



LICENSING COMMITTEE

Wednesday, 29th June, 2011

7.30 pm

Town Hall, Watford

Publication date: 21 June 2011

CONTACT

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Jodie Kloss in Legal and Property Services on 01923 2783XX or by email to legalanddemocratic@watford.gov.uk (Minicom available on 01923 278499).

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COMMITTEE MEMBERSHIP

Councillor J Brown (Chair)

Councillor K Hastrick (Vice-Chair)

Councillors K Brodhurst, J Connal, K Crout, G Derbyshire, J Dhindsa, P Jeffree, C Leslie, A Mortimer, F Qureshi, D Scudder, L Scudder, T Taj and D Walford

AGENDA

PART A - OPEN TO THE PUBLIC

1. **APOLOGIES FOR ABSENCE/ COMMITTEE MEMBERSHIP**
2. **DISCLOSURES OF INTERESTS (IF ANY)**
3. **MINUTES** (Pages 1 - 8)

To approve for signature the minutes of the meeting held on 15 June 2011.

4. **HACKNEY CARRIAGE NUMBERS** (Pages 9 - 28)
5. **EXCLUSION OF PRESS AND PUBLIC**

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LICENSING COMMITTEE

15 June 2011

Present: Councillor J Brown (Chair)
Councillor Hastrick (Vice-Chair)
Councillors Brodhurst, Connal, Crout, Derbyshire, Dhindsa, Jeffree,
Leslie, Qureshi, D Scudder, L Scudder and Walford

Also present: Councillors I Brown and Meerabux

Officers: Head of Environmental Services (for minute numbers LC1-11/12 to
LC4-11/12)
Environmental Health and Licensing Section Head
Licensing Manager
Environmental Health Manager (East)
Committee and Scrutiny Support Officer (JK)

LC1- **APOLOGIES FOR ABSENCE/COMMITTEE MEMBERSHIP**
11/12

Apologies for absence were received from Councillor Mortimer.

Absent without apologies: Councillor Taj.

LC2- **DISCLOSURES OF INTEREST**
11/12

There were no disclosures of interest.

LC3- **MINUTES**
11/12

The minutes of the meeting held on 5 July 2010 were submitted and signed.

LC4- **ENVIRONMENTAL SERVICES ENFORCEMENT POLICY**
11/12

The Committee received a report of the Head of Environmental Services asking Members to consider the draft policy and approve it for public consultation.

The Licensing Manager informed the Committee that the policy set parameters for how enforcement powers should be used and acted as a check to ensure that officers were not being over-zealous in enforcement. Under the Legislative and Regulatory Reform Act the Council was required to publish the policy.

There had been one minor change to the report. In paragraph 6.11.1 on page 10 of the appendix, the fourth bullet point was to be deleted as it was very similar to the second bullet point.

In response to a question from a Member, the Licensing Manager explained that the consultation entailed publishing the policy online, issuing a press

release and sending copies to stakeholder groups. The Member suggested that the Citizens Advice Bureau be consulted.

RESOLVED –

1. that officers conduct a public consultation exercise on the draft enforcement policy set out at appendix 1, and the Committee's comments be noted
2. that the Head of Environmental Services, in consultation with the Chair of the Licensing Committee and the Portfolio Holder for Environmental Services, be authorised to make any minor amendments to the draft policy arising out of the public consultation exercise, and to agree whether to bring the draft policy back for further consideration in September 2011.

LC5-
11/12

HEALTH AND SAFETY LAW ENFORCEMENT SERVICE PLAN 2011- 2013

The Committee received a report of the Head of Environmental Services asking Members to endorse the Health and Safety Law Enforcement Service Plan 2011 to 2013.

The Environmental Health Manager (East) explained that the service plan set out what was proposed in the period to 2013 and it was good practice to have periodic member approval. The plan related to external rather than internal health and safety policies. Responsibility for health and safety was split between the Health and Safety Executive (HSE), who had responsibility for major projects, and local authorities who had responsibility for most commercial properties in the locality. The plan concentrated on higher risk activities.

One Member said that he welcomed the report and asked whether the council had adequate resources to fulfil what the plan outlined. The Environmental Health Manager (East) confirmed that the Council had the resources to cover the necessary officer time.

In response to a further question from a Member, the Environmental Health Manager (East) explained that the number of proactive inspections had decreased in recent years due to an increased focus on higher risk activities following guidance from the HSE.

RESOLVED –

1. that the Health and Safety Law Enforcement Service Plan 2011 to 2013 be endorsed.
2. that the Health and Safety Executive's Pledge be endorsed by full Council

LC6-
11/12

HACKNEY CARRIAGE NUMBERS

The Chair read out the following statement to the Committee:

“Members will be aware that Item 6 of the agenda has been withdrawn. An additional Licensing Committee will be convened on 29 June 2011 to consider whether the current policy on delimitation should be reviewed. “

This item was withdrawn and would be reconsidered at a future meeting.

