

ITEM NO: 4

DECISION-MAKER:	LICENSING COMMITTEE		
SUBJECT:	HACKNEY CARRIAGE LICENCES – UNMET DEMAND SURVEY		
DATE OF DECISION:	11 MARCH 2009		
REPORT OF:	SOLICITOR TO THE COUNCIL		
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STATEMENT OF CONFIDENTIALITY

None

SUMMARY

To consider the report by Halcrow Group Limited in relation to Hackney Carriage demand and consider the City Council's position, as Licensing Authority, 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 lawful remit should it be resolved that further licences need to be issued to give consideration to the additional vehicle conditions detailed below.

RECOMMENDATIONS:

- (i) That the Committee considers the report of Halcrow Group Limited and resolves to either grant additional Hackney Carriage licences or not.

REASONS FOR REPORT RECOMMENDATIONS

1. The reasons for the recommendations are contained in the Halcrow report.

CONSULTATION

2. There have been extensive consultations with the trade, public, disabled groups and other interested parties and users in compiling the Halcrow report. It is clear from the Government that they wish to see derestriction of the number of Hackney Carriage licences issued by licensing authorities. 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.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. N/A

DETAIL

4. In December 2003, the Office of Fair Trading published a Report entitled “The Regulation of Licensed Taxi and PHV services in the UK”. 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.
5. 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.
6. The City Council’s current policy, latterly determined by this committee on 28th June 2006, 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 in Autumn 2005.
7. The above mentioned Department of Transport letter requested that councils review any local policy restricting taxi licence numbers and to make that review public. The Government’s policy on this issue remains the same.
8. 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;
 - 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.
9. Accordingly, the Council needs to review the position on a regular basis. To that end, Halcrow were instructed in Summer 2008 to undertake a further independent and in-depth review. A copy of the summary of the report is attached at Appendix 2 and the full report is in the Members’ Rooms and has been made publicly available on the Council’s website since the date of this agenda. Liz Eccles, the author of the report, will be at the Committee meeting to explain the report and its implications in detail.
10. The Council has options in relation to the review of its policy. These options are:-
 - 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: If it believes there is “unmet demand” in the City it should issue a limited number of licences immediately to satisfy the unmet demand.

- Option 3: to issue a limited number of Hackney Carriage licences, on a periodic basis;
- Option 4: to remove numerical restrictions on Hackney Carriage licences completely.

11. Advantages

- Option 1. Retains the status quo. This is likely to satisfy elements of the existing taxi trade. However, a lawful defence for such a decision may only be made out if the survey's conclusions clearly state there is no unmet demand. Clearly the report does not support this option.
- Option 2. Satisfies the unmet demand identified by the survey immediately.
- Option 3. Has the added benefit of the services of additional licensed hackney carriages, albeit a gradual increase over a period of time. The numbers of licences issued annually, however, should not be so limited as to be insignificant.
- Option 4. Potentially 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. Whether a better service would be provided overall would only be ascertained after a period of implementation.

12. Disadvantages

- Options 1, 2 and 3. A triennial survey will still be required.
- Option 4. Potential dissatisfaction within the taxi trade due to extra competition. Members are reminded that "public safety" is the primary licensing test not that of employment or business related issues.

13. Whichever option Members wish to pursue, if any new Hackney Carriage licences are issued, consideration should be given to the following conditions to be attached to any new licences issued. A further detailed report will be submitted to the Committee for consideration in the near future.

- 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 (Vehicle Certification Agency) 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 in excess of 263 and not having been previously licensed by the Council.

- Any such vehicle will be maintained in the specification in which it was originally supplied and subsequently licensed.
- Any new vehicle licence issued will be subject to the vehicle being fitted with a Southampton City Council approved camera system.
- They will be subject to all of the Council's current Hackney Carriage licence conditions.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

14. None

Revenue

15. None, save that if any additional licences are granted they will by their nature result in additional income.

Property

16. None

Other

17. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

18. The Town Police Clauses Act 1847 governs the administration and issue of Hackney Carriage licences.

Other Legal Implications:

19. 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.

Human Rights Act 1998

20. Any action undertaken by the Council that could have an effect upon another person's 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.

POLICY FRAMEWORK IMPLICATIONS

21. None

SUPPORTING DOCUMENTATION

Appendices

1.	Written response to Office of Fair Trading Report by Trade and Industry Secretary, Patricia Hewitt
2.	Summary of the report by Halcrow regarding Unmet Demand - February 2009

Documents In Members' Rooms

1.	Report by Halcrow regarding Unmet Demand - February 2009
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Office of Fair Trading Report – December 2003	
2.	Report by Halcrow regarding Unmet Demand February 2009	

Background documents available for inspection at: Office of the Solicitor to the Council, Civic Centre, Southampton

FORWARD PLAN No: N/A

KEY DECISION? N/A

WARDS/COMMUNITIES AFFECTED:

None