

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject: Hackney Carriage Unmet Demand Survey
Date of Meeting: 22 November 2012
Report of: *Head of Planning and Public Protection*
Contact Officer: Name: *Martin Seymour* Tel: 29-6659
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Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

To present the results of the Hackney Carriage Unmet Demand Survey and to give various options available to members to advise the executive. The summary and conclusions section of the survey report is appended (Appendix A).

2. RECOMMENDATIONS:

That committee resolves

- 2.1 To keep the current number of hackney carriage vehicle licences at 545 **or**;
- 2.2 To continue to increase the number of hackney carriage vehicle licences issued by the council by 5 annually, such licences to be issued in May each year commencing in May 2013 **or**;
- 2.3 To remove the limit on the number of hackney carriage vehicles issued and allow a free entry policy to vehicles, which are constructed or adapted and configured to carry passengers seated in wheelchairs, the type and design of the vehicle to be agreed by the Head of Regulatory Services Planning and Public Protection **or**;
- 2.4 To continue with a restricted numbers policy and to increase the number of hackney carriage vehicle licences issued by the council by 5 annually but that all applicants on the current hackney carriage waiting list should be offered the opportunity to licence a small rear-loading wheelchair accessible vehicle.
- 2.5 That any additional licences issued under 2.1, 2.2 & 2.3 above should be issued in accordance with the conditions attached to the Brighton & Hove City Council Hackney Carriage Vehicle Licence Waiting List and to vehicles which are constructed or adapted and configured to carry passengers seated in wheelchairs, the type and design of the vehicle to be agreed by the Head of Planning and Public Protection.

2.6 That policy will not support cycle drawn rickshaws.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

The council licenses hackney carriage vehicles and private hire vehicles. The principal differences between the two licensing regimes are (i) hackney carriages can ply for hire in the streets and at taxi ranks whilst private hire vehicles can only accept bookings made through a private hire operator (ii) powers exist to limit the numbers of hackney carriages in prescribed circumstances but there is no power to limit the number of private hire vehicles (iii) the council prescribes fares for hackney carriages but has no power to determine fares for private hire bookings.

3.2 This council last reviewed its policy of quantity control of hackney carriages on 17 November 2011.

3.3 This latest review aims to address two key issues (i) the number of hackney carriage vehicles (ii) the percentage of those vehicles, which are wheelchair accessible hackney carriages.

3.4 There are currently 31 rear loaders out of 167 licensed wheelchair accessible vehicles. To reach the 60:40 requirements that the Fed Centre for Independent Living suggest is necessary to meet the needs of passengers with powered wheelchairs the council would need to licence an additional 173 plates. At 5 plates per year it would take 35 years to achieve the 60:40 split.

3.5 Section 16 of the Road Transport Act 1985 gives the council the power to refuse the grant of a licence for the purpose of limiting the number of hackney carriage vehicles within its area, but only if it is satisfied that there is no significant demand for the service of hackney carriages within its area which is unmet. At present council policy limits the number of hackney carriage vehicle licenses to 545 with 5 additional licenses issued annually in May.

3.6 The Department of Transport has issued Best Practice guidance regarding limiting numbers policies. (Appendices B) Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice.

3.7 Because of its policy of limiting numbers, from time to time the council must commission an independent study to establish whether there is any significant unmet demand for the service of hackney carriages in Brighton and Hove. The Council recently commissioned such a study from

independent transport consultants, Halcrow Group Limited, who produced their study report in October 2012.

- 3.8 In view of the study findings which found there to be no significant unmet demand Members have a discretion to recommend to the Council one of the following options: either (i) delimit, i.e. to remove the limitation on numbers; or (ii) continue with a restricted numbers policy but allow expansion of the fleet in a controlled manner; or (iii) keep the current number of hackney carriages vehicle licences at 545.
- 3.9 If Members decide to recommend to keep the current level of licences at 545 then the council would be required to commission a further survey to assess demand in around 3 years time. If Members decide to continue with a restricted numbers policy but with a policy of managed growth in line with paragraph 2.1, 2.2 or 2.4 then the council would be required to commission a further survey to assess demand in around 3 years time. If Members decide to delimit the council would not be required to commission a further survey.
- 3.10 The Halcrow report formula indicates that an additional 213 accessible vehicles, linked to a radio circuit, would be required to eliminate the discrepancy in telephone booking waiting times between accessible and non accessible vehicles. It should be noted that this demand for additional vehicles is private hire demand and therefore not relevant to the issue of significant unmet demand. This value is also high due to there being very few wheelchair accessible vehicles in the private hire fleet. It is also the case that the requirement of additional accessible vehicles is not necessarily a requirement for more licensed vehicles. The discrepancy in waiting times could be alleviated by replacing standard vehicles with accessible vehicles or connecting the current accessible vehicles to radio circuits. Nevertheless, it remains the case that it is possible to improve the level of service to disabled people via increasing the number of accessible vehicles available significantly.
- 3.11 The council maintains a waiting list for hackney carriage vehicle licences which currently has 150 applicants. It is recommended that all additional licences be offered to applicants in accordance with the conditions attached to the waiting list. This means that they would be offered to applicants according to their position on the list.
- 3.12 There are two potential avenues of legal challenge; an aggrieved party could seek judicial review of the committee's decision, and applicants on the waiting list could appeal against the refusal of a licence to the Courts.

