
Report to: Licensing & Regulatory Committee **Date of Meeting:** 24th September 2012

Subject: Hackney Carriage Unmet Demand Survey 2013

Report of: Director of Built Environment

Wards Affected: All

Is this a Key Decision? No

Is it included in the Forward Plan?
No

Exempt/Confidential No

Purpose/Summary

To advise Members of the requirement to review the policy on the numerical restriction of Hackney Carriage Vehicle Licences

Recommendation(s)

That Members:

- i) Note the content of this Report;
- ii) Instruct the Trading Standards & Licensing Manager to contact recognised independent consultants in this field and request a quotation for undertaking the Hackney Carriage Demand Survey in 2013; and
- iii) Instruct the Trading Standards & Licensing Manager to carry out a best value assessment of the resulting quotations.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

To allow Members to determine Council policy

What will it cost and how will it be financed?

(A) Revenue Costs

The cost of the survey is covered by ring fenced reserves solely for the administration of the taxi licences.

(B) Capital Costs

None.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	The Head of Corporate Legal Services (LD1089/12) has been consulted and has no comments to add.	
Finance	The Head of Finance and ICT (FD1765/12) has been consulted and has no comments to add as all associated costs of the survey can be met from earmarked reserves kept for this purpose.	
Human Resources	None	
Equality		
1. No Equality Implication		<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated		<input type="checkbox"/>
3. Equality Implication identified and risk remains		<input type="checkbox"/>

Impact on Service Delivery:

None

What consultations have taken place on the proposals and when?

- Circulation to Hackney Carriage & Private Hire Trade Representatives.

Are there any other options available for consideration?

- To adopt a policy of numerical de-restriction and therefore dispense with the need for an Hackney Carriage Unmet Demand Survey.

- b) To delay the demand survey until the publication of the Law Commission report on the review of Taxi and Private Hire Services

Implementation Date for the Decision

Immediately following the meeting.

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Background Papers:

- Town Police Clauses Act 1847
- Transport Act 1985
- Department for Transport – *“Taxi & Private Hire Vehicle Licensing Best Practice Guidance 2006”*

1. Background

1.1 The existing numerical restriction applied to hackney carriage vehicle licences has stood since 1986 when the limit was set at 271. Vehicle licences are issued under the Town Police Clauses Act 1847 as amended by the Transport Act 1985.

1.2 The Council has discretion whether to have a policy of numerical restriction or a policy of numerical de-restriction. As with any discretion it must be exercised lawfully and should include a process for proper consultation with interested parties. The Department for Transport have stated in its Best Practice Guidance that it considers that it is “best practice” not to impose numerical restrictions. However, the guidance also explains:

- (i) The guidance is not prescriptive;
- (ii) It is for individual licensing authorities to reach their own decisions; and
- (iii) It is right that local circumstances and local requirements are taken into account.

1.3 Current legislation states the only reason on which an application for a hackney carriage licence can be refused is that the Council is satisfied that there is no significant demand for hackney carriage services, which is not being met. This means that the Council is satisfied there are enough licensed hackney carriages to serve the public without issuing any more. Therefore the Council must keep any policy of numerical restriction under review.

