

Report of	Meeting	Date
Director of People and Places	Licensing and Public Safety Committee	7 March 2012

REVIEW OF HACKNEY CARRIAGE VEHICLE LICENCE NUMBERS

PURPOSE OF REPORT

- The purpose of this report is to advise Members of the Councils responsibility to review quantity control policies every three years where the Council intend to continue to regulate the number of available hackney carriage vehicle licences it issues.

RECOMMENDATION(S)

- Members are recommended to consider the contents of the report and either:

Option 1 - Instruct the Director of People & Places to proceed with an unmet demand survey of hackney carriage provision in Chorley with the results of the survey to be reported back to a future Licensing & Public Safety Committee and implement the associated recommendations in paragraphs 29 to 35 of this report.

Or

Option 2 - Instruct the Director of People & Places not to proceed with an unmet demand survey, and in doing so, to instruct officers to amend the conditions relating to the application for the grant of hackney carriage vehicle licences as detailed in paragraphs 36 and 37 of this report.

EXECUTIVE SUMMARY OF REPORT

- The Council has established a limit to the number of hackney carriage vehicle licences it issues. This currently stands at 36 hackney carriage vehicle licences including provision for disabled access vehicles.
- The Council is not obliged to maintain a limited number of hackney carriage vehicle licences, however where a limit exists, the Council has to be satisfied that there is no significant unmet demand.
- Establishing unmet demand can be achieved by way of a survey of the hackney carriage provision and the Council may commission such a survey and recover the costs.
- Should Members decide not to commission the unmet demand survey then the Council would be passively removing the limit of hackney carriage vehicle licences it issues. 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.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy	√	Thriving Town Centre, Local Attractions and Villages	√
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			√

LEGAL POSITION

8. The primary legislation governing the licensing of the hackney carriage vehicles is the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
9. Section 16 of the Transport Act 1985 removed the discretionary power to limit the number of hackney carriage vehicles that a licensing authority could 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.
10. Where a licensing authority has a limitation policy, in order to comply with Section 16, it must be satisfied there is no significant unmet demand, before it can refuse a licence for the purpose of limiting numbers.
11. Any person who is refused a licence has the right of appeal to the Crown Court.
12. 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 below: -

“District Councils may wish to review their policy on the control of hackney carriage numbers in the light of the section. Limitation of numbers can have many undesirable effects - an insufficiency of taxis, either generally or at particular times or in particular places; insufficient competition between the providers of taxi services, to the detriment of their customers; and prices for the transfer of taxi licences from one person to another which imply an artificial restriction of supply.

Under the section a district Council may refuse a licence to restrict numbers only if satisfied that there is no significant unmet demand for taxis in the relevant area. If there is an appeal, it will be for the Council to convince the Court that they had reasonable grounds for being so satisfied. It will not, in general, be sufficient for a district council to rely on the assertion of existing taxi licence holders that the demand is already catered for.

They (licence holders) have evidence only of the demand which they satisfy and it will be for the Council to seek for and examine the evidence of unmet demand. There may be those who have given up trying to use taxis because of the inadequacy of the service and there may be latent demand in parts of a district that have not been adequately served - where those who wish to use taxis may not have demonstrated their demand since there had been no opportunity of having it satisfied. Moreover, if the applicant for a new taxi licence proposed to use it for instance – under Section 12 - and had reasonable

grounds to believe that there would be a demand for his service if he provided it, a Council which wished to refuse a licence would have to satisfy themselves that the demand would not be forthcoming. Over crowding at taxi ranks is not itself evidence that there is no unmet demand. It may be that the provision of ranks has been too limited and that the Council should look actively for sites for further ranks.

There are a number of district councils, which already exercise no control over the number of taxis in their areas without causing problems of over supply. However, the Department accepts that in some areas the total abandonment of quantity control could lead to an initial over-supply of taxis before market forces could bring about equilibrium between supply and demand. In order to avoid possible disruption, a district council faced with a large number of applicants could in the Department's view, reasonably grant a proportion of the applications, deferring consideration of the remainder until the effects of granting the first tranche could be assessed."

OTHER RELEVANT INFORMATION

GENERAL

13. Members should note that officers have received representations from the Chorley private hire trade regarding the ingress of taxis from neighbouring boroughs whose policies reflect the de-limiting of hackney carriage licensing. The effects of which is reportedly having a detrimental effect on the trading capabilities of the private hire trade in Chorley. 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 appointed ranks within the town centre , but also with the intrinsic transfer value of the hackney carriage vehicle licence. Members should be aware that the extent of this value could be an indicator of a restricted market.
14. Members will be aware that the Law Commission has been appointed to conduct a wholesale review of taxi provision and surrounding legislation. It is anticipated that the review will be UK wide; will seek to cut red tape and will remove unnecessary restrictions. Consultation (due to commence April 2012) on the review will be wide ranging and is due to report back to Government with draft legislation by September 2012. The time table for implementation of new legislation is anticipated to be mid 2014.
15. There is no legal requirement that a licensing authority needs to be satisfied that there is an unmet demand for hackney carriages in order to remove any numerical limitation of hackney carriages licensed. R -v- Great Yarmouth Borough Council is the authority for this proposition and a licensing authority can at any time decide to de-limit the number of hackney carriages it licences, subject to a general proviso that the decision to do so is, not of itself, irrational or unlawful.
16. Chorley has a mixed fleet of hackney carriage vehicles which include traditional hackney cab vehicles, estate cars, saloon cars and vehicles which meet certain criteria to accommodate disabled passengers.
17. Currently Chorley Council has limited the number of hackney carriage vehicle licences that it would issue to thirty-six. (Licensing & Public Safety Committee - 10th March 2010).

