the CJPOA (1994) and section 2 of the PHV (London) Act 1998. Section 167 (1) relates to the offence of touting for car hire services and section 2 relates to the offence of accepting PH booking without a PHO's licence. The delegation of authority under section 16 can also be used to suspend the licence of PHVs that are deemed as unfit to be driven on London roads
- A delegation of authority under the Road Traffic Act 1988 (section 165A), to immediately seize any vehicle used to breach section 167 (1) of the CJPOA (1994) and section 2 of the PHV (London) Act 1998. The H&R insurance policy of the vehicle used to breach these two sections of the legislation would be invalid. Under section (section 165A), the Police have the power to seize any vehicle that is driven without a valid insurance policy or driver's licence
- The delegation of authority to use a simple caution for any person in breach of section 167 (1) of the CJPOA (1994) and section 2 of the PHV (London) Act 1998. As explained in section 2.2.1, a simple caution is a formal alternative to prosecution. Therefore, by allowing TfL Compliance Officers to administer a simple caution or a similar sanction to any person in breach of section 167 (1) and section 2, will minimise the existing protracted court procedures and serves as a deterrence to offenders
- The delegation of authority to stop and inspect licensed and unlicensed PHVs suspected to be in breach of section 167 (1) of the CJPOA (1994), section 2 of the PHV (London) Act 1998 and road traffic offences (e.g. use of a mobile phone while driving). The authority should include the power to demand and verify the name and address of the driver of the vehicle (licensed or unlicensed)
- TfL should enact the power under sections 17, 18 and 19 of the TfL Act 2008, which allows TfL Compliance Officers to issue fixed penalty notices for T&PH

offences. The regulatory pyramid suggests that a civil or fixed penalty should be considered first to persuade offenders to regain compliance, followed by a criminal penalty. This will minimise the existing protracted court procedures and serves as a deterrence

Recommendation 2 – Clear and consistent sanction matrix

- TfL should create a robust licensing and enforcement sanction matrix that clearly explains the punishment for failure to comply with the legislation, regulations and policies. This matrix should define the breaches and actions for failure to comply, which may result in a caution, fixed penalty notice, prosecution, licence suspension or licence revocation. The sanction matrix should be publicised for clear accountability, credibility and consistency. This will serve as deterrence to offenders as suggested by the rational choice theory and promote compliance as suggested by responsive regulatory theory

Recommendation 3 – Educate the stakeholders

- TfL should educate the UK court system about the risks associated with touting to prompt them to hasten the prosecution process and issue tougher sanctions. Touting can lead to sexual harassment with detrimental impacts on the victims. They can increase the level of sanctions issued to any person convicted of touting, and custodial sentences should be considered for repeat offenders
- TfL should develop a training programme for Police Officers in the 32 boroughs and the City of London. The training should educate them on how to identify and report illegal activities in the T&PH industry. While touting may not be at the top of their priorities, they should be able to tackle such offence as part of their responsibility to public safety
- TfL should publicise the powers of the Compliance Officers in the public domain and social media, including the powers that are delegated through the CSAS accreditation scheme. This will manage the expectation of TfL's stakeholders and increase the awareness of the customers

Recommendation 4 – A smart partnership with Police and Local Authorities

- The Police should share real-time information with TfL about PHDs that are cautioned or convicted for touting or sexually related offences in accordance

with the Data Protection Act 1998 and the Human Right Act 1998. The real-time information sharing arrangement will keep TfL informed of such drivers when they apply for a new or renew their existing PHD's licence. This will minimise the risk of issuing a PHD's licence to sexual predators and criminals

- TfL should establish a mutual partnership arrangement with local authorities to promote more collaborative working. TfL Compliance Officers can work in partnership with the Civil Enforcement Officers (CEO) to impose penalties on PHVs illegally parked in high profile areas. This will deter the PHVs from plying for hire in high profile areas and prevent the customers from approaching illegally parked PHVs

6.2.2 PHO regulation and technology

“Touting has reduced because of the introduction of the App based booking system”, Interview two, TfL participant.

The feedback from the interviews and customer surveys shows that the app booking system has reduced touting and increased the number of journeys made in licensed PHVs in London. A popular PHO that uses the app booking system is Uber, TfL first issued a PHO's licence to Uber in 2012. They have attracted over 40,000 drivers and half a million customers. By using the app, customers can check the availability of PHVs in the area, pre-book PHVs and monitor them in real time. The app booking system had some challenges in 2015 when the app was referred to as a taximeter in the TfL Vs Uber case. This is due to the flaw in section 11 (1) of the PHV (London) Act 1998 and the inability for the legislation to keep up with the technology changes. Nonetheless, the court was able to clarify that the app booking system is not a taximeter. However, there is a strong argument by the T&PH trade that the fact that customers are able to view the availability of PHVs through this app could be regarded as “plying for hire” or making provisions. As explained in section 1.1, section 2 (1) of the PHV (London) Act (1998, p.2) states; *“No person shall in London make provision for the invitation....”* Arguably, this section referred to a person but not an app, so it appears that this app is not in breach of section 2. This issue is still very controversial and as shown in table 1.2, only London taxis are permitted to ply for hire in London.

