

## Appendices

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**NORTHAMPTON**  
BOROUGH COUNCIL

# LICENSING COMMITTEE REPORT

Report Title

Capping Hackney Vehicle Licences

**AGENDA STATUS:**

**PUBLIC**

**Committee Meeting Date: 25<sup>th</sup> April 2017**

**Policy Document: Capping Hackney Carriage Licences**

**Directorate: Customers & Communities**

## 1. Purpose

1.1 To consider the detailed report provided by the external consultants CTS Traffic & Transportation (CTS) and decide if a limit should be applied to the number of hackney carriage vehicle licences issued by Northampton Borough Council.

## 2. Recommendations

2.1 That the Licensing Committee agree that whilst the report does provide some evidence of an unmet demand, it is not significant and therefore it is reasonable to limit the amount of hackney carriage licences that are granted in Northampton.

## 3. Issues and Choices

### 3.1 Report Background

3.1.1 At the request of the hackney trade to limit the number of hackney carriage licences issued in Northampton a report was presented to the Licensing Committee on the 13<sup>th</sup> September 2016. It was agreed at that meeting that officers should appoint an independent company to carry out a survey to investigate the current demand for taxis in Northampton.

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 29<sup>th</sup> 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/applicant meets all the required local conditions, the local authority cannot refuse to grant a hackney vehicle licence.
- 3.1.5 This duty is discretionary, not mandatory, and accordingly the local authority can exercise its discretion in relation to both the vehicle and the applicant personally. The only situation in which a licence specifically cannot be refused (assuming that the applicant and vehicle are acceptable) is if there is a significant demand which remains unmet.
- 3.1.6 In order to determine whether or not there is a significant unmet demand for taxis in Northampton, a survey was undertaken by the independent consultancy company CTS. A full copy of the report is detailed in **Appendix A**.
- 3.1.7 The recommendation of the report is ***“that there is no evidence of any unmet demand for the services of hackney carriages either patent or latent which is significant at this point in time in the Northampton Borough Council licensing area”***. The full recommendation can be found on page 45, Part 9 of the CTS report.
- 3.1.8 There are currently 147 hackney carriage vehicles licensed by Northampton and approximately 5-8 vehicles that may or may not be presented for renewal at the time of this report (i.e. a vehicle may be off the road for repairs and waiting to be renewed). As there are a number of variances that need to be taken into consideration, it is proposed the cap should apply at 155. This number will allow for **all** existing hackney carriage proprietors to keep their hackney vehicle licence.
- 3.1.9 If the Licensing Committee agree that it is reasonable to limit the number of hackney carriage licences, it is proposed that the limit should apply with immediate effect, a delay may result in a number of new applications and the proposed limit will need to be reconsidered.
- 3.1.10 In accordance with the Department for Transport guidance, the local authority will aim to revisit the unmet demand survey every 3 years and present a report to the Licensing Committee to determine if there has been a significant change to the current situation.

- 3.1.11 If at the time of review, the Licensing Committee find that there has been a significant change and decide that an increase in the number of licensed hackney vehicles is reasonable, the local authority will invite applications for a new hackney vehicle licence and apply a selection criteria.
- 3.1.12 If the number of successful applicants who meet the criteria exceed the number of additional licences on offer, then the local authority will operate a ballot system, which may be run by an independent panel.
- 3.1.13 This proposed system will remove the need for the local authority to keep and maintain a waiting list of applicants for hackney carriage licences, which has proved difficult to manage in other local authorities.
- 3.1.14 If the committee agree to limit the number of hackney carriage vehicles licences, it is proposed before the first 3 year review to consult with the trade regarding a proposed selection criteria and ballot process. A further report will then presented to the licensing committee for consideration. A selection criteria and ballot process has been successful with another local authority who have experienced difficulties with managing waiting lists.
- 3.1.15 In order to maintain ownership of an existing hackney carriage licence, the proprietor will be required to ensure that they continue to renew their licence and do not allow it to lapse, or it will only be allowed to continue in instances when they are replacing their current vehicle.
- 3.1.16 It is recognised that there may be circumstances where a vehicle licence may lapse, (i.e. the vehicle is off the road for repairs) and therefore it is proposed that officers will have the discretion to allow a renewal for a period of up to 4 weeks following the lapse of a vehicle licence, or in exceptional circumstances this may be considered up to a period of 8 weeks, providing sufficient evidence can be produced to verify why the vehicle has not been presented for renewal, (i.e. the production of garage repair bills etc.).
- 3.1.17 Failing to provide sufficient evidence of why the vehicle has not been presented for renewal, or in any case where the 8 week period has lapsed, all hackney vehicle licence applications will be presented to a Licensing Committee for determination.
- 3.1.18 Hackney vehicle licence proprietors will continue to be allowed to notify the local authority of a transfer to another named person, providing proof of new ownership of the current licensed vehicle is received. This will give an opportunity for the number of hackney carriages to be maintained at the current proposed maximum number of licences.

