

Report of	Meeting	Date
Director of Public Protection, Street Scene and Community	Licensing and Public Safety Committee	22 nd July 2015

REVIEW OF THE COUNCILS 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 Councils 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 Public Protection, Street Scene and Community in one or more of the options detailed below or in some other manner as Members see fit.

Option 1

To instruct officers to undertake a process of consultation to determine whether or not a decision to remove the Councils limit on the number of HCV licenses 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 impose on the number of HCV licenses it will issue; or
- b) removal of the numerical limit the Council currently impose on the number of HCV licenses 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 Councils Conditions of Application for the Grant of a Wheelchair Accessible Vehicle Hackney Carriage Vehicle as detailed in the Councils condition of application, or
- c) to maintain the limited number of HCV licenses it will issue.

The results of the consultation and any recommendations shall be brought to the attention of the next available meeting of the LPSC, where together with the options detailed below may be further considered.

and / or

Option 2

To proceed with a significant unmet demand survey to establish the Hackney Carriage Vehicle provision in Chorley.

Should Members determine to proceed with either Option 1 and/or Option 2 above, that the results of the consultation and or survey to be reported back to a future Licensing & Public Safety Committee and to consider any further recommendations made.

EXECUTIVE SUMMARY OF REPORT

3. 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.
5. However where a limit exists and the Council wish to maintain that limit, the Council has to be satisfied that there is no significant unmet demand.
6. 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.
7. 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

Confidential report Please bold as appropriate	Yes	No
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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	X	A strong local economy	X
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

LEGAL POSITION

9. 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.
10. 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.

11. 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.
12. Any person who is refused a licence has the right of appeal to the Crown Court.
13. 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 1** and Information from the Office of Fair Trading on the Central Government position is attached in **Appendix 2**.

OTHER RELEVANT INFORMATION

GENERAL

14. 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. Members should be aware that the extent of this value is an indicator of a restricted market 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 + vehicle value. Officers understand that Hackney carriage vehicles have in recent years changed hands for values in the region of approx £40,000.00. However, it is vital to note that the intrinsic value of the plate must not be a material consideration in maintaining restricted numbers.
15. 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. 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 3**.
16. The 4 HCV mentioned are also able to be dispatched from the High St Rank using a PHO radio circuit. The anecdotal evidence also suggests that HCVs are reluctant to respond to a hail request which has significant implications to those less able bodied members of the community or where no rank exists.
17. Members will be aware that the Law Commission has conducted a wholesale review of taxi provision and surrounding legislation. 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, local authorities have not to date been advised of when we might expect the recommendations to become legislation. It is anticipated that the recommendations will be implemented within this Parliamentary term; The recommendations will seek to cut red tape and remove unnecessary restrictions.
18. The results and recommendations to Government have now been made public. The document titled Taxi and Private Hire Services May 2014 is attached as a background document, 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.

19. Should those provisions become legislation the Council would be obliged to review its policy in relation to limiting the number of HCV licences it will issue having regard to a public interest test only.
20. 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, such a decision would negate the need to conduct an unmet demand survey.

OUT OF TOWN VEHICLES

21. 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.
22. 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.
23. 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.
24. Lancashire Constabulary have 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 time and in particular support the late night economy and remove people from the town centre.
25. 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 have stated that they receive on average 17 requests a week for a vehicle suitable to accommodate wheelchair users.
26. 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

27. 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 quell disorder. The matter of employing taxi marshals has been raised 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
28. 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

29. Cath Burns. Head of Economic Development, 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 wheel chair 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, 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.

EQUALITY & DIVERSITY IMPACT ASSESSMENT ISSUES

30. Rebecca Huddleston, Head of Policy and Communications 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.

31. The Equality Impact Assessment is attached in **Appendix 4**.

DISABLED AND WHEELCHAIR ACCESS VEHICLES

32. 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 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 5**. 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. 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, when arranged by the Social Care Services of LCC are completed by Chorley licensed HC or PH vehicles.
33. 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

34. Officers are currently responding to 2 further applications for WAV HCV, the applications are attached for Members to note as **Appendix 6**.
35. Chorley has a mixed fleet of hackney carriage vehicles which include traditional hackney cab vehicles, estate cars, saloon cars and wheelchair accessible.
36. Currently Chorley Council has limited the number of hackney carriage vehicle licences that it would issue to thirty-six. (Licensing & Public Safety Committee – 12th September 2012). At the time of writing there are 36 HCV and 117 PHV Licenses issued.

CURRENT PRIVATE HIRE PROVISION

37. The number of private hire vehicles currently licenced by Chorley Council is 117. This is a decrease of 23 vehicles since the last review of hackney carriage provision in 2012 where there was 140 licensed PH vehicles. The decrease in licensed PH vehicles may be due to a number of reasons, including how PHV are dispatched following the introduction new technologies used in vehicle management leading to greater efficiencies. However it is likely that the gap in the service provision has been 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

38. The History relating to the Unmet Demand surveys previously carried out in Chorley are attached in **Appendix 7**.

39. 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.
40. 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.

