

Scottish Government submission of 8 September 2022

PE1961/A: Make it a specific offence to assault, threaten or abuse a private hire or taxi driver while at work

Thank you for your email of 11 August 2022 in which you requested the Scottish Government's written response to the issues raised in petition PE1961. Included below is factual information which may assist in considering the petition.

The Petitioner, Edward Grice on behalf of the Scottish Private Hire Association (SPHA), has called on the Scottish Parliament to urge the Scottish Government to expand the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 ("the 2021 Act") to include private hire and taxi drivers by:

- creating a specific criminal offence of assaulting, threatening or abusing private hire or taxi drivers while they are engaged in private hire or taxi work; and
- considering such offences as aggravated when the offence is committed whilst the driver is enforcing a licensing or operational condition.

It would of course be for the Scottish Parliament to agree legislation to expand the 2021 Act rather than the Scottish Government directly. Indeed, as is discussed below, the 2021 Act was based on a Members' Bill proposal from Daniel Johnson MSP rather than being a Scottish Government introduced Bill.

The Scottish Government recognises the important role that private hire and taxi drivers play within our local communities. Violence of any kind is totally unacceptable and every person has the right to feel safe and protected from abuse and violence regardless of where they work.

There are a range of general criminal laws which protect everyone from abuse and violence including private hire and taxi drivers. For example, the statutory offence of threatening or abusive behaviour (under section 38 of the Criminal Justice and Licensing Scotland Act 2010), the common law offence of assault and the common law offence of breach of the peace are all relevant offences which can be used to prosecute

those who commit threatening or abusive acts or violent acts against anyone including private hire or taxi drivers.

It is worth noting the maximum penalty for offences in this area are up to life imprisonment (for the common law offence of assault and common law offence of breach of the peace). The Scottish Government fully supports law enforcement agencies having extensive powers to deal with attacks and threats made including when these are against private hire or taxi drivers.

Enforcement of the law is of course for Police Scotland, the Crown Office and Procurator Fiscal Service and ultimately the criminal courts. In any given case, it is for the independent court to sentence based on the facts and circumstances before it. They do this within the overall legal framework which includes laws passed by Parliament. The Scottish Government fully supports law enforcement agencies taking robust enforcement action to deal with any attacks and threats made against private hire and taxi drivers if they consider that necessary in any given case.

As an important aspect of how independent courts sentence, they are able to consider all the relevant facts and circumstances of any given case. This means they can and will take into account the circumstances of any offence committed including where it relates to a private hire or taxi driver ensuring a passenger complies with a certain condition. They can do this without a specific statutory aggravation operating.

As indicated above, it may be helpful for the Committee to note the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill ("the Bill"), which is mentioned in the context of the petition, was a Members' Bill introduced by Daniel Johnson MSP. Given the specific context of this petition, the Committee may wish to assess how the subject Committee dealing with the Bill at the time of Parliamentary scrutiny assessed the merits for extending the effect of the Bill to other types of work and employment.

I hope this is helpful.