
DECISION - MAKER:	LICENSING COMMITTEE
DATE OF DECISION:	28TH JUNE 2006
SUBJECT:	HACKNEY CARRIAGE LICENCES – SURVEY/PLATE LIMITS
REPORT OF:	SOLICITOR TO THE COUNCIL
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A RECOMMENDATIONS

To consider the report by Halcrow Group Limited in relation to Hackney Carriage Demand and consider The City Council's position in relation to its current policy of numerical control of the number of Hackney Carriage Licences issued. The Committee is reminded of its statutory function to promote and protect public safety and that economic and business considerations do not fall within its remit.

B BACKGROUND

1. In December 2003 the Office of Fair Trading published a Report entitled "The Regulation of Licensed Taxi and PHV services in the UK",
2. The Trade and Industry Secretary's response, on behalf of the Government, to the Office of Fair Trading Report was given to Parliament in March 2004 and is set out in Appendix 1.
3. The statement indicates that Local Authorities with limits on the numbers of hackney carriages should justify their policy by conducting a regular, possibly triennial survey of unmet demand for the services of additional licensed Hackney Carriages.
4. On 16th June 2004 the Department of Transport issued a letter to every local authority requesting that they review their policies for restricting the number of taxi licences granted and publish the outcome by 31st March 2005. A copy of the Department of Transport letter is set out in Appendix 2. Whilst there is no statutory obligation to do so, first there is an expectation by the Government to do so. Secondly, the Council must be in a position to defend any assertion that there is unmet demand and, therefore, a need for further licences to be issued. Accordingly, the Council should review the policy at this juncture.
5. The City Council's current policy, determined in 2000, is that there is no significant unmet demand for the services of additional licensed hackney carriages. This was determined following the conclusion of a survey of unmet demand in the City by Halcrow Fox in the spring of 1999.
6. As a result of the survey in 2000, Members determined to issue an additional 40 hackney carriage plates with effect from December 2000. All were wheelchair accessible vehicles and the number of licences available was exceeded by the demand from individuals wishing to apply for them.

7. More recently, a small number of enquiries have been made about the grant of new licences. None has, at the date of writing, resulted in a formal application being made.
8. The Office of Fair Trading report firmly recommended that licensing authorities with quantity controls should remove them.
9. The Government statement (as set out in Appendix 1) specified that local authorities that place limits on the numbers of hackney carriages will be required to justify their policies and stated that they will write to all local authorities maintaining quantity restrictions in order to ask them to carry out such a review by the 31st March 2005 and have requested copies of conclusions reached by Councils to be made public by no later than 30th April 2005.
10. The Department of Transport letter (as set out in Appendix 2) dated 16th June 2004 has requested that Councils review any local policy restricting taxi licence numbers and to make that review public.
11. The letter states that:
 - in the Government Action Plan for Taxis (and Private Hire Vehicles) restrictions should only be retained where there is shown to be a clear benefit for the consumer.
 - Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached.
 - 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.
12. In February 2005 The Licensing Committee agreed to commission a report into unmet demand and tenders were sought from suitably qualified consultants.
In August 2005 The Committee considered a report from the Solicitor to the Council with a shortlist of candidates and Halcrow Group were subsequently commissioned to carry out the survey.

A draft report was received in January 2006 and the full report was received at the beginning of June and is available in the Members Room.

Liz Eccles the author of the report will be at the Committee's meeting to explain the report and its implications in detail.
13. The Council is still left with options in relation to its policy. These options are:

- 14.
- Option 1: To retain the status quo if, and only if, the Department of Transport's "clear benefit for the consumer" criterion is met;
 - Option 2: To issue a limited number of hackney carriage licences, on a periodic basis;
 - Option 3: To remove numerical restrictions on hackney carriage licences

15 **Advantages**

- Option 1. Retains the status quo. This is likely to satisfy elements of the existing taxi trade a lawful defence for such a stance may be made out if the survey's conclusions clearly state there is no unmet demand.
- Option 2. Potentially as option 1, but with the added benefit of the services of additional licensed hackney carriages, albeit a gradual increase over a considerable period of time. The numbers of licences issued annually, however, should not be so limited as to be insignificant.
- Option 3. A better service for consumers (e.g. decreased waiting times and more choice) and any perception or potential allegation that market forces are unnecessarily interfered with by restricting entry to the trade is removed. There will be no need for a triennial survey with associated costs, this option lets market forces immediately dictate the number of hackney carriages without Council intervention and accords fully with Government wishes.

