



LICENSING COMMITTEE REPORT

Report Title	Capping Hackney Vehicle Licences
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AGENDA STATUS: PUBLIC

Committee Meeting Date: 18th October 2016

Policy Document: Capping Taxi Vehicle Licences

Directorate: Customers & Communities

1. Purpose

1.1 To consider and decide if an Unmet Demand Survey should be undertaken to determine if the current number of licensed hackney carriage vehicles is sufficient / insufficient to service the requirements of Northampton.

2. Recommendations

2.1 That the Licensing Committee agree that the authority should employ the services of a specialist consultant company to undertake a comprehensive unmet demand survey to determine if capping the number of licensed hackney vehicles for Northampton would be reasonable.

3. Issues and Choices

3.1 Report Background

3.1.1 The Hackney trade association have requested at recent meetings that the Local Authority place a restriction on the number of hackney vehicle licences that are issued.. It was agreed by the Chair of the Licensing Committee at a meeting on the 13th September 2016 that Officers would investigate and put forward an agenda item in respect of this issue.

- 3.1.2 Until the introduction of the Transport Act 1985, local authorities had an unrestricted discretion to limit the number of hackney carriages which they could licence. However section 16 of the Transport Act 1985 removed that discretion by amending the wording of section 37 of the 1847 Act so that it excluded reference to “such number of” and “as they think fit”. and inserted instead “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”
- 3.1.3 Further to Department of Transport Guidance/Circulars issued at that time, on the 29th April 1997 Northampton’s Licensing Sub-Committee resolved to cease to control the numbers of Hackney Carriage Vehicle Licence plates.
- 3.1.4 As no limit on the number of Hackney Carriage Vehicle Licences has since been reintroduced, if a vehicle meets all the required local vehicle conditions, this local authority cannot refuse to grant a hackney vehicle licence
- 3.1.5 Central Governments’ current position is that restrictions should only apply where there is a clear benefit for the consumer, and that Licensing Authorities should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached. Demonstration of unmet demand can be undertaken by means of a survey and **must** be carried out by an independent company¹. It is necessary to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court
- 3.1.6 In 2006 the DFT issued Good Practice Guidance to licensing authorities on the Hackney Carriage and Private Hire Vehicle (PHV) industry. This guidance was updated in 2010 and included advice on the measurement of unmet demand. A copy of the latest DFT guidance is attached at Appendix A
- 3.1.7 If the committee agree to this proposal of obtaining an unmet demand survey, it is anticipated that it will take several months before a further report can be presented back to the licensing committee as detailed in the approximate timeline below :-

DATE	ACTION
October/November 2016	contact independent survey companies
November/December 2016	procurement & project scope discussions with company
January/February 2017	survey commences
March/April 2017	survey report Completed for presentation to local authority
May/June 2017	report with recommendations presented to licensing committee

¹ R v Brighton Borough Council, ex p Bunch [1989] COD 558

3.1.8 The timeline can be flexible and it may not be appropriate to carry out a survey during certain times of the year and therefore it is suggested that a period for the survey to be commence is agreed with the taxi trade.

3.2 Issues

3.2.1 The survey may identify that where quantity restrictions are reasonably imposed this may have an impact upon the market competition within the town and the value of the licence plate within the trade.

3.3 Choices (Options)

3.3.1 Agree to the proposal to carry out an unmet demand survey and report the findings of the study with recommendations to the licensing committee next year.

3.3.2 Agree no changes and continue licensing unlimited numbers of hackney carriage vehicle licences.

4. Implications (including financial implications)

4.1 Policy

4.1.1 Local Policy Hackney Vehicle Licence Conditions

4.2 Resources and Risk

4.2.1 The cost to obtain an unmet demand report from a specialist independent survey company will be in the region of £8,000. In accordance with s.70(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 the funding for carrying out the survey can be lawfully charged to Hackney Vehicle Licence Fees.

4.2.2 An interval of three years is commonly regarded as the maximum reasonable period between surveys and therefore any policy agreed may have an impact upon ongoing resources and fees in the future

4.3 Legal

4.3.1 The current legal provision on limiting the number of hackney carriages is set out in Section 16 of the Transport Act 1985, which amended the Town and Police Clauses Act 1847. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of hackney carriages if there is no significant demand for the services of hackney carriages which is unmet.

4.3.2 In the event of a challenge to a decision to refuse a hackney carriage licence, Northampton Borough Council would have to establish that it had been satisfied that there was no significant unmet demand and that its decision to

restrict numbers was reasonable in line with Wednesbury Reasonableness principles. This is established by way of carrying out an unmet demand survey which will explicitly conclude whether a restriction on numbers of hackney carriages is justified and hence reasonable.

4.3.3 By carrying out an unmet demand survey the council would be acting reasonably and within the realms of evidence and would therefore be protected against claims from individuals who may be refused licences. Case law² supports the use of unmet demand surveys to determine quantity controls because it provides evidence that any restriction imposed was reasonable

4.4 Equality

4.4.1 There is no equality issues identified as this policy would apply equally to any proprietor of a Hackney or Private Hire vehicle in similar circumstances.

4.5 Consultees (Internal and External)

4.5.1 Julie Seddon
Legal

4.6 Other Implications

4.6.1 None identified

5. Background Papers

5.1 Town and Police Clauses Act 1847

5.2 Local Government (Miscellaneous Provisions) Act 1976

5.3 Transport Act 1985 s.16

5.4 Department for Transport (DOT Circular 3/85 & 4/87)

5.5 Department for Transport Guidance 2010

5.6 The Office of Fair Trading reported on this in November 2003 - "[The regulation of licensed taxi and PHV services in the UK](http://www.offt.gov.uk/advice_and_resources/publications/reports/competition-policy/oft676)" [OFT676 available at http://www.offt.gov.uk/advice_and_resources/publications/reports/competition-policy/oft676]

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² R v Brighton Borough Council, ex p Bunch [1989] •, Ghafoor v Wakefield Metropolitan Borough Council[1990] RTR 389, QBD . R v Brighton Borough Council, ex p Bunch [1989] COD 558 • R on the application of Maud v Castle Point Borough Council[2003] RTR 122 CA). Ghafoor v Wakefield Metropolitan Borough Council[1990] RTR 389, QBD. • R v Leeds City Council, ex p Mellor [1993] COD 352 • R (on the application of Johnson) v Reading BC[2004] EWHC 765 Admin Ct.