

APPENDIX 1

EXTRACT FROM DEPARTMENT OF TRANSPORT BEST PRACTICE GUIDE

QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

45. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis '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'.

46. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

47. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. 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 interests 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 removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

48. 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. This seems very hard to justify.

49. If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

50. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

The length of time that would-be customers have to wait at ranks. However, this alone is an inadequate indicator of demand; also taken into account should be...

Waiting times for street hailings and for telephone bookings. But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...

Latent demand, for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.

Peaked demand. It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.

Consultation. As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);

Publication. All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.

Financing of surveys. It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

51. Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)

Useful questions when assessing quantity controls of taxi licences

Have you considered the Government's view that quantity controls should be removed unless a specific case that such controls benefit the consumer can be made?

Yes – we don't believe that at this time there will be a benefit to consumers in increasing the number of hackney carriages

Questions relating to the policy of controlling numbers

Have you recently reviewed the need for your policy of quantity controls?

The policy was reviewed in 2012 and again in 2015.

What form did the review of your policy of quantity controls take?

A full SUD survey was undertaken in 2012 followed by an officer snap-shot of the current position in 2015.

Who was involved in the review?

Council officers only in 2015 but this was informed by the 2012 review that included an independent specialist company.

What decision was reached about retaining or removing quantity controls?

There has not been any significant changes in the local circumstances underpinning the 2012 policy to justify changing the current policy.

Are you satisfied that your policy justifies restricting entry to the trade?

Taxi use at key points in the town over the last few years, particularly around Market Place in the town centre and around Watford Junction, has shown a high demand for and abuse of rank space to the detriment of residents, businesses and other road users.

Are you satisfied that quantity controls do not:

- reduce the availability of taxis;
- increase waiting times for consumers;
- reduce choice and safety for consumers?

The quantity controls do not reduce availability of taxis, as the previous SUD clearly indicated an over-supply of taxis in the town and there were no waiting times for consumers – factors that have not changed. The council has not received any complaints either since 2012 about waiting times or the unavailability of taxis. Other council policies have led to the creation of a mixed fleet of varied vehicle types and models to provide choice and safety.

The policy is also sufficiently flexible to allow additional vehicles to be exceptionally added to fill any gaps in the market.

That special circumstances justify retention of quantity controls?

The overwhelming strain on the current rank system (particularly around Watford Junction) and the lack of complaints about availability, type of vehicle or other factors justify retaining the current controls.

How does your policy benefit consumers, particularly in remote rural areas?

The policy has not seen a reduction in taxi numbers and so consumers have been provided with the same range and choice of taxis as in previous years.

How does your policy benefit the trade?

The trade is able to benefit from being able to trade in the knowledge that it will not face significant local competition from more taxis.

If you have a local accessibility policy, how does this fit with restricting taxi licences?

There is not currently a local accessibility policy, although previous policies have resulted in a number of wheelchair accessible taxis being licensed. The council has recently conducted a mystery shopping exercise with passengers with disabilities and consequently established a disabilities working group with the trade and taxi user representatives.

Questions relating to setting the number of taxi licences

When last did you assess unmet demand?

In 2011/2012

How is your taxi limit assessed?

By independent SUD surveys and ad hoc reviews at intervals determined by the council as appropriate taking into account prevailing local circumstances at the time

Have you considered latent demand, ie potential consumers who would use taxis if more were available, but currently do not?

There does not appear to be evidence of latent demand, eg no complaints from the public about unavailability of taxis either in particular parts of the Borough or at particular times; equally no complaints or evidence from the trade about inappropriately met demand and evidence of offences such as plying for hire disclosed during covert operations conducted by the council

Are you satisfied that your limit is set at the correct level?

The limit is higher than expected for the population levels (see the 2012 SUD survey) which partly explains the thinking behind a "reducing level" policy

How does the need for adequate taxi ranks affect your policy of quantity controls?

There is significant strain on the use of ranks and adjacent parking/waiting spaces by taxis and other vehicles and is therefore a significant factor in limiting the number of taxis at a time when there does not appear to be a need for more taxis.

Questions relating to consultation and other public transport service provision

When consulting, have you included etc

- all those working in the market;
- consumer and passenger (including disabled) groups;
- groups which represent those passengers with special needs;
- local interest groups, eg hospitals or visitor attractions;
- the police;
- a wide range of transport stakeholders eg rail/bus/coach providers and traffic managers?

No public consultation was conducted on this occasion. The council is aware that as the Department for Transport's Best Practise Guide is currently being reviewed it wishes to review its' own position in 18 – 24 months time when more positive engagement is likely to occur then.

Do you receive representations about taxi availability?

The council has not received any representations about taxi availability for at least the last three years.

What is the level of service currently available to consumers (including other public transport modes)?

This is largely outside the remit of the Licensing Committee as it involves other transport providers that are outside the scope, influence or control of the council.