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# LICENSING COMMITTEE

## Monday, 16th July, 2012

## 7.30 pm

## Town Hall, Watford

**Publication date: 6 July 2012**

**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 278376 or by email to legalanddemocratic@watford.gov.uk .

Welcome to this meeting.  We hope you find these notes useful.

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# COMMITTEE MEMBERSHIP

Councillor J Brown (Chair)
Councillor P Jeffree (Vice-Chair)
Councillors I Brandon, I Brown, J Connal, K Crout, G Derbyshire, J Dhindsa, K Hastrick, M Hofman, M Meerabux, M Mills, D Scudder, L Scudder and D Walford

# AGENDA

## PART A - OPEN TO THE PUBLIC

**1. APOLOGIES FOR ABSENCE/ COMMITTEE MEMBERSHIP**

**2. DISCLOSURE OF INTERESTS (IF ANY)**

**3. MINUTES**

To submit for signature the minutes of the meeting held on 19 March 2012

**4. AMENDMENT TO THE HACKNEY CARRIAGE VEHICLE LICENSING POLICY**
(Pages 1 - 6)

Report of the Head of Environmental Services

This report asks the Committee to consider an amendment to the hackney carriage vehicle licensing policy.

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PART A

**Report to:** Licensing Committee

**Date of meeting:** 16 July 2012

**Report of:** Head of Environmental Services

**Title:** Amendment to hackney carriage vehicle licensing policy

## 1.0 SUMMARY

1.1 On 19 March 2012 the Licensing Committee decided to limit the number of hackney carriage licences (HCVLs) to 304 vehicles. Although this was to be a fixed limit, the Committee felt that licences which were surrendered or revoked should not be re-issued and thereby reducing the overall total over time.

1.2 As these were not part of the original policy proposal consulted upon by officers, legal advice was that further consultation would be needed on that specific aspect. Officers have now undertaken that exercise, albeit with a very limited number of responses.

## 2.0 RECOMMENDATIONS

2.1 That the Council shall not re-issue any hackney carriage vehicle licence that is:

(1) surrendered or
(2) revoked by virtue that the licence-holder has been convicted of an offence or failed to comply with the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 or
(3) revoked under the provisions of section 68 of the Local Government (Miscellaneous Provisions) Act 1976 where officers are not satisfied after a period of two months from the date of a written notice as to the fitness of a hackney carriage or the accuracy of its taximeter.

"Re-issue" means issuing a new licence for a different vehicle in lieu of a vehicle that is no longer to be licensed.

**Contact Officer:**
For further information on this report please contact: Jeffrey Leib (Licensing Manager) on telephone extension: 8429 or email: jeffrey.leib@watford.gov.uk.

**Report approved by:** Alan Gough, Head of Environmental Services

3.0 **DETAILED PROPOSAL**

3.1 On 19 March 2012 the Licensing Committee agreed to limit the number of HCVLs it issues to 304 vehicles. Full details of the process and rationale leading up to that decision are contained in the report and minutes of that meeting.

3.2 Members felt that simply imposing a set limit, whilst not making the current situation for the taxi trade any worse in terms of increasing the number of hackney carriages, would not of itself make the situation better. The Committee felt that there should be a mechanism in place to also reduce the overall number of hackney carriages.

3.3 The decision in March was preceded by a substantial public consultation exercise. Legal advice to the Committee was that a reducing limit could not be introduced without further consultation as it was not part of the original proposals and therefore those potentially affected by it had not had the opportunity to comment.

3.4 Officers have since undertaken further consultation. All drivers were written to on 30 March 2012, an article placed on the Council website, and a brief story was published by the Watford Observer on 6 April 2012. Respondents were invited to reply to the following questions primarily via an online survey or in writing:

1. Do you agree that we should introduce a reducing limit rather than a fixed limit for the number of hackney carriage vehicles?
2. What are your reasons for your view?
3. Are there any other options we could consider?
4. Do you currently hold a hackney carriage or private hire licence from Watford Borough Council (please say which)? and
5. Did you respond to our taxi policy survey earlier in the year?

