

**PUBLIC PROTECTION COMMITTEE: 6 December 2016**

**Report of the Head of Shared Regulatory Services**

**HACKNEY CARRIAGE VEHICLE LICENCE LIMITATION**

**1. Background**

- 1.1 The Town Police Clauses Act 1847 and the Transport Act 1985 give local authorities the power to grant hackney carriage proprietor (vehicle) licences. An Authority may limit the number of licences issued provided it has evidence that there is no significant level of unmet demand for the services of hackney carriages.
- 1.2 In December 2013 the Public Protection Committee resolved to continue the current moratorium placed upon the granting of new hackney carriage vehicle licences as it was satisfied that there was no significant unmet demand. The moratorium was originally implemented in 2010. At the time of writing this report there are currently 944 licensed hackney carriages in Cardiff.
- 1.3 In its Best Practice Guidance the Department for Transport (DfT) recommends that where local authorities impose a limit on the granting of hackney carriage vehicle licences, an independent survey should be undertaken at no more than three yearly intervals to assess the current levels of demand.
- 1.4 AECOM Ltd were commissioned by Cardiff Council to undertake an independent survey of Cardiff's taxi demand in February 2016. The full report is detailed in Appendices A - D.
- 1.5 The overall recommendation of the AECOM report is that there is no significant unmet demand for hackney carriages in Cardiff and that the current moratorium on the granting of new hackney carriage vehicle licences should be maintained.
- 1.6 This report provides the Committee with further detail of how the survey was conducted and the additional findings of the survey to allow the committee to consider fully the recommendation set out at clause 12 below.

## 2. Legislation and DfT Best Practice.

2.1 Under section 16 of the Transport Act 1985 a local authority has a discretion, but no obligation, to refuse the grant of a hackney carriage vehicle licence if, it is satisfied there is no significant unmet demand for the service of hackney carriages, within the area to which the licence would apply. This discretion only applies to hackney carriage vehicles and cannot be used to restrict the number of hackney carriage driver's licences or private hire vehicle / driver's licences issued.

2.2 To assess the level of unmet demand the DfT recommends an independent survey is conducted and includes the following considerations:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand
- **waiting times for street hailings and for the telephone bookings.** However, waiting times at ranks does not address fully question of unmet demand
- **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques
- **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services
- **consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (including people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes
- **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out
- **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process

### **3. Taxi Rank Survey**

- 3.1 AECOM completed a comprehensive survey of hackney carriage use at Cardiff's 13 official ranks and 5 unofficial ranks (ranks used on a temporary informal basis by the Trade). The surveys were undertaken over a four month period from March 2016 and June 2016, and a total of 1020 hours of observations were carried out. Details of the survey's area and method used is detailed in AECOM's 'Taxi Rank Operations & Public Attitude Survey Report' in Appendix A
- 3.2 The survey shows that across all days of the week the average taxi supply significantly exceeds the average passenger demand.
- 3.3. The average passenger delay was calculated across all ranks. Only 4 official ranks and 1 unofficial rank showed an average passenger delay at all. The PM weekday period at Churchill Way show average delays of 30 seconds and the Sunday inter-peak period show average delays of 12.5 seconds.
- 3.4 Conversely the average delay for hackney carriages was high with the majority of drivers waiting over 5 minutes for a fare, and in some cases in excess of 2 hours.
- 3.5 Overall the rank surveys demonstrate that there is no significant unmet hackney carriage demand.

### **4. Public Attitude Survey**

- 4.1 AECOM conducted a public attitude survey to supplement the rank surveys. The aim of the survey was to obtain information on the public's use of licensed vehicles, and assess their level of satisfaction with the service they received. In total, 733 public attitude surveys were completed.
- 4.2 The public were asked questions about their use of hackney carriages/private hire vehicles such as the reason for use and the cost of their last trip. The majority responded that their last trip was for leisure purpose. The majority (approx. 12%) of those surveyed stated that their last trip cost between £9 and £10. The majority of those surveyed rated their last trip as 'good' in terms of driver quality, 'average' in terms of price and 'average' in terms of waiting time.
- 4.3 The public were asked to suggest new locations for taxi ranks. There was little consensus over locations and only 13% responded to this question. 'Outside the City Centre' was the most popular response (4%).
- 4.4 57% of respondents stated that they felt safe using licensed vehicles in Cardiff, 29% said they did not feel safe and 14% didn't answer the question. Those that responded and stated they did not feel safe were asked to comment on how safety could be improved. The highest ranked answer was for increased police presence at pick up areas.