LC7-
11/12

PRIVATE HIRE VEHICLE DRIVER LICENCES

The Committee received a report of the Head of Environmental Services asking Members to consider changes to the policy of granting licences to private hire drivers.

The Licensing Manager informed the Committee that there was a minor change to the report which was intended to provide further clarification. The recommendation in paragraph 2.4 on page 1 of the report should read “that applicants for a Hackney Carriage or Private Hire Drivers licence be required to retake...”

The current practice was to issue dual licences which allowed the licence holder to drive both Hackney Carriages and Private Hire vehicles. This was simpler administratively and as the Council was able to put conditions on Private Hire licences but not on Hackney Carriage licences, this meant that conditions could be imposed on any licence if appropriate.

The Licensing Manager informed the Committee that there were currently about 120 Private Hire vehicles and the operators had informed officers that it was difficult to recruit new drivers. The requirement to take the Driving Standards Agency assessment test, the same knowledge test as Hackney Carriage drivers and the fees were a deterrent for applicants.

Private Hire drivers operated differently to Hackney Carriage drivers; the latter were expected to know the way to the destination immediately on being hired whereas the former were booked in advance.

There was an argument, therefore, that Private Hire licences could require a simpler knowledge test. The topographical section would be simpler with questions focused on the main ‘A’ roads. The rest of the test, relating to the Highway Code, English levels and numeracy, would remain the same. The Private Hire test would cost less as it was less time-consuming.

A Member said that he did not agree with the proposals. Many Hackney Carriage drivers also received bookings via the radio. The reason that the Private Hire operators were struggling to recruit could be the lack of work.

Another Member said that if this was a request from the trade, the Committee would need a good reason to reject the proposal.

The Chair referred to a meeting with drivers in February, at which drivers informed Members and officers that the difficulty of the knowledge test meant they were losing drivers to Three Rivers.

The Licensing Manager confirmed that this was an issue that had been raised in the last three to four years. He confirmed that the meetings with drivers took place on an ad hoc basis but there were usually two to three a year.

A Member referred to problems when roads were closed; drivers would be expected to know alternative routes without looking them up while the meter was running as this would not be good value for money.

In response to a question from a Member, the Licensing Manager explained that details of the proposals had been publicised in a newsletter which went to every driver.

The Licensing Manager confirmed that responsibility for accidents, as referred to in paragraph 3.9, would be as defined by the insurance companies or a court.

RESOLVED –

1. that the revised policy set out in paragraph 3.9 for circumstances where existing drivers are required to re-take the Driving Standards Agency assessment be adopted.
2. that officers implement a knowledge test for private hire drivers only as set out in paragraph 3.14 and 3.15 of the report.
3. that officers issue only private hire vehicle drivers' licences to applicants who successfully pass the Knowledge Test for private hire drivers as set out in paragraph 3.14 and 3.15.
4. that applicants for a driver's licence be required to retake the Knowledge Test if they have not held a licence from the Council within the preceding six years from the date of application.

LC8-
11/12

EQUALITY ACT 2010- TAXIS AND PRIVATE HIRE VEHICLES

The Committee received a report of the Head of Environmental Services asking Members to determine whether the Council should maintain a list of designated vehicles for the purposes of the Equality Act 2010 and to delegate authority to the Head of Environmental Services to grant exemptions on the basis of physical capabilities.

The Licensing Manager informed the Committee that the Act enhanced the duty on drivers to carry passengers in wheelchairs at no additional cost and to provide mobility assistance. This would only apply to wheelchair-accessible vehicles, which constituted approximately 17% of the licensed vehicles.

Should the policy of maintaining the list of these vehicles be adopted, drivers would be able to apply for medical exemption on submission of a hospital consultant's report. Consultations had taken place with Private Hire drivers, the

Hackney Carriage Association and Watford Disability Forum. The vast majority of the responses had been positive.

In response to a question from a Member, the Licensing Manager informed the Committee that drivers with exemptions would have a sticker to display in their windscreens.

One Member felt that if a driver had an exemption, they should not be able to carry passengers in wheelchairs at all, rather than offer limited assistance.

The Licensing Manager responded that the exemption gave drivers the protection should they be unable to carry the passenger.

A Member commented that she felt that it would be more appropriate to require a doctor's certificate rather than a hospital consultant's certificate. It was difficult and sometimes expensive to see a consultant.

RESOLVED –

1. that the Council should maintain a list of designated hackney carriage and private hire vehicles for the purposes of the Equality Act 2010.
2. that authority be delegated to the Head of Environmental Services to grant exemption to licensed drivers on grounds of physical capabilities on production of a doctor's report

LC9-
11/12

HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS' AGE LIMITS

The Committee received a report of the Head of Environmental Services asking Members to consider changes to the policies relating to upper and lower age limits for Hackney Carriage and Private Hire drivers.

The Licensing Manager explained that under the Equality Act 2010 the Council had to eliminate discrimination of protected characteristics, including age.