3.5 <u>Responses</u>

In contrast to the earlier consultation, only thirteen people responded to this exercise of which ten agreed there should be a reducing limit in place. All of the respondents gave a Watford postcode, and all but two were male. Only four respondents are currently licensed drivers. Eight respondents provided reasons for their views, which are reproduced below:

1 It is only fair that once a licence is revoked or surrendered the people who are next in line should receive them. This way the number of licences will not increase but may decrease if the demand for licences is not great. This in turn will allow the people who would like a licence to be given one if one is revoked or surrendered and they are next on the list. This is the only trade the people in this industry can do, so they do deserve a chance to be given an opportunity to accept a licence if the chance does arise. I believe this would be beneficial as it will not allow the total number of licence to increase. If the number of licences are reduced this will cause hardship to people in this industry as this is the only trade they can do. its better for these people to earn something rather than nothing, so the people should deserve the chance to accept a licence if one does arise

2 I think that as long as the number of hackney carriages is not reduced too much (for example to how it was a few years ago when you would have to wait quite a while at Watford Junction for a taxi if coming back late in the evening) then it may be a good idea. It is good that there are many available, but I feel sometimes that

they could have better training. Often they have to double check where my road is (which is obviously better than going to the wrong place, and I realise that it is tough to learn so many different routes) and the other issue I have had is that they do not always stop the meterwhen arriving at the destination. I think that having a reducing limit may enable a better trained hackney carriage service.

3 If we keep reducing than the service will get worse for the public, the driverwill make more money and hence the service will get slack.

4 The amount taxis greatly out way the demand for them. Additionally there are limited amounts of taxi ranks in Watford.

5 Clearly we have too many taxi's in Watford, the recent survey has shown this, and we need to take positive steps in order to address this problem. Otherwise what is the point in conducting such surveys if we are not going act on them? It would mean nothing but a money wasting exercise. The recent decision Watford council took on limiting the number of hackney carriages was the first of these positive steps.

6 Why are you capping it? If there are "too many" then prices will either come down or taxi drivers will hand in their license voluntarily and find a different job. You say yourself that there are a third more hackney carriages in the Borough than are probably needed. Emphasis: probably. If there were then you would see more taxi drivers handing in their licences. The fact you are not suggests otherwise.

7 Too many Taxis at the moment. Need to get it down.

8 Too many taxis at the minute.

3.6 When asked whether there were any other options the Council could consider, respondents replied:

1 The council has stated that on average about 10 licences are revoked or surrendered each year. In order to keep both sides happy, so the licences are reduced and people are given the opportunity to be given one. I suggest the council should adopt a policy in which they allow half of the licences revoked or surrendered to be offered to others on a waiting list. For example if in 2012 10 licences are returned, the council should issue 5 back. This way this middle ground solves both problems. so if the current number of licences are 304, and 10 are returned but 5 are issued back, this will reduce the number down to 299. so if this trend is maintained until 2015 the number of licences would be reduced by another 15 taken the amount to 284. As you can see this will allow licences to be issued and the number of licences to be reduced over time. I believe the dual licence holders should also be given a priority over new drivers, as they are current holders so deserve a first right to the licences if re-issued.

2 In the meantime we should consider only passing the licence to people who are going to work full time rather than people who will only work part time (eg.posties, overseas students unable to speak fluent English)

3 No.

4 Yes more regular checks of vehicle and meter checks roadworthy checks spot checks should be made especially at weekends.

3.7 Practicalities
An HCVL is issued for a calendar year, and licence-holders may surrender those licences at any time. They are also entitled to transfer their licence to another person and the Council has no discretion to refuse to register that transfer.

3.8 Applications to renew licences may be refused if the vehicle is unfit for use; the driver has committed an offence or failed to comply with the relevant licensing legislation; or for any other reasonable cause. A licence has been held to be a "possession" within the meaning of the Human Rights Act 1998 and so interference with that right can only be justified in very limited circumstances.