As explained in section 3.1, it is TfL's responsibility to ensure that PHOs are adhering to the legislation, regulations and all relevant policies. One of the conditions of a PHO

is to ensure that all PH journeys are booked at the PH operating centre specified in the PHO's licence. This is the requirement set out in section (11) of the PHV (London) (Operators' Licences) Regulations 2000. But with the involvement of technology, it is extremely difficult for TfL to prove this as part of their periodic retrospective compliance inspection, especially the bookings that are made through the app booking system. This is difficult to prove because there is no human interaction between the customers and the PHO during the booking process, other than the customers' interaction with the PH app booking system. A technology expert would be required to understand the process of how the bookings are transferred from the app to the back-office system to prove that these journeys are booked at the PHO centre. The PHO inspection process was not this complicated when customers were making PHV bookings over the phone or in person because that involved human interaction and it can be proven that the journeys were booked, accepted and recorded at the PHO's centre.

"Uber concealed hack that affected 57 million customers and drivers", Boland (2017, p1).

As discussed in section 1.2, Uber is one of the major PHO that introduced the app booking system in London. Despite the fact that they introduced this system to the PHI, their database system was hacked and the hacker stole information relating to 57 million customers and 600,000 drivers, Boland (2017, p1). Uber failed to disclose this incident to the customers and they could not clearly identify which customers or drivers were affected as a result of this incident. This is because Uber has licences to operate in different cities and countries. System hacking is definitely one of the threats to a technology-based system and this could potentially happen to other PHOs using an app-based booking system. While the customers may enjoy the benefit of pre-booking PHVs with a touch of a screen, they also face the challenge of their information being hacked for fraudulent activities. This is why it is paramount for TfL Compliance Officers to be able to establish where the journeys are booked and accepted to fulfil the requirement of the PHV (London) Act. However, technology has made this really difficult to achieve. TfL made the decision not to renew Uber's licence before they were informed of the hacking incident, one of the reasons was because Uber was using a *"software that could be used to block regulatory bodies from gaining full access to the app and prevent officials from undertaking regulatory or law enforcement duties"*, TfL (2017b, p.1). However, Uber appealed TfL's decision not to renew its licence and they won the appeal.

Uber's case has shown how vulnerable technology could be and the impact it has on outdated legislation. Technology has created additional flaws in the PHV (London) Act and regulations. This has encouraged certain individuals to create PHV app booking systems or platforms where they arguably act as a PHO without a licence. By using unregulated app booking systems or platforms, customers are confronted with the risk of booking PHVs from unlicensed PHOs. This means their journeys would not be legitimately booked and they may not be protected by the vehicle insurance policy in case of an accident. The fact that they use their personal details to register on the unregulated app booking system could also make their information vulnerable to fraudulent activities. In addition to TfL's commitment to reducing illegal PHV touts, they are also confronted with the threat of unregulated PH booking apps and platforms.

Many people will agree that this situation is really complex to enforce as the legislation has not clearly defined the regulatory requirements of a PH app booking system or platform. Notwithstanding, TfL created a policy that guides PHOs who intend to use an app booking system as part of their operating model. But this is discretionary and can be challenged based on the fact that there is no regulatory requirement set out in the legislation or regulations to address this issue. Additionally, the PHV legislation did not set out the penalties for anyone reported for using unregulated PH booking apps or platforms.

Nevertheless, the responses to question 5.1.5 and 5.1.14 show that both TfL and Police participants agreed that the introduction of the app booking system has helped to reduce the touting issue in London. The responses to question 5.2.6 show that 56.1% of the customer participants pre-book their PHVs by using the app-based booking system. Therefore, recommendation 5 explains how the PHO regulation and policy can be refined to support the app booking system, promote PHOs and encourage legitimate PHS.

Recommendation 5 – Improve PHO's regulation and policies

- The PHO's regulation should clearly set out the requirements for PHOs intending to use a business model with an app booking system. This will eliminate the use of discretionary policies that can easily be challenged in court. This measure will set a new regulatory standard that can prevent unregulated PHV app booking system or platform from trading without a

PHO's licence and protect the 51.6% customer participants that use the app booking system

- TfL: should issue a six month licence to new PHOs as a trial period to ensure their business model and app booking system meet the regulatory standard before further extending their licences. This will minimise the existing protracted appeal process while the PHO is allowed to continue trading
- TfL should publicise the names of all active PHOs with legitimate app booking systems or platforms to raise the awareness of the customers. PHOs inspection grading system should be simplified to Red, Amber and Green (Red = Poor, Amber = Average and Green = Good) and the customers should have access to view the outcome of their last inspection on their platform and TfL website. This will have a huge commercial impact on their business and will persuade them to comply. The responsive regulatory theory suggests that an organisation or individual tends to comply with the regulation based on their desire to be recognised and to increase their social status
- PHV lease companies or proprietors should be regulated to the same standard as the PHOs in London. This will make them more accountable by keeping accurate records and ensure licensed PHVs are only leased to licensed PHDs and PHOs. This will promote customer safety and minimise the opportunities for unlicensed drivers

6.2.3 PHV and PHD regulations

"The law around PHV are too complex and varied. It is hard to enforce and when a law is hard to enforce, it will get exploited" Interview fifteen, TfL participant.

This section focusses on the aspects of the PHV (London) Act and regulations that undermine the purpose of the legislation and the licensing regime. The previous section focused on the challenges created by technology but this section discusses the complexities of the legislation prior to technology issues.

Firstly, a vehicle may be exempted from displaying a PHV licence under section 10 (3) of the PHV (London) Act 1998 if the licensing authority thinks it is appropriate. In London, the only means to differentiate a licensed PHV from a private vehicle is the licence disc displayed at the front and rear screens. Although, it was suggested that the vehicles exempted from displaying their licence discs are not made available to

the public for hire. But, some organisations and drivers exploit this flaw in the legislation and use the vehicles as PHVs. Despite the fact that the majority of the PHVs in London display their licence disc, 59.7% of the customer participants find it difficult to identify a licensed PHV. If these vehicles cannot be identified as PHVs, then TfL Compliance Officers would not be able to carry out appropriate checks on them during on-street inspections. This is arguably a public safety issue.

