

DECISION-MAKER:	LICENSING COMMITTEE		
SUBJECT:	HACKNEY CARRIAGE LICENCES – UNMET DEMAND SURVEY		
DATE OF DECISION:	23 SEPTEMBER 2015		
REPORT OF:	HEAD OF LEGAL AND DEMOCRATIC SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Phil Bates	Tel: 023 8083 3523
	E-mail:	phil.bates@southampton.gov.uk	
Director	Name:	Dawn Baxendale	Tel: 023 8083 2966
	E-mail:	dawn.baxendale@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

To consider the report by Vector Transport Consultancy (VTC) in relation to demand for the services of additional licensed hackney carriages and consider the City Council's current policy of numerical control of the number of hackney carriage licences.

Should the Committee resolve to issue further licences it will need to give consideration to the additional vehicle conditions detailed below?

RECOMMENDATIONS:

- (i) to consider the unmet demand report; and
- (ii) to resolve to remove the current numerical limit on the numbers of licensed hackney carriages, subject to licence conditions indicated below in respect of any additional licences issued; or
- (iii) to resolve to issue additional hackney carriage licences, but to continue to restrict the maximum number of such licences issued, and to determine that maximum, subject to licence conditions indicated below; or
- (iv) to resolve to continue to restrict the number of licensed hackney carriages to 283.

REASONS FOR REPORT RECOMMENDATIONS

1. The recommendations are made in accordance with the legal restrictions surrounding the grant of hackney carriage licences, the Department for Transport's best practice guidance and the contents of the Law Commission's report on Taxi and Private Hire Services.
2. The report by Vector Transport Consultancy sets out the reasons for the recommendations.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. All options are considered in the recommendations.

DETAIL (Including consultation carried out)

4. Section 16 of the Transport Act 1985 provides that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted if, but only if, the person authorised to grant licences 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.
5. VTC has carried out an independent survey of unmet demand on behalf of the City Council. The survey has involved extensive consultation with the taxi and private hire trade, the public and other special interest groups of taxi users.
6. On 23rd May 2014, the Law Commission published its report on taxi law reform and stated "Our initial view was that derestriction would be likely to provide the most efficient use of resources by enabling the market to determine supply and demand. However, having listened to the responses to our consultation, we recognise that some limitation on taxi licence numbers may, in some areas, be desirable."
7. The Department for Transport guidance dated 2010 states they consider best practice is not to restrict the numbers of hackney carriage licences, see paragraphs 45 to 51 of the guidance.
8. Although there is no current statutory prohibition on continued numerical restrictions, the Council must show, if it does not follow the Department for Transport guidance, that it has reasonably been satisfied that there was no significant unmet demand.
9. The Committee has a statutory responsibility to promote and protect public safety and that economic and business considerations in determining policy cannot lawfully be considered.
10. It is therefore lawful and reasonable, in considering the unmet demand survey, for the Committee to conclude that the current numerical limit on hackney carriages should either be removed entirely or altered or retained.
11. The City Council's current policy, last determined by the Committee on 14th June 2012, was to retain the number of licences at 283.
12. The Council is required to review its policy regularly in order to ensure that it would be robust in the face of any challenge. VTC was instructed to undertake an independent survey in the spring of 2015. A copy of the report summary is attached at Appendix 1 and the full report has been placed in the Members Rooms and on the Council's web site.
13. The Council's options in relation to the review of its policy, together with the advantages and disadvantages are as follows:-
 - Option 1: To retain the current numerical restriction on hackney carriage licence if, and only if, the Department for Transport's "in the interests of the travelling public" guidance is met;
Advantage: Retains the current status. Is in line with the recommendations in the VTC report of there being no unmet demand.
Disadvantage: A triennial survey will still be required with the associated extra work for existing resources.
 - Option 2: Issue a limited number of hackney carriage licences.
Advantage: Potential better service for consumers by increasing the competition

and reducing waiting times at peak times.

Disadvantage: A triennial survey will still be required with the associated extra work for existing resources. Potential disadvantage for existing trade with more vehicles looking for fares thereby reducing the income of drivers.

Option 3: To issue a limited number of hackney carriage licences, on a periodic basis.

Advantage: Has the benefit of the increasing the availability of licensed hackney carriages to the community, albeit a gradual increase over a period of time. However, the numbers of licences issued annually should not be so limited as to be insignificant.

Disadvantage: A triennial survey will still be required with the associated extra work for existing resources. Potential disadvantage for existing trade with more vehicles looking for fares thereby reducing the income of drivers.

Option 4: To remove numerical restrictions on hackney carriage licences.

Advantage: Potential better service for consumers by increasing the competition and reducing waiting times at peak times and any perception or potential allegation that market forces are unnecessarily interfered with by removing the restriction of entry to the trade. There will be no need for a triennial survey with associated extra work, this option lets market forces immediately dictate the number of hackney carriages without Council intervention and accords fully with Government guidance. Whether a better service would be provided overall would only be ascertained after a period of implementation.

Disadvantage: Potential dissatisfaction within the taxi trade due to perceived additional competition. However "public safety" is the primary licensing test and economic and business considerations are irrelevant.

14. Should the Committee decide to issue new licences, any new hackney carriage licences should be subject to conditions as follows:

- Any vehicle to be licensed must be fully wheelchair accessible to the Council's satisfaction.
- Any such vehicle must be maintained in the specification in which it was originally supplied and subsequently licensed.
- Any vehicle to be licensed must conform to European whole vehicle type approval as a hackney carriage or VCA qualification for production of up to 500 vehicles.
- Any vehicle to be licensed must be less than one year old at the time of its being first licensed as a hackney carriage and shall not have been previously licensed by the Council.
- Any vehicle to be licensed must be fitted with a taxi camera system approved by the City Council.
- Any vehicle to be licensed will be subject, in addition, to all the Council's current hackney carriage licence conditions.

RESOURCE IMPLICATIONS

Capital/Revenue

15. None, save that if any additional licences are granted they will result in additional income to offset the costs of providing the licensing service.

Property/Other

16. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

17. Section 37 Town Police Clauses Act 1847, as modified by section 15 Transport Act 1985, provides for the regulation of hackney carriages.
18. There is a considerable body of case law arising from the higher courts' consideration of this provision.

Other Legal Implications:

19. Section 17 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.
20. Human Rights Act 1998 - 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 those obligations.

POLICY FRAMEWORK IMPLICATIONS

21. None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None

SUPPORTING DOCUMENTATION

Appendices

1. VTC Unmet Demand Survey Report Summary

Documents In Members' Rooms

1. VTC Unmet Demand Survey Report in full

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.

No

Privacy Impact Assessment

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.

No

Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

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. Law Commission report on Taxi and Private Hire Services https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314106/9781474104531_web.pdf	
2. Department for Transport Best Practice guidance 2010 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf	
3. VTC Unmet Demand Survey Report in full www.southampton.gov.uk/taxinotices	