The current minimum age limit for drivers was 21; there was a legal requirement for drivers to have held a UK/EU driving licence for at least two years. This policy was in line with the minimum age limit for bus and coach drivers. As young drivers were the cause of 27% of all road traffic fatalities, the policy reflected the need to maintain public safety.

The maximum age limit was a different issue; drivers were permitted to continue driving after the age of 70 through an annual certification process. There were currently 13 drivers aged between 65 and 70 and 26 aged between 60 and 65. Not many other local authorities had a maximum age limit.

Members agreed that requiring a medical certificate at the age of 50 was too early and 55 would be more appropriate.

Another Member commented that an age-related competency test, rather than a medical would be more appropriate as a driver may be fit but a less competent driver.

The Licensing Manager referred to 2.1.3 (v) in the report which allowed officers to require a medical as and when appropriate. This could cover instances where there were concerns about the health of any driver.

RESOLVED –

1. that there be no maximum age limit for holding a hackney carriage or private hire vehicle drivers' licence
2. that there be no change to the existing policy of applicants for hackney carriage or private hire vehicle drivers' licences to have held a full UK/EU driving licence for at least two years and be at least 21 years of age
3. Hackney carriage and private hire drivers submit to a medical examination
 - (i) on first application
 - (ii) on attaining the age of 55
 - (iii) at 5 yearly intervals between 55 and 65 years
 - (iv) annually thereafter and
 - (v) as and when reasonably required by officers.

LC10-
11/12

AMENDMENT TO LICENSED DRIVERS PENALTY POINTS APPEAL PROCEDURE

The Committee received a report of the Head of Environmental Services asking Members to consider changes to the penalty points policy.

The Licensing Manager explained that drivers could incur penalty points for contraventions including not displaying a fare chart, not wearing a badge and for parking contraventions.

The modifications proposed were intended to make the scheme fairer and more efficient.

A Member asked if drivers were able to bring a union representative or friend to hearings. The Licensing Manager responded that this had been debated and the meetings were intended to be informal as penalty points were primarily a warning. However, this had been requested in a recent case and was permitted.

The Member considered that there were too many taxis and not enough spaces in ranks which led to parking contraventions.

The Licensing Manager confirmed that penalty charge notices received from civil enforcement officers were not part of the penalty points scheme for licensed drivers.

A Member suggested that any changes to the scheme agreed between the Head of Environmental Services and the Chair of the Licensing Committee ought also be reported to the Committee's Members.

RESOLVED –

1. that drivers have 10 working days in which to appeal against the imposition of any penalty points.
2. that drivers may opt to submit written representations to be considered in lieu of an oral hearing if they so wish.
3. that the Licensing Manager be authorised to hear appeals arising from parking contraventions, excluding those which have resulted in a loss of licence.
4. that any request for an appeal be accompanied by an outline of the grounds/reasons for the appeal.
5. that the Head of Environmental Services be authorised to make such minor modifications to the scheme as may from time to time be necessary, after first consulting the Chair of the Licensing Committee and, where appropriate, representatives of licensed drivers, such changes being reported to the Licensing Committee.

Chair

Licensing Committee

The meeting started at 7.30 p.m.
and finished at 8.50 p.m.

f-21/6

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PART A

Report to: Licensing Committee
Date of meeting: 29 June 2011
Report of: Head of Environmental Services
Title: Hackney carriage vehicle licence numbers

1.0 SUMMARY

1.1 The Council has a power to restrict the number of hackney carriage vehicle licences it grants where it is satisfied there is no significant unmet demand for taxi services. After reviewing the policy of no quantity restrictions last year the Committee asked for an update in twelve months during which time the number of vehicle licences granted by the council increased in 2010 to 321. The Watford Hackney Carriage Drivers Association have also asked for this issue to be considered by the Committee and have made a submission shown in Appendix 1.

2.0 RECOMMENDATIONS

2.1 That the Committee considers the contents of this report and determines if the current Council policy of no quantity restriction on hackney carriage vehicle numbers is reviewed.

Contact Officer:

For further information on this report please contact: Jeffrey Leib (Licensing Manager) on telephone extension: 278429 email: jeffrey.leib@watford.gov.uk

Report approved by: Alan Gough, Head of Environmental Services

3.0 DETAILED PROPOSAL

3.1 In October 2006 the Council exercised its powers under the Transport Act 1985, when a decision was taken to remove the limit on the number of licences issued, sometimes referred to as delimitation. The Council has the power to limit the number of hackney carriage vehicle licences (HCVLs) that it issues within the Borough under this Act subject to satisfying itself that having set the limit there is no significant unmet demand for hackney carriage services. The usual manner in which to gauge whether or not there is an unmet demand for licences is by way of regular independent survey. The test is the demand for

hackney carriages by passengers, and not a demand for licences by prospective licensees.

