LICENSING AND PUBLIC SAFETY COMMITTEE
WEDNESDAY, 23RD NOVEMBER 2016, 2.00 PM
COUNCIL CHAMBER, TOWN HALL, CHORLEY

AGENDA

APOLOGIES

1 MINUTES OF MEETING WEDNESDAY, 21 SEPTEMBER 2016 OF LICENSING AND PUBLIC SAFETY COMMITTEE

2 DECLARATIONS OF ANY INTERESTS

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

3 PUBLIC QUESTIONS

Members of the public who have requested the opportunity to ask a question(s) on an item on the agenda will be asked to put their question(s) to the Committee. Each member of the public will be allowed to ask one supplementary question within his/her allocated 3 minutes.

4 TAXI LICENSING - IMPLEMENTATION OF VEHICLE EMISSIONS AND NCAP SAFETY RATING CONDITIONS

Report of the Director of Early Intervention and Support (enclosed)

5 REVIEW OF THE COUNCIL'S POLICY WHICH LIMITS THE NUMBER OF HACKNEY CARRIAGE VEHICLE LICENSES ISSUED TO 36

Report of the Director of Early Intervention and Support (enclosed)

6 TAXI LICENCE FEES AND CHARGES - REVIEW OF COST APPORTIONMENT

Report of the Director of Early Intervention and Support (enclosed)

7 SAFEGUARDING TRAINING FOR TAXI TRADE

Meeting contact Nina Neisser on 01257 515118 or email nina.neisser@chorley.gov.uk
The Regulatory Services Manager will give a verbal update.

8 NEW DBS ARRANGEMENTS FOR TAXI TRADE
The Regulatory Services Manager will give a verbal update.

9 ALTERNATIVE DVSA ARRANGEMENTS
The Regulatory Services Manager will give a verbal update.

10 NEW IMMIGRATION AND IDENTIFICATION CHECKS FOR LICENSING
The Regulatory Services Manager will give a verbal update.

11 CONSULTATION ON THE PART TIME RELOCATION OF THE HIGH STREET TAXI RANK
Report of the Director of Early Intervention and Support (enclosed)

12 ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR

GARY HALL
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Gordon France, Margaret France, Tom Gray, Keith Iddon, Hasina Khan (Chorley East), Sheila Long, Adrian Lowe, Matthew Lynch, Mick Muncaster (Clayton-le-Woods West and Cuerden), Kim Snape, Ralph Snape and John Walker.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or chorley.gov.uk

To view the procedure for public questions/ speaking click here https://democracy.chorley.gov.uk/documents/s67429/Appendix%203%20Standing%20Orders%20Aug%2016.pdf and scroll to page 48
MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE

MEETING DATE Wednesday, 21 September 2016

MEMBERS PRESENT: Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Keith Iddon, Hasina Khan, Sheila Long, Adrian Lowe, Matthew Lynch, Mick Muncaster, Kim Snape and John Walker

OFFICERS: Louise Elo (Head of Early Intervention), Lesley Miller (Regulatory Services Manager), Tracy Brzozowski (Licensing Enforcement Officer), Alex Jackson (Legal Services Team Leader) and Nina Neisser (Democratic and Member Services Officer)

APOLOGIES: Councillor Gordon France, Margaret France and Tom Gray

16.LPS.37 Minutes of meeting Wednesday, 20 July 2016 of Licensing and Public Safety Committee

RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 20 July 2016 be confirmed as a correct record for signing by the Chair.

16.LPS.38 Declarations of Any Interests

No declarations of any interests were received for any of the items on the agenda.

16.LPS.40 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the General Licensing Sub Committees held on 27 July 2016 and 17 August 2016 be confirmed as a correct record.

16.LPS.41 Minutes of the Licensing Act 2003 Sub Committee Meetings

RESOLVED – That the minutes of the Licensing Act 2003 Sub Committee held on 8 August 2016 be confirmed as a correct record.

16.LPS.42 Introduction of a General Licensing Safeguarding and Suitability Policy

This item was withdrawn from the agenda.
16.LPS.43 Introduction and Consultation on a Street Trading Policy and Review of Conditions

The Director of Early Intervention and Support submitted a report for members to consider the introduction of a Street Trading Policy, including the proposed reviewed conditions and recommended amendments to the Council’s Constitution containing the Scheme of Delegation as agreed.

Chorley Council currently operates a Street Trading Consent scheme in accordance with the Local Government (Miscellaneous Provisions) Act 1982 which is required to allow trade in designated streets across the borough. The council does not, however, have an existing Street Trading Policy to support the scheme or guide decision making. The current Street Trading Consent conditions have not been reviewed for a number of years and lack clarity with regard to conduct, food safety standards and safeguarding of the public. Therefore, policy proposals (including the introduction of basic Disclosure and Barring Services (DBS) check requirements) were submitted to the Licensing and Public Safety Committee to ensure the implementation of suitable and sufficient conditions for the Street Trading Consents.

It was requested that members of the Licensing and Public Safety Committee agree to a consultation on the draft Street Trading Policy, including conditions as outlined in the report, in addition to a review of the fees and charges for the scheme. Members were provided with three options to consider in relation to the Council’s Scheme of Delegation which would need to be amended to include delegation to officers to revoke consents where breach of conditions are found, where offences may have been committed or in other circumstances set out in the policy.

With regards to delegation, Option 1 recommended to implement the report as written, where all decisions for grant are delegated to officers, with only the refusal of consent applications and revocation delegated to the Director in consultation with the Chair and Vice-Chair of the Licensing and Public Safety Committee and a referral mechanism to General Licensing Sub-Committee for cases of particular complexity or unresolved dispute between traders.

Option 3 mirrored this with the addition of an internal appeal procedure, where applicants refused consent or subject to revocation can appeal to the General Licensing Sub-Committee. Members were informed that the current Street Trading Consent scheme did not include a right of appeal and were advised that having an internal appeals process was appropriate. The Legal Officer advised it be appropriate to include that licence holders have a right of 21 days from the time of the deemed receipt to appeal as this is the appeal period against decision in relation to taxi licences and applications under the Licensing Act 2003.

Option 2 amended the report so that the grant of consents be delegated to officers, revocation be delegated to the Director in consultation with the Chair and Vice-Chair of the Licensing and Public Safety Committee and all decisions to refuse be made by the General Licensing Sub-Committee. As a result, this would introduce a right to appeal.

Following discussion, Members welcomed the adoption of the robust policy to ensure greater protection of public safety as a fundamental priority of the council. Based on this, members were minded to disregard option 2 as they felt it backtracked on the move to greater delegation. Subsequently, option 3 (including the time limit in relation to the right of appeal within 21 days from deemed receipt of the decision) was
considered the preferred option. It was believed that the policy proposals would provide stricter controls and efficient enforcement without unnecessary delays.

As a result, it was proposed by Councillor Adrian Lowe, seconded by Councillor Mick Muncaster and subsequently RESOLVED to; agree the consultation of the Street Trading Policy and the reviewed Street Trading Consent conditions subject to the following:

a) On the expiration of the consultation period the Director of Early Intervention and Support in consultation with the Chair of Licensing and Public Safety Committee be given delegated authority to make any minor amendments arising out of any consultation responses,

b) On the expiration of the consultation period any major changes considered to be necessary as a result of the consultation response will be reported back to the Licensing and Public Safety Committee for further consideration and approval.

In addition, members RESOLVED to;

1. agree to a review of the fees and charges for the scheme as part of the consultation,

2. recommend approval to Full Council for the amendments made to the Council’s Constitution and Scheme of Delegation,

3. determine that in relation to the scheme of delegation to implement the report as written, where all decisions for grant are delegated to officers, where only the refusal of consent applications and revocation are delegated to the Director in consultation with the Chair or Vice-Chair of the Licensing and Public Safety Committee and a referral mechanism to General Licensing Sub-Committee for cases of particular complexity or unresolved dispute between traders, also include the implementation of an internal appeal procedure, where applicants refused consent or subject to revocation can appeal to the General Licensing Sub-Committee within 21 days of deemed receipt of the decision.

16.LPS.44 Consultation on Consolidated Taxi Licensing Policy

The Director of Early Intervention and Support submitted a report for members of the Licensing and Public Safety Committee to consider the proposal for a consolidated Taxi Licensing Policy and the consultation of the draft document.

Most functions and decisions with regards to Taxi Licensing refer to policy decisions made by the Council. The Licensing and Public Safety Committee are responsible for making these policy decisions which are held within committee reports. The purpose of the proposed consolidated Hackney Carriage and Private Hire Licensing Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council’s licensing functions.
The draft Hackney Carriage and Private Hire Licensing Policy consolidates all previous Taxi Licensing policies with additional proposals as outlined in the report including application fees, Right to Work Visas, and electronic DBS checks. Therefore the Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees. The proposed Policy simply consolidates these decisions into one concise document.

Members of the Licensing and Public Safety Committee welcomed the policy proposals on the grounds that the consolidated Taxi Licensing Policy would ensure great transparency for the trade and public as well as increasing decision making guidance for officers, whilst also providing efficient clarification of the justification for these decisions.

The report indicated additional policy proposals which included that DBS checks must originate through Chorley Council or through a company contracted by the Council to carry out this check, as authorised by the DBS, thereafter an electronic DBS update would be accepted. Members were informed that procedures need to be put in place to mitigate the risk of the Borough falling below the required threshold. Officer research observed that other authorities were delivering an electronic DBS service. This provided quick renewal with results being received within 48 hours as opposed to the prolonged waiting times currently experienced and therefore proved more efficient. Ultimately, it would keep admin costs to a minimum and provide the potential to increase flexibility.

Members alternatively considered the feasibility of joining up with a neighbouring authority, it was concluded however that this would provide two levels of service and would therefore become time consuming as DBS completion could take up to six weeks.

After carefully considering all factors, members were minded to propose all recommendations within the report including the updated policy decisions making them broadly fit for purpose. As a result, it was proposed by Councillor Adrian Lowe, seconded by Councillor Hasina Khan and subsequently RESOLVED;

a) To consult on the proposed Draft Hackney Carriage and Private Hire Licensing Policy which would run for 12 weeks (until 31 December 2016) following discussion with the Trade at the Licensing Liaison Meeting taking place on 5 October 2016.

b) That on the expiration of the consultation period, the results and responses be reported back to the Licensing and Public Safety Committee. Officer verbally agreed to endeavour to collate all the consultation responses and report back at the meeting in February 2017.

c) To determine the proposals and options for implementation and the timetable for review of policy to protect the Council’s conditions on drivers and vehicles. A timeframe of 3 years for review was agreed.

In addition it was RESOLVED;

1. to amend the wording within the report to clarify the decision already made in March 2015; “where an incomplete driver application has been received, due to the absence of one or more of the pre-requisites, the
application will be rejected following a period of 2 months from the date of the receipt of the application” to indicate that contact would be made following and period of 2 months and would then be removed after 3 months if no action was taken during this period. The aim of which is to provide greater flexibility,

2. that where the Right to Work does not extend for the length of the driver licence at the time of issue (3 years), then the licence will only be granted up to the date of the expiry of the visa. This is a legal requirement from 1 December 2016

3. that DBS checks must originate through the Chorley Council or through a company contracted by the Council to carry out this, as authorised by the DBS, thereafter an electronic DBS will be accepted. With regards to fees these would be borne by the applicant and therefore it was AGREED that they be given the option to pay this additional fee for a quick electronic check, which would identify if there are any changes since the previous DBS.

