

PUBLIC PROTECTION COMMITTEE: 3 December 2019

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. A Licensing 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 2016 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 946 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 were commissioned by Cardiff Council to undertake an independent survey of Cardiff's taxi demand in the summer of 2019. The full report is detailed in Appendices A - D.
- 1.5 The overall recommendation of the AECOM report is that Cardiff Council should maintain the current moratorium on the issue of new licences in Cardiff, except where there is need in the future for additional licences in the event that section 161 of the Equality Act 2010 is brought into force.
- 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 paragraph 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 12 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 to June 2019, and a total of 966 hours of observations were carried out. Details of the survey's area and method used is detailed in AECOM's 'Taxi Rank Operations and Public Attitude Survey' in Appendix A
- 3.2 The survey shows that that taxi supply always exceeds the taxi demand for all days.
- 3.3 The average passenger delay calculated across all ranks was 2 seconds. Apart from Saunders Road rank next to the railway station which saw an average wait time of 8.5 seconds, all other ranks have average passenger delays of less than 1 second.
- 3.4 The average delay for hackney carriages was high; especially when compared to the passenger delay. All average delays are below 15 minutes, but notably long delays take place at the Sophia Gardens Coach Station during the weekdays of 17.9 minutes, and on the Sunday at Heath Hospital and St Mary Street / Guildhall Place with daily averages of 16.9 and 16.1 minutes respectively.
- 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 show frequency of licensed vehicle use, passenger delays, passenger satisfaction with the service they received and general attitudes to the use of both taxis and private hire vehicles in Cardiff.

- 4.2 42% of respondents incorrectly believed that all licensed vehicles can use ranks or pick up from the roadside, compared to 39% that correctly responded that only a taxi can, suggesting that the general public has an overall lack of awareness of the difference between taxis and PHVs. In light of this lack of awareness, the Licensing Department intends to work with other stakeholders to educate the public around the differences between hackney carriage and private hire vehicles and the rules surrounding each type.
- 4.3 49% of respondents had taken a journey in a licensed vehicle in the last month, of those 26% were in a hackney carriage and 40% were in a private hire vehicle, 34% did not know which type of vehicle that had taken.
- 4.4 Of those that used licensed vehicles, 37% telephoned to make the booking, followed by 25% that used an online app, 23% used a rank and 14% hailed a taxi from the roadside.
- 4.5 Respondents were asked what they thought a daytime three-mile journey would cost. Of those that responded, all those that did estimated that it would cost below £10. Around one in five respondents thought that the cost of the journey would be below £5 whilst around a third estimated that it would cost between £5 and £9.
- 4.6 The public were asked if they felt there was sufficient availability of hackney carriages in Cardiff. 34% of respondents stated that there are sufficient numbers and 48% saying they didn't know, only 9% said there were an insufficient numbers of taxis.
- 4.7 The public were asked about the suitability of taxi ranks across the city. Approximately 10 percent of the suggestions state that there needs to be more ranks in the city centre; some sites were further specified such as Motorpoint Arena, Principality Stadium, Westgate Street, Greyfriars Road, and Churchill Way. Around 5% of the suggestions indicate that more ranks are wanted in the Cardiff Bay area. Another 5% of suggestions voiced a need for more ranks in the more suburban areas of Cardiff and in areas that are not in the city centre. Approximately 2.5% of the suggestions placed the hospital as a location that requires more taxi ranks.
- 4.8 The Taxi Rank Operations and Public Attitude Survey is detailed at Appendix A.

5. Driver & Proprietor Attitude Survey

- 5.1 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.
- 5.2 The survey shows that the average number of hours worked per week by hackney carriage drivers is around 45 hours, compared with around 43 hours by private hire drivers. The majority of these hours worked by hackney carriage drivers is during the night-time on the weekend and for private hire drivers is during the daytime on weekdays.
- 5.3 Hackney carriage and private hire vehicle drivers were asked about the emissions produced by their vehicle. 31% of hackney carriage and 44% of private hire vehicle drivers stated that their vehicle was a low emissions vehicle. This is considerably lower than the results in the 2016, for example a drop in low emission hackney carriages by 20%. This may be due to the driver being unaware of what constitutes a low emission vehicle.
- 5.4 Half of hackney carriage respondents stated that their vehicle was wheelchair accessible, whereas only 3% of private hire respondents stated that their vehicle was wheelchair accessible. Despite this, the number of disabled passengers carried by private hire vehicles is relatively high.
- 5.5 The last question of the driver's survey asked whether drivers had been attacked in the last 12 months, whether physically or verbally. 68% of hackney carriage drivers had been verbally attacked and 15% stated that they have been physically attacked. This compares to 41% of private hire drivers being verbally attacked and 3% being physically attacked.
- 5.6 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.
- 5.7 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/Duke Street/Kingsway, Wood Street, Westgate Street, and to increase rank space at the railway station.
- 5.8 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.