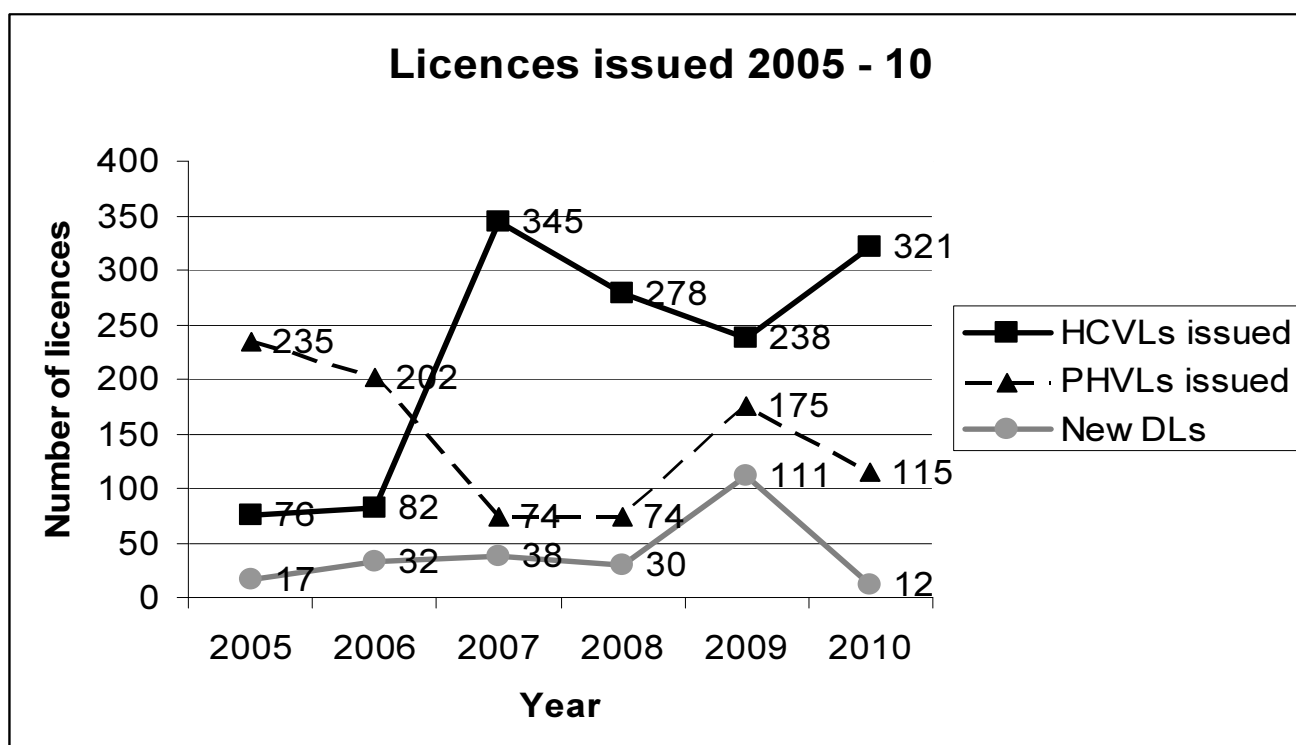
- 3.2 Any person aggrieved by the refusal of the Council to grant a licence may appeal to the Crown Court. The Court may order the Council to grant the licence if it finds there is evidence of demand.
- 3.3 For many years, the Council adopted a policy of restricting the number of licences it issued. Until 1995, this stood at 61 licences, when it was increased by two wheelchair-accessible London-style vehicles with the agreement of the hackney carriage trade.
- 3.4 Following an unmet demand survey in 2001, a policy of managed growth was adopted on 10 March 2003, resulting in an additional ten licences being issued in 2003 – 2004. After a further survey in 2006, the Licensing Committee agreed in October that year to remove any further restrictions on the number of vehicle licences.
- 3.5 There are a number of factors that relate to the number of hackney carriages. Whilst some of these were present before 2006, the scale and intensity of some has grown with the increase in the number of licensed vehicles. These factors include:
- (1) over-ranking, particularly at the Rickmansworth Road rank in the absence of marshalling, and at Clarendon Road
 - (2) inappropriate ranking, particularly in Westland Road and in the High Street. These first two factors cause annoyance and inconvenience to residents and other motorists, and require significant enforcement resources
 - (3) the demands of Watford Junction, particularly decisions by the train operating companies concerning the issue of permits for taxis to ply from the station forecourt
 - (4) the level of illegal plying for hire, which has declined since delimitation
 - (5) a failure on the part of some drivers who converted directly from being a private hire driver to becoming a hackney carriage driver of the additional duties placed on them when plying for hire, such as not unreasonably refusing to carry passengers and the manner in which fares are regulated
 - (6) the cost of licence plates if sold within a limited market, which the council is legally unable to prevent or control
 - (7) demand for services generally has several peaks during the week, particularly Monday, Friday and Saturday nights
 - (8) the general economic situation. The recession has had an impact on drivers in terms of their operating costs significantly rising (especially fuel and insurance) whilst the number of taxi journeys appears to be declining

(9) an impact on the number of private hire vehicle licences.

