

<b>REPORT TO:</