These policy amendments will be implemented immediately and are not delayed until the outcome of the consultation.


The Director of Early Intervention and Support submitted a report advising members of the Licensing and Public Safety Committee of the consultation on the Statement of Principles required under the Gambling Act 2005.

Section 349 of the Gambling Act 2005 requires that the Licensing Authority prepare and publish a three year licensing Statement of Principles. The duty also requires a periodic review of the licensing statement on a date prescribed by the Secretary of State which is currently every 3 years. Consultation in relation to the proposed changes came to an end on 19 September 2016; the Licensing Authority received two responses – the final Statement of Principles would take account of this.

Due to expiration of the policy it was recommended that members of the committee approve the Statement of Principles under the Gambling Act 2005 in order to provide greater clarity on the principles to be applied by the Licensing Authority. Members of the Licensing and Public Safety Committee understood that this was a standard required practice undertaken by the Council.

As a result it was proposed by Councillor Adrian Lowe, seconded by Councillor Jean Cronshaw and subsequently RESOLVED; to recommend approval to Full Council of the reviewed Statement of Principles (Gambling Act 2005) subject to the following:

a) On the expiration of the consultation period (19 September 2016) the Director of Early Intervention in consultation with the Chair of the Licensing and Public Safety Committee is given delegated authority to make any minor amendments arising out of any consultation responses.

b) On the expiration of the consultation period (19 September 2016) any major changes considered to be necessary as a result of the consultation
response will be reported back to the Licensing and Public Safety Committee for further consideration and approval.

16.LPS.46 Amendment to the Scheme of Delegation for Licensing

The Director of Early Intervention and Support submitted a report advising members of the Licensing and Public Safety Committee to consider the proposed review of the Scheme of Delegation for licensing functions.

The current Scheme of Delegation was agreed in March 2009 with minor amendments made in 2015. Members of the Licensing and Public Safety Committee requested that the current scheme was reviewed and the amendments put before them for consideration following a number of cases being brought before the General Licensing Sub-Committee where a Director decision in consultation with the Chair was considered a more appropriate approach.

The first proposal included the addition of non-standard conditions on driver licences following consultation with the Council’s Medical expert. Therefore any decision delegated to officers would comply with qualified medical advice to the council. As a result, it was agreed that officers had authority to grant or renew or revoke and re-grant Private Hire or Hackney Carriage Driver Licences where there was clear direction from the medical expert, with the requirement for consultation with the Chair or Vice-Chair removed.

The second proposal related to the grant of exemptions on medical grounds, for example dog allergies, under Equality legislation following referral for consideration where criteria is met, and refuse where criteria is not met. This constitutes a decision that must be made with high regard to equality legislation, it was agreed that the requirement for prior consultation with Chair or Vice Chair be removed.

The third proposal recommended that the power currently delegated to the licensing officer to suspend a Private Hire or Hackney Carriage Driver Licence for periods not exceeding 14 days be amended to a period not exceeding 28 days to provide a safety net for the Council. Members were informed that 28 days was an appropriate timeframe and would result in reduced member involvement whereas 14 days was not a feasible time period to enable a report to be brought back to committee.

The proposal was amended at Committee following discussion and agreed that this would not be in consultation with the Chair and Vice-Chair for any period up to 28 days and if for a period for longer than 28 days in consultation with Chair or Vice-Chair where reasonably practicable. Although highly unusual for circumstances to arise where this power need to be exercised (all suspensions of driver licences with immediate effect have so far been made under the delegation to the relevant Director), members were informed that it was an essential requirement nonetheless for unusual situations where it was not possible for the Director to exercise the power e.g. at night time on the rank itself.

The current wording of paragraph 2.6 of the relevant section of the constitution was discussed in that it currently relates to both driver and vehicle licences. Therefore, the current position does not allow an Officer to suspend a vehicle licence, following an inspection, without consulting the Chair/ Vice Chair. This is impractical. Therefore it
was proposed to separate the delegations to allow more flexibility and efficient use of the legislation by officers in regard to vehicle licences.

Following discussion on the second part of paragraph 2.16 of the relevant section of the constitution, members agreed that the need for consultation with the Chair/Vice Chair was contrary to providing an efficient response to applicants by Officers carrying out vehicle inspections. It was agreed that where a vehicle cannot be licenced as it does not meet the Council’s agreed vehicle condition then the director is delegated with the authority to refuse the application.

In relation to paragraph 2.12 of the relevant section of the constitution, members agreed that in addition, where a vehicle meets the Council’s conditions in the main but there is a requirement for some discretion in granting of an application in the individual case, then this authority is also delegated to the Director without need for consultation on each matter with the Chair/Vice Chair.

The fourth proposal delegated authority to determine applications from qualifying alcohol licensed premises for up to an additional 2 category C-D gaming machines in consultation with Chair or Vice-Chair, where no objections have been received. This would mitigate incidents where recent applications have been taken to Sub-Committee where a big committee discussion was not required, therefore wasting committee time when deemed appropriate for officers to decide.

Members welcomed the more streamlined process and inclusion of summary tables in the relevant licensing policies as a guide to the delegations and common issues as easily digestible and transparent therefore simplifying the way decision-making is constituted.

With regards to paragraph 13 within the report members agreed that if and when relevant amendments to draft regulations come into force to request that the Executive Cabinet consider that functions under the Scrap Metal Dealers Act 2013 be delegated by Full Council to Licensing & Public Safety Committee rather than the Executive as it was felt more appropriate that scrap metal licensing be a council function.

After careful consideration, members of the Licensing and Public Safety Committee RESOLVED; to recommend to Full Council that it authorises the Head of Legal, Democratic and HR Services to amend the current scheme of delegation in the Constitution to allow the following decisions to be made by the relevant Director (except in relation to paragraph c):

a) Grant (or in the case of an existing licence) revoke and immediately regrant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council’s Medical expert;

b) Grant exemption on medical grounds under Equality legislation following referral for consideration where criteria is met, refuse where criteria is not met (2.16 of the constitution); i.e. requirement currently in Constitution for prior consultation with Chair or Vice-Chair is removed;

c) The power currently delegated to the Licensing Officer to suspend a private hire driver licence or hackney carriage driver licence for periods not exceeding 14 days (2.6 of the Constitution) is amended to a period not
exceeding 28 days and if longer only after consultation with Chair or Vice-Chair unless consultation is not reasonably practicable and a report is submitted to the next meeting of the General Licensing Sub-Committee;

d) Authority to determine applications from qualifying alcohol licensed premises (i.e. holding a premises licence or club premises certificate) for up to an additional 2 category C-D gaming machines, where no objections have been received.

In addition, the Licensing and Public Safety Committee reviewed the existing Constitution and made suggestions to Full Council for the additional amendments:

e) Authority to the relevant Director for refusal to grant and refusal to renew a Private Hire and Hackney Carriage Vehicle Licenses where the Council’s vehicle conditions are not met, by amending paragraph 2.16 of the constitution and removing the requirement to consult with the Chair/Vice Chair.

f) And, amend paragraph 2.12 of the constitution to include, where a vehicle meets the Council’s conditions in the main but there is a requirement for some discretion in granting of an application in the individual case, then this authority is also delegated to the Director without need for consultation on each matter with the Chair/Vice Chair.

Furthermore, members RESOLVED;

1. that if and when relevant draft Regulations come into force allowing the Council to choose whether scrap metal licensing should be a council or executive function that the Executive Cabinet be requested to consider recommending to Council that the Scrap Metal Dealers Act 2013 be considered a council function and delegated to Licensing & Public Safety Committee.

2. to include the amended summary tables in the relevant licensing policies as a guide to the delegations and common decisions.

16.LPS.47
Any urgent business previously agreed with the Chair

The Council’s Licensing Enforcement Officer gave a verbal update to the committee of urgent matters regarding the taxi trade.

At present there remains a prerequisite with the taxi trade ensuring they partake in additional tests including DVSA. Members were informed that all authorities have received the same letter stating that this will be removed on 31 December 2016. This immediate request by the DVSA has therefore provided limited time.

Following communication with the trade, officers reported that in reality taxi drivers are unable to fulfil this prerequisite prior to 31 December 2016 test appointment unavailability. Subsequently, officers sought member’s approval to undergo interim measures to provide an alternative and enable new applicants to approach the council.
Officer research found numerous external companies, which provided a sound alternative and would tailor to the needs of Chorley Council. This would therefore provide greater flexibility which provides the potential to be considered as a permanent appointment once the urgent issues were overcome.

Members of the Licensing and Public Safety Committee agreed to grant officers the authority to investigate alternative external options and enforce emergency interim measures in consultation with the Chair and Vice-Chair.
TAXI LICENSING- IMPLEMENTATION OF VEHICLE EMISSIONS AND NCAP SAFETY RATING CONDITIONS

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to agree the second consultation and proposed amended phased introductions of vehicle emissions standards and The European New Car Assessment Programme (NCAP) safety rating standards for Hackney Carriage and Private Hire Vehicle licences.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee determine the implementation of conditions to be imposed for vehicle emissions standards and NCAP safety ratings from the following options, and agree the relevant dates from which those options apply:

Option 1

a) Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet Condition 21 (Emission standards of Euro 5 or above) and condition 22 (NCAP safety rating of 4* or above) from 1st January 2017; and

b) Require all existing vehicles to comply with the conditions 21 and 22 from 1st January 2024 (the timescale proposed by committee members at the previous meeting).

Option 2

a) Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet Condition 21 (Emission standards of Euro 5 or above) and condition 22 (NCAP safety rating of 4* or above) from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application, (as would be required by Option 1 a), see paragraph 19), and

b) Require all existing vehicles to comply with the conditions 21 and 22 from 1st January 2024 (the timescale proposed by committee members at the previous meeting).

Option 3

a) Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet Condition 21 (Emission standards of Euro 5 or above) and condition 22 (NCAP safety rating of 4* or above) from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application, (as would be required by Option 1 a), see paragraph 19),

b) That where a vehicle is written off due to a none-fault accident, the grandfather rights as described in a above are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle (see paragraph 20); and
b) Require all existing vehicles to comply with the conditions 21 and 22 from 1st January 2024 (the timescale proposed by committee members at the previous meeting).

Option 4

That the implementation date for the grant of new vehicles to comply from 1 January 2017 as proposed be postponed until 1st January 2020 as per request by an operator at the Licensing Liaison Panel.

NB: Members may want to consider a time limit for what would be determined as an existing vehicle for the purposes of relicensing in options 2 and 3, such as a vehicle which has held a licence within the last 6 months (which would be the normal length of a vehicle licence) to avoid a proprietor re-licensing a vehicle under this scheme that has been un-licenced for a number of years but has come back into their possession, in an attempt to avoid compliance with the new conditions.