4. The type of vehicle to be licensed

- 4.1 Taxis provide an important means of transport for disabled people and are often the only viable option available. The council's hackney carriage fleet is mixed; consisting of saloon cars and specially constructed or adapted wheelchair accessible vehicles. Locally, representatives of disabled groups have asked for the continued provision of a mixed fleet but are keen to increase the percentage of rear loading wheelchair accessible vehicles to meet the needs of passengers with large powered wheelchairs. This reflects the differing needs and preferences of the travelling public, including those who find it difficult to negotiate entry into wheelchair accessible vehicles and to sit down easily, and those confined to travelling in wheelchairs. With only 6% of persons with a disability being wheelchair users by concentrating on wheelchair accessible vehicles 94% of disabled people may be being inconvenienced or inadvertently discriminated against. However there is general consensus that there are too few disabled accessible vehicles.
- 4.2 Although unrelated to the concept of significant unmet demand in the 1985 Transport Act, Halcrow were asked to look at the issue of wheelchair accessibility via telephone bookings. Halcrow has identified significantly longer waiting times for wheelchair accessible vehicles compared with ordinary saloon cars when booked by telephone. To alleviate this discrepancy they estimate that an additional 213 wheelchair accessible vehicles are required. It should be noted that this demand is principally a private hire demand and the requirement for additional accessible vehicles is not necessarily a requirement for more licensed vehicles, but for greater accessibility.
- 4.3 Members are therefore recommended to require that additional hackney carriage licences are restricted to wheelchair accessible vehicles. This will underline the council's commitment to those who suffer physical disability. However, in the interests of continuing to maintain a mixed fleet this policy, if continued, would need to be reviewed after a suitable interval, for example when the next unmet demand survey is undertaken.
- 4.4 If Members decide not recommend to so restrict the vehicles, then there is a risk of legal challenge from hackney carriage licence holders who were previously issued licences for wheelchair accessible vehicles, on the ground that the restriction on their licences is unreasonable. If successful, this would lead to a reduction in the number of wheelchair accessible vehicles. In view of the survey findings, disability interest groups or individuals might also challenge such a decision.
- 4.5 Respondents were asked if cycle drawn rickshaws (pedicabs) were introduced in Brighton and Hove would they use them and if so how often. The majority of respondents (58.6%) stated they would not use cycle drawn rickshaws. The 58.6% of respondents who stated they would not use pedicabs were asked why not. The most common responses included:

- Would not feel comfortable asking someone to manually pedal for me – particularly up hills and with baggage.
- Dangerous, would not feel safe
- Uncomfortable and no luggage space
- Not suitable for people with disabilities
- Not convenient or practical, slow
- Exposure to elements, rain and cold
- Not a serious type of transport, just a novelty and couldn't replace regular cab journeys

5 Related Issues

- 5.1 The main purpose of the survey was to determine whether or not there exists a significant unmet demand for hackney carriages and to determine the number of licences required to meet any identified unmet demand. There are other related issues which the council needs to keep under review in the longer term, such as the response to telephone bookings for wheelchair accessible vehicles referred to in 4.2 above, initiatives to encourage hackney carriage and private hire drivers to work unsociable hours, particularly at the weekends when there are peaks in night-time demand, the level of fares and measures to improve driver and passenger safety.
- 5.2 Crime reduction initiatives such as driver safety screens and in-car CCTV cameras have previously been supported by Committee. Other initiatives are still being developed including links with the community safety team and improved partnership between the taxi trade and the police. The level of fares are reviewed regularly including the question of whether there is justification to increase the differential between daytime and night-time fares to encourage drivers to work at times of peak demand.

6. CONSULTATION

- 6.1 Officers have consulted with trade representatives on the Hackney Carriage and Private Hire Consultation Forum, including attending a meeting with the consultant, forum members and the police to discuss points the trade wished to clarify.
- 6.2 Halcrow's consultations were with Hackney Carriage and Private Hire Trade Representatives; Taxis Operators; Disability representatives and Social Services; and Police and Community Safety Partnership.

