

DECISION-MAKER:	LICENSING COMMITTEE
SUBJECT:	HACKNEY CARRIAGE LICENCES – UNMET DEMAND SURVEY
DATE OF DECISION:	14 JUNE 2012
REPORT OF:	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
STATEMENT OF CONFIDENTIALITY	
None.	

BRIEF SUMMARY

To consider the report by the Halcrow Group Ltd. (Halcrow) 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 Halcrow 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 and the Department for Transport's best practice guidance (appendix 2).
2. The reasons for the recommendations are set out in the report by Halcrow.

DETAIL (Including consultation carried out)

3. Halcrow 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.
4. The Department for Transport is clear that it is inappropriate for licensing authorities to continue to impose numerical restrictions on hackney carriage licences.
5. Although there is no current statutory prohibition on continued numerical restrictions, the council must show, if it does not follow the Government guidance, that it has robust reasons for so doing and has acted reasonably in making its determination.
6. 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.

7. 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 increased.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8. In December 2003 the Office of Fair Trading published a report entitled “The Regulation of Licensed Taxi and PHV services in the UK”; on behalf of the Government, the Trade and Industry Secretary’s response to that report was given to Parliament in March 2004 and is set out in appendix 2.
9. The statement indicates that local authorities limiting 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
10. The city council’s current policy, last determined by the committee on 11th March 2009, was to issue an additional twenty hackney carriage licences (four on 1 December 2009, eight on 1 December 2010 and eight on 1 December 2011) in order to satisfy the significant unmet demand for the services of additional licensed hackney carriages identified by the survey conducted in the autumn of 2008. The total number of hackney carriage licences now issued is 283.
11. The Department of Transport’s guidance (appendix 1) requests councils to review their policies restricting hackney carriage licence numbers and to make that review public. Government policy on this issue has not altered in the interim.
12. The guidance includes the following salient points:
 - the Government Action Plan for taxis (and private hire vehicles) advises that 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.
 - that, 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
13. Accordingly, the council is required to review its policy regularly in order to ensure that it would be robust in the face of any challenge. Halcrow was instructed to undertake a further independent survey in the autumn 2011. A copy of the report summary is attached at appendix 1 and the full report has been placed in the Members Rooms on the council’s web site.
14. 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 “clear benefit for the consumer” criterion is met;
 - Advantage: Retains the current status. Although elements of the existing taxi trade would prefer this, economic and business

considerations are irrelevant and a lawful defence for such a decision can only be sustained if a robust survey concludes that there is no significant unmet demand.

Disadvantage: A triennial survey will still be required, with consequent budgetary implications.

Option 2: If the committee considers that there is “unmet demand” in the council’s area, a limited number of hackney carriage licences should be issued immediately to satisfy that unmet demand.

Advantage: Satisfies any unmet demand identified by the survey immediately.

Disadvantage: A triennial survey will still be required, with consequent budgetary implications.

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

Advantage: Has the added 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 consequent budgetary implications.

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

Advantage: 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 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.

15. Whichever option the committee wishes to pursue, 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, as a minimum standard, have a nearside loading capability for any wheelchair.

- 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

16. 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

17. None

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

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

Other Legal Implications:

20. 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.
21. 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

22. None.

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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	Summary of the report by the Halcrow Group Ltd. – May 2012
2.	Written response to Office of Fair Trading Report by Trade and Industry Secretary, Patricia Hewitt

Documents In Members' Rooms

1.	Report by the Halcrow Group Ltd. – May 2012
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out?	No
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Other 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)
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1.	Office of Fair Trading Report – December 2003	
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Integrated Impact Assessment and Other Background documents available for inspection at:

WARDS/COMMUNITIES AFFECTED:	N/A
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