EXECUTIVE SUMMARY OF REPORT

3. This is the second report to be brought before the Licensing and Public Safety Committee for the consideration of a phased approach to the implementation of vehicle conditions in relation to emission standards and safety ratings.

4. In February 2016 the Licensing and Public Safety Committee agreed in principle to the introduction of a minimum of Euro 5 emissions standards for licenced vehicles to preserve and protect air quality and to a minimum standards of 4* NCAP safety rating of vehicles to protect public safety as part of the review of the vehicle conditions.

5. The committee agreed to a considering the best way to implement such changes and over what period those changes should be phased in, at a future Committee Meeting. At the July meeting committee suggested an implementation date of 2024 for existing vehicles to be presented to the trade and this has been included in the options above, however members may want to review that date in light of information held within this report.

6. The current conditions are as follows:

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<th>Condition</th>
<th>Reason for Condition</th>
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<tr>
<td><strong>21. Emissions Standards:</strong></td>
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<td>a) Hackney Carriage Vehicles waiting on the rank are required to switch off engines (except in extreme weather conditions where heaters would be required for the welfare of the driver) in order to reduce air pollution emissions in the town centre.</td>
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<td>This proposed condition has been agreed in principle by the Committee. The implementation of the condition will be agreed at a future meeting. Taxis provide a public transport service and as such are subject to a large number of journeys and high mileage. These vehicles have the ability to impact on the air quality of the district in the same way that any other public transport vehicle does. In the same way that fleet vehicles and public transport vehicles are required to meet a minimum emissions standards, vehicles licenced by the Council should also meet a minimum standard to ensure that the Council is fulfilling its duty in reducing harmful air emissions that impact on public health.</td>
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<tr>
<td>b) Vehicles presented for licensing as taxis should meet a minimum Euro 5 emissions standard.</td>
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<td><strong>22. NCAP Safety Rating:</strong></td>
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<td>This proposed condition has been</td>
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</table>
Vehicles presented for licensing as taxis should meet a minimum NCAP European Safety rating of 4 stars. This purpose of vehicle licensing is primarily to protect public safety. The implementation of the condition will be agreed at a future meeting. The Committee.

7. Officers met with representatives from the trade for a second consultation on 5 October 2016.

8. The minutes of the Licensing Liaison Panel from the second meeting are attached in Appendix 1.

9. NCAP safety ratings were established in 1997, and the scheme updated in February 2009 to provide an overall rating for vehicles. A summary of the ratings for the vehicles currently licensed by Chorley Council is attached in Appendix 2.

10. Euro 5 diesel engines were introduced in September 2009; the number of vehicles currently licensed by Chorley Council that predate this are 24 of the 36 Hackney Carriage Vehicles and approximately 100 of the 140 Private Hire Vehicles. These vehicles, and possibly some that postdate 2009 but still do not meet the emission standards, may be affected by the introduction of this condition (although it should be noted that some manufacturers introduced Euro 5 rated vehicles prior to September 2009 in anticipation of the requirements and as part of specific model launches).

11. This equates to approximately 70% of the fleet, which are likely to be affected by the conditions due to the age of the vehicle (currently registered prior to September 2009 and 7 years old or more).

12. Chorley Council no longer imposes an age restriction on vehicles licenced as Hackney Carriages or Private Hire Vehicles.

Corporate Priorities

13. This report relates to the following Strategic Objectives:

| Involving residents in improving their local area and equality of access for all | A strong local economy |
| Clean, safe and healthy communities | X An ambitious council that does more to meet the needs of residents and the local area | X |

Background

14. The vehicle conditions review and consultation took place in 2015 and the updated vehicle conditions were presented to the Licensing and Public Safety Committee on 3 February 2016 along with the consultation comments.

15. There were no comments made with regard to the proposed conditions for a minimum Euro 5 emissions standard (condition 21) or for the minimum of 4* NCAP vehicle safety rating (condition 22).

16. In February 2016 the Licensing and Public Safety Committee agreed in principle to the introduction of a minimum of Euro 5 emissions standards for licenced vehicles to preserve and protect air quality and to a minimum standards of 4* NCAP safety rating of vehicles to protect public safety as part of the review of the vehicle conditions.

17. Officers met with representatives from the trade 23 June 2016 at the Licensing Liaison Panel meeting and consulted on the phased implementation of vehicle condition 21 (Emission Standards) and condition 22 (Safety Rating). In summary, the trade
18. However, the Licensing and Public Safety Committee met in July 2016 and asked for further information on the lifespan of vehicles (Paragraphs 21-30 below) and additional consultation at the next available Licensing Liaison Panel, which took place on 5 October 2016.

19. There were a number of concerns raised by the trade with regard to existing vehicles, the first concern with regard to re-licensing. For example, Where the licence lapses because no application to renew is made in time or is surrendered (this usually happens where a Hackney Carriage Vehicle is suspended as a result of damage and the proprietor applies for a replacement vehicle to be granted a licence while preserving the plate number) and then an application is made to re-licence the vehicle, this will be subject to a grant application (as there is no existing licence to renew) and therefore all the vehicle conditions will be applicable at the time of the application. The initial report provided an option for this, which is retained in Options 2 or 3 above.

20. The second main concern related to the principle adopted by insurance companies when a vehicle is written off, in that the replacement value or vehicle will be comparable to the one to which the loss applies, like for like. Therefore, the trade felt that where there was a no fault accident the proprietor should not be penalised for losing their existing vehicle and being additionally required by the Council to then meet a higher specification on the replacement vehicle than the one lost. Therefore, option 3 has been presented for consideration by the committee in relation to this concern. Member should note that the determination of no fault losses may result in additional officer time in considering the details of the case so that the correct conditions can be applied to the grant of the replacement vehicle.

21. Members did request some further information in relation to the lifespan of vehicles used as Hackney Carriage and Private Hire vehicles and officers can provide the following anecdotal information (however, we are now looking at the feasibility of recording more of this information so that it can be made available to the committee if required in the future).

22. The lifespan of a licenced vehicle generally depends on the business model of the proprietor. Chorley Council has a number of operators that buy new or nearly new vehicles and keep them for 3-4 years before replacing them. Other operators buy vehicles that are over 10 years old with 150-250K miles on the odometer and run the vehicle until the end of its life (scrapped after use).

23. Members are advised that the mileages that these vehicles are subject to are far in excess of those made by a domestic vehicle. The average person will drive about 10-12K miles in a year, which is 1000 miles per month. In addition, most owners of vehicles will have the vehicle serviced once per year or at least at each mileage set by the manufacturer and if over 3 years old will be required to have an MOT every 12 months.

24. The MOT is a minimum standard and will often highlight any advisory issues, such as brakes, suspension and tyres, that will require replacement within the next few thousand miles.

25. The average licenced vehicle travels 1-2000 miles per week. With an average annual mileage of between 50-100K miles. From discussions with the garages that carry out our testing, we are aware that a proportion of our proprietors use the taxi test as a way of determining what minimum maintenance is required to the vehicle.

26. Currently Chorley Council does not monitor advisories on the MOT part of our taxi test, only pass or fail, and does not set a limit on the number of failures allowed per vehicle, as some authorities do.

27. A number of other local authorities do not consider the taxi test to be passed where there are any advisories on the MOT element, as this means the owner is being advised of an imminent failure and the need for immediate maintenance. For a licenced vehicle, this may result in the vehicle failing the same MOT within a 2 week window of the test due to the mileage covered in that period. Where for a normal car, the owner may have a period of several months in which to get the issue addressed before it would make the vehicle un-roadworthy.
28. The consideration of advisory notes and a limit to the number of test failures permitted for a licenced vehicle may be a policy matter for the Committee to consider in relation to the existing taxi test standards.

29. Mileage and age are important factors in judging the safety of a vehicle, but the vehicle type and make and type of mileage and maintenance of the vehicle are major considerations. City or town mileage impacts more severely on the wear and tear of a vehicle than motorway mileage. A vehicle with higher motorway mileage that has received more care and maintenance than a younger lower town mileage vehicle may be a better car. It is widely agreed that higher mileage vehicle cost more to maintain, which is why many older higher mileage vehicles are cheaper to buy, because the maintenance costs start to outstrip the purchase price.

30. Therefore, it is impossible to direct the committee in relation to what would be a suitable estimate of lifespan of a vehicle, other than to remind members that the mileage and type of mileage done by licenced vehicles is usually in the region of 10 times that of a normal vehicle and that we must have confidence in our own taxi test to ensure that the vehicles are safe for the transportation of the public.

31. The Council's Annual Air Quality report has been accepted by DEFRA and is now published on the Council's website. For additional information for members, the public health indicators used for the air quality assessment demonstrate that Chorley suffers from an adult mortality attributed to particulate matter of 4.7%; the regional average is 4.6%. Diesel vehicle emissions are a significant contributor to local levels of harmful particulate matter.

OTHER CONSIDERATIONS

32. Members of the trade introduced a proposal at the Licensing Liaison Panel Meeting to reconsider the introduction of vehicle conditions 21 and 22 in favour of the introduction of a 10 year vehicle age limit.

33. Although the Committee may want to consider this as an option, there are a number of limitations to this proposal.

34. The introduction of such an age limit has been implemented by a number of other local authorities and in fact Chorley Council did apply such a restriction previously, However, strict age limit conditions are open to challenge as they prevent the Council from exercising discretion with regard to the vehicles permitted to be licenced, and are not specific enough to protect Council’s from legal challenge in regard to the Council’s role in protecting the public and the Council’s reputation. As such, this proposal has been rejected by the officers and is not presented as a feasible option for members in this report.

IMPLICATIONS OF REPORT

23. This report has implications in the following areas and the relevant Directors’ comments are included:

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<th>Finance</th>
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<td>Equality and Diversity</td>
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<tr>
<td>Legal</td>
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<td>Integrated Impact Assessment required?</td>
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<tr>
<td>No significant implications in this area</td>
<td>Policy and Communications</td>
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COMMENTS OF THE MONITORING OFFICER

24. The Council has power to impose such conditions on the grant of a hackney carriage vehicle licence as it considers reasonably necessary under Section 47 of the Local Government (Miscellaneous Provisions) Act 1976. The Council has power to impose such conditions on the grant of a private hire vehicle licence as it considers reasonably necessary under Section 48 of the 1976 Act.
25. The proposed conditions are clearly subject to a test of reasonableness. Any conditions should reflect the adopted policy of the Council.

26. Any person aggrieved by the conditions attached to a licence may appeal to the magistrates’ court within 21 days of notice of the decision. This appeal period will not therefore be triggered by any decision made by the Licensing and Public Safety Committee but only on the grant or renewal of a vehicle licence with any of the new proposed conditions which may be approved by Licensing and Public Safety Committee.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

There are no background papers to this report.