Secondly, a driver may be exempted from displaying a PHD's licence under section 14 (4) of the PHV (London) Act 1998 if the licensing authority thinks it is appropriate. The exemption could be regarded as a serious safety issue for the customers because that is the only means of identifying the driver as a licensed PHD. The feedback from the customer surveys shows that 66.6% of the participants are oblivious of how to identify a licensed PHD and 50.9% of the customer participants either assumed that licensed PHVs are always driven by licensed PHDs or they do not know the difference. Again, by exempting PHDs from displaying their badges, it would promote more unlicensed drivers to tout using licensed PHVs.

As prescribed under section 22 (2) of the PHV (London) Act 1998, the owners of licensed PHVs are required to return their vehicle licence to TfL within 7 days after expiry or revocation. However, some of the vehicle owners are not adhering to this requirement. During the course of this research, the author came across a few vehicles with expired licences. The author was able to spot this irregularity because of his previous experience in checking licensed PHVs. People with the same level of experience can spot this too but it is difficult to notice a revoked licence unless the vehicle's detail is checked on TfL's database. A PHV licence can be revoked if the vehicle is found not complying with the legislation or unfit to be used as a PHV. Anyone can check the status of a PHV's licence on the TfL website but not everyone is aware of this. Therefore, anyone may end up in a PHV with a revoked licence.

The same principle applies to a PHD's licence under section 22 (3). Some drivers also fail to return their badges after revocation or expiration. As previously mentioned, the only way to establish that a licensed PHV or PHD is revoked is to check the details on TfL's database. Arguably, if 59.7% of the customer participants cannot identify a licensed PHV and 66.6% are oblivious of how to identify a licensed PHD, it is very unlikely that they would know if they board a PHV with a revoked licence or a revoked PHD. Clearly, there is a knowledge gap here and the customers need to be well informed.

Furthermore, the number of licensed PHDs in London has increased from 59,191 in 2010 to 117,712 in 2017 (TfL 2017, p.1). This significant increase has made the PHI more competitive and created more tension among PHDs. The author engaged with a number of PHDs as part of this research and they expressed their frustrations about not earning enough money to cover their maintenance fees. As a result of this, some PHDs are finding different ways not to complying with the legislation. The available number of licensed PHVs and PHDs also form part of the public consultation led by TfL in 2015. The respondents suggested that TfL should cap the number of licences they issue to both drivers and vehicles to increase their chances of earning a living. However, this is out of TfL's control because the PHV (London) Act 1998 does not give TfL the opportunity to cap the number of PHDs and PHVs they licence. The legislation states that anyone can apply for a PHD or PHV licence if they are a "fit and proper" person to hold the licence.

"When you have excessive of over 100,000 vehicles in London, there is competition for work and people will always find a way to avoid complying..." Interview seventeen, TfL participant.

Under section 12 (1) of the PHV (London) Act, a PHV is required to be driven by a licensed PHD when undertaking a PHS in London. Aside from this, a PHV can be driven by anyone when not undertaking a PHS. On the contrary, section 46 of the 1976 Act only permits a licensed PHD to drive a licensed PHV at all times. It was suggested that this makes licensed PHDs more accountable and makes the legislation less complicated to enforce.

"Touting has grown because it is easy to buy licensed vehicles..." Interview four, TfL participant.

The PHV (London) Act permits a licensed PHV to be sold to anyone, even without a PHD's licence. Appendix K shows a picture of a licensed PHV being advertised for sale on the roadside. The licence was used as a selling point to attract buyers and this would be sold quickly to people willing to use the vehicle for touting. The owner of the vehicle does not have any obligation under the legislation to return the licence to TfL, they only need to provide the details of the new owner to TfL within 14 days as prescribed in section 8 (4) of the PHV (London) Act 1998. This makes touting so easy because anyone can purchase a licensed vehicle and park outside night venues to tout customers.

The author conducted a random search on the internet to establish if licensed PHVs are advertised for sale and the result showed that 250 licensed PHVs were available for sale, Gumtree (2000-2017b). A similar search was conducted to establish the number of licensed PHVs available for rent and the result showed that 280 licensed PHVs were available for rent, Gumtree (2000-2017a). The research shows that not all these PHVs are rented to drivers with the H&R insurance policy. It is the responsibility of the driver to ensure that the PHV has the required H&R insurance before the vehicle is used to transport PH customers. The PHV proprietors or lease companies do not have the same obligation as the PHOs within the PH legislation.

In summary, the responses to question 5.1.4 show that both TfL and Police participants agreed that touting is still a problem in London because the PHV (London) Act is too complex to enforce and there are excessive numbers of available PHVs in London. The responses to question 5.1.14 suggested that the PHV legislation should be reviewed to minimise the complexity and to cover the existing flaws. Recommendations 6 and 7 explain how the existing flaws in the PHV (London) Act can be improved to minimise illegal activities and promote customer safety.

