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| DECISION-MAKER: | LICENSING COMMITTEE | | |
| SUBJECT: | HACKNEY CARRIAGE LICENCES – UNMET DEMAND SURVEY | | |
| DATE OF DECISION: | 5 DECEMBER 2018 | | |
| REPORT OF: | SERVICE DIRECTOR - TRANSACTIONS AND UNIVERSAL SERVICES | | |
| <u>CONTACT DETAILS</u> | | | |
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| STATEMENT OF CONFIDENTIALITY | |
| None | |
| BRIEF SUMMARY | |
| To consider the report by Licensed Vehicles Survey and Assessment (LVSA) 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 seek approval to retain the current numerical restriction on hackney carriage licences. |
| 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. |
| 2. | The report by LVSA sets out the reasons for the recommendations. |
| ALTERNATIVE OPTIONS CONSIDERED AND REJECTED | |
| 3. | To issue a limited number hackney carriage licences – the report demonstrates there is no unmet demand, the trade already advise that drivers are having to work longer hours to maintain an income. This could compromise public safety. |
| 4. | To issue a limited number of hackney carriage licences on a periodic basis – not recommended as in paragraph 3. |
| 5. | To remove the numerical restrictions on hackney carriages – again an adverse impact on the income of drivers, insufficient room to accommodate |

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| | extra numbers at ranks likely to result in congestion and disputes at or near ranks. |
| DETAIL (Including consultation carried out) | |
| 6. | 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. |
| 7. | LVSA is an amalgamation of two companies that work in this field, including VTC who conducted the last survey. The author of the report from LVSA is Mr MacDonald who prepared the report in 2015 so he has prior knowledge of Southampton and the taxi trades. |
| 8. | LVSA 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. |
| 9. | On 23rd May 2014 The Law Commission published its report on taxi law reform and states “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.” |
| 10. | 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. |
| 11. | 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. |
| 12. | 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. |
| 13. | 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. |
| 14. | The City Council’s current policy, last determined by the committee on 23rd September 2015, was to retain the number of licences at 283. |
| 15. | The Council is required to review its policy regularly in order to ensure that it would be robust in the face of any challenge. LVSA was instructed to undertake a further independent survey in the spring of 2018. 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. |
| 16. | The Council’s options in relation to the review of its policy, together with the advantages and disadvantages are as follows:- |

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| | <p><u>Option 1:</u> To retain the current numerical restriction on hackney carriage licence Advantage: Retains the current status. Is in line with the recommendations in the LVSA report of there being no unmet demand.</p> <p>Disadvantage: A triennial survey will still be required with the associated extra work for existing resources.</p> <p><u>Option 2:</u> 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, however there is little evidence to support this.</p> <p>Disadvantage: A triennial survey will still be required with the associated extra work for existing resources.</p> <p><u>Option 3:</u> 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. There is little evidence to support this option.</p> <p>Disadvantage: A triennial survey will still be required with the associated extra work for existing resources.</p> <p><u>Option 4:</u> 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 restricting entry to the trade is removed. 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.</p> <p>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.</p> |
| 17. | <p>Should the committee decide to issue new licences, any new hackney carriage licences should be subject to conditions as follows:</p> <ul style="list-style-type: none"> • 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. |

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| | <ul style="list-style-type: none"> • 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 | |
| <u>Capital/Revenue</u> | |
| 18. | None, save that if any additional licences are granted they will result in additional income to offset the costs of providing the licensing service. |
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| <u>Property/Other</u> | |
| 19. | None |
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| LEGAL IMPLICATIONS | |
| <u>Statutory power to undertake proposals in the report:</u> | |
| 20. | Section 37 Town Police Clauses Act 1847, as modified by section 15 Transport Act 1985 provides for the regulation of hackney carriages. |
| 21. | There is a considerable body of case law arising from the higher courts' consideration of this provision. |
| <u>Other Legal Implications:</u> | |
| 22. | 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. |
| 23. | 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. |
| 24. | Public authorities, under the Equality Act 2010, have a legal obligation to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. An Equality Impact Assessment has not been carried out in this instance as the risks associated with the publication of this document on this duty are considered to be low. |

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| RISK MANAGEMENT IMPLICATIONS | |
| 25. | None |
| POLICY FRAMEWORK IMPLICATIONS | |
| 26. | None |
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| KEY DECISION? | No |
| WARDS/COMMUNITIES AFFECTED: | All |
| <u>SUPPORTING DOCUMENTATION</u> | |
| Appendices | |
| 1. | LVSA Unmet Demand Survey Report Summary |
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Documents In Members' Rooms

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| 1. | LVSA Unmet Demand Survey Report in Full http://www.southampton.gov.uk/images/southampton_hackney_carriage_unmet_demand_survey_2018_tcm63-402893.pdf |
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Equality Impact Assessment

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| Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out. | No |
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Data Protection Impact Assessment

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| Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out. | No |
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Other Background Documents

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) |
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| 1. | Law Commission report on Taxi law reform 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 |