3.6 Vehicle numbers

The table and charts below show the hackney carriage vehicle licences (HCVLs) and private hire vehicle licences (PHVLs) issued by the Council, and which were surrendered and transferred each calendar year between 2005 and 2010. There are around 450 valid driver licences (DLs) currently issued. The spikes in 2009 represent drivers who were formerly licensed by other councils within Watford and who were required to be licensed by Watford Borough Council.

Calendar year	Hackney carriage vehicle licences issued	Hackney carriage vehicle licences transferred ¹	Hackney carriage vehicle licences surrendered ²	Private hire vehicle licences issued	Private hire vehicle licences transferred ³	Total vehicles licensed
2005	76	11 (14%)	1	235	0 (0%)	311
2006 ⁴	82	26 (31.70%)	31	202	84 (41.58%)	284
2007	345	35 (10.14%)	7	74	16 (21.62%)	419
2008	278	33 (11.%)	51	74	37 (50%)	352
2009	238	55 (23.11%)	60	175	36 (20.57%)	413
2010	321	32 (9.96%)	23	115	27 (23.48%)	436



¹ Licences are typically transferred because the owner has sold the vehicle to another owner.

² Licences may be surrendered for another reason, including the “de-licensing” of a particular vehicle in order that a new vehicle may be licensed.

³ Licences may be surrendered for another reason, including the “de-licensing” of a particular vehicle in order that a new vehicle may be licensed. Some, particularly in 2006 and 2010, transferred to be used as hackney carriages.

⁴ Year that delimitation occurred.

3.7 At the time of removing the limit in 2006, officers predicted the overall number of licensed vehicles would not rise higher than about 280. Although this number has clearly been exceeded, the recessionary effects on the market were at the time wholly unanticipated and of course it is unclear what the future will hold.

3.8 A new limit can only be imposed if a survey finds that there is no significant demand for taxi services. This has to be looked at across the context of the whole of the week and the whole of the Borough. Even if a survey does find there is no significant unmet demand, and so a limit on number can be set, there would still be two possible circumstances in which licences would still be need to be considered: (1) where an application is made to provide services of a type that is not currently provided within the Borough; and (2) to allow the licensing of wheel-chair accessible taxis if the relevant provisions of the Equalities Act 2010 are introduced by the coalition Government.

3.9 **Unmet demand surveys**

There is a substantial body of case law dealing with unmet demand surveys. The courts have come to expect surveys to be conducted by a handful of independent consultants that have become expert in their execution. Surveys typically take place over at least a week-long period, and can either be purely quantitative in terms of measuring demand for taxi surveys, or can be qualitative by also seeking views of users and others. Surveys quite often have to be timed to ensure that they take place at times of “normal” taxi use that are not distorted by factors such as school holidays or hot weather when comparatively fewer people might take taxis in Watford etc. Although officers have not sought estimates at this stage, it is anticipated that a survey would cost around £15,000 which would be drawn from the LAGBI Reserve. It would also be prudent to earmark resources for any additional legal challenge – for example, for an appeal to the crown court against the refusal to grant a licence based on the evidence provided by a survey. Like all areas of administrative council decision-making, there would be the possibility of a decision being liable to being judicial reviewed.

3.10 Further regular surveys

To implement and maintain a limitation policy, the Council will need sufficiently robust evidence on a regular basis to refuse future applications. Best practice suggest that this would entail commissioning regular surveys, commonly on a two to three year cycle. (Members will be aware that there is no need for a survey to adopt or maintain a policy of unrestricted numbers). Each survey contains a risk of a legal challenge.

3.11 Government policy

The new Government has not published any policy on this area. The previous Government’s policy

was one which preferred delimitation on the grounds that it offered more choice to consumers and that councils should publicly justify why they have imposed limits only where there are clear benefits to consumers. This position was also supported by Local Government Regulation (formerly LACORS). The report to the Committee on 16 October 2006 sets out that position more clearly. The Best Practice Guide published by the Department for Transport in March 2010 states:

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 the Guidance)."

3.12 Members may be aware that the Transport Select Committee recently conducted an inquiry into taxi and private hire legislation. Delimitation was not within the main remit of its enquiry although its expected report may comment on this subject.

3.13 Nationally, it is reported⁵ that as of 1 May 2011 only 85 local authorities in England restrict hackney carriage numbers, and that 258 (or about 75%) do not have restrictions or will be removing them in due course. Just over 70 authorities have removed or given firm commitments to remove restrictions since the Office of Fair Trading report in delimitation in 2004. Appendix 2 shows the current situation in neighbouring authorities with regard to the issue of quantity restriction.