- 4.5 The public were asked if they felt there was sufficient availability of hackney carriages in Cardiff. There was a fairly even split with 36% of respondents stating there are sufficient numbers and 44% saying they didn't know, only 8% said there were insufficient numbers of taxis.

## 5. **Stakeholder & Operator Attitude Survey**

- 5.1 The Stakeholder Attitude Survey was conducted online with 11 stakeholders including: student representatives, charities, a tourist attractions, an hotelier, Transport Operator and Cardiff Access Group (representing disabled users)
- 5.2 The majority of respondents perceived that the availability of taxis and PHVs had increased in the last 3 years.
- 5.3 AECOM also surveyed 6 private hire operators, the results of which are detailed in Appendix B.

## 6. **Driver & Proprietor Attitude Survey**

- 6.1 Surveys were sent to all licensed drivers and hackney carriage & private hire vehicle proprietors. There was an overlap in some responses as some proprietors are also drivers, which may have led to a duplication of responses. Although drivers are issued with a 'dual' badge in Cardiff, they were asked in the survey whether they predominately worked as hackney carriage or private hire drivers.
- 6.2 The survey shows that the average number of hours worked per week by hackney carriage drivers is around 40 hours, compared with around 45 hours by private hire drivers. The majority of these hours worked by both hackney carriage and private hire drivers is during the daytime (weekdays).
- 6.3 Hackney carriage drivers were asked which three ranks they visit most frequently. The top answers were: St Mary Street and Greyfriars Road/Hilton Hotel and Park Place. The average waiting time for a hackney carriage to obtain a fare was stated as over 15 minutes.
- 6.4 The majority of hackney carriage respondents (56%) stated that their vehicle was wheelchair accessible, whereas 93% of private hire respondents stated that their vehicle was not wheelchair accessible. Despite this the number of disabled passengers carried by private hire vehicles is relatively high.
- 6.5 The last question of the driver's survey asked whether drivers had been attacked in the last 12 months, whether physically or verbally. Approximately half of carriage drivers stated that they have been verbally attacked in the last 12 month and 13% stated that they have been physically attacked. This compares to 65% of private hire drivers stating that they have not been attacked.

- 6.6 The vast majority of respondents to both surveys stated they felt there were too many hackney carriage vehicles in Cardiff, and most felt that the current limit on the issue of new hackney carriage licences should be maintained.
- 6.7 Hackney carriage drivers/proprietors believe that there are not enough taxi ranks in Cardiff. When asked to suggest locations for new ranks, the following were the top answers: Castle Street/Kingsway/Duke Street, and increased space at Central Station. These are similar to the responses given in the previous survey in 2013.
- 6.8 With regard to levels of enforcement, the majority of private hire drivers and vehicle proprietors stated that there is not enough enforcement. The majority of hackney carriage drivers thought the current level of enforcement was about right.
- 6.9 The drivers and proprietors surveys ended with an open ended improvements/comments section. The most popular answer given by both drivers and proprietors was that vehicle/driver inspections and checks should be stricter. The 2<sup>nd</sup> highest response given by proprietors was that there should be restriction on non-Cardiff drivers, The 2<sup>nd</sup> highest suggestion by taxi drivers was that there should be stricter requirement on becoming a driver. The 2<sup>nd</sup> most popular response from private hire drivers was there are too many drivers/private hire vehicles.
- 6.10 The Driver and Proprietor Attitude Survey Report is detailed in Appendix C.