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<tr>
<td>Lesley Miller</td>
<td>5299</td>
<td>Nov 2016</td>
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Licensing Liaison Panel
Meeting notes for 5 October 2016
Chorley Council, Town Hall

Attendance:

Chorley Council:  Cllr Marion Lowe – Chair Licensing and Public Safety Committee  
Cllr Anthony Gee – Vice-Chair Licensing and Public Safety Committee  
Lesley Miller- Regulatory Services Manager  
Tracy Brzozowski - Licensing Enforcement Officer  

Taxi Licensing Trade:  Shakail Ahmed – Hackney  
Shamail Ahmed – Private Hire  
Andrew Price- Yellow Cabs  
Anthony Price – Yellow Cabs  
Phil Cooper- Cooper’s  
Charles Oakes – The Hackney Drivers Association Ltd  

Licensing Trade:  Peter Verhaege- Pub Watch and Licenced Trade

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<tr>
<th>Agenda Item</th>
<th>Discussion Notes</th>
<th>Actions</th>
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<tr>
<td>Part 1-1</td>
<td>Apologies- None-</td>
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<td>2</td>
<td>Minutes from Meeting on 23 June 2016- LM made a small amendment to the notes following clarification from PV in relation to football fans. TB updated on the issues that had been raised and the action to be taken by police and Local authority in speaking to the premises involved in the complaint- but no public order issues were identified in the investigations. The minute notes were agreed by CO and Aw Price</td>
<td>LM</td>
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<td>3</td>
<td>Matters Arising – LM asked Head of Governance and Democratic Services for a minute taker- the response was that this meeting is an informal consultation meeting rather than a formal Council meeting and therefore it is not appropriate to provide an officer from democratic services to take formal minutes. LM offered that someone form the trade could take the notes if they wished but the offer was declined.</td>
<td>LM</td>
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<td>4</td>
<td>Licensed Premises – PV advised there were no issues raised for this panel from pubwatch. The town centre premises are looking forward to Chorley Lice this weekend AP had sent his apologies for the last Town Centre working group meeting. CO offered to attend in AP’s place as the taxi trade rep if this was more convenient. AP advised that his intention was to attend. LM and PV had discussed the matter of safeguarding training and a presentation to pubwatch in the new year and PV had agreed this was an excellent idea and as chair has committed to agreeing to this training. CO raised a good point about training for the taxi trade and issues in particular with some Council’s undertaking anti-terrorism training with</td>
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the trade and then advertising them as the eyes and ears - there are concerns about certain social groups targeting the taxi trade and fear of reprisals. LM and Cllr Gee agree this was a fair point and that although we have no intention of advertising our training or introducing anti-terrorism training, any communications in relation to this would need to be handled delicately. TB pointed out that we can’t control information put out by other bodies or FOI applications from the press, but we need to be careful not to put a spotlight on the taxi trade.

5 Gambling Act – Policy has been out for consultation and the consultation responses have been very constructive and will be added to the policy and hopefully it will come into effect by the next LPS Committee.

6 Police Items – police have not asked for any matters to be included in this item and are not in attendance.

Part 2 1. Taxi Items –

LM asked the trade to consider what they would deem reasonable timescales for phasing in the conditions relating to emissions standards and safety ratings of vehicles following a request from the LPSC on 20th July, for further consultation with the trade.

There was a lot of discussion on this point and everyone from the trade made comments and contributions to this.

It was agreed in the end that the following would be put forward to the next LPS Committee in November:

That the conditions for both emissions and safety should be phased in together rather than having a different approach to each condition.

That the proposed timescale put forward by members at the LPSC of 8 years (1st January 2024) be presented as an option for existing vehicles and those that have previously been licenced but are subject to a grant (EG due to a suspension because of an accident etc), that if the original vehicle is written off by an insurance company, the grandfather rights apply as long as the vehicle proprietor replaces with a like for like (make, model and age) or better- and all other vehicle conditions are met.

That the conditions apply to new grants from 1st January 2017.

That an alternative proposal for new grants is presented that delays this implementation until 1st January 2020. (put forward by Shak)

That an alternative proposal for the removal of these conditions and replacement with a 10 year vehicle age limit be considered and if agreed in principle then go out for consultation, but to not be applicable to existing vehicles for 5 years (put forward by AP and PC)
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<td>1</td>
<td>CO is to put the question in writing to LM for inclusion in the report with regard to insurance write offs and the limitations on the replacements, to clarify the addition to the proposal. And also his comments on the proposal to apply and age limit as an alternative.</td>
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<td>2</td>
<td>This week Chorley Council has launched the consultation on the consolidated Taxi Licensing Policy and will welcome comments. Everyone will get a personal letter with a link to the consultation, but it is already on the website and will be open for 12 weeks to the end of December.</td>
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<td>3</td>
<td>TB updated on the notification from DVSA that they are no longer carrying out taxi driver tests. Cllrs are keen to maintain standards and therefore still require a higher level of driver testing. The LPSC agreed for us to pursue an interim emergency measure for this testing. Currently we have identified 3 companies that have a comparable test at a comparable price. The proposal is to use all three companies and allow drivers to choose and we may also find more for the future. As yet we are waiting for details of location but all 3 are used by neighbouring local authorities. It was agreed by the trade that a choice of providers was appropriate. Similarly, we need to find an alternative for paper DBS checks as there is a risk because Chorley do not currently carry out sufficient numbers for us to retain our licence. TB has identified 3 companies who can carry out checks on our behalf and is having a meeting with one today so we can get an interim measure in place by 1/11/16, then trial for 6 months before we make any commitment. The e-bulk services are more efficient and usually get priority over paper applications so are potentially dealt with more quickly, in general, but they do cost slightly more. AP felt that the extra £15 or so would be worth it if we can get driver applications processed more quickly as a result. CO wants to stress the need for the Council to put in safeguards in any SLA to protect the trade from hikes in price of these services.</td>
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<td>4</td>
<td>Drivers handbook LM asked Co for clarification as there is an off the shelf handbook available as did we want to price this up. CO will get a copy of the Manchester book as this is a good example of a bespoke / home grown handbook.</td>
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<td>5</td>
<td>LM advised that the licence fees review has started and a report will be going to LPSC in November and the fees would then go out for consultation, so that new fees could be implemented in April 2017</td>
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<td>6</td>
<td>AOB- None</td>
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**Date and Time of Next Meeting**

PV asked if we can avoid the first Wed in each month as this is pubwatch. It was agreed we would try to arrange for Mondays in the future, starting at 12.30 prompt.

Next meeting: Monday 16th January 12.30pm
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REPORT OF MEETING

Deputy Chief Executive / Director of Early Intervention and Support

Meeting: Licensing and Public Safety Committee.

Date: 23 November 2016

REVIEW OF THE COUNCIL’S POLICY WHICH LIMITS THE NUMBER OF HACKNEY CARRIAGE VEHICLE LICENSES ISSUED TO 36

PURPOSE OF REPORT

1. The purpose of this report is to advise Members of the Council’s responsibility to review the quantity control policy that currently limits the number of Hackney Carriage Vehicle licences the Council issue.

RECOMMENDATION(S)

2. Members are recommended to consider the contents of the report and instruct the Director of Early Intervention & Support in one or more of the options contained within the report.

EXECUTIVE SUMMARY OF REPORT

3. At the meeting of the Licensing and Public Safety Committee on 22 July 2015, Members were advised of the Council’s policy that limits the number of Hackney Carriage Vehicle Licenses it will grant which is currently limited to 36. Members resolved that the Director of Public Protection, Streetscene and Community to:

4. Subject to reasonable costs within the allocated budget, to instruct officers to undertake a process of consultation to determine whether or not a decision to remove the Council’s limit on the number of Hackney Carriage Vehicle licences it will issue is in the public interest. The consultation shall be so designed to examine the current arrangements and consider the removal of:

   a) the numerical limit the Council currently imposes on the number of HCV licences it will issue; or
   b) removal of the numerical limit the Council currently imposes on the number of HCV licences it will issue, and only consider applications for the grant of a Hackney Carriage Vehicle Licence where the vehicle presented is able to meet the requirements of the Council’s Conditions of Application for the Grant of a Wheelchair Accessible Vehicle Hackney Carriage Vehicle as detailed in the Council’s condition of application, or
   c) to maintain the limited number of HCV licences it will issue.

5. If the cost of such a survey was higher than the allocated budget, the details would be brought back to the Licensing and Public Safety Committee for a decision.

6. The results of any consultation undertaken and any recommendations shall be brought back to the Licensing and Public Safety Committee for their consideration.

7. Officers can now report that CTS Traffic + Transportation Consultants were appointed for the purpose of undertaking a survey to determine whether or not there is any significant
unmet demand for the services of Hackney Carriage Vehicles within the Borough of Chorley and to assess the Public interest in the provision of Hackney Carriage Vehicles within the Borough. Officers can report that in the interest of efficiency a cohesive approach was taken between the Council and CTS which extended to assimilating the questionnaires of the unmet demand survey and of the public interest survey; this enabled a more concise approach to the interpretation of the results that have been evaluated impartially by CTS. The survey report titled Chorley Council Hackney Carriage Survey Draft Final Report November 2016, is attached as Appendix 1 [https://democracy.chorley.gov.uk/documents/s70035/Chorley%20Unmet%20Demand%20Report%202016.pdf]. Officers are now in a position to inform members of the results of the surveys which are summarised below.

“CTS Traffic and Transportation were appointed by Chorley Council to undertake their “Hackney carriage survey” on 28th July 2015. This report presents the results of all investigations undertaken to provide a database of robust information on which a decision can be taken by councillors about the hackney carriage vehicle limitation policy. All research was undertaken in line with the current Department for Transport Best Practice Guidance (April 2010) and taking advantage of the extensive research undertaken by the Law Commission in their recent review of licensing. Additional work was undertaken focussing on the ‘public interest’ reference by the Law Commission, which used council consultation channels which extended the timetable somewhat due to the protocols for such consultation.

Chorley is a borough council within the larger Lancashire county authority. Highway and transport powers are therefore led by the County. Its background transport policy only mentions taxis in encouraging training for operators and improving interchanges. There is a comprehensive and active policy for licensing hackney carriage and private hire including exercising the power to restrict the number of hackney carriages licensed since 1978. Since statistics were available, nine WAV have been added to the fleet. In similar time period the 20% extra hackney carriages have been added to by 90% more private hire vehicles. Market forces have not added further WAV to either fleet, and in fact have recently seen the general accessibility of the WAV in the fleet reduce.

The hackney carriage and private hire fleets in Chorley remain distinct. This implies the WAV provision, highest in the hackney carriage fleet, is not as accessible as in other areas where they can also be accessed by known telephone contacts.

There is only one real active rank, in the High Street in Chorley. This location is properly used by hackney carriages and not significantly abused by any other vehicles. Observations found 15% of hackney vehicle movements were WAV compared to the 25% available in the fleet. On Market Day two people used wheel chairs to access hackney carriages at the rank. Estimated 2015 weekly usage of hackney carriages in Chorley was 3,122 passengers, an increase of 12% since the last survey. Tests suggested the fleet was not playing up to the survey, and passenger waiting was observed, albeit at non-significant levels of unmet demand.