3.14 Other strategies

Restricting licences through the use of the power in the Transport Act is only one way of restricting growth. The Council can also use entry qualifications for drivers, and quality standards for vehicles as disincentives to new applicants seeking licences, or to seek to reduce existing licence-holders. However, there is a danger that this would lead to an exodus of licensed vehicles to other districts but whose drivers would still seek work in the Borough. Some of those could include:

- (1) extending the livery and signage requirements on licensed vehicles
- (2) requiring all vehicles licensed for the first time to be brand-new
- (3) requiring all new drivers to undertake the national vocational qualification for licensed drivers

⁵ <http://www.taxi-driver.co.uk/?p=1601> (viewed 11.05.11).

within a certain time period after being granted their licence

(4) requiring all existing drivers to obtain the national vocational qualification (as opposed to the voluntary basis now adopted)

(5) requiring drivers to take the Driving Standards Agency assessment on a more regular basis than the current 10 yearly cycle

(6) making it easier to revoke the licences of those drivers who fail to meet required standards, for example through a re-examination of the penalty points scheme;

(7) insisting on crime prevention and other measures to be installed in vehicles, such as safety screens or meters that print receipts.

3.15 The recession appears to have had an impact on the issues outlined in this report, and which in turn may impact on drivers' earning abilities. There is an often quoted ratio of hackney carriages to per 1,000 head of population, with 1.1 being the national average. In Watford, for 2010, this ratio would be 3.7

3.16 The Committee will be aware that no limits can be placed on the number of hackney carriage driver, private hire vehicle or private hire driver licences.

3.17 Should the Committee determine that the existing policy should be reviewed then the Licensing team will need to conduct proper and meaningful consultation with all interested parties, such as customers, hackney carriage drivers etc, as well as commissioning an unmet demand survey and then reporting back to Committee later this year. The timing of this would be dependant upon the availability of appropriate consultants to undertake the unmet demand survey.

Should the Committee determine that the existing policy should not be reviewed then consultation and a survey etc will not be needed.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 Should the Committee determine that the policy should be reviewed then there will be a need to undertake an unmet demand survey. There is no revenue budget currently identified to conduct a survey in this financial year (e.g, the need to re-conduct surveys) and only a small budget of £2,000 exists for consequential costs, notably for legal fees. A maximum of £15,000 could be utilised from the Local Authority Business Growth Incentives (LABGI) Reserve for these purposes.

4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 At present the Council cannot refuse to grant a licence providing the applicant meets all of the necessary conditions. It may only do so if it is satisfied there is no significant demand that is not met for hackney carriages, which relies on independent evidence derived from a survey. A party aggrieved by the refusal to grant a licence (even one delayed whilst having a survey conducted to determine his application) may appeal to the crown court.
- 4.2.2 The Council is under no statutory duty of prior consultation when exercising its powers under the Town Police Clauses Act 1847, as amended by the Transport Act 1985. However, if any consultation is conducted including whether to re-impose a limit it must be conducted properly and meaningfully.⁶ A failure to carry out consultation properly may lead to the resulting decision being open to challenge by way of judicial review.
- 4.2.3 If a limit is imposed following an unmet demand survey, any limit should not be set at a level lower than the number of existing licences – to remove licences from existing licence holders is potentially challengeable on human rights grounds.

4.3 Potential Risks

Potential Risk	Likelihood	Impact	Overall score
Continuing with existing policy may lead to increasing numbers of hackney carriages on the streets	3	3	9
Reputational and legal risk of introducing a limit without a survey	3	3	9
<i>Those risks scoring 9 or above are considered significant and will need specific attention in project management. They will also be added to the service's Risk Register.</i>			
Risks are to be scored 1 - 4 for both Likelihood and Impact Likelihood 1=unlikely 2=possible 3= highly likely 4= virtually certain Impact 1= very little 2=not very serious 3= serious 4= catastrophic So overall maximum score is 16			

⁶ R (on the application of Royden) v Wirral Metropolitan Borough Council [2002] EWHC Admin 2484.

Appendix

Submission from Watford Hackney Carriage Drivers' Association

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report:

As identified in footnotes

File Reference

None

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From: The WHCDA

To: Licensing Committee

Date prepared: 21st June 2011

Date of hearing: 29th June 2011

Definition: Trade Meaning the - WATFORD HACKNEY CARRIAGE DRIVERS ASSOCIATION (WHCDA)

This report is submitted by the WHCDA

Background

Following the Government's Action Plan for Taxi's (and private hire vehicles) the DfT requested all councils that restrict hackney carriage numbers to publicly justify their policy. Currently 45% of authorities have restrictions:

The Government views the restriction of the numbers of such licences as only being justified where the consumer gains some benefit. The DfT accepts that local authorities are in the best position to identify public interests. However, the knowledge they have must be set against a number of questions concerning the

- (a) Market value of licences,
- (b) The existence of a relevant survey and
- (c) The number of disabled accessible vehicles licensed.