- 5.9 The drivers and proprietors surveys ended with an open ended improvements/comments section. By far the most popular response given by both drivers and proprietors was related to cross-border hire with many respondents stating that stricter regulations should be put in place to assess driver capabilities and some drivers went further by suggesting it should be reduced or stopped. It should be noted that restricting cross-border hire would require a change to national legislation.
- 5.10 The Driver and Proprietor Attitude Survey Report is detailed in Appendix B.

6. Operator and Stakeholder Attitude Survey

- 6.1 The Stakeholder Attitude Survey was conducted online with 16 stakeholders including 2 private hire operators: local interest groups, hoteliers, transport operators and a visitor attraction.
- 6.2 The majority of respondents perceived that the availability of taxis and PHVs had increased in the last 3 years.
- 6.3 The Operator and Stakeholder Attitude Survey is detailed in Appendix C.

7. Comparison with 2016 Study.

- 7.1 The 2016 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 One of the major changes since 2016 is the rise of app based taxi and private hire operators.
- 7.3 The most significant change between 2016 and 2019 is the reduction in activity on the weekends in the late evening and early morning; the greatest reduction occurs around midnight where the effective taxi demand and the passenger demand reduces by 50%. The reduction in passenger demand during this period is around 30%, effective taxi demand and supply has reduced by 40%. The conditions for the Weekday and Sunday have remained relatively consistent; one deviation is between 08:00 and 10:00 where both passenger and taxis demand reduces by 50%.

- 7.4 The overall passenger waiting time for a taxi has marginally decreased from 0.9 seconds in 2016 to 0.8 seconds in 2019. However, it should be noted that this includes the Saunders Road rank where isolated incidents of unmet demand occur and were not representative of the rank as a whole. This indicates that the current moratorium on the issue of new licences has not had a detrimental impact on passenger delay.
- 7.5 On Friday nights and Saturdays the time at which the level of supply and demand operates at equilibrium has decreased slightly, and on weekdays and Sundays has increased by approximately 1%. The proportion of time where there is unmet demand has slightly decreased on weekdays and weekends and a slight increase on Sundays. The proportion of time where there is unused supply has increased by around 5% on both weekends and Sundays, whilst on weekdays it has increased by approximately 8%. Overall the assessment showed that the market conditions have remained largely unchanged since 2016, suggesting that the moratorium on the issue of new taxi licences has not disadvantaged passengers.
- 7.6 The public were asked to give the reasons why they did not use licensed vehicles more often in 2016 and 2019. Availability was listed by 1.2% in 2016 and wasn't cited at all in 2019. These results indicate that there has been very little change in public perception on availability, particularly with the drop in reasons for why licensed vehicles are not used more often. Respondents were asked directly whether they felt that there are enough taxis in Cardiff, with 9.0% reporting insufficient numbers in 2019 compared with the 7.8% in 2016, suggesting little change over the last 3 years and no emerging problem.

8. Consultation

- 8.1 The trade consultation procedure was undertaken in accordance with the consultation procedure on any policy matters.

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 It is the view of the Competition and Markets Authority (CMA) that quantity restrictions may cause harm to passengers through reduced availability,

increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles.

11. Financial Implications.

- 11.1 As limitation has been in place since 2010 (reviewed in 2013 and 2016), to retain the current moratorium on hackney carriage proprietor licences would not result in a change in income.

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.
- 12.2 As the AECOM report highlighted a general lack of awareness from the public regarding hackney carriage and private hire vehicles, Members may want to note that the Licensing Department will work with a number of stakeholders running an education and awareness campaign to help improve understanding amongst the public.

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HEAD OF SHARED REGULATORY SERVICES

29 October 2019

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

Background Papers:

DfT - Taxi and private hire vehicle licensing: best practice guidance (2010)

Competition and Markets Authority - Regulation of taxis and private hire vehicles: understanding the impact on competition (2017)