People were interviewed in the streets with other views captured using a slightly wider questionnaire via council consultation methods. About a third had recently used licensed vehicles, and the highest reason for usage (21%) was for going out in the evening. 18% said they used ranks with the highest proportion phoning for (private hire) vehicles. A wide range of companies were used though one saw 38% of mentions and two others saw over 11% of mentions each. One out of town company featured in the top seven companies. The council survey found a third of people saying they had used an out of town vehicle in Chorley. It is clear that hackney carriages are clearly visible and known to people, just not used. Part of this is the perceived cost, although many say they would not consider the cost if they needed to use a hackney carriage and one was available.
Most knew of the High Street rank, and the only two places new ranks were requested were Chorley station and the hospital, although this demand was small. There is a concern that people feel they could not hail hackney carriages and wouldn't attempt to.

Key stakeholders generally felt there was a good service, although there was concern that the main rank could be a flash point at night, and therefore needed careful monitoring, although police statistics did not support there being a recorded issue there. A key issue for stakeholders was the difficulty of getting WAV which meant that work was being given to other borough licensed vehicles which met need within Chorley.

The trade provided a good response, from both hackney carriage and private hire. Most supported retention of the current limit. Though many felt more ranks were needed, many also said extra ranks would not bring any overall benefit. Some evidence was found that some hackney carriages had niche markets not involving the main rank. Results suggested working days and hours were relatively low for licensed vehicle operations (although similar to a normal working week).

Four potential options were identified in the report. The option of a change from quantity licensing to quality licensing, i.e. allowing any new hackney carriage which is WAV to the current council standard to have a plate, appears to provide the best option at this time. It provides protection to the saloon fleet whilst maximising opportunity for those wanting to provide service to those needing WAV to enter and meet these needs."

**Options**

8. To instruct the Director of Early Intervention and Support to:

   a) remove the numerical limit the Council currently impose on the number of HCV licenses it will issue; or

   b) remove the numerical limit the Council currently impose on the number of HCV licenses it will issue, and only consider applications for the grant and renewal of a Hackney Carriage Vehicle Licence where the vehicle presented is able to meet the requirements of the Councils Conditions of Application for the Grant and any renewal of a Hackney Carriage Wheelchair Accessible Vehicle (WAV) as detailed in the Councils Hackney Carriage Vehicle conditions of application, or

   c) to increase the number of Hackney Carriage Wheelchair Accessible Vehicle licenses it will issue as Members see fit, or

   d) to maintain the limited number of HCV licenses it will issue at 36.

9. Should Members determine either option 1a), 1b) or 1c) members are advised to instruct the Director of Early Intervention and Support to consult on that decision and report back to the Licensing and Public Safety Committee the findings of the consultation, where by that Committee will consider the consultation and determine whether or not the Councils Policy to limit the number of HCV licences it will issue will be effected.

10. It is further recommended that should Members approve option 1a), 1b) or 1c) above, it would be appropriate to instruct the Director of Early Intervention and Support to explore the provision of additional taxi ranks at Chorley Railway Station, Chorley hospital and any other suitable locations throughout the Borough with a view to accommodating additional Hackney Carriage vehicles licensed. Any such area identified as being suitable to be appointed under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 shall be considered by Members at the next available meeting of the Licensing and Public Safety Committee. Members will be aware that there is a further report for consideration at today's meeting in relation to Taxi ranks in the Town Centre, officers do not believe that the short
term changes contained in that report would affect any of the options that may be decided today that are contained in this report.

11. Exposure to market forces and perceived (plate value on transfer) value.

12. Should Members opt for option 1 a) any perceived transfer value for all HCV will achieve a parity to that of the value of PHV upon transfer.

13. Members will note that the majority of the existing WAV Hackney Carriage Licenses were first granted in approx. 2007, following the recommendation of a significant unmet demand report considered at that time, which recommended the issue of 7 WAV HC licenses. Members may take the view that the current proprietors of HCWAVs have there for only a limited exposure to a perceived loss in any transfer value of a HCWAV licence as the cost to enter the trade at that time extended to the cost of the vehicle and associated costs only (given the current policy position). The further two HCWAV licenses were granted following tombola allocation, following the lapse of the licenses.

14. Proprietors of saloon and estate type HCV (27 Vehicles) would benefit from a limited exposure to market forces should Members opt for option 1 b) as there is no suggestion within this option to allow further vehicles of this design to be licensed as HCV. It is envisaged that such vehicles would still in this instance retain any perceived transfer value due to the reason that they would be less expensive to replace than a HCWAV.

15. Should Members opt for option 1 d) the Status Quo will be maintained.

16. Should Members opt for option 1 c) the method by which the Licenses might be allocated could lead to the HCWAV licenses being issued to those who are not best placed to utilise the licence in the most efficient way and provide the service this report suggests. Members will be aware that when a HCV Licence has been granted the Council has no means of influencing the way in which it used.

**Confidential report**

| Please bold as appropriate | Yes | No |

### CORPORATE PRIORITIES

17. This report relates to the following Strategic Objectives:

| Involving residents in improving their local area and equality of access for all | x | A strong local economy | x |
| Clean, safe and healthy communities | x | An ambitious council that does more to meet the needs of residents and the local area | x |

### BACKGROUND

18. The Council has a Policy limiting the number of Hackney Carriage Vehicle licences it issues to 36; this includes provision for 9 Wheelchair accessible vehicles. 4. The Council is not obliged to maintain a limited number of hackney carriage vehicle licences. The Council may determine that the maintenance of the limit is not in the public interest in serving the transport needs of the borough and does not provide an adequate level of service for residents and visitors to the area.

18. However where a limit exits and the Council wish to maintain that limit, the Council has to be satisfied that there is no significant unmet demand.

19. Establishing unmet demand can be achieved by way of a survey of the hackney carriage provision within the Borough of Chorley, examining by way of a series of observations of taxi
rank activity and by issuing direct and in-direct questionnaires to interested parties including the general public. The Council may commission such a survey and recover the costs.

20. Should Members decide not to commission the unmet demand survey then the Council would over time lack recent data to justify not delimiting numbers. In this instance, the Council would not be in a position to refuse the grant an application for a hackney carriage vehicle licence without being exposed to a possible legal challenge.

LEGAL POSITION


22. Section 16 of the Transport Act 1985 removed the discretionary power to limit the number of Hackney Carriage Vehicles that a licensing authority would licence and replaced it with a stringent test which must be satisfied if a licensing authority determined to refuse a licence in order to limit numbers, including the existence of a coherent and regularly reviewed policy to limit hackney carriage vehicle numbers.

23. Where a licensing authority has a limitation policy, in order to comply with Section 16 of the said Act, it must be satisfied there is no significant unmet demand, before it can refuse a licence for the purpose of limiting numbers.

24. Any person who is refused a licence has the right of appeal to the Crown Court.

25. Department of Transport Circular 3/85 provides guidance on the restriction of the power of licensing authorities to limit the number of hackney carriage vehicles, and paragraphs 27 and 28 are reproduced in Appendix 2 and Information from the Office of Fair Trading on the Central Government position is attached in Appendix 3.

26. Should Members prefer to change the Council’s current Policy of restricting the number of HCV licenses it will issue having regard for the details of the significant unmet demand and public interest survey results. Members must then be aware of the potential costs that could be incurred by the Council and the Hackney Carriage Trade should an appeal to that decision be made. Such an appeal is usually made by way of Judicial Review (JR).

27. In reaching a decision that might change the Council’s current policy, Members may rely on the following authority; R v Great Yarmouth Borough Council, ex p Sawyer (1987) (1989) RTR 297n, CA. et al Button on Taxis 3rd Ed.

28. From this stated case there are a number of matters that should be observed that will provide clarity to any decisions made and offer reassurance to both the Council and the Taxi trade that the decision is made correctly and in the interest of the Public. Those matters are;

29. That any decision reached should not be unreasonable in Wednesbury terms. Irrelevant matters must not be taken into account in reaching a decision; any decision reached must be a considered reasoned decision and not decided upon irrational processes or actions. In determining this matter, Members may consider the following suggestions as relevant to that decision making process, the suggestions are intended as contribution to a broad approach to this process and promote discussion, the list is not exclusive and includes;

- The financial impact on existing licence holders who may have invested in their licence,
- The potential reduced custom for existing licence holders,
- Congestion on Hackney ranks,
- Congestion on roads generally,
- Benefits to the traveling public of additional taxi provision
• The opportunity of others to enter the trade who are otherwise restricted from doing so, and then able to secure a livelihood,
• The costs of commissioning future surveys,
• The costs of defending appeals against refusal to grant licences, either with or without a survey et al Button on Taxis 3rd Ed.

GENERAL

30. The interests of the Hackney Carriage trade lie not only with their capability of being able to ply for hire on the street and at the appointed rank within the town centre, but also with the intrinsic transfer value of the Hackney Carriage Vehicle licence which is created were a limit to the number of HCV licenses exists. Officers believe that Chorley Council HCV licenses have in recent years changed hands with a transfer value of £40,000.

31. Members should be aware that the extent of this value is an indicator of the restricted Market where there is a demand to enter the trade but “would be proprietors” are prevented from doing so because of the limited numbers policy imposed by the Council and the high transfer fee. This is comparable to that compared to the transfer value of a Private Hire Vehicle where the value is limited to the actual value of renewing the licence + plus the vehicle value.

32. However, it is vital to note that the intrinsic transfer value of the plate must not be a material consideration in maintaining restricted numbers.

33. Members will recall instructing Officers following the recommendations from the 2012 unmet demand report, to pursue the provision of additional HC ranks at a number of locations within the borough; Officers can report that extensive work was undertaken to secure 3 locations. Officers have been unable to progress the provision of any additional ranks as the response from the HC trade was clear, in that the trade would not support their introduction, Officers believe the Hackney Carriage trade are unwilling to service other locations within the borough, the current Hackney provision can be regarded as completely Chorley centric to the Town Centre. Anecdotal evidence suggests that all but of 4 of the 36 Chorley HCV operate solely from the 2 ranks situated on High St in the Town Centre. A plan of the town centre and the borough are attached for member’s information detailing the HCV availability from ranks within the Borough, Appendix 4.

34. The 4 HCV mentioned are also able to be dispatched from the High St Rank using a PHO radio circuit. The previous anecdotal evidence suggested that HCVs are reluctant to respond to a hail request, this is further supported by the survey results, this has significant implications to those less able bodied members of the community or where no rank exists.

35. Members will be aware that the Law Commission conducted a wholesale review of taxi provision and surrounding legislation. The results and recommendations to Government have been made public. The document titled Taxi and Private Hire Services May 2014 is attached as a background document, https://democracy.chorley.gov.uk/documents/s70036/The%20Law%20Commission%20-%20Taxi%20and%20Private%20Hire%20Services%20May%202014.pdf. Members attention is drawn to Chapters 11 and 12 which discusses and sets out proposals in relation Local Authorities ability to limiting the numbers of HCVs and Accessibility for all, the Law commission report has been accepted by Government.