3.9 HCVLs can be revoked for

- the same reasons as refusing to renew a licence.
- where a notice has been issued requiring a vehicle to be tested and after two months an officer or police constable is not satisfied that the vehicle is fit for use (or its taximeter is not accurate).

3.10 There is a right of appeal to the magistrates' court within 14 days against a decision to revoke or not to renew a licence.

3.11 Prior to March 2012, HCVLs were rarely surrendered – perhaps about fifteen licences in a year. However, this number also includes instances where courtesy vehicles had been licensed following an accident, and the licence for the courtesy vehicle returned once the damaged car had been repaired. There would still need to be some provision for this facility to take place without depriving licence-holders of their entitlement to a licence.

3.12 HCVLs may also be revoked during the year for a number of administrative reasons – such as when drivers wish to change their current vehicle for a newer one; if their vehicle is no longer mechanically sound; or they want a different type of vehicle. Again, policy should be able to take account of those circumstances.

3.13 Therefore the only scenario is when a vehicle licence is revoked for the reasons set out in paragraphs 3.8 and 3.9. During 2011, it appears this only occurred on two occasions.

3.14 Prior to 2005, when the council only issued 72 HCVLs, licences were very rarely surrendered because there was a considerable monetary value (reportedly up to £70,000) attached to transferring licence which, as explained above, the council could not prevent.

3.15 The large number of HCVLs currently licensed, and the economic situation, means that there is probably a negligible value now attached to a licence. However, licence-holders are probably more likely to try and transfer their vehicles for some financial return now that there is a limit on licences rather than simply surrendering them.

3.16 Officers now maintain a list of individuals who wish to be notified should a HCVL become available. Since March 2012, ten people have expressed an interest which indicates that there is therefore still some demand for new licences. (In the same period of 2011, eight new HCVLs were issued, of which four were for courtesy vehicles and four for replacement vehicles). Since March, a handful of people who have previously had vehicles licensed have also enquired about obtaining licences again, which officers have had to refuse. Officers feel that there is no real need for to retain the list and will instead advise applicants of the other routes open to them (buying an existing licensed vehicle, challenging the council via appeal, or applying to be an exception to policy).

3.17 It is possible that the number of occasions when a revocation is justified due to the vehicle being unfit may increase as officers increase the number of vehicle spot-checks as part of the agreed Driver and Vehicle Action Plan. However, denying those licence-holders the opportunity to present another vehicle for licensing may increase the number of appeals to be defended in the magistrates' court and may potentially conflict with the council's obligations under the Human Rights Act.

3.18 **CONCLUSION**

There are a very few occasions (and in some years perhaps none) when it would be justifiable to revoke (or not renew) a HCVL without giving the licence-holder the opportunity to put another vehicle forward to be licensed. As the notification list indicates that there is still some interest in acquiring licences, the Committee could be justified, despite the exceptionally low level of affirmative responses, in resolving not to re-issue any licences that are surrendered or which are revoked and where the revocation flows from a conviction or failure to comply with the relevant licensing legislation.

## 4.0 IMPLICATIONS

### 4.1 Financial

4.1.1 The Head of Strategic Finance comments that there are negligible implications from the potential loss in income of two or three licence fees a year. There is limited provision in the legal services budget to defend any potential appeals where HCVLs are revoked or refusals renewed.

### 4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Legal and Property Services comments that legal issues are identified in the body of the report but reminds Members of the implications under the Human Rights Act of any policy that arbitrarily allows for the loss of a licence and that any policy must be reasonable and proportionate.

4.3 **Equalities**

4.3.1 An Equalities Impact Assessment has been produced.

4.4 **Potential Risks**

| Potential Risk | Likelihood | Impact | Overall score |
|---|---|---|---|
| Risk of challenge on appeal | *2* | *4* | *8* |
| Risk of challenge by judicial review | *1* | *3* | *3* |
| *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.* | | | |

Appendices
None

Background Papers
Results of survey report – June 2012

File Reference
Hackney carriage policy review 2012