7. FINANCIAL & OTHER IMPLICATIONS:

- 7.1 Revenue:
- The cost of the current Unmet Demand Survey was met from within existing revenue budgets. The fees for Hackney Carriages are set at a level that it is

reasonably believed will meet the costs of providing the service. Therefore, this will include the cost of future Unmet Demand Surveys.

- Total income in 2011-12 from fees was £308,345. If the number of hackney carriages is allowed to increase this will not necessarily result in an increase in income overall, as it may be offset by a reduction in private hire vehicles.
- If the decision is taken to continue with a limitation policy, then there is the possibility of a legal challenge to the decision in court. The costs of any such challenge would have to be met from within existing budgets, funded from the fee income.
- If the decision is taken to delimit the number of taxis, then subsequent monitoring of taxi ranks may reveal a need to expand their size or number, which the Council would be responsible for funding. Such costs could range from a few hundred pounds to a few thousand pounds, depending on the specific circumstances.

Finance Officer Consulted: Karen Brookshaw

Date: 15/10/2012

7.2 These are dealt with in the body of the report.

Lawyer: Rebecca Sidell

Date: 07/11/2012

Equalities Implications:

7.3 The Department of Transport had planned to make taxi accessibility regulations under the Equality Act 2010 but it appears that the majority of taxi regulations will not now be implemented. However, the Law Commission is currently looking at revising taxis legislation which includes taxi accessibility with its proposals due November 2013.

To issue extra licences each year will counter criticism that the hackney carriage vehicle licence waiting list may be discriminatory because it does not move as no extra licences are issued.

With only some 6% of persons with a disability nationally being wheelchair users. By concentrating on WAV's some 94% of the total may be being inconvenienced or inadvertently discriminated against.

Sustainability Implications:

7.4 The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the

city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

Crime & Disorder Implications:

- 7.5 Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

Risk and Opportunity Management Implications:

- 7.6 The transport industry should be safe, profitable and be a positive experience for residents and visitors.

Corporate / Citywide Implications:

- 7.7 Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices: A

Summary and Conclusions

Halcrow has conducted a study of the hackney carriage and private hire market on behalf of Brighton and Hove City Council. The present study has been conducted in pursuit of the following objectives. To determine;

- whether or not there is a significant unmet demand for Hackney Carriage services within Brighton and Hove as defined in Section 16 of the Transport Act 1985; and
- how many additional taxis are required to eliminate any significant unmet demand.

This section provides a brief description of the work undertaken and summarises the conclusions.

Significant Unmet Demand

The 2012 study has identified that there is NO evidence of significant unmet demand for hackney carriages in Brighton and Hove. This conclusion is based on an assessment of the implications of case law that has emerged since 2000, and the results of Halcrow's analysis.

When comparing the results of the 2012 study with the previous study in 2009 it is clear that demand for rank based hackney carriage services has reduced. This has also had the effect of reducing passenger delay.

Public Perception

Public perception of the service was obtained through the undertaking of 449 surveys. Overall the public were generally satisfied with the service – key points included;

- Some 69.8% of respondents had used a taxi within the last three months
- Some 22.4% of respondents had given up waiting for a hackney carriage or private hire vehicle in the last three months by rank and/or flagdown

- Average waiting times were 8.08 minutes
- Some 98.4% of respondents agreed with the councils new CCTV safety policy

Stakeholder Consultation

The views of stakeholders were mixed but in general it was considered that taxi services in Brighton and Hove were of a high quality. Visitors like the green/white livery of the hackney carriage vehicles and the text message services used by many companies to advise passengers that their taxi has arrived and feedback from Visit Brighton is positive.

The lack of a rank at the American Express Stadium on the edge of Brighton was raised. The stadium implements a transport plan for events which secures pedestrian safety for 30,000 people. Taxi drop off and pick up points are provided but not all the trade are happy with the arrangements. The stadium feel there is no safe location for a rank within the Brighton and Hove side.

Issues have been raised around the Brighton Station rank and the level of congestion. Some people have suggested a further rank should be implemented at the back of the station but the front rank should not be removed. This would split the taxis and hopefully result in less congestion on the forecourt.

Other key issues raised related to wheelchair accessible taxis and is covered in Disabled Access

Trade Perception

Overall the public were generally satisfied with the service – key points included;

- Some 47% of hackney carriage respondents and 56.1% of private hire respondents stated that they felt safe all of the time;
- The majority of the hackney carriage trade (75.4%) do not feel that there is enough rank space in Brighton and Hove and wish to see further ranks on Kings Road, Queens Road and Church Street.
- Some 84% of hackney carriage and 53% of private hire respondents feel there are too many hackney carriages.