- **Disadvantages**

- Options 1 and 2. A triennial survey will be required, which is estimated to cost between £10,000 - £15,000 (equivalent, for example, to a single year surcharge of approximately £50 per licensed hackney carriage). The additional fee would need to be advertised, and in the event of objections the committee would need to consider whether it remained reasonable to impose such additional costs on current hackney carriage licence holders or whether the budget should be found from central funds. Evaluation of the City Centre taxi ranks in relation to any additional taxis and consideration of further ranks and rank facilities would also be required
- Option 3. Potential dissatisfaction within the taxi trade due to extra competition. Evaluation of the City Centre taxi ranks in relation to any additional taxis and consideration of further ranks and rank facilities would also be required

16 Whichever option Members wish to pursue, if any new hackney carriage licences are issued, consideration should be given to the following conditions:

- Any such vehicles should be fully wheelchair accessible to the Council's satisfaction.
- Any such vehicle should have a minimum standard of nearside loading capability for any wheelchair.
- Any such vehicle should conform to European Whole Vehicle Type Approval as a Hackney Carriage or VCA qualification for production of up to 500 vehicles.
- Any such vehicle should be less than one year old at the time of its assignment to any Hackney Carriage licence bearing a number in excess of 263 and not have been previously licensed by the City Council.
- They will be subject to all of the Council's current hackney carriage licence conditions.

C. WARDS/COMMUNITIES AFFECTED:

None directly affected.
All wards of the City.

POLICY FRAMEWORK IMPLICATIONS

17 The decision to determine the application in the manner set out in this report is not contrary to the Council's policy framework. The ability to review current Licensing policies falls within the Committee's terms of reference.

LEGAL IMPLICATIONS

18 *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

19 *Human Rights Act 1998*

Any action undertaken by the Council that could have an effect upon another persons Human Rights must be taken having regard to the principle of Proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's' rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

FINANCIAL IMPLICATIONS

20 Under the requirements of option 1 and 2 a triennial survey may need to be carried out, estimated to cost between £10,000 and £15,000. This cost could be recovered from hackney carriage proprietors by a single year surcharge of approximately £50 on the existing hackney carriage licence fee of £181.

21 However, such proposals are required by law to be advertised and objections considered before the fee is amended. No funds have been identified for this expenditure.

CONSULTATION AND CONCLUSIONS

22 It is clear from the Government that they wish to see derestriction of the number of hackney carriage licences issued by councils. Whilst there is no statutory prohibition on restriction, the Council must show that if it does not follow Government guidance that it has very good reason for doing so and has acted in a reasonable manner in reaching such a conclusion. As the committee will be aware, the Council's statutory remit in matters of licensing is that of public safety; economics or business reasons to impose restrictions are not legitimate considerations. Accordingly, if a survey is undertaken and no unmet demand can be found, the Council may have grounds for maintaining the status quo. Equally, it is perfectly reasonable, and lawful, to derestrict and, therefore, follow Government advice.

BACKGROUND PAPERS

Title of Background Paper

Relevant Paragraph of AIP Rules allowing document to be Exempt/ Confidential (if applicable)

Office of Fair Trading Report –
December 2003

Appendix 1

Written response to Office of Fair
Trading Report by Trade and Industry
Secretary, Patricia Hewitt

Appendix 2

Department of Transport letter dated
16th June 2004