Recommendation 6 – Improve PHV regulation

- PHVs and Executive Chauffeurs should not be permitted to be exempted from displaying PHV licences. London PHVs should adopt the use of licence plates and distinctive signage identical to the ones used in Luton and other local authorities in England. The vehicle licence plate should be removed when the vehicle is no longer used as a PHV. This will make legitimate PHVs more visible to the 59.7% customer participants that could not identify a licensed PHV
- Section 12 of the PHV (London) Act should adopt a similar condition under section 46 of the 1976 Act that only permit licensed PHDs to drive PHVs at all times. Any unlicensed driver reported for driving a licensed PHV should be issued with a fixed penalty notice and the vehicle should be seized. This measure will minimise the opportunities for unlicensed drivers and increase the detection rate for TfL Compliance Officers
- The regulation should prohibit PHV licence to be issued to any random vehicle. PHV licence should only be issued to a licensed PHD, PHO and a proprietor with considerable responsibility as the custodian of the PHV. This

should be used as a capping system to control the number of PHV licenses issued a year

- The regulation should prohibit the sale of licensed PHVs to any random person. The owner of the PHV should return the licence to TfL prior to the sale of the vehicle. When the author checked on the internet, there were 250 licensed PHVs available for sale and 280 PHVs available to rent to both licensed and unlicensed drivers
- Any licensed PHV that has not been used as a PHV for a period of 3 months or more should be suspended by giving the owner a 14-days' notice. Failure to provide proof that the vehicle is used as a PHV should result in a revocation of the vehicle licence. This should be used as a capping system to reduce the current number of licensed PHVs in London and promote legitimate PHDs

Recommendation 7 – Improve PHD regulation

- Drivers should not be permitted to be exempted from displaying their PHD licence. PHDs should be issued two badges; one should be displayed as described in section 14 (3) (a) of the PHV (London) Act 1998 and the other should be displayed inside the vehicle where it is clearly visible to the 66.6% customer participants that could not confidently identify licensed PHDs
- A compulsory e-learning course should be introduced for new PHDs or PHDs renewing their licences to enlighten them of the regulatory requirements and the expected standard of PHDs as some of them may not have previously lived in London or UK. This will give them an induction to TfL Compliance Officer's roles and powers, inspection procedures, sanction matrix, their responsibilities to public safety and vision zero
- A point-based system (point 1 – 11) should be introduced for PHDs. Licence breaches should be attributed to a point-based system and PHDs should not be permitted to have more than 6 points in the first year of their licence. After the first year, any PHD with 6 points or more should be required to take e-learning course as a corrective measure to persuade them to regain compliance

6.2.4 PHV Standards and Practices

The standard of some of the PHVs in London are really poor and this was shown in figure 3.2. The screens of the PHV shown in figure 3.2 are so tinted that the customers and enforcement agencies would find it extremely difficult to read the PHV licence discs. They would need to step on the road in front of moving traffic to enable them to read the licence details properly, this could be very dangerous. At least Compliance Officers and the Police are professionally trained on how to undertake an inspection and they have the equipment needed to do so. However, the customers do not have any training or equipment to undertake the checks, even though the whole process is meant to be about customer safety. It is not advisable for anyone to step in front of moving traffic in order to check the validity of a PHV. Badly tinted PHVs are as horrendous as the ones exempted from displaying PHV licence discs. Arguably, badly tinted PHVs are worse because no one would be able to look through the vehicle and a customer can easily be harassed inside.

“Have purposely built or dedicated minicab vehicles e.g. yellow vehicles in New York”. Interview one, Police participant.

By having a purposely built or a dedicated PHV, it would make it easy for the customers to identify a licensed PHV without any complexity. As part of the public consultation conducted by TfL in 2015, one of the requirements to improve customer safety is that all PHVs should have distinctive features that allow the customers to easily identify them; this was discussed in section 2.3.3, SDG (2015) and TfL (2015b). In figures 3.3 and 3.4, the author compared a Luton PHV to a London PHV; it can be argued that it is easier to identify a Luton PHV from a distance with the attributed signage and licence plate on the vehicle. Even if the vehicle screens were tinted, the customers and enforcement agencies would still be able to see the vehicle’s licence clearly without any obstruction or associated danger.

“Touting is free money.....black economy with no tax” Interview nine, TfL participant.

Licensed PHDs are self-employed and they are responsible for paying their taxes to the HM Revenue and Custom (HMRC). Their incomes are traceable if they are registered with licensed PHOs but PH touts would not register with licensed PHOs to avoid paying taxes. PH touts are not only breaching the (CJPOA) 1994 but they are also evading taxes, which is also a criminal offence. It can be argued that if PHDs are

directly employed by PHOs, it would make both the operator and driver more accountable, reduce touting and tax evasion.

It is alleged that some PHOs make PHDs pay exorbitant commission or rent. With the increasing number of licensed PHVs and PHDs, the number of jobs is not sustainable enough to keep up with rent or commission and this may give PHDs the reason to stop complying. According to BBC (2016b), licensed PHDs took Uber to the employment tribunal because they feel that their maintenance fees are too high and as a result; they earn less than the minimum wage. Therefore, they prefer to be directly employed by Uber so they can be entitled to full employee benefits. If PHDs are no longer permitted to be self-employed, it can be argued that this would benefit the PHI, minimise touts and promote legitimate PHDs.

As discussed in sections 2.2.4 and 2.5.1, TfL contributed a substantial amount to the reduction of alcohol-related crimes during the night time economy. This came about by allowing PHOs to extend their licences to night venues, which allows customers to pre-book PHVs inside night venues. However, it was argued that PH touting was promoted by making PHVs visible outside night venues. As part of the PHD surveys, 75% of the respondents (PHDs) suggested that customers that want PHVs to approach them on the street. The author also conducted an observation during the night time economy and quite a number of PHVs were seen parked outside night venues. Some of these night venues do not have PHOs and these PHVs do not have any reason to be parked outside. From the author's experience, TfL Compliance Officers use discretionary powers to move the drivers on but some of the drivers are aware that TfL Compliance Officers do not have the powers to enforce traffic or parking violations. Therefore, recommendations 8 and 9 explain how to improve the standards and practices of PHVs in London.