36. It was anticipated at the time of the last report to Members detailing the matter of restricted HCV licence numbers (Sept 2012), that the Law Commission recommendations would have found their way to Statute at this time, however this is not the case, to date local authorities have not been advised of when we might expect the recommendations to become legislation. The recommendations seek to cut red tape and remove unnecessary Restrictions. However given the current political landscape it is unlikely this matter will be dealt with within this parliamentary term.
37. A licensing Authority does not have to demonstrate that there is an unmet demand if it wishes to remove the numerical limit it has imposed. R -v- Great Yarmouth Borough Council is the authority for this proposition. A licensing authority can at any time decide to remove the imposed limit of hackney carriages vehicle licences it will grant, this is subject to a general proviso that the decision to do so is not of itself, irrational or unlawful. Clearly, should Members decide to remove the limited number of HCV licenses it will issue, this would negate the need to conduct a future unmet demand survey.

OUT OF TOWN VEHICLES

38. Members should note that officers have received a number of representations from the Chorley Private Hire Operators (PHO) and the Hackney Carriage trade regarding the ingress of taxis from neighbouring boroughs operating within Chorley.

39. The impact of the influx of such vehicles is reportedly having a detrimental effect on the trading capabilities of the Private Hire and Hackney Carriage Trade in Chorley; this is placing further burdens on officers in relation to enforcement. However, there is no legislative power available to prevent this activity taking place.

40. It is acknowledged throughout the taxi trade (and by the Local Authority licensing family) that those licensing authorities who have licensed these vehicles and drivers have policies that are insufficiently robust and might not meet those standards imposed by other authorities such as Chorley Council. This attracts a large number of vehicles and drivers who are required to meet a lower application standard and allows them to trade across the UK, including those dispatched by Chorley Private Hire Operators. Whilst delimiting might diminish the incentive to obtain a hackney carriage vehicle licence from an authority other than Chorley it would still prove attractive to applicants if the fees and standards at other authorities were lower than those imposed by Chorley Council.

41. Lancashire Constabulary has been made aware of this issue. Their concern is to prevent or address any disorder either from the queueing public or between competing drivers of HC & PH vehicles. Consequently, the police are not minded to regulate or address complaints of illegal plying for hire as it is in the wider public interest to have as many licenced vehicles available as possible to serve the public at peak demand times and in particular support the late night economy and remove people from the town centre.

42. Over the past 2 years Officers have received detailed written applications from Chorley Private Hire Operators for the Grant of a Hackney Carriage Vehicle Licence specifically for disabled access vehicles, stating that they are consistently requested to provide such vehicles, but are unable to do so as providing such a vehicle is not viable unless it is licensed as a HCV. PHO One Company has stated that they receive up to 6 requests a day; another has stated that they receive on average 20 requests a week for a vehicle suitable to accommodate wheelchair users.

43. Officers have also received a number of verbal requests from individual drivers seeking HCV licenses. Over recent months it has been noted that a number of Chorley PHO now dispatch cross boarder licensed Hackney Carriage Vehicles within the controlled district of Chorley within the provisions of the legislation. Members may consider this response by PHO in taking these actions as a consequence of the Councils policy in maintaining its limited number of HCV licenses it issues, as the benefits to an individual of operating a HCV as opposed to a PHV can be significant.

CRIME AND DISORDER

44. Within Community safety partnership meetings, concerns have been raised regarding the availability of Hackney Carriage Vehicles to adequately serve the late night economy. They have reported that Police Officers have been deployed on a number of occasions to the Hackney Carriage rank on High St to avoid disorder. The matter of employing taxi marshals has been raised to act as an early intervention measure to assist in managing the queues at
the rank and associated disorder that is said to be a direct result of limited availability of HCV in the evening economy.

45. It is not in the Local Policing team’s interest to control which type of taxi is plying for hire during the early hours of the morning, as their interest rests in clearing the streets as quickly as possible. The Police take the view that the more licensed vehicles available to do this the better.

ECONOMIC DEVELOPMENT

46. Comments from The Head of Economic Development at Chorley Council has made the following comment in relation to the present position;
A restricted supply of Hackney Carriage provision could impact on the local economy, with respect to the following considerations:

• The Hackney Carriage can be of significant support to the transportation by minority groups such as elderly, disabled and in particular wheelchair users; an imbalance of provision restricts access to employment opportunities and local services.
• There needs to be adequate supply of vehicles at demand generators linked to the visitor economy, such as events at Astley Park, Town Centre, Village Farmer’s Markets, and Chorley Grand Prix.
• Imbalance of provision and inconsistent charging mechanisms could seriously affect our night time economy in terms of number of visitors and visitors leaving early.

It is often reported that as bus services are cut back there are many potential customers now struggle to get into the town centre for their needs and provision of ranks in the district service centres and villages would enable these rural areas to stay connected and still have access to not only town centre services but any destination no longer served by a regular bus service.

EQUALITY & DIVERSITY IMPACT ASSESSMENT ISSUES

47. Chris Sinnott, Director of Policy and Governance comments: An Integrated Impact Assessment (IIA) has been completed based on the current policy that limits the number of Hackney Carriage Vehicle (HCV) licences the Council issues. It shows that the current policy is having a negative impact on some of Chorley's residents. In particular these include residents with a disability, young children, residents who live in outlying areas and also some local businesses. The IIA includes evidence relating to each of the areas which are negatively impacted, together with recommended actions for how to address them. These actions support the options recommended to you within this report. In particular, it is expected that removing the limit on the number of HCV’s, but restricting further applications to Wheelchair Accessible Vehicles and Disabled Access Vehicles only would result in positive outcomes for those that are currently impacted negatively. Following approval of any changes to the policy a new IIA should be completed.


DISABLED AND WHEELCHAIR ACCESS VEHICLES

49. Lancashire County Council Integrated Transport Unit hold the County’s responsibility for arranging transport for those less able bodied members of the community, they rely on an adequate supply of WAV licensed vehicles being available to be able to meet demand. They have provided a list of available Contracted wheelchair accessible HC & PH Vehicles throughout Lancashire, attached as Appendix 7. The vehicles are used to convey their clients being predominately special needs, to specialist establishments, schools and medical facilities throughout the County and Cross County, where journeys may start and finish within the same controlled district or not.
50. Members will note that there are no available WAV or DAV vehicles recorded against Chorley Borough. Members will be aware that Chorley as a Borough hosts a high number of specialist facilities attracting a significant number of specialist taxi journeys. It would be reasonable to assume that none of these journeys arranged by the Social Care Services of LCC are completed by Chorley licensed HC or PH vehicles. (The contracts manager at LLC has confirmed on the 9/10/2016 that there are no Chorley Licensed WAV on their register).

51. Officers believe there is just one of the Chorley licensed wheelchair accessible HCV that is able to be controlled via a PHO circuit radio.

APPLICATIONS FOR HCV LICENSES FROM THE PRIVATE HIRE TRADE

52. Officers are currently responding to 2 further applications for HC WAVs, the applications are attached for Members to note as Appendix 8.

53. Chorley has a mixed fleet of hackney carriage vehicles which include traditional hackney cab vehicles which are wheelchair accessible, estate and saloon cars.

54. Currently Chorley Council has limited the number of hackney carriage vehicle licences that it would issue to thirty-six. (Licensing & Public Safety Committee – 12 September 2012). At the time of writing there are 36 HCV and 140 PHV Licenses issued.

OFFICE OF FAIR TRADING - CENTRAL GOVERNMENT POSITION

56. The Office of Fair Trading published a market study into the regulation of taxi’s and private hire vehicles in November 2003. The document can be found at:


57. The OFT recommended that local authorities should not retain the power to restrict the number of hackney carriage vehicle licences because it considered that such restrictions can:

(a) reduce the availability of taxis  
(b) increase waiting times for consumers  
(c) reduce choice and safety for consumers  
(d) restrict those wanting to set up a taxi business

40. Central Government responded by means of a Written Statement in the House of Commons http://www.bis.gov.uk/files/file25882.pdf In summary, should local authorities choose to limit the number of hackney carriages provided in its area it will need to know whether there is any unmet demand for taxi services in their area. The Government response indicates that consideration may be given to an unmet demand survey, unless a recent survey has been carried out. It also indicates that latent demand should be taken into account in any survey carried out. Officers do propose to ask Members to consider PHV related latent demand within this report

CURRENT PRIVATE HIRE PROVISION

41. The number of private hire vehicles currently licenced by Chorley Council is approx. 140. This is an increase of 23 vehicles since the last report of 2015 where there were 117 licensed PH vehicles. The recent trends in PHV numbers suggest that the PH sector is resilient and able to adapt quickly to shifting market requirements, however there is no evidence to suggest that Chorley based PHO are addressing the suggested lack of WAV accessibility in Chorley. However it is likely that the gap in the service provision is filled by vehicles operating under the cross boarder basis as previously discussed, which Chorley Council has no control over, and taxi journeys are being completed by other larger taxi
companies located in neighbouring boroughs. There is no evidence to suggest that the overall number of taxi journeys taken has diminished.

RELIABILITY OF UNMET DEMAND SURVEY DATA

42. The History relating to the Unmet Demand surveys previously carried out in Chorley are attached in Appendix 9.

43. Officers have concerns in relation to previous surveys in so far as, how reliable the information being analysed actually relates to the activity of the rank as opposed to other times when there is no survey taking place. Due to the location of the ranks on High St, Officers believe it is not possible to conduct a discrete survey to capture a true reflection of day to day activity. Hackney Carriage Proprietors / Drivers have in the past spotted those conducting such surveys within minutes of the survey commencing; it is in the Proprietors interest therein to ensure the rank is adequately provided for. Moreover, evidence from the responses from the previous surveys suggests that latent demand exists, insofar as the taxi traveling public expect to find HCV availability from High St, and only from High St, there is no expectation to be able to find HC availability at any other location within the Borough, such is the limited supply serving the borough of Chorley, this further reinforces the notion that the HC service is a Chorley centric taxi provision.

LOCAL LICENSING FORUM

44. Members will be aware that in all recent years the HC trade have fully supported the survey as it is in their interest to do so. Officers would suggest that this remains the case today and that the cost of the survey be attached proportionally to each hackney carriage licence fee at the next HCV Licence renewal opportunity.

45. Members will recall officers advising of the costs associated with undertaking a significant unmet demand survey, the invoice has now been received and Member’s attention is drawn to the following licensing fees report where the appropriate cost recovery is detailed for Member’s approval.

IMPLICATIONS OF REPORT

46. This report has implications in the following areas and the relevant Directors’ comments are included:

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COMMENTS OF THE MONITORING OFFICER

47. Department for Transport Guidance recommends that a policy of limiting numbers is supported by a survey carried out every three years. This is advisable to rebut any legal challenge to the policy of limiting numbers although the survey is not itself a statutory requirement.

48. The “no significant unmet demand” test for limiting hackney carriage numbers contained in the Transport Act 1985 is addressed within the body of the report.

49. Case law has established that the premium which attaches to a hackney carriage licence in an area where numbers are limited is not property for the purposes of the Human Rights Act 1998.
51. Full and genuine consultation should take place before a decision to delimit.