## **7. Comparison with 2013 Study.**

- 7.1 The 2013 demand study was also carried out by AECOM. This assisted the comparison with the previous results to establish whether there was increase/decrease in unmet demand for hackney carriages.
- 7.2 The average passenger demand, effective hackney carriage demand, and average hackney carriage supply was compared between 2013 and 2016. The most significant change in results was a reduction in passenger demand on weekday nights by more than 65% since the 2013 survey. The weekend night time peak in passenger demand has shifted one hour later from the 2013 survey to 3am.
- 7.3 Taxi supply has generally adjusted to the changes in passenger demand which includes a decrease in weekday night supply by around 65% which corresponds with the fall in passenger demand.
- 7.4 Since 2013 there has been a slight increase in average passenger waiting time from 0.2 seconds to 0.9 seconds, however the survey has highlighted that this may be a result of the data including results of the Sophia Gardens rank which has unique behaviour, due to the National Express bus stop. With the Sophia Gardens

results excluded the average passenger wait time reduces to 0.3 seconds, which indicated that the current moratorium on the issue of new licences has not had a detrimental impact on passenger delay.

7.5 In common with the 2013 report is a growing commentary about enforcement. The report indicates a strong consensus across the industry that enforcement (or perception of enforcement) needs to be improved. In particular in the following three areas:

- Vehicle standards;
- Driver regulation; and
- Taxi drivers refusing fares.

Undertaking more work to improve the standards of vehicles can be funded through an increase in vehicle licence fees. However, the fees cannot fund work against recalcitrant drivers and the Council would need to fund this work from the base budget.

## **8. Consultation**

8.1 The trade consultation procedure was undertaken in accordance with the consultation procedure on any policy matters. The draft reports intended for consideration were made available at the licensing offices for any interested party to provide written submissions.

## **9. Achievability**

This report contains no equality personnel or property implications.

## **10. Legal Implications**

10.1 Section 16 of the Transport Act 1985 amended the Town Police Clauses Act 1847 and allowed Councils to restrict the number of Hackney Carriage vehicle licences granted if they wished to do so. It must be noted that this is discretionary.

10.2 In order to satisfy the prescriptive provisions of the Transport Act, before exercising this discretion, the Council must be satisfied that there is no significant unmet demand for the services of hackney carriages.

10.3 This does not mean that the Council must limit the number of hackney carriage vehicle licences issued, even if it is satisfied that demand is met. The effect of the 1985 Act is simply to prevent the Council from restricting the numbers for any other reason.

10.4 Any decision that Council makes about whether to place a limit on the number of Hackney Carriage vehicles or not could potentially be open to challenge by way

of Judicial Review. Therefore the Council will need to ensure that it takes all factors into consideration. The decision that it is being asked to make is a discretionary one. The Court will be unlikely to intervene in the exercise of a discretion unless the decision making process is flawed. Any decision would have to avoid being “Wednesbury” unreasonable. This means that the Council will have to take account of relevant considerations, not take into account irrelevant considerations, and come to a decision that a reasonable Council would reach based on the circumstances before it.

- 10.5 The Department for Transport Guidance referred to in this Report does not have statutory effect. This means that it is not something prescriptive that binds the Council. However, it would be highly unusual for a public body to depart from guidance from national government unless there were good reasons for doing so. In this case Government guidance suggests that a licensing authority’s decision of whether or not to limit hackney carriage vehicles should be approached in terms of the interests of the travelling public. Clearly this factor must be taken into account. If Council were to depart from this non statutory guidance, it would have to carefully set out and record its reasons for doing so. If this were not done then, if the Council did limit, any interested party could apply for a Judicial Review of the decision alleging that the Council had failed to take into account a relevant consideration.
- 10.6 Further, if the Council should set a limit, there is a possibility of challenge by future applicants for a Hackney Carriage licences on the basis that the Council had unreasonably fettered its discretion. Any policy introduced must be kept under review and also be seen to be responsive to changes in the local economy impacting upon the hackney trade.
- 10.7 There are also suggestions that a limit would create a closed market which could consequently be in restraint of trade. It is the view of the Office of Fair Trading that it is preferable that an open market is maintained.

## **11. Financial Implications.**

- 11.1 As limitation has been in place since 2010 (reviewed in 2013), to retain the current moratorium on hackney carriage proprietor licences would not result in a change in income.
- 11.2 Any increased enforcement, clause 7.5 above, would require additional funding out with the current budget.

## **12.1 Recommendation**

- 12.1 Based on the results of AECOM surveys, the Committee are recommended to approve the continuation of the current moratorium on the issue of new hackney carriage proprietor licences.

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**HEAD OF SHARED REGULATORY SERVICES**

**9 November 2016**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None



## APPENDIX A