UNMET DEMAND SURVEY HISTORY

18. 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.

19. 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.
20. 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.
21. 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.
22. The most recent unmet demand survey was conducted 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.

CURRENT PRIVATE HIRE PROVISION

23. The number of private hire vehicles currently licenced by Chorley Council is 140. This is an increase of 3 since the last unmet demand survey and review of hackney carriage provision in 2008.

OFFICE OF FAIR TRADING - CENTRAL GOVERNMENT POSITION

24. The Office of Fair Trading published a market study into the regulation of taxi's and private hire vehicles in November 2003.

http://www.offt.gov.uk/shared_offt/reports/comp_policy/oft676.pdf

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

25. 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.

LOCAL LICENSING FORUM

26. The issue was discussed at the Chorley Licensing Liaison Panel meetings on 31 October 2011 and 13 February 2012 where the hackney carriage trade representatives have expressed that their members would wish to have a unmet demand survey carried out. The hackney carriage proprietor's are aware that the cost of undertaking such a survey is likely to be recharged through the hackney carriage licence fee.

27. All of the hackney carriage proprietors have been written to, informing them that a report will be submitted to the Licensing & Public Safety Committee on 7 March 2012 asking Members to determine if an unmet demand survey should be commissioned. Hackney carriage proprietors have been advised to forward any comments they have regarding this matter before the 6 March 2012, and officers will present a summary of any responses received at the meeting.

PRESENT LEGAL POSITION

28. At the present time the Chorley Council is maintaining a limited number of hackney carriages vehicle licenses set at 36. However, as it is now more than 3 years since the completion of the last unmet demand survey, the Council would be at risk of challenge in the courts should it refuse to grant an application for a hackney carriage vehicle licence.

OPTIONS AND DISCUSSION

OPTION 1

29. Option 1 – Members approve the commissioning of an unmet demand survey.
30. If Option 1 is preferred it is recommended that in addition to the issue of unmet demand (including latent demand) the survey should also include an assessment of the accessibility of current vehicles, and provision of ranks and that the cost of the survey be attached proportionally to each hackney carriage licence fee at the next renewal opportunity of the hackney carriage licence for each of the thirty six vehicles as a condition of next renewal for that licence.
31. Quotations to undertake the survey have been obtained from suitably qualified organisations. A total of four companies were identified and invited to quote and two quotations were received. Copies of the quotations are attached as Appendices 1 and 2
32. The costs of the surveys, including officer hours administering the survey, are as follows:

Provider	Survey Costs (incl VAT)	Officer Costs * (inc VAT)	Total Costs	Cost Per HCV Proprietor
CTS Ltd (Appendix 1)	£12,396.00	£900	£13,296.00	£369
Halcrow Group Ltd (Appendix 2)	£12,538.50	£900	£13,438.50	£373

(* based on 30 hours at £25 /hour)

33. The fee for the survey as quoted above is on the provision that there are no significant changes to the proposals and will be in addition to the existing renewal fee. Members may wish to instruct officers to present the findings and any recommendations contained within the unmet demand survey by way of a report to a future meeting of the Licensing & Public Safety Committee.
34. Officers have undertaken a basic evaluation of both quotations and determined that the methodologies of the survey differ with Halcrow providing a personal observation survey at rank level whereas CTS propose the use of video surveillance. Whilst both companies have some experience in this type of work the Halcrow quotation was significantly more comprehensive.
35. Council procurement rules for contracts of this size indicate that the quotation that provides the best value would normally be the one preferred. As the costs are very similar, officers

would recommend that on the basis of experience, methodology and the comprehensive quotation, Halcrow Group be engaged to undertake the survey.

OPTION 2

36. Option 2 - Members resolve not to undertake an unmet demand survey.
37. If Option 2 is preferred then it is recommended that Members review the Councils conditions of application relating to the licensing of hackney carriage vehicles at a future meeting of the Licensing & Public Safety Committee but on an interim basis, Members introduce the addition of the following condition to the application for the grant of a hackney carriage vehicle licence; *'that the vehicle presented must be white and conform to vehicle Type 1 Disability Access Specifications contained within the present condition.'* Officers are of the opinion that such a condition would not prevent entry into the hackney carriage trade but would maintain the existing clear identity of the hackney carriage provision in Chorley and prevent a rush of applications for hackney carriage vehicle licences which could overwhelm the current rank provision in Chorley town centre and stretch the Councils current administration provisions.

IMPLICATIONS OF REPORT

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

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	√	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

39. If the Council wish to continue to limit the number of Hackney Carriage Licences issued within the borough then they will require evidence that there is no unmet demand for that service. The survey proposed will provide evidence for the committee to decide whether any additional licences are required or whether the public have the correct service provision.
40. Where members wish to seek the required evidence it is for them to determine the provider of the survey based on the information provided within this report.

JAMIE CARSON
DIRECTOR PEOPLE AND PLACES

There are no background papers to this report.

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