

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 21

Brighton & Hove City Council

Subject:	Hackney Carriage Unmet Demand Survey and Consultation on Wheelchair Accessible Vehicle Provision.		
Date of Meeting:	20 November 2014		
Report of:	Director of Public Health		
Contact Officer:	Name:	Martin Seymour	Tel: 29-2550
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 That the Committee be aware that a Hackney Carriage "Unmet Demand Survey" will be undertaken during 2015 to determine any unmet demand for Hackney Carriages.
- 1.2 That the survey will look at current policies and provision of hackney carriage vehicles in the context of other similar authorities in England and in particular Wheelchair Accessible Vehicle Provision.

2. RECOMMENDATIONS:

- 2.1 That members confirm their support for a restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually to wheelchair accessible vehicles. This policy to be reviewed following the consultant's report.
- 2.2 That any report should compare current policies and provision with other similar authorities in England to provide evidence in relation to the perceived or actual problem of availability of wheelchair accessible vehicles and consultation with local stakeholders.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council licences hackney carriage vehicles and private hire vehicles. Hackney Carriages (taxis) can ply for hire in the streets, at taxi ranks and accept prior bookings whereas Private Hire vehicles can only accept work where a prior booking has been made through a private hire operator. There is no limit on the number of private hire vehicle licences.
- 3.2 The Transport Act, 1985 s16 allows the council to limit the number providing it is

satisfied that there is no significant demand for hackney carriages, which is unmet. The only acceptable method of determining demand is by an independent survey. It is estimated that the cost of the report will be in the region of £18K and a consultant will be selected on the basis of value for money.

- 3.3 A local licensing authority in the event of a challenge to a decision to refuse a licence would have to establish to the courts that it had, reasonably, been satisfied that there was no significant unmet demand. An interval of three years is commonly regarded as the maximum reasonable period between surveys.
- 3.4 Most local licensing authorities do not impose quantity restrictions and the Department for Transport regards that as best practice. Where restrictions are imposed, the Department for Transport urges that the matter should be regularly reconsidered and further urges that the issue to be addressed first is whether the restrictions should continue at all.
- 3.5 In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 3.6 An unmet demand survey was carried out in 2012 following which committee agreed to continue with a policy of managed growth, currently 5 new licences a year issued in May.
- 3.7 Currently in Brighton & Hove there are 555 Hackney Carriage vehicles licensed of which 216 are wheelchair accessible and 449 Private Hire Vehicles of which only 53 are wheelchair accessible. There are 1173 Hackney Carriage Licensed Drivers and 583 Private Hire Licensed Drivers.
- 3.8 The report would compare Brighton and Hove provision and policy to other similar authorities to obtain the following information:
 - Number of PH and HC in fleet
 - Number of wheelchair accessible PH and HC in fleet.
 - Entry control policy
 - Provision in terms of population per HC
 - Provision population per vehicle (HC and PH)
 - Census data on social make up: to include age profiles, proportion registered disabled etc.
 - This would help show if there are any notable differences in provision to either support current policy or provide a case for some change in particular with regard to wheelchair accessible vehicles.
- 3.9 The consultation would include mystery shopper assessment to determine differences in waiting times for wheelchair accessible vehicles and to establish if the situation has changed since the last survey and if the differentials in waiting times have reduced or increased as new vehicles have been introduced. It would also include face to face consultation with stakeholders.
- 3.10 The Department for Transport has published guidelines for best practice with regard to quantity restrictions and the conduct of surveys. The Current advice from The Department of Transport can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

- 3.11 The Deregulation Bill currently going through Parliament and proposals by the Law Commission may affect the ability to restrict numbers of Hackney Carriages in the future.
- 3.12 The Law commissions final view on Quantity Restrictions is;
We recommend allowing licensing authorities to continue to limit taxi numbers. We do not regard the current statutory criterion of “unmet demand” as appropriate and instead suggest a test based on the public interest, combined with procedural requirements such as a review every three years and a duty to consult. Whilst we accept that quantity controls can be a positive regulatory tool for licensing authorities, when exercised in accordance with the public interest and appropriate safeguards, they have the undesirable side-effect of creating inflated plate values (effectively transfer fees for vehicle licenses) which act as a barrier to entry. We recommend that there should be no changes to the transferability of licence plates in areas that currently have quantity restrictions, so that licence holders who may have invested a considerable amount of money to purchase the licence, or otherwise reasonably expected their plate to have accrued substantial value, would not be negatively impacted by our reforms. On the other hand, taxi licences in areas which first introduce quantity restrictions only after our reforms come into force should not be tradeable. This would prevent new plate values from arising in areas which introduce quantity restrictions only after implementation of our reforms.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Not undertaking a hackney carriage unmet demand survey would preclude the council maintaining a restricted numbers policy for hackney carriages.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

This matter has been discussed at the council’s hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions. Forum members are supportive of an unmet demand survey and discussed with officers the significance of the Law Commission’s recommendations and a recent draft deregulation order..

6. CONCLUSION

- 6.1 A policy of restricted numbers and managed growth may not be considered best practice by Department for Transport but it has a strong local partnership based policy. It is recommended that members confirm their support for a restricted numbers policy for hackney carriage vehicles with managed growth of five additional plates issued annually to wheelchair accessible vehicles and that any report should compare current policies and provision with other similar authorities in England to provide evidence in relation to the perceived or actual problem of availability of wheelchair accessible vehicles and consultation with local stakeholders

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

[Revenue:

The fee rates for Hackney Carriages are set at a level that it is reasonably assumed will meet the costs of providing the service. Therefore, this will include the cost of the Unmet Demand Survey. If the number of Hackney Carriages is allowed to increase this will not necessarily result in an increase in overall income, as it may be offset by a reduction in private hire vehicles. If the decision is taken to continue with a limitation policy, then there is the possibility of a legal challenge to the decision in court. Any costs associated with this would need to be met from within existing budgets, funded by fee income.

Finance Officer Consulted: Steven Bedford

Date: 16/10/14

7.2 Legal Implications:

Before a local authority can refuse an application for a hackney carriage vehicle licence in order to limit the number of licensed taxis, it must be satisfied that there is no significant demand for the services of taxis within its area which is unmet. If the local authority is so satisfied, a discretion to refuse the licence arises. Any applicant whose application for a licence is refused has a right of appeal to the Crown Court. Section 70 (1) (c) of the Local Government (Miscellaneous) Provisions Act 1976 provides that a licensing authority may charge such fees for the grant of vehicle licences as may be sufficient in the aggregate to cover in whole or in part any reasonable administrative or other costs in connection with the control and supervision of hackney carriages. The costs of the survey may therefore properly be recovered through hackney carriage vehicle licence fees.

Lawyer Consulted: Name Rebecca Sidell

Date: 17/10/14

7.3 Equalities Implications:

The survey will provide information from various categories of society in Brighton & Hove, which the council will use to ensure that taxis in the city are licensed to best serve the needs of all. The results will assist the Council in planning for the future ensuring that no group of persons will be disadvantaged through using taxis.

7.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

7.5 Any Other Significant Implications:

None

SUPPORTING DOCUMENTATION

None