Recommendation 8 – Improve PHV standards

- PHV licence should not be issued to any vehicle with secondary tinted windows and screens. Any tinting should meet the UK regulatory standard and it should be considered as part of the PHV licence conditions. Any vehicle that fails to adhere to this standard should be suspended immediately
- Make CCTV cameras a mandatory requirement in PHVs as this is widely used in London buses and trains to prevent and deter crimes. CCTV camera

is one of the proven tools used in situational crime prevention and it can potentially reduce the number of unwanted sexual behaviour in PHVs

Recommendation 9 – Improve PHV practices

- TfL and the trade should encourage more women to become PHDs in London. This will potentially reduce the amount of sexual related cases in PHVs
- Create PHV licence condition that makes it mandatory for unaccompanied customers to seat at the back of the vehicle. This can potentially reduce the amount of unwanted sexual behaviour in PHVs. Any PHD in breach of this condition should be issued with a fixed penalty notice
- Taxi fares should be more affordable to attract more customers to use taxi services
- PHD's commission and rent should be regulated to promote consistent across PHOs. This will potentially keep legitimate PHDs in the business and persuade illegal PHDs to be legitimate

6.2.5 PH Customers

“..... touting is fed by the members of the public and many people do not know the law”. Interview ten, TfL participant

As discussed in section 2.3.4, one of the changes made to the PHO's regulation in 2016 is to ensure that a PHO has the facility to send a PH booking confirmation with details of the PHV and PHD to a customer's mobile device. The feedback from the customer surveys shows that despite this information being provided to the customers, most of them still do not know how to identify a licensed PHV and PHD or understand how to conduct a simple verification check. The interview and survey participants collectively agreed that customers lack the knowledge of the PHV legislation. This is why illegal PHDs were able to use deception to pick up customers outside night venues during the night time economy. It can be argued that some of the loopholes in the PHV (London) Act, which was discussed in this research, have contributed to the challenges encountered by the customers.

These challenges have undermined the purpose of the PHV (London) Act 1998, which is to regulate the PHI and help to deliver a safe and secure door-to-door

service. While the PHV (London) Act has not successfully prevented touting, the customers have a significant role to play in preventing touting. As discussed in 2.2.1, the crime triangle theory suggests that if the customers stop patronising the illegal drivers, touting can be prevented. It was evident in the customer surveys that the majority of the customers are not aware of how to identify a PHV or PHD or remember to check the badge of a PHD. While some customers may be unknowingly using illegal PHVs, some of them are knowingly using the service because they believe it is cheap. It is also worth remembering that some of the customers are tourist, so they may not understand how PHVs operate in London.

Recommendation 10 – Educate the customers

- TfL should produce a guide showing a step-by-step process of booking a legitimate PHV to help reduce the knowledge gap of the 66% and 59.7% of the customer participants that cannot identify PHVs and PHDs respectively. This guide should be interpreted in different languages and distributed to universities, airports, hotels, night venues, mainline stations and tube stations. They can also have this available on social media such as Facebook, YouTube, Instagram, Twitter and LinkedIn. TfL can also work closely with airlines and airports to get this message across to the tourist in the in-flight magazines
- TfL should integrate STaN campaign as part of the Compliance Officers daily activities. With the relevant powers and the right information, they will continue to educate the customers on how to pre-book legitimate PHVs while they robustly enforce the illegal ones
- TfL should have a regular session on TV or use the dedicated TfL YouTube channel to promote the work of TfL Compliance Officers. This media platform can be used to update the relevant stakeholders about the changes to the legislation, regulations and policies. It will help to educate the travelling public, deter potential offenders and promote TfL's commitment to customer safety

Chapter Seven

Conclusion

7.0 Conclusion

This study underpins the fact that PH touting is an issue in London. It became apparent that illegal drivers not only tout for monetary reward but some of the drivers target female customers for sexual gratification.

The cases of Mr Hussain and Mr Worboys that were mentioned in chapter one have demonstrated the risks associated with customers that end up in illegal taxis and PHVs. In spite of the fact that both drivers were convicted and jailed, the experience left their victims devastated. The victims felt disappointed with the way the case of Mr Worboys was handled by the MPS and the prison parole board. It was argued that the way this case was handled has affected the confidence of other victims and the way they report unwanted sexual behaviour.

It was evident in the graph presented in figure 1.1 that both licensed and unlicensed PHDs sometimes subject their customers to unwanted sexual behaviour. However, TfL encourages PH customers to always pre-book PHVs through a licensed PHO so that the records of their journeys are kept and can be used during the course of an investigation. This is one of the fundamental reasons why TfL continue to promote the use of legitimate PHVs through STaN campaign. There is no doubt that the STaN message has helped to raise the awareness of the customers on how to book legitimate PHVs. However, this message did not include how the customers can report unwanted sexual behaviour in PHVs. This study demonstrates how TfL Compliance Officers have limited powers in tackling criminal activities, such as touting and sexual harassment. In essence, it was argued that they would need the support of their Police counterpart to effectively monitor and control these crimes.

Nonetheless, it was suggested that partnership working is one of the best methods used in modern policing. The collaborative working between TfL and the Police has proven to be successful. Therefore, as part of this partnership working, it was suggested that both parties would need to raise the awareness of PH customers on how to confidently report touting and unwanted sexual behaviours that occur in PHVs. Sharing this information and having a mutual objective will further strengthen

TfL and Police partnership and improve public safety. The victims of touting and unwanted sexual behaviour will no longer remain silent; they will have the confidence to report the incident. And knowing that TfL and MPS will take appropriate actions against any person reported for this crime will encourage them to use PHVs at night without fear of intimidation.

