

DECISION-MAKER:	LICENSING COMMITTEE
SUBJECT:	HACKNEY CARRIAGE UNMET DEMAND SURVEY
DATE OF DECISION:	14 TH JUNE 2023
REPORT OF:	Ian Collins, Director Environment

<u>CONTACT DETAILS</u>			
Executive Director	Title	PLACE	
	Name:	Adam Wilkinson	Tel: 023 8254 5853
	E-mail	Adam.wilkinson@southampton.gov.uk	
Author:	Title	SERVICE MANAGER LICENSING	
	Name:	Phil Bates	Tel: 023 8083 3523
	E-mail	Phil.bates@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
N/A

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
(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.
2.	The report by LVSA sets out the reasons for the recommendations. A copy of the report is attached as Appendix 1.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED
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3.	All options are considered in the recommendations.
DETAIL (Including consultation carried out)	
4.	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.
5.	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 reports in 2015 and 2018 so he has prior knowledge of Southampton and the taxis trades.
6.	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.
7.	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."
8.	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. The Department for Transport has recently consulted upon new guidance and in that document maintain that stance.
9.	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.
10.	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.
11.	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.
12.	The city council's current policy, last determined by the committee on 5th December 2018, was to retain the number of licences at 283.
13.	The Council is required to review its policy regularly in order to ensure that it would be robust in the face of any challenge. However, we delayed the survey that was due in 2021 due to the COVID pandemic. In 2022 LVSA was instructed to undertake an independent survey in the autumn of 2022. A copy of the report is attached at appendix 1, it identifies there is no overall unmet demand for hackney carriage services.
14.	The council's options in relation to the review of its policy, together with the advantages and disadvantages are as follows:-

	<p>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” guidance is met;</p> <p>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>Option 2: Issue a limited number of hackney carriage licences.</p> <p>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>Option 3: To issue a limited number of hackney carriage licences, on a periodic basis.</p> <p>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>Option 4: To remove numerical restrictions on hackney carriage licences.</p> <p>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>
15.	<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"> • Licences shall be allocated using the council hackney licence allocation policy as agreed by this Committee in September 2021. • Any vehicle to be licensed must be fully wheelchair accessible to the council’s satisfaction.

	<ul style="list-style-type: none"> 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>	
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.
<u>Property/Other</u>	
17.	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
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.
<u>Other Legal Implications:</u>	
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.
RISK MANAGEMENT IMPLICATIONS	
22.	In making decisions Committees should act in accordance with relevant legislation, reasonably and in good faith. The decision could be the subject of judicial review proceedings or statutory appeal.
POLICY FRAMEWORK IMPLICATIONS	
23.	None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	LVSA Unmet Demand Survey Report

Documents In Members' Rooms

1.	Law Commission report on Taxi law reform https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314106/9781474104531_web.pdf	
2.	2010 Department for Transport Guidance https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
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)
1.		
2.		