LOCAL LICENSING FORUM

41. Previously the issue relating to the implementation of a Significant Unmet Demand Survey would be discussed at a Chorley Licensing Liaison Panel meeting, where the hackney carriage trade representatives would express their members wishes in regards to whether or not the trade would support the survey, as the hackney carriage proprietors are aware that the cost of undertaking such a survey is likely to be recharged through the hackney carriage licence fee. Officers can report that the matter of conducting the above mentioned survey has not to date been discussed with the trade.
42. Members will be aware that in all recent years the HC trade have fully supported the survey as it is there interest to do so, Officers would suggest that this remains the case today. Members are informed that there is no statutory provision for the Council to consult on this matter or to conduct an unmet demand survey, however the Council would be obliged to advertise any proposed increase in the HCV licence fee in accordance with Section 70 of the LG(MP)Act of 1976 by which the costs of the survey are recovered, and where representations are received determine those representations.

OPTIONS AND DISCUSSION

Option 1

To instruct officers to undertake a process of consultation to determine whether or not a decision to remove the Councils limit on the number of HCV licenses 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 impose on the number of HCV licenses it will issue; or
- b) removal of the numerical limit the Council currently impose on the number of HCV licenses 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 Councils Conditions of Application for the Grant of a Wheelchair Accessible Vehicle Hackney Carriage Vehicle as detailed in the Councils condition of application, or
- c) to maintain the limited number of HCV licenses it will issue.

The results of the consultation and any recommendations shall be brought to the attention of the next available meeting of the LPSC, where together with the options detailed below may be further considered.

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 otherwise overwhelm the current rank provision in Chorley town centre, would not impact adversely to amount of / volume of traffic to the town centre, or significantly effect the viability of the existing trade as the majority of HCV are saloon based vehicles, where the renewal requirements for those vehicles will remain unaffected, it is envisaged that such a provision will maintain any perceived transfer value that particular vehicle may command.

Should Members determine to instruct officers to consult on the issue of whether or not maintaining the current policy is in the public interest or not, then any results will have to be further considered at a future meeting of the Licensing and Public Safety committee for determination. Notwithstanding the outcome of that future meeting, Members may then wish to rely upon evidence that could only be obtained from the commissioning of a significant unmet demand report. Members are reminded that there is no provision to financially resource such a consultation (3) and such an instruction is likely to place a financial strain on existing resources.

and / or

Option 2

To proceed with a significant unmet demand survey to establish the Hackney Carriage Vehicle provision in Chorley.

If Option 2 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, the 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, and that officers consult on the increase in fees in accordance with the regulations, and be authorised to proceed following the adoption of the fees (the fees to be reinstated to their current level following the amended fee being paid by all 36 licence holders). And to bring the recommendations of any such survey to the attention of the Licensing and Public Safety Committee at the next available meeting to further review the Councils position in limiting the number of HCV licenses it will grant.

Should Members determine to proceed with either Option 1 and or Option 2 above, that the results of the consultation and or survey be reported back to a future Licensing & Public Safety Committee and to consider any further recommendations made.

QUOTATIONS FOR UNMET DEMAND SURVEY

- 43 A total of four companies were identified and invited to quote for the work. Quotations to undertake the survey have been obtained from one company. Detail of the quotation is attached as **Appendix 8**.

44. The costs of the surveys, including officer hours administrating the survey, are as follows:

Provider	Survey Costs (incl VAT)	Officer Costs * (inc VAT)	Total Costs	Cost Per HCV Proprietor
CTS Ltd (Appendix 1)	£11,784.00	£900	£12,684.00	£352.33

(* based on 30 hours at £25 /hour)

45. 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.(18th November 2015) Subject to any accepted or unforeseen constraints within the report or identified at the inception meeting. Officers would seek Members approval to vary the fee applicable to HCV licence fees where necessary following the detailed inception meeting with CTS and proceed without further reference to the LPSC.
46. Officers have undertaken a basic evaluation received from CTS and believe the proposal should produce a document containing sufficient information for the Council to make a decision upon and be able to rely upon that decision where necessary.

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE MONITORING OFFICER

48. 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.
49. 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.
50. 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.

52. Any unmet demand survey must be procured under the Council's Contract Procedure Rules

JAMIE CARSON
DIRECTOR PEOPLE AND PLACES

There is background paper to this report.

Background Papers			
Document	Date	File	Place of Inspection
Law Commission Report	May 2014		https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314106/9781474104531_web.pdf

Report Author	Ext	Date	Doc ID
Steve Culleton	5665	22/7/15	***