It was evident in this study that the Police budget and the number of Police Officers in England and Wales have reduced in recent years. This reduction is increasingly putting pressure on the Police to deliver their key priorities while supporting local and licensing authorities in tackling crimes. A Detective Sergeant suggested that touting only featured as one of their priorities because of the funding they receive from TfL. This implies that without TfL funding, touting would not have existed as Police priority. It can also be perceived that the reduction in the number of Police Officers may have resulted in a low detection rate for unwanted sexual behaviour in PHVs. With the continuous reduction in Police budget and resources, it was suggested that TfL Compliance Officers should be empowered to support the Police in tackling some of the illegal activities, support the trade and keep up with the growing demands of the PHI. By having additional powers, Compliance Officers will be able to undertake more thorough compliance checks on licensed and unlicensed touts at night with less support from the Police. Any reported illegal vehicles will be seized and this will serve as deterrence to other illegal drivers. Again, this will promote customer safety at night and TfL will gain more confidence from the trade.

While educating the customers has a significant role to play in preventing touts and its consequences, some of the research participants suggested that strong PH legislation, regulations and policies are equally important. This study established the existing gaps in PH legislation and regulations. It was argued that the gaps have made the PH legislation complex and difficult for TfL to enforce. It was also evident that emerging technology in the PHI is posing threats to the existing PH legislation and regulations. It was suggested that improving the legislation to be more concise and robust would serve as good measures to prevent illegal activities. A robust regulation will prevent licensed vehicles from being sold or transferred to unlicensed drivers. The introduction of licence plates on PHVs in London will promote the consistency of how PHVs are identified in England and Wales. And by allowing a vehicle to only display their licence plate when their vehicle is used as PHV will make them more visible and accessible to customers and TfL Compliance Officers will find it easy to monitor illegal PHVs.

In addition, creating a condition similar to London taxis that prevent customers from sitting in front of the vehicle will make customers less vulnerable and they can comfortably exit the vehicle when required. CCTV camera should be made a mandatory requirement in PHVs as it is commonly used in London buses and trains. It will deter crimes and make customers safer at night. However, TfL will need to create additional measures to ensure CCTV cameras are installed in PHVs at the point of licensing and the cameras are recording when customers are on board. PHDs will also need to display a notice in their PHVs informing the customers that all activities in the vehicle are being recorded for safety and security purposes. The CCTV camera footage can be used as evidence by the customer, law enforcement agencies and the driver in the case of a false allegation.

Finally, the author has ensured that all the objectives set out in this thesis are met. This research has critically reviewed the PHV legislation and was able to demonstrate the ambiguities in the legislation, regulations and practices. Due to these ambiguities and emerging technology challenges, the legislation and regulations are complex to enforce. TfL Compliance Officers sometimes use discretionary powers because they are not empowered to enforce criminal activities. Nevertheless, this thesis has proposed different methods TfL can use to improve PH legislation, regulations and practices. The issue of PH touting is not limited to the PHI, it also occurs in the taxi industry. However, due to the time constraints, costs and the level of work involved, this thesis only focused on the PHI. However, most of the recommendations in this thesis can be used to mitigate similar issues in the taxi industry. With the chancellor's pledge to introduce autonomous vehicles in the UK by 2021, what challenges would this bring to ride sharing? How would TfL Compliance Officers able to carry out on-street checks on autonomous vehicles? What would be the future of the T&PH legislation, regulations and industry in a world where innovation and technology are taking over? Would this totally eradicate PH touting and unwanted sexual behaviour? This may be subject to further research.

Appendices

Appendix A - A PHO licence issued by TfL

LICENCE
to act as a private hire vehicle operator in London

Operator licence number: **12345/67/89**
Operator licence name: **Mr An Example**

Trading as:

Company Name & Address	Company Name & Address
Company Name & Address
.....

Special conditions:
No more than two private hire vehicles will be available to this operator for carrying out bookings excepted as all the operating centres specified on this licence.

Special exemptions:

This licence expires on Date

Issued on behalf of The Secretary of State by The Public Carriage Office
This licence entitles the holder to accept bookings for Private Hire Vehicles only from the addresses shown above and in accordance with the regulations and conditions pertaining to the Private Hire Vehicles (London) Act 1998. Any complaints or queries in respect of the licensee should be directed to The Officer in Charge, Public Carriage Office, 15 Penton St, London, NE1 9PE

On behalf of Transport for London the Licensing Authority

MAYOR OF LONDON 618114

Appendix B - A PHO booking sheet issued by TfL to guide PHO

Bookings Record Date.....

Time	Customer Name	Place of Collection	Main Destination (As much info as possible. Protect your drivers.)	Tel	Driver ID	Fare if Quoted	Date if Different	Sublet Op No

Appendix C – A PHO vehicle record front sheet issued by TfL to guide PHO

Vehicle Records

Make of Car:	Model:
Registration No:	Colour:

Name & Address of Keeper:

Start Date	Vehicle Ceased
Start Date	Vehicle Ceased
Copy of MOT enclosed YES / NO	Copy of Insurance enclosed YES / NO
Copy of Vehicle Registration Document Enclosed	YES / NO

ATTACHED DOCUMENTS

- MOT CERTIFICATE** Renewable 6 months after PCO inspection
- INSURANCE DOCUMENT** Insurance Cover notes should be kept for 6 months whilst vehicle is in service.

All driver and vehicle records must be kept for a minimum of 12 months after a driver has left your Employment.