JAMIE CARSON
DEPUTY CHIEF EXECUTIVE/DIRECTOR EARLY INTERVENTION & SUPPORT

**Background Papers**

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Steve
Civil Offices,
Union Street,
Chorley,
PR7 1AL

26th April 2016

Dear Steve,

RE: Application for a Hackney Carriage

I am writing to you today in regards to an application of a Hackney carriage. I would like to apply for a Hackney carriage, however you have a limit of only 36 vehicles and therefore I am unable to do so. I currently hold a private hire badge and vehicle license, however when working over the week I do notice a huge number of the public waiting for a taxi.

I have noticed a number of issues while working within your borough, firstly being, due to a huge number of people waiting for taxi at the rank, I believe your borough is in need of more Hackney carriages to carry out the work. Above this matter it’s come to my attention you only have 9 disability access vehicles out of the 36 Hackney carriages licensed, and with the number of special needs/disability persons within your borough, I believe there is a need for more disability access vehicles within your borough. I have noticed a number of different private hire and hackney carriages coming within the Chorley borough to collect passengers that require disability access vehicle.

When and if my application for a Hackney carriage is accepted I will provide you with a disability access vehicle that will fill the need of more disability access work within your borough. I also believe there is a meeting commencing regarding this matter and therefore would like to be invited to attend this meeting and have my say. I do believe it as the public interest that more hackney carriages are deported within the Chorley borough and therefore should increase the number.

I also wanted to add that I do hold a Hackney carriage badge however unable to use it has I don’t have a hackney carriage, and therefore would like to make use of this badge. If you have any questions regarding this letter please don’t hesitate to get in touch with me on the above contact details. Hope to hear from you soon.

Yours sincerely,
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Yours sincerely,

Muhammad Shakeel
Mohammed Zahir Ditta  
81 Blackburn Road  
Great Harwood  
BB6 7DZ  
07843 177756  
PHD2090/HCB9699

26th April 2016

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Civil Offices,  
Union Street,  
Chorley,  
PR7 1AL

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M. Z. D.
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Yours sincerely,

Raheem Ditta
154 Blackburn Road
Great Harwood
BB6 7DZ
07725 983985
PHD2080

26th April 2016
APPENDIX 6

CHORLEY COUNCIL UNMET DEMAND SURVEY HISTORY

Following the publishing of the Transport Act 1985 Chorley Borough Council commissioned a survey to ascertain whether or not there was any significant unmet demand for hackney carriage provision in the Borough. The result of this survey published in 1986 was that there was no significant unmet demand. The number of licensed hackney carriages at this time was retained at 30.

A further unmet demand survey was commissioned in 1993, which reported that there was no case to increase the number of hackney carriages. The number remained at 30.

A further unmet demand survey carried out in 2001 identified that the number of hackney carriages had reduced to 29 with one licence having been revoked in the intervening period. The Council determined that one further hackney licence be issued to a specially adapted disabled accessible vehicle, bring the total back to 30.

A further survey was commissioned in 2005. This identified that a further 7 hackney carriage vehicles would be required to meet the identified significant unmet demand. The Council accepted the findings of the survey report and hackney vehicle provision was increased to 37.

In 2008, a further survey was commissioned in 2008. The survey concluded that there was no significant unmet demand in Chorley and the number of hackney carriages was retained at 37. In the intervening period a Hackney Carriage Licence was surrendered and Members will recall that a decision not to reallocate the Hackney Carriage Licence was made thereby reducing the number of hackney carriage vehicle licences from 37 to 36. This is the current position with one licence unallocated.

The most recent unmet demand survey was conducted 2012; this survey upheld Members previous decision to maintain the number of HCV licences it will issue to 36 and concurred the report of (2008), which concluded that there was no significant unmet demand in Chorley but as previously discussed, it identified the need for more ranks. The current position is for 36 HCV licenses.
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TAXI LICENCE FEES AND CHARGES – REVIEW OF COST APPORTIONMENT

PURPOSE OF REPORT
1. For the Licensing and Public Safety Committee to approve the advertisement of revised Fees and Charges for Taxi Licensing based on cost apportionment.

RECOMMENDATION(S)
2. That the Licensing and Public Safety Committee approve in principle the advertisement of revised Fees and Charges for Taxi Licensing based on the principle of cost apportionment.

3. That the Regulatory Services Manager reports back to the next appropriate Licensing and Public Safety Committee the outcome of the advertisement, consider any objections and agree the implementation of the new Fees and Charges at that meeting, so that the new fees and charges can be effective from 1st April 2017.

EXECUTIVE SUMMARY OF REPORT
4. The current fees and charges were agreed by the Licensing and Public Safety Committee in July 2014 and following a consultation period came into force on 1st October 2014.

5. The local authority is required to review the fees and charges on a regular basis.

6. Over the last 2 years there have been a number of changes to the way the Council processes applications and therefore, in order for the fees and charges to reflect the costs of the service, it is important to review them in a timely manner to ensure they accurately reflect those costs.

7. The Council must ensure that they meet legislative requirements with regard to the structure of the fees and that the fees are not used to raise revenue and any surplus or deficit is carried forward on a 3 year cycle.

8. Revised fees must be subject to an advertising period of a minimum of 28 days within the local press and consideration of any objections by members.

9. Colleagues in Financial Services are currently reviewing the fees and charges against the updated process maps and time allocations for each activity, however, those figures have yet to be finalised due to unforeseen absence of the accountant carrying out the review.

10. It is anticipated that the finalised figures will be available imminently and it is planned to attach them to the minutes of this meeting.

11. The costs of the unmet demand survey report produced by the contractor is now known as £7040 excluding VAT, plus agree Council Officer costs of £900.00, which will need to be
evenly charged to the 36 Hackney Carriage Vehicle Licences at their renewal following April 2017, which will equate to £220.55 additional cost to the licence renewal fee.

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**CORPORATE PRIORITIES**

12. This report relates to the following Strategic Objectives:

<table>
<thead>
<tr>
<th>Involving residents in improving their local area and equality of access for all</th>
<th>A strong local economy</th>
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</thead>
<tbody>
<tr>
<td>Clean, safe and healthy communities</td>
<td>An ambitious council that does more to meet the needs of residents and the local area X</td>
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**BACKGROUND**

13. The principles that should be applied to the setting of fees and charges are contained in legislation, impacted by European Directive and influenced by case law.


15. Section 53 of the Act states: “a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so."

16. Section 70 of the Act states:

   “a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

   (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

   (b) the reasonable cost of providing hackney carriage stands; and

   (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.”

17. In addition the EU Services Directive 2006 /123 which became effective in 2009 lays down a further principle to be applied in setting fees and charges for regulated services as follows:

   “any charges which the applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures”

18. Finally, recent case law arising out of actions brought against Manchester City Council and Guildford Borough Council has led the Chartered Institute of Public Finance and Accounting to provide guidance on best practice which includes:

   - A licensing authority cannot use licence fees to raise revenue generally
• A licensing authority must carry forward surplus or deficit
• It is reasonable to account for licensing fees and charges over a 3 year cycle – this will take account on fluctuations in demand for licences and avoid the need to review and amend the charging structure annually
• Licensing authorities cannot “lump” all licence fees together which means each charging regime e.g. street trading or premises licences must be separately accounted for from, say taxi licences.
• The licensing authority must be able to justify the fee levied

IMPLICATIONS OF REPORT

19. This report has implications in the following areas and the relevant Directors’ comments are included:

<table>
<thead>
<tr>
<th>Finance</th>
<th>X</th>
<th>Customer Services</th>
<th>X</th>
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<td>Equality and Diversity</td>
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<tr>
<td>Legal</td>
<td>X</td>
<td>Integrated Impact Assessment</td>
<td>required?</td>
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<tr>
<td>No significant implications in this area</td>
<td></td>
<td>Policy and Communications</td>
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COMMENTS OF THE MONITORING OFFICER

20. It is important to appreciate that a statutory power to levy a fee does not give a local authority an absolute free hand in relation to the scale of the fee that is levied. The impact of any increase upon the livelihood of those affected has to be taken into account as does the scale of the increase itself. Consultation must take place with interested parties, whether this is a statutory requirement or not, and results of that consultation must be considered by Members before the decision is finally made. It is important that any such consultation is undertaken fairly and that the results are then considered properly by Members. Any suggestion that the consultation process has not been followed correctly would be grounds for an application for leave to seek a judicial review of the final decision.

21. Members are asked to bear in mind that as they have the power to raise money to pay for an activity then that power should not be rejected lightly. The control of hackney carriage and private hire vehicles, and associated drivers and operators is a time-consuming and costly exercise and it is quite legitimate for local authorities to recover as much of their costs as they are able to in relation to this. Those involved in the hackney carriage and private hire trades are in business and it would be difficult to justify an approach whereby a local authority subsidises private enterprise by refusing to recover as much of the costs associated with its statutory duties as it is able to do so. Such a subsidy would be at the expense of the other services the council could provide to its council tax payers, if full cost recovery was undertaken.

22. The overriding aim is to protect the public and within the statutory mechanisms, to provide an efficient and effective service for all concerned: those involved in the trade, the council itself and those who elect the council and pay for its activities, the council tax payers.

COMMENTS OF THE FINANCE OFFICER

23. The Council must ensure that they meet legislative requirements with regard to the structure of the fees and that the fees are not used to raise revenue and any surplus or deficit is carried forward on a 3 year cycle.
24. The detailed breakdown of cost apportionment is currently being undertaken and will be available for inclusion in the minutes.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

There are no background papers to this report.

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<tr>
<th>Report Author</th>
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<th>Date</th>
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<tbody>
<tr>
<td>Lesley Miller</td>
<td>5299</td>
<td>Nov 16</td>
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CONSULTATION ON THE PART TIME RELOCATION OF THE HIGH STREET HACKNEY CARRIAGE RANK

PURPOSE OF REPORT

1. To update the Licensing and Public Safety Committee on the changes planned as part of the Market Walk Extension and wider town centre improvement; to set out the reasons for seeking to relocate the High Street taxi rank on Market days (Tuesdays); and to set out a consultation plan for approval.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee are asked to:
   a. note the update on the town centre improvements;
   b. note the proposed changes requested by Chorley Council to the Traffic Regulation Orders (TRO's) regarding prohibition of vehicles and changes to loading bays on High Street and Cleveland Street, which are the responsibility of the Highways Authority; and
   c. approve the plan to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.

EXECUTIVE SUMMARY OF REPORT

3. Chorley town centre is about to undergo a significant programme of investment, which will include developing new retail and leisure units, a youth zone, extra care scheme as well as improving the public realm, developing additional car parking spaces, making improvements to crossing points, and relocating the Flat Iron market.

4. Prompted by the town centre changes this report seeks approval to commence with consultation regarding the relocation of the taxi rank on High Street on market days (Tuesday's) only.

5. Relocating the rank on Tuesdays between 6am and 6pm around the corner to Cleveland Street would enable Chorley’s outdoor market to take place along High Street, in addition to a number of other pedestrianised streets in the town centre.

