

Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Licensing and Public Safety Committee	12 March 2015

## **REVIEW OF HACKNEY CARRIAGE VEHICLE LICENCE NUMBERS - SCOPING THE UNMET DEMAND SURVEY**

### **PURPOSE OF REPORT**

1. To advise Members of the Council's policy to review quantity control every three years where the Council intend to continue to limit the number of available hackney carriage vehicle licences it issues.

### **RECOMMENDATION(S)**

2. Members are recommended to consider the contents of the report and decide on one of the following options:

Option 1- Instruct the Director of Public Protection, Streetscene and Community to undertake a scoping exercise in accordance with the Council's Contract Procedure Rules to identify and appoint an appropriate consultant to undertake an unmet demand survey.

OR

Option 2- Instruct the Director of Public Protection, Streetscene and Community to produce a report for the Licensing and Public Safety Committee that considers the Council's position on maintaining limited Hackney carriage vehicle Licence numbers or removing this limit.

OR

Option 3- Instruct the Director of Public Protection, Streetscene and Community to undertake a scoping exercise to identify appropriate consultants to undertake an unmet demand survey following a procurement exercise under the Council's Contract Procedure Rules, AND also include in this report for the Licensing and Public Safety Committee consideration of the Council's position on maintaining limited Hackney carriage vehicle Licence numbers or removing this limit.

### **EXECUTIVE SUMMARY OF REPORT**

3. 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, of which there are 9 currently licenced.

4. 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.
5. 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 from the trade.
6. 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.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
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## CORPORATE PRIORITIES

7. 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

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. Overcrowding 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."*

9. 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 ex p Sawyer [1989] 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.
10. 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.
11. Currently Chorley Council has limited the number of hackney carriage vehicle licences that it would issue to thirty-six.

## **UNMET DEMAND SURVEY HISTORY**

12. Following the coming into force 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.
13. 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.
14. 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.
15. 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.

16. A further 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.
17. The most recent unmet demand survey in 2012 supported the maintenance of 36 Licences. This is the current position.

### **CURRENT PRIVATE HIRE PROVISION**

18. The number of private hire vehicles currently licensed by Chorley Council is 113, compared to 140 in 2012 at the time of the last unmet demand survey.

### **IMPLICATIONS OF REPORT**

19. 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 STATUTORY FINANCE OFFICER**

20. The cost of an unmet demand survey would be recovered from current Hackney Carriage licence holders thus providing a nil cost to the council.

### **COMMENTS OF THE MONITORING OFFICER**

21. 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.
22. 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.
23. 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.
24. Full and genuine consultation should take place before a decision to delimit.

JAMIE CARSON  
DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

There are no background papers to this report.

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