Hackney carriages

A hackney carriage is a vehicle that trades with a driver for hire or reward from 'taxi' ranks or is available to be hailed down in the street. It is distinctly different from a private hire vehicle that may only be hired by being pre-booked. The fare charged by a hackney carriage has a maximum rate set by the Council whereas private hire journeys are theoretically set by negotiation between the hirer and supplier. This policy affects the hackney carriages vehicles whose numbers are 295+ within the Borough of Watford

Unmet Demand Survey

The Department for Transport has issued Best Practice Guidance for Taxi and Private Hire Vehicle Licensing of which the current version is dated February 2010.

With reference to quantity restrictions of taxi licences outside London it states:

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.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 deterioration in the amount or quality of taxi service provision?

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.

Survey

The trade is seeking to establish, that a restriction on hackney carriage numbers is relevant and that such a survey will establish the Council will still correct be complying in terms of both numbers and its duties in respect of the Disabilities Discrimination Act 1995.

The trade believes that the accepted manner of determining this remains legally justifiable by way of a survey undertaken by professional independent traffic consultants. A survey will seek to establish whether or not there exists within the licensing area any SUD for hackney carriages. If a SUD is found then the council would not be able to justify restricting the numbers of hackney carriage vehicle licences it issues. However, it is the belief of the trade that any such survey will now reveal that no SUD exists and would then be urging the authority to use its discretion not to increase the number of licences it issues.

The Council may be concerned to insure that they have sufficient provisions of a number of hackney carriages that would be suitable for the carriage of wheelchair bound passengers however, currently approximately 50% + of the

trade vehicles are capable of carrying wheelchair-confined and disabled passengers.

The trade believe that in addition to the absence of any SUD, the relatively low value of licences in this current climate, and the lack of need for further provisions to increase the level of wheelchair accessible hackney carriages, the reduced number of trains now stopping at the main commute stations in Watford (less demand), the extremely limited ranking space provided by the council means drivers are constantly being booked for over ranking (currently approximately 30 throughout the entire borough) versus the large and increasing number of permits the council issues that in the borough of Hertfordshire, Watford has one of the smallest zones yet exceeds the number of permits issued in many of the much larger zones in Hertfordshire, the Council should now be seeking restrict the number of licences its issues to the trade.

Further and additional to the above grounds to support a limit on the number of licences been issued, the fact that fewer trains now stopping in Watford (virgin trains) equating to less demand by commuters and the current recession, the increase in driver numbers, means the trade are receiving wages currently below the minimum national wage limit and to add to the sufferance of the trade we are all hit by the national increase in insurance premiums, and petrol prices. This loss of income is adversely affecting the trade and they believe the council are in a position to assist them overcoming these issues and thereby promoting a better working relationship all-around

Transport plan

The trade believes that they are more than sufficiently meeting the current Transport Plan in that they are able to;

- reinforces existing public transport links, and
- provides flexibility and convenience, and
- acts as part of an integrated transport system.

This is achieved by the proximity of taxi facilities within easy reach of both the local railway and bus stations, providing an 'on demand' service throughout an extended period of the 24 hours, including a significant provision of wheelchair accessible vehicles.

In relation to the financial costing of the required survey:

The cost of an Unmet Demand Survey could be met in part by the council and part by a 20% contribution via trades licence fees taking into account the need to maintain a „self financing“ position for the service. Such fees then being evidence by the council as to how it arrived at the fee levels and subsequently demonstrating that they have been calculated on a cost recovery basis only at the said 20%.

Risk assessment statement

The cost of an Unmet Demand Survey would have to be spread over a three year period with costs being recovered in part by the council and part through a 20% contribution via Hackney Carriage licence fees.

The future

The trade is aware that should the economic climate get better in the future, the council may wish to revisit lifting the requested restriction and at that time it will be determined by the council monitoring its hackney carriage policy to ensure, as far as it is empowered, that the trade continues to be able to provide a viable service to the public without any significant increase in unmet demand. Viability will in part be shown by whether or not there continues to be positive interest in obtaining hackney licences, their street value and the commissioning of unmet demand surveys. These will be in addition to the impact that the policy has in respect of the disabled community within our area.

The current position regarding hackney carriages does not prevent the council from promoting changes to the policy calculated to benefit our community. For this reason the council could continue to encourage suggestions from users, potential users and anyone who has a constructive view that may promote the industry to the benefit of all hackney carriage users.

Much attention should be paid to paragraphs 3.7 and 3.8 of the report to the councils committee which was due to be held on the 15th June 2011

The lack of certainty given to the wording in the same report at 3.9 pertaining to ..."Expected to be implemented..." doesn't give rise to much hope to the trade as this is not a defiant implementation, merely an stated expectation. In any event, the additional proposed 10 ranking spaces cannot assist the trade that much, if the spaces in the existing rank at Church Street are to be taken from the trade fro disabled parking.. Further the proposal mentions a new rant at the Harebrakes car park, but fails to indicate the number of rank spaces.