Appendix D - A PHO driver record front sheet issued by TfL to guide the PHO

PRIVATE HIRE DRIVER

Have you checked the Hire & Reward Insurance correctly? Has the driver handed you the receipt. All legitimate Insurance brokers issue receipts. Remember you have a duty of care! Ensure driver address details are the same on all documents!

Driver Information

Surname: _____

First & Middle Names: _____

Address: _____

Post Code: _____

Date of Birth: _____

National Insurance NO: _____

Private Hire Licence NO: _____

Date first Available: _____

Date of Leaving: _____



Must have a Copy of Driving Licence Enclosed:
Must have a Copy Of Private Hire Licence Enclosed:
Driver Restart Details

Subject to above details remaining unchanged

Remember to check driver licence details at regular intervals

Restart Date.....	Finish Date.....
Restart Date.....	Finish Date.....
Restart Date.....	Finish Date.....
Restart Date.....	Finish Date.....
Restart Date.....	Finish Date.....
Restart Date.....	Finish Date.....

Appendix E - A PHO complaints sheet issued by TfL as guide to PHO

COMPLAINT/COMPLIMENT

Ref No: _____ **Handled By:** _____

Date Complaint received: _____

Date and Time of related booking: _____

Details of Complainant: **NAME:** _____

ADDRESS: _____

PHONE No: _____

Details of Complaint: _____

Method/Enquiry to resolve complaint: _____

Result: _____

Company Representative Name: _____

Company Representative Signature: _____

Appendix F - A PHO lost property sheet issued by TfL as guide to PHO

LOST/FOUND PROPERTY

Ref No: _____ **Handed in By:** _____

Date Property received: _____

Date and Time of related booking: _____

Customer Details: **NAME:** _____

ADDRESS: _____

PHONE No: _____

Details of Property: _____


Method/Enquiry to return property: _____

Result: _____

Company Representative Name: _____

Company Representative Signature: _____

Appendix G - A PHD licence issued to driver by TfL



**Transport for London
LICENCE**
to act as a private hire vehicle driver
in London

This licence has been issued by Transport for London, the Licensing Authority. The holder is entitled to carry out private hire bookings on behalf of licensed London private hire operators, in accordance with the Private Hire Vehicles (London) Act 1998 and its supplementary regulations.

Name: [REDACTED]


Date of birth: [REDACTED]

Licence number: [REDACTED]

Start date: [REDACTED]

Expiry date: [REDACTED]

Driver's
Picture



Date of issue: [REDACTED]

Conditions:

Exemptions:

[REDACTED]

On behalf of Transport for London the
Licensing Authority

Current address of licensee

Driver's Address

Change of Address

If you wish to change your address please log-in to your customer account, where you can update the relevant information.


Alternatively, please call 0343 222 4444, where you will need to provide confirmation that you are the licensee, as well as details of your new address.

We will then issue you with an updated licence within **14 days** of you contacting us.

MAYOR OF LONDON

Please note the following important information:

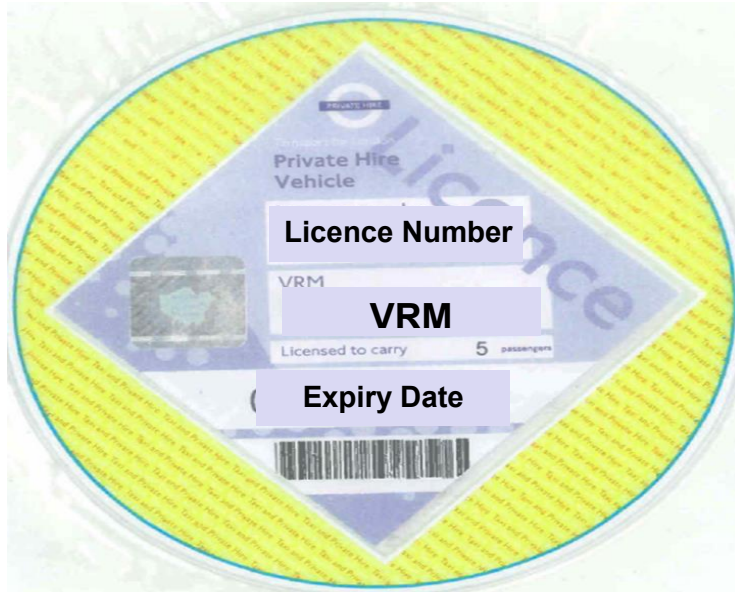
- All bookings must be made, in advance through a licensed London Private Hire Operator. PHV drivers cannot ply for hire as only licensed hackney carriages can legally do so.
- PHV drivers cannot approach and solicit passengers for hire as this will constitute touting, which is illegal. If you commit the offence of touting your licence may be revoked and you may also be prosecuted.
- Private Hire Vehicles cannot enter or use bus lanes in restricted times unless for picking up and setting down in permitted areas.
- You are only exempt to drive within the Congestion Charging area in London without payment when carrying out a private hire booking, otherwise you are liable to pay during the control period.
- You cannot refuse to carry guide and/or assistance dogs with out a specific medical exemption. If you do so, you are committing an offence for which you may be prosecuted and fined up to £1000.
- You must notify TfL of any changes to your licence or personal circumstances within 21 days. A list of your obligations can be found on the letter that was issued to you with your original licence.
- You can now find all the information you need to know for being a licensed driver by logging into your customer account on the TfL website tph.tfl.gov.uk



Appendix H - A PHD badge issued to driver by TfL

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Appendix I - A PHV identification disc issued to a vehicle owner by TfL



