

Report of	Meeting	Date
Director of Corporate Governance	Licensing & Safety Committee	2 April 2008

REVIEW OF HACKNEY CARRIAGE VEHICLE LICENCES

PURPOSE OF REPORT

- The purpose of this report is to advise members of the Government's request for local authorities to review quantity control policies.

RECOMMENDATION(S)

- That members approve the commissioning of a survey as outlined below.
 - That the Director of Corporate Governance be authorised to proceed with a tender for the independent survey.
 - The results of the survey be reported back to this Committee.

EXECUTIVE SUMMARY OF REPORT

- Members are asked to consider the recommendations as presented in the report and reminded that the Council has established a limit to the number of Hackney carriage licences it issues. Should Members decide not to commission the significant unmet demand survey then the Council would be exposed to a possible legal challenge in maintaining a limited Hackney Carriage fleet.

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances	✓	Develop the Character and feel of Chorley as a good place to live	✓
Involving people in their communities	✓	Ensure Chorley Borough Council is a performing organization	

BACKGROUND

LEGAL POSITION

- 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.
- Prior to the Transport Act 1985 Licensing Authorities had an unlimited power to restrict the number of hackney carriage vehicles that it would licence.

7. Section 16 of that Act removed the discretionary power to limit the number of hackney carriage vehicles and replaced it with a stringent test which must be satisfied if a licensing authority wish to refuse a licence in order to limit numbers.
8. 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.
9. Any person who is refused a licence has the right of appeal to the Crown Court.
10. In 1985, the Department of Transport issued Circular 3/85 giving guidance on the new restriction of the power of Local Authorities to limit the number of hackney carriage vehicles that they would licence.
11. 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 have evidence only of the demand which they satisfy and it will be for the Council themselves 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.
12. 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 an 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.”
13. There is no legal requirement that a Licensing Authority needs to be satisfied that there is unmet demand in order to remove any numerical limitation of hackney carriages licensed. R -v- Great Yarmouth Borough Council is authority for the proposition that a Licensing Authority can at any time decide to de-limit the number of hackney carriages it will licence subject to the proviso that the decision to do so must not of itself be irrational or unlawful.
14. This Authority has a mixed fleet, that is, it licences saloon vehicles which meet certain criteria, as well as the traditional style ‘London’ taxi’s as hackney carriage vehicles and vehicles designed to accommodate disabled passengers.

15. This Authority has maintained a limit on the number of hackney carriage vehicles that it would issue at thirty-seven.
16. 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 30.
17. A further survey was commissioned in 1993, which reported in August 1993. Again the result of this survey was that there was no case to increase the number of hackney carriages.
18. A further survey carried out in 2001 which was reported in March 2001. At this time there were 29 licensed hackney carriages, one of the licences having been revoked. The report recommended that one further hackney licence be issued to a specially adapted accessible vehicle.
19. This recommendation was placed before the Licensing & Safety Committee, which authorised the issue of a further hackney carriage licence, which brought the total number of licensed vehicles back to 30.
20. The latest survey was carried out in February 2005 and was reported to Committee on 29 April 2005. The report contained that a further 7 Hackney Carriage vehicles would be required to meet the identified significant unmet demand. The Licensing and Safety Committee accepted the findings of the report with regards to the number of additional vehicles recommended, and in March 2007 a further 7 Hackney Carriage vehicles joined the existing provision of 30 vehicles.
21. The number of private hire vehicles has increased to 137 this is an increase of 27 from 2005. The number of Hackney Carriage licence plates issued is 36, with one plate that is currently unallocated.
22. The increase in private hire vehicles has remained fairly constant since the last survey.
23. The Office of Fair Trading published a market study into the regulation of taxi's and private hire vehicles in November 2003. The Government responded by means of a Written Statement in the House of Commons, this included an Action Plan, a copy of which is attached hereto at Appendix 1.

OFT RECOMMENDATIONS

24. 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

GOVERNMENT'S POSITION

25. The Government is of the view that consumers should enjoy the benefits of competition in the taxi market and considers that it is detrimental to those seeking entry to a market if it is restricted.
26. The Government believes restrictions should only be retained where there is shown to be a clear benefit for the consumer. Thus, the Government considers that, unless a specific case can be made, it is not in the interests of consumers for market entry to be refused to those who meet the application criteria.
27. The Government is requesting those licensing authorities who maintain a restriction, to review the case for making such a restriction in their area, and to make the review public.
28. The Government recognises that local authorities should be given the opportunity to assess their own needs.
29. The Government is also of the view that local authorities will need to know whether there is any unmet demand for taxi services in their area. It indicates that consideration may be given to an unmet demand survey, unless a recent survey has been carried out. It indicates that latent demand should be taken into account in any survey carried out.
30. The Government has also provided a checklist of questions, to assist Council's formulate and carry out a comprehensive review. A copy of the checklist is attached at Appendix 2.
31. The Government has also requested local authorities take into account guidance issued regarding local accessibility policies, a copy of which is attached at Appendix 3. In particular, with regard to those Councils who are considering whether to lift restrictions or issue new licences.
32. The Government is of the view that the outcome of the review will be either:
 - i) to remove restrictions and grant licences to anyone meeting the application criteria.
 - ii) to continue restricting the number of licences issued. In this instance three scenarios would appear to be possible outcomes:
 - maintaining the current limit of taxi licences
 - granting a number of new licences to meet any identified unmet demand
 - granting a specific number of licences each year.
33. There will be on-going arrangements for council's continuing to restrict hackney carriage licences to conduct a three yearly review with published conclusions.
34. Any Local Transport Plan will have to justify local policy for quantity restrictions. The Council has not published a local transport plan.
35. The Government is to review the situation regarding quantity controls in three years time, with a view to further action if necessary. The Council is at present unaware of any further published review.

LOCAL LICENSING FORUM

36. The issue was discussed at the local licensing forum, where the trade were of the view that there was no significant unmet demand for additional hackney carriage vehicle licences. The Hackney Carriage proprietors have all been written to to establish the need for a further survey or not, 34 have responded indicating they agree to a further survey and are willing to contribute on an equal basis to the cost incurred for the survey. 3 proprietors have not responded, and, one proprietor who has the benefit of 2 hackney carriage vehicle licences is non-contactable as he is out of the country.

PROPOSED ACTION

37. In view of the fact that we will need to establish whether there is any significant unmet demand and our last survey is over 3 years old, a new survey is necessary. If Members approve the commissioning of a survey it is recommended that in addition to the issue of unmet demand (including latent demand) that the survey would also include accessibility of current vehicles, and provision of ranks.
38. Should the Licensing and Safety Committee approve the commissioning of a significant unmet demand survey, and in order that the Council is not disadvantaged in terms of budgeting control, Members are asked to consider that the cost of the survey be attached proportionally to each Hackney Carriage licence fee at the next renewal of the Hackney Carriage licence for each of the thirty seven vehicles as a condition of next renewal for that licence. The cost will be proportioned as follows (and will include the un-allocated Hackney Carriage licence when allocated).

Cost of survey + cost of administration (30 officer hours) / number of hackney carriages @ 37.

Members are reminded that there is no provision within the licensing budget for a significant unmet demand survey and that four hackney carriage vehicle proprietors affecting five vehicle licences have not responded to the questionnaire.

IMPLICATIONS OF REPORT

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

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	✓	No significant implications in this area	

COMMENTS OF THE CORPORATE DIRECTOR OF GOVERNANCE

40. There are no comments.

ANDREW DOCHERTY
CORPORATE DIRECTOR OF GOVERNANCE

There are no background papers to this report.

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