This only goes to validity the points of the trade that the number of licences issued, vastly and excessively outweighs the number of ranking provisions provided by the council and further exasperate the trade. Any commitment mentioned in this paragraph by officers to review the ranking at Charter Place and High Street / King Street has been echoed for many years with no action following the echoes.

The trade is of the opinion that any such review findings should have been clear with definite dated and not speculative dated and or incomplete presentations.

Whilst it may be the case (but not agreed) that *very few* councils can provide sufficient taxi rank spaces for the number they licence they give; it is the understanding of the trade that no other council has the approximate ratio of

11 licences holders to every 1 rank space. This percentage is thus vastly excessive and to allow it to increase further would border on the verge of inequality to the trade concerning income opportunities and unjustified road blockages for pedestrians, the community, road users and causing unwarranted congestion and more work for the police, traffic controllers and the council themselves.

Lastly, the trade would like this report to be considered in conjunction with the appendix 1 which was item 6 page 14 of the report which was due to be heard on the 15th June 2011 and the contents of our report submitted to this same end in 2010.

Mr. Shafiq Ahmed

Chairman of WHCDA

Item 6, Appendix 1 from Licensing Committee dated 15th June 2011

FAO: The Licensing Committee (Watford) Meeting on 15 June 2011

Watford Hackney Carriage Drivers Association, Request To Have An Unmet Demand Survey And Requesting

The Re-limitation Of Taxis In Watford.

The law requires that an unmet demand survey is carried out. The Transport Act 1985 allow a licensing authority to continue to limit numbers if it is satisfied that there is no significant unmet demand for Taxis in that area.

Therefore, after the unmet survey is conducted it could legally re-limit By carrying out an unmet demand survey the Council is protected against claims from individuals who may be refused licences.

There is an assumption that more taxis leads to a better service. We WHCDA, believe such assumptions disregards any proper assessment of quality.

The government requires that councils which retain quantity controls, carry out unmet demand survey at least every 3 years. We the trade feel at present the survey will find there is no demand for further taxis in Watford. WHCDA do not believe that Watford Council would be capping numbers for the sake of protectionism, but rather

to give the best possible service to the consumer. The health and sustainability of the taxi trade must be taken into account.

We are also into deepest economic recession for over 60 years. It is unlikely that 295+ hackney drivers in Watford are going to leave the trade with unemployment at its highest level with further increases likely. Drivers are just working longer and longer hours to survive in this trade. They are not going to make themselves intentionally unemployed.

We would like the Council to become proactive in determining the best solution for taxi services within Watford area by commissioning an unmet demand survey. This will then enable a decision on whether to reintroduce quantity controls and better planning of the trade, to be made on the basis of factual evidence rather than simply hoping that free market economics and deregulation will work.

We request Watford Council adopts the relimit policy for the following other reasons:

1: Watford Council is a small Borough in geographical terms, therefore, taxis are squeezed and over ranked in masses.

2: Limited rank spaces has caused drivers frustrations and anger. They are also being punished from local authorities, Police and the general public.

3: Drivers are continuously driving around the 'Ring Rd' in circles, this is no good for the environment or traffic concerns.

4: As explained above, recession is making further difficulties with limited work/earnings. Drivers are working longer hours, therefore not finishing shifts as before, causing problems 24 hours.

5: Many UK Boroughs i.e., Basildon, Harlow, Liverpool, Sheffield, Southend on Sea and many more have adopted the relimit policy. (All other Boroughs who have adopted the relimit policy, names can be given upon a request).

Finally, WHCDA will commit to work tirelessly with Watford Council to ensure that the

service our drivers/members provide continues to be of high quality and appropriate to the needs of the customer.

Kind regards,

Shafiq Ahmed

(Chairman, WHCDA)

Watford Hackney Carriage Drivers Association

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Local Authorities Hackney Carriage Vehicle License Comparisons

Council	Restricted Plates	Number	Date of Restriction of plates or date of delimitation	Cost of Survey	Date of Survey	Approximate value of plates if restricted
Watford	No	N/A	2006	15K	2006	N/A
St Albans	No	N/A	1999	N/A	N/A	N/A
North Herts	No	N/A	N/A	N/A	N/A	N/A
Dacorum	No	N/A	N/A	N/A	N/A	N/A
Three Rivers	No	N/A	N/A	N/A	N/A	N/A
Broxbourne	No	N/A	N/A	N/A	N/A	N/A
Welwyn Hatfield	No	N/A	N/A	N/A	N/A	N/A
East Herts	No	N/A	N/A	N/A	N/A	N/A
Hertsmere	No	N/A	N/A	N/A	N/A	N/A
Central Beds	No	N/A	N/A	£10k	2001	N/A
Luton	Yes	165	1999 last reviewed in 2008	£18K	2008	£33K
Stevenage	Yes	100	2001	£15K	2006/7	£25K
Aylesbury	Yes	50	1995	£17	2008	£60K

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