

LICENSING REGULATORY COMMITTEE

**Restriction on Number of Hackney Carriages
3rd September 2015**

Report of Licensing Manager

PURPOSE OF REPORT

To enable Members to consider whether a consultation should be carried out with the hackney carriage and private hire trade and other stakeholders in relation to the restriction on the number of hackney carriage vehicle licences issued.

The report is public

RECOMMENDATIONS

The Committee is recommended to authorise the Licensing Manager to commence consultation with the taxi and private hire trade and stakeholders on whether it is appropriate and necessary to continue to restrict the number of hackney carriage vehicle licences issued.

If such a consultation is authorised it is recommended that the consultation should include a proposal that in the event of the restriction on numbers ceasing, any additional licences should be issued only to purpose built wheelchair accessible taxis, and a further proposal that if the restriction is maintained existing hackney carriage proprietors should be given a time limit of 5 years during which they must replace their vehicle with a wheelchair accessible vehicle

1.0 Introduction

1.1 Members will be aware that this authority maintains quantity restrictions on hackney carriage vehicle licences issued. Currently the limit is set at 108.

1.2 Around three quarters of local licensing authorities do not impose quantity restriction. The Department for Transport Best Practice Guidance states that 'Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the travelling public – that is to say, the people who use taxi services. What benefits or disadvantages

arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that the removal of controls would result in a deterioration in the amount or quality of taxi service provision?’

- 1.3 The Department of Transport Best Practice Guidance then goes on to state that ‘In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often 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. This seems very hard to justify.’
- 1.4 The latest available figures show that 92 councils regulate the number of taxi licences, which constitutes around 26.7% of licensing authorities in England and Wales
- 1.5 The present legal provision on quantity restrictions outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi (hackney carriage) licence may be refused, for the purpose of limiting the numbers of licensed taxi ‘if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet’
- 1.6 Members should be aware that in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to prove that it had, reasonably, been satisfied that there was no significant unmet demand.
- 1.7 For the purposes of the above, the Council commissions an Unmet Demand Survey every 3 years which would highlight whether there is any significant demand for the services of hackney carriage vehicles which is currently not being met. The survey is paid for by hackney proprietors although a significant amount of officer time is spent on it. The last survey was carried out in 2013 and did not show any unmet demand the next survey will be due in 2016.
- 1.8 When previous unmet demand surveys have indicated that more hackney carriage plates should be issued, the additional licences have always been issued to wheelchair accessible vehicles with a condition attached that any replacement vehicle must also be wheelchair accessible. In total there are 15 such mandatory wheelchair accessible hackney carriages licensed in Lancaster
- 1.9 Recently a number of complaints have been received from customers requiring wheelchair accessible vehicles. The complainants state that they struggle to book a wheelchair accessible taxi and they feel that they are being discriminated against. Some of the complaints which were received in writing are attached at appendix 1 to this report.
- 1.10 The provisions of the Equality Act 2010 in relation to hackney carriages would go some way to resolve this matter. Section 161 of the Act qualifies the law in relation to quantity restrictions, to ensure licensing authorities that have relatively few wheelchair accessible taxis operating in their area, do not refuse licences to such vehicles for the purposes of controlling taxi numbers. For section 161 to have effect, the Secretary of State must make regulations specifying:

a) the proportion of wheelchair accessible taxis that must operate in an area before the respective licensing authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers; and

b) the dimensions of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within this provision.