## **3.2 Issues**

- 3.2.1 If the number of hackney carriage licences is not regulated and the number of taxis continue to rise, the trades view is that the income derived from operating a taxi will decrease and it will become increasingly difficult to earn a reasonable income.
- 3.2.2 There has been concern expressed that where quantity restrictions are imposed, this may have an impact upon the market competition within Northampton and may increase the value of the current hackney carriage licence plate within the trade, i.e. proprietors of leased hackney vehicles will have a monopoly to increase the rental fee of their vehicles.
- 3.2.3 There are approximately 9 individuals/companies who each own between 2 to 7 hackney carriages, totalling approximately 30 vehicles which are leased to a number of drivers. There is no proposal to remove any existing licences as this will have a direct impact upon the livelihood of those currently working within the industry.
- 3.2.4 In the future this can be considered in more detail as part of the selection criteria and in consultation with the trade, for example the selection criteria could only allow one new hackney vehicle licence application per individual person.

## **3.3 Choices (Options)**

- 3.3.1 Agree to the proposal to set a limit on the number of hackney carriage licences to 155 with immediate effect.
- 3.3.2 Agree to the proposal to set a limit on the number of hackney carriage licences to 155 with immediate effect and agree to the proposals regarding the renewal of a lapsed licence.
- 3.3.3 Agree no changes and leave the current situation of un-regulated numbers of licences in place, continuing to allow market competition to determine vehicle numbers.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 This will not affect any existing policies and if approved will create a new local taxi unmet demand policy.

### **4.2 Resources and Risk**

- 4.2.1 Imposing a limit on the number of hackney carriage vehicle licences may mean a loss in revenue for the local authority from any potential new applications for a hackney carriage vehicle licence. Considering the history of the growth with

new applications, the loss in revenue will be minimal and estimated at less than £500 per year.

- 4.2.2 An interval of three years is commonly regarded as the maximum reasonable period between surveys. The cost of the survey can be included within the licence fees set by the local authority and therefore any policy agreed may have an impact upon the trade regarding the licence fees levied in the future.
- 4.2.3 Agreeing to a limit on the number of hackney carriage licences, will increase the value and asset of vehicles licensed within this local authority area. There are some positive and negative outcomes that have been identified as detailed below, this list is not exhaustive.

### **Positives**

- May increase the value of the vehicle/business to the individual hackney proprietor.
- May increase the income for current drivers of a hackney vehicle.
- Increased revenue may give an opportunity for the taxi trade to invest in improved environmental friendly vehicles

### **Negatives**

- May increase the vehicle cost for those wishing to enter the taxi trade
- May increase current vehicle lease agreements costs
- May be more difficult to delimit in the future as any increased value of the vehicle/business to the individual hackney proprietor now, may be reversed later.

## **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 law

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 carriage vehicle in similar circumstances.

#### **4.5 Consultees (Internal and External)**

4.5.1 Director Customers & Communities

Legal  
Town Centre Manager  
Highways Northamptonshire County Council  
Planning

#### **4.6 Other Implications**

4.6.1 None identified

### **5. Background Papers**

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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](http://www.offt.gov.uk/advice_and_resources/publications/reports/competition-policy/oft676)]

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