- Some 81.1% of the hackney carriage trade and 49.7% of the private hire trade do not think that the numerical limit should be removed.

Disabled Access

Brighton and Hove Council currently license 167 wheelchair accessible hackney carriages. This equates to 30.6% of the total fleet. There are also 36 wheelchair accessible private hire vehicles licensed, equating to 8.2% of the fleet. The benchmarking exercise demonstrated this provision means Brighton and Hove is in the middle of the comparable authorities having neither the best or worst provision.

During the rank observation programme only 8 wheelchair users were observed hiring a taxi from a rank. An indication of the potential demand for wheelchair accessible taxi services in Brighton and Hove in comparison to the benchmarked authorities was assessed through the interrogation of disability living allowance claimants in each authority. This indicated that of the benchmarked authorities, Brighton and Hove has an average level of claimants at 5.3% of the total population. The level of the total population in each authority claiming incapacity benefit/severe disablement allowance was also assessed. The level of claimants in Brighton and Hove is slightly above the average or 3.9% at 4.1%.

Of the public attitude respondents 42 (9.4%) considered themselves to have a mobility impairment and 18 (42.9%) of these respondents used a wheelchair. Of those mobility impaired respondents 34 (81.0%) had used a taxi in the last three months mainly booking by phone.

When asked if they were satisfied with the time taken and the promptness of the taxis arrival 23.8% of those citing mobility impairment were not satisfied with the level of delay. This compares to 14.6% across all respondents. On average those with a mobility impairment were less satisfied than respondents as a whole, particularly with rank hirings. Of the respondents citing a mobility impairment the average wait time for hiring a taxi was recorded as 14.97 minutes in comparison to 8.08 minutes for respondents as a whole. This indicates that mobility impaired respondents wait longer for their taxi and are less satisfied with the delay.

A telephone based mystery shopper survey was also carried out to determine the difference between average waiting times for an accessible vehicle in comparison to a standard vehicle. The waiting time for a wheelchair accessible vehicle is over twice the waiting time reported for a standard vehicle. Though overall the average waiting time for a wheelchair accessible vehicle has reduced 11 minutes from 43 minutes in 2009 indicating services are improving. The calculations indicate that an additional 230 accessible vehicles, linked to a radio circuit, would be required to eliminate the observed

discrepancy in telephone booking waiting times between accessible and non accessible vehicles.

The stakeholder consultation highlighted that provision of wheelchair accessible vehicles has improved since the last report three years ago, however, it can still be difficult to guarantee availability around school-run times and the evenings and weekends, for which there was a general concern around waiting times. It was highlighted that most powered wheelchair users cannot use wheelchair accessible vehicles (WAV's), and the definition of a WAV as defined by the council is not applicable to all wheelchair types. It was acknowledged that a mixed fleet is required, but the current policy of only licensing WAV's at this time is good to balance up the different vehicle types in the fleet. Some respondents were concerned that the Council wished to see a 100% wheelchair accessible hackney carriage fleet and highlighted that elderly users should also be considered and they prefer saloons.

It was felt more rear loading vehicles should be licensed as these are better for many wheelchair users as the ramps are shallower and the door and head space is higher. Members of the public would be happy to see rear or side loading hackney carriages (75% of respondents). Just 17% said only side access should be permitted.

It is apparent the level of service for wheelchair bound passengers in Brighton and Hove has improved over since 2009, but there remains a discrepancy in the level of service enjoyed by the population as whole and disabled persons.

Recommendations

The 2012 study has identified that there is NO evidence of significant unmet demand for hackney carriages in Brighton and Hove. This conclusion covers both patent and latent/suppressed demand and is based on an assessment of the implications of case law that has emerged since 2000, and the results of Halcrow's analysis.

On this basis the authority has discretion in its hackney licensing policy and may either:

- Maintain the current limit of 545 hackney carriage licences plus an additional 5 wheelchair licenses issued annually;
- issue any number of additional plates as it sees fit, either in one allocation or a series of allocations; or
- remove the numerical limit.

SUPPORTING DOCUMENTATION

Appendices: B

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance 2005
(Department for Transport)

The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] 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'.

Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice.

Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in deterioration in the amount or quality of taxi service provision?

In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; 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 a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...
- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- **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 (which should include groups representing 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 (such as train operators, who want taxis available to take passengers to and from stations);
- **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.

Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the five-yearly Local Transport Plan process.