1.4 Any decision the Council takes will need to be rational, reasoned and supported by evidence and a proper process.

2. Determination of Unmet Demand

- 2.1 The DfT Best Practice Guidance, states that 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 the Court. In order to satisfy any such challenge a survey must be impartial and objective.
- 2.2 In 2009, the Council took legal advice regarding carrying out demand surveys. Counsel advised that a full and detailed survey should be commissioned. Any discretion to restrict or de-restrict must be exercised lawfully and rationally and made in accordance with the usual administrative law principles. It should be made after proper consultation with interested parties and involves:
- (i) An obligation to ensure that the Council has the information necessary to enable an informed decision to be taken; and
 - (ii) A consultation process that must be conducted properly and fairly.
- 2.3 Whether or not there exists significant unmet demand is a question of judgement for the Council, based on the evidence available and guidance from case law. A Council can not be faulted for having based its decision on the conclusions of an independent firm of reputable consultants and for having accepted that evidence in their report, (*R {on the application of Maud} v Castlepoint Borough Council*).
- 2.4 Counsel advised that in changing any policy of restriction the issues of demand, local circumstances and local requirements have to be properly addressed. This can only be done by reference to a demand survey (with a remit to address such issues) or at least probative evidence akin to such a survey.
- 2.5 Consideration has been given to whether such a survey could be carried out internally but the Council lacks the specific expertise and any report would be open to questions of impartiality.
- 2.6 The local trade also have a legitimate expectation that a proper survey will be commissioned before any decision is taken. This coupled with the fact the Council has to assess the local circumstances and requirements so as to be in a position to properly appreciate the effects and implications of its decision on the locality. Evidence in respect of such issues will thus be required and this is best achieved by the instruction of an independent expert consultant.

3.0 Engaging a Consultant

- 3.1 The survey in 2010 was carried out by Halcrow Ltd at a cost of £20,376. It is expected that allowing for inflation (at 5% per annum that the cost of the 2013 survey will be in the range £23,500 to £27,000 depending upon the consultant appointed.
- 3.2 The current protocol for selecting a consultant to supply services from £10,001 to £30,000 (as per the Constitution – Part 4 “quotations”) is:

“Officers are required to obtain 3 written quotes and submissions are required to be evaluated by at least 2 officers in order to demonstrate independence in the choosing of contractors and evidence retained of the process in order to demonstrate best value has been achieved”.

3.3 The Trading Standards & Licensing Manager proposes to request a quotation from the five recognized market leaders namely:

- a) Halcrow Ltd (Provider 2010 survey);
- b) Jacobs Consultancy Ltd
- c) Mouchel Ltd;
- d) TPI Ltd; and
- e) Transport Research Institute.

3.4 In order to maintain continuity with the 2010 Demand Survey report, the companies will be asked to provide a quotation for a survey that includes the following:

- Inception Meeting;
- A statistically significant Public Attitude Survey (Face to Face);
- Rank / On Street Hails (Overt & Covert Observations);
- Queue simulation;
- Comparison with other Local Authorities;
- Consultation with interested parties;
- Study fares / effect on demand;
- Latent demand for Horse Omnibuses;
- Study the effect Public Service Vehicles (PSV) / Private Hire Vehicles (PHV) on demand;
- Comparison of hackney carriage fares with PSV / PHV fares;
- Consultation with all hackney carriage and private hire drivers (Postal Survey);
- Consultation with all hackney carriage and private hire operators, and Trade Representatives;
- Consultation with Sefton Council's Access Officer and Disability Group Representatives;
- Consultation with Police;
- Consultation with Local Chamber of Commerce, Clubs, Tourist Board, Students etc;
- Data Analysis;
- A statistically significant rank usage / viability survey at key ranks in 'town centre areas':
- Multiple Copies of the final report and presentation to Elected Members; and
- Monthly Progress Reports.

4.0 The Law Commission & the Numerical Restriction of Hackney Carriages

4.1 Members will recall the report entitled "*Reforming the Law of Taxi and Private Hire Services – A Consultation Paper*" presented on 30th July 2012. The report

provided a summary of the Law Commission's provisional proposals which included a proposal to take away a local authorities power to restrict taxi numbers (Provisional Proposal 54).

4.2 The Council has responded to the consultation disagreeing with this proposal.

4.3 It is understood that the Law Commission will publish its final report in late 2013.

5.0 Issues for consideration

5.1 The Council may commission an unmet demand survey to be carried out in 2013 only for new legislation (expected 2014) to abolish quantity restrictions.

5.2 On the other hand the Council could postpone the unmet demand survey until publication of the Law Commission's recommendations however by utilizing this strategy the Council could face a legal challenge to its current policy of numerical restriction as the 2010/11 demand survey data loses its relevance.