6. Chorley Markets are an important part of the town’s history and economy and the Council wants to ensure that the markets continue to thrive well into the future. The changes proposed in this report would support all existing market stall holders both permanent and temporary to be offered a space.
7. In addition to the proposed changes to the hackney carriage rank location, there are a number of other changes to TRO's which would be required. These changes are a Highways Authority function under the Road Traffic Regulation Act 1984 and work is underway with LCC to progress this.

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CORPORATE PRIORITIES

8. This report relates to the following Strategic Objectives:

| Involving residents in improving their local area and equality of access for all | A strong local economy | ✓ |
| Clean, safe and healthy communities | ✓ An ambitious council that does more to meet the needs of residents and the local area | ✓ |

BACKGROUND

9. High Street, Chorley, has long been established as the principle location for the hire of hackney carriages in Chorley, and accommodates 5 taxis between Cleveland Street and New Market Street.

10. In 2003 the hackney carriage rank along the north side of High Street between its junctions with Cleveland Street and New Market Street was downgrade from a 24 hour rank to a day-time rank operating between the hours of 7.00am and 7.00pm.

11. In conjunction with this, a new ‘evening’ rank was appointed on the west side of Cleveland Street, between its junctions with High Street and Union Street. This rank currently accommodates 4 taxis, as one space was lost to the entrance of the new car park.

12. However, in 2006 the High Street rank was re-appointed a 24 hour rank due to both the public and taxi drivers’ preference for continuing to operate informally along the north side of High Street, and also due to concerns about the potential conflict between taxis and members of the public late at night not being realised. The evening rank in Cleveland Street was retained with a view to testing the compatibility of two evening ranks within close proximity. The current ranks are shown in Appendix A.

13. Also within a report submitted to Licensing & Safety Committee in July 2006 it was noted that there was a general problem relating to the occasional parking of vehicles on the hackney carriage rank and as such a prohibition of vehicular waiting was imposed by the Lancashire Highways Authority under the Road Traffic Regulation Act 1984. This was to address a general problem relating to the occasional parking of vehicles on the hackney carriage rank.

TOWN CENTRE IMPROVEMENTS

14. In September 2016, the Council as landowner gave approval to proceed with the development of a seven unit extension to Market Walk. This approval is subject to achieving 75 per cent pre let agreements and work is ongoing to achieve this, but with firm interest in 80 per cent of the units it is anticipated the target will be achieved in the next few months.
15. The extension, which will be built on the eastern side of the Flat Iron car park, necessitates the temporary relocation of the Flat Iron Market which is held on the western side of the car park every Tuesday.

16. A report carried out by an independent markets consultant in 2015 recommended moving the market during the construction period, to pedestrianised areas in the town centre. Based on evidence of other markets in pedestrianised areas the temporary move is expected to have a positive impact on the market and surrounding shops.

17. Public consultation on the relocation of the markets has been held over the last month, from the 4th October to the 6th November with over 200 online responses as well as feedback which has been collected during a number of face to face consultation sessions and briefings.

18. The original plan included the closure of Market Street to accommodate a number of market stalls but feedback that has been received during the consultation has led to alternative options being considered.

19. The current proposal shown in Appendix B would see market stalls located throughout the town centre, including High Street, New Market Street, Market Place, Fazakerley Street, Chapel Street, and Cleveland Street. In terms of timescale it is currently estimated that the market will need to be relocated from Easter 2017.

20. The introduction of market stalls onto High Street on market day (Tuesday) would necessitate the temporary relocation of the taxi rank from High Street. It is proposed that instead taxis could operate from around the corner on Cleveland Street where there is an existing evening rank, and it is proposed to carry out a consultation on that basis.

21. This proposal is being considered due to its location close to the existing market site and taxi rank and it will ensure that all existing permanent stall holders can have a position, as well as accommodating the current levels of casual traders.

22. It should be noted that in addition to the change in the appointments of the hackney carriage ranks under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, the proposal would also be subject to changes to the prohibition of vehicles waiting on Cleveland Street which will need to be amended by the Highways authority through a TRO.

23. The proposals will also require negotiations with market walk tenants who are serviced from the service yard at the end of High Street. They will be asked to make alternative arrangements for servicing their stores on Tuesdays. Letters have already been sent out to those affected and feedback so far suggests that alternative arrangements can be made by the tenants.

24. Additionally there is a loading bay along the south side of High Street which is used by local businesses. If market stalls are located in High Street, then to maintain the flow of traffic the loading bay would not be usable on Market days.

25. It is therefore proposed to establish a loading bay along the east side of Cleveland Street on Market day. This change would also be subject to a TRO which is the responsibility of the highways authority.

PROPOSED CONSULTATION PLAN
26. Subject to approval, it is proposed to commence public consultation on the proposed changes to the hackney carriage rank from the 24th November for a period of eight weeks, up until the 22nd January 2017.

27. During this period face to face consultation will take place with members of the Licensing Liaison Panel (LLP). Any suggested for alternative options for relocating the rank will be considered, in a similar way to the feedback we received on the market relocation, which has led to changes to the plans.

28. Following this consultation period the findings of the consultation, together with any updated plans regarding the taxi ranks will be brought back to the Licensing and Public Safety Committee meeting on the 1st February 2017.

29. Again, subject to approval, notice of the changes will be issued and a 28 day statutory consultation period will commence with our partners and relevant authorities (Lancashire constabulary and LCC). A notice must also be placed in the local press. LCC is much more than a consultee since its consent is required to appoint any hackney stand on a highway.

30. Following the notice period and subject to any objections being raised a final report and recommendations will be brought back to the Licensing and Public Safety Committee for final approval. The aim would be to have approval in place in advance of the Markets relocation which in Easter 2017.

31. In parallel with this process we will be working with LCC to make amendments to a number of TRO’s in the town centre, including changing the prohibition of vehicles waiting, and changes to loading bays which will also be required in order to enable a market to be located along High Street on one day per week.

32. It is acknowledged that the TRO process may take up to a year, which extends beyond the timescales in which the markets would be relocated. During this period it is hoped that an agreement can be reached with LCC regarding the enforcement of the existing RTO’s.

**IMPLICATIONS OF REPORT**
26. This report has implications in the following areas and the relevant Directors’ comments are included:

<table>
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<tr>
<th>Finance</th>
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<td>✓ Integrated Impact Assessment required?</td>
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<tr>
<td>No significant implications in this area</td>
<td>Policy and Communications</td>
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**COMMENTS OF THE STATUTORY FINANCE OFFICER**
27. ***

**COMMENTS OF THE MONITORING OFFICER**
28. The Council has power to appoint, revoke and alter any hackney carriage stands under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976. The proposal is subject to notice being served on the police with 28 days to make representations and notice in the local press.
29. A hackney stand may not be located where it would impede access to bus stops or unreasonably impede access to premises.

30. The 1976 Act does not prescribe any legal formalities for documenting the appointment of a hackney rank although some authorities formalise the appointment in the form of an order. The stand must be marked out in accordance with the Traffic Signs Regulations and General Directions 2002.

31. Stands may be created for the whole or any part of a day.

32. If any part of the proposed new rank overlaps with private land then consent of the landowner is required.

33. If the stand is on a highway then consent of the Highways Authority is required. Chorley therefore does not have complete control over the appointment but instead it is subject to a veto in favour of County Highways. Whilst officers at LCC may be sympathetic to the proposal it is essential to obtain consent in good time in accordance with LCC’s scheme of delegation. If consent can only be granted by elected county councillors then officers at LCC should be asked to progress this to fit with Chorley Council’s timetable.

34. Orders made or revoked under the Road Traffic Regulation Act 1984 are a function discharged by the Highways Authority by Lancashire County Council (LCC). As such the authority to revoke or make new orders and the timetable for their implementation is outside the control of Chorley Council although it may seek to sponsor any changes and persuade LCC to introduce them.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

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<tr>
<th>Background Papers</th>
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<tr>
<td>Document</td>
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<tr>
<td>Future development options for Chorley's Flat Iron Market</td>
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<td>Report to Licensing &amp; Safety Committee</td>
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<tr>
<td>Rebecca Huddleston</td>
<td>5779</td>
<td>08/11/16</td>
<td>Taxi rank relocation</td>
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Chorley Street Market Proposal

High Street: 9x Doubles; Meat Wagon
   CASUAL stalls erected last

New Market Street: 8x Doubles; 1x Single

Market Place: 1x Doubles

Fazakerley Street: 13x Doubles

Cleveland Street: 13x Doubles

Chapel Street: 17x Doubles; 2x Single
Potential Stall Numbers (excluding existing)

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<th>Description</th>
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<tbody>
<tr>
<td>Chapel Street</td>
<td>17x Double Stalls; 2x Single;</td>
</tr>
<tr>
<td>Cleveland Street</td>
<td>10x Double Stalls; 2x Existing Doubles</td>
</tr>
<tr>
<td>New Market Street</td>
<td>7x Double Stalls; 1 Single</td>
</tr>
<tr>
<td>Market Place</td>
<td>2x Double Stalls</td>
</tr>
<tr>
<td>Fazakerley Street</td>
<td>13x Double Stalls</td>
</tr>
<tr>
<td>High Street</td>
<td>9x Possible Doubles (If Taxi Rank relocated and Market Walk have no deliveries to Service Yard 1)</td>
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**TOTAL:** 49 Double & 3 Single; 9 Possible extra Doubles

### Considerations

1. The quantity of positions will be limited to less than we currently have available.
   a. We currently erect 65 double gazebos and 1 single on the Flat Iron, of which 50 are occupied by permanent traders, plus the meat wagon.
   b. Flat Iron traders will want to know their choice of new position is fixed and not subject to future frontage objections requiring a move.
   c. We cannot guarantee what type of trader would be in each position i.e. frontage would have no right to determine.

2. There are a number of existing gazebo positions (Balls, Tyrer’s Fresh & Fruity, Bedding) within the pedestrian area which need to be maintained/incorporated.

3. In recent years several businesses, including Booths, have expressed serious concerns about stalls placed in the highway with regards to:
   i. Their position
   ii. The footprint of stock/equipment
   iii. The trading direction
   iv. The product sold being in competition
   v. The narrowing of footways
   vi. The obstruction caused by the loading vehicle

4. Trading times to be agreed but trading until after 4pm is an hour longer than the current Flat Iron.

5. Reasonable vehicle access will be required at each stall position to set-up/dismantle.
   a. In congested areas it is better to have 1 trader’s van feeding multiple stalls rather than several smaller cars feeding several half stalls.
   b. Areas required for vehicles to park & pass.

6. If fixed planters are required to be moved to accommodate market stalls it will compromise the street for the other 6 days.

7. Markets will require additional resource to construct street markets due to geographical spread of stalls and need for trader vehicle control marshals (or this can be contracted in initially).

8. County Council approval to close the highway is required.
   a. Would we determine all final stall positions or consult with each frontage?
   b. LCC are likely to want evidence of consultation.

9. Licensing and Public Services Committee and hackney carriage’s to be consulted.