- 1.11 The DfT planned to consult on the content of regulations before section 161 comes in to force. Unfortunately this has not happened and does not look likely to happen any time in the near future.
- 1.12 In relation to private hire operators it is impossible to state at any one time whether a wheelchair accessible vehicles is available to be booked as the drivers work on a self-employed basis. A condition requiring private hire vehicles to be wheelchair accessible would not be permitted. Although most hackney carriages are aligned to an operator it is clear from the complaints received that the 15 mandatory wheelchair accessible vehicles that we have licensed in total, spread out over the 3 operators and some independent, are not able to meet the demand. There are some proprietors who voluntarily license wheelchair accessible vehicles both as hackney carriage but more commonly as private hire vehicles. However as there is no obligation to do so, it is difficult to quantify how many wheelchair accessible vehicles are licensed at any time over and above the 15 mandatory vehicles. Hackney carriage vehicles are public service vehicles.
- 1.13 Officers would recommend that subject to the outcome of the consultation an unmet demand survey is not carried out in 2016 and that instead the Council issue new hackney carriage plates only to purpose built wheelchair accessible vehicles.
- 1.14 Another alternative to resolve this problem, if the number restriction were to continue, would be to consider setting a date, officers recommend 5 years, by which all existing hackney carriage vehicles must be replaced by wheelchair accessible vehicles. However this would obviously have cost implications for existing proprietors.
- 1.15 Officer are now asking members to approve the commencement of a consultation with the trade, customers and disability groups in relation to these proposals.
- 1.16 Many stakeholders representing the taxi trade have highlighted the perceived unfairness of de-restricting to those who have paid a premium in order to obtain a licence. In areas where the number of licences is restricted, as in this district, existing licensed vehicles attract a high value when traded. Many licence holders have made a significant investment and taken out loans, and for many it represents a nest egg which can be called on later in life. Many licence holders make money through renting out their vehicle.
- 1.17 Licensing officers would recommend that any proposal to stop restricting the number of hackney carriages would include a provision that any new hackney carriage vehicle licences issued would have to be issued to purpose built wheelchair accessible vehicles and a condition should be attached that throughout the lifetime of the plate it must always be attached to a wheelchair accessible vehicle. This would have the potential to increase the availability of accessible transport for all, and could also have the added benefit to existing members of the trade of maintaining some value in their plates. There would also be a cost saving to the trade in relation to the cost of the unmet demand survey as well as a saving to the Council in relation to officer time dealing with the survey.

- 1.18 A policy to remove quantity restriction in favour of wheelchair accessible vehicles was challenged when put in place by Newcastle City Council. The judge concluded that there were cogent arguments in favour of saying that new licences should only be issued in respect of wheelchair accessible vehicles to ensure that there was adequate service for all. There is currently no national or legal definition of a “wheelchair accessible vehicle”. However, the Council has developed its own definition which applies to the current 15 mandatory licences.
- 1.19 It should perhaps be noted that, at some time in the future, it may be appropriate also for consideration to be given to a requirement for any additional vehicles to be ultra-low emission vehicles (ULEVs). It is understood that ultra-low emission, purpose-built fully accessible taxis are not yet widely available, but are due to reach the market in volume from 2017 onwards. The Lancashire County Council’s draft Highways and Transport Masterplan for the Lancaster District states that “we want to make the district an exemplar of why ULEVs must also be a core part of any local transport strategy. Whilst ULEVs may not reduce traffic numbers, they will be vital in reducing the emissions from the residual traffic in the city centre.” The draft Masterplan views “ULEV taxis supporting access to the city centre, with local policies favouring them” as one of the strands of a district wide ULEV Strategy, but recognises the need for an infrastructure to support this. This is therefore an issue that may need to be considered further in the future.

2.0 Proposal

- 2.1 Members may recall that a consultation was carried out two years ago in relation to the removal of quantity restrictions in favour of purpose built wheelchair accessible vehicles. At that time members resolved to maintain the restrictions. However as officers are still receiving complaints from passengers who cannot get the transport service that they require under the current regime and are saying that they are being discriminated against, it is felt appropriate to reconsider the position.
- 2.2 Members are therefore recommended to approve a consultation period with the taxi and private hire trade and other stakeholders on whether or not this authority should maintain quantity controls on hackney carriage vehicle licences, and, if quantity controls are maintained, whether existing hackney carriage proprietors should be given a set time of 5 years to replace their vehicle with a wheelchair accessible vehicle.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The removal of quantity restrictions in favour of wheelchair accessible vehicles will maintain the value in the licence plates already issued whilst improving access to taxis for all and improving the air quality in Lancaster and the surrounding district.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted.

LEGAL IMPLICATIONS

Any person aggrieved by the refusal of the grant of a hackney carriage vehicle licence has the right to appeal to the Crown Court. In the event of a challenge to a decision to refuse a licence, the local authority would have to prove that it had, reasonably, been satisfied that there was no significant unmet demand.

BACKGROUND PAPERS

Contact Officer: Wendy Peck

Office For Low Emission Vehicles
£20m Ultra Low Emission Vehicle Tax
Scheme
Preliminary Guidance for Participants

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