Appendix J - A PHV licence issued to vehicle owners by TfL

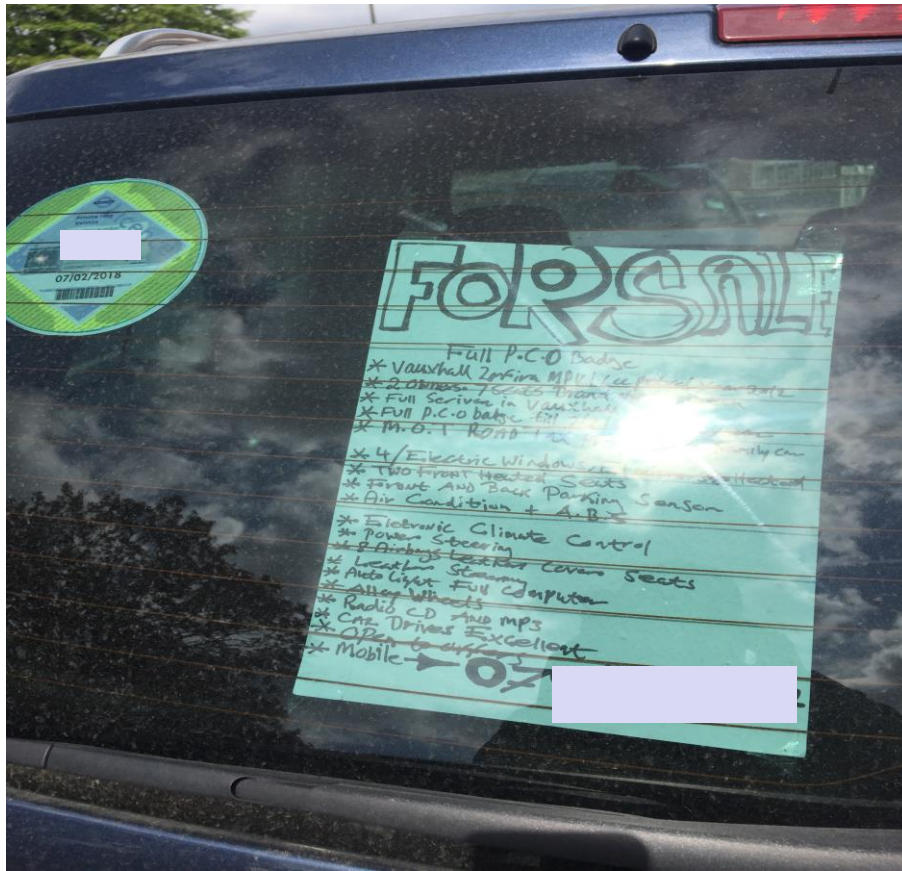
Transport for London
LICENCE
to act as a private hire vehicle in
London

This licence has been issued on behalf of Transport for London, the Licensing Authority, by London Taxi and Private Hire Directorate. This Licence authorises the vehicle specified below to be used in connection with private hire bookings on behalf of licensed London private hire operators, in accordance with the Private Hire Vehicles (London) Act 1998 and its supplementary regulations.

<p>Licence number: Date of Issue: Start date: Expiry date:</p> <p>Where the period between 'Date of Issue' and 'Expiry Date' is more than 12 months, this licence has been issued on the basis that there is an existing valid licence which covers the intervening period.</p> <p>Vehicle: Licensed to Carry:</p> <p>Manufacturer's Make: Model: Body Type: Vehicle Identification Number (VIN):</p>	<p>Current name & address of owner</p> <p>Should you need to change any of these details, please complete the required information on the back of this licence.</p> <p>C Unless you request otherwise, this vehicle will be added to the Congestion Charging exempt vehicles register.</p> <p>Note: the vehicle is only exempt from the charge when undertaking private hire bookings, and will be removed from the register on expiry or surrender of the licence.</p>
<p>PRIVATE HIRE VEHICLE CERTIFICATION OF CONFORMANCE</p> <p>This Certification confirms that the above vehicle complies with the specifications as prescribed in the Private Hire Vehicles (London PHV Licences) Regulations 2004.</p> <p>Any modification or alteration to the licensed vehicle, including additional internal or external fittings or equipment, must be approved and recorded on the Certification of Conformance. Guidance on the type of modifications or alterations which will need approval is given in the leaflet entitled "Vehicle Inspection Criteria Guidance Notes" issued by London Taxi and Private Hire. The details of any modification fitted to/in the vehicle, or exemption from any licensing criteria approved by London Taxi and Private Hire on behalf of Transport for London, the Licensing Authority, are included on this Licence.</p> <p>The Licence is granted subject to compliance by the licensee with the provisions of the Private Hire Vehicles (London) Act 1998, and any conditions that apply to the vehicle. The licence shall remain in force for a period of one year from the start date of issue unless the licence had been revoked or suspended in accordance with the Act or surrendered earlier than that date.</p> <p style="text-align: center;">MAYOR OF LONDON</p>	<p>Modifications:</p> <p>Exemptions:</p> <p style="text-align: center;">On behalf of Transport for London the Licensing Authority</p>

V3.0
124345

Appendix K – Licensed PHV offered for sale.



FOR SALE

Full P.C.O Badgc
* Vauxhall Zafira MPV / Lee
* 2 doors / Seats 7
* Full Service in Vauxhall
* Full P.C.O badgc
* M.O.T Road Tax
* 4 / Electric Windows
* Two front Heated Seats
* front And Back Parking Sensor
* Air Condition + A.B.S
* Electronic Climate Control
* Power Steering
* Alloy wheels
* Leather Seating
* Auto Gear Full Computer Seats
* Alloy wheels
* Radio C.D And mp3
* Car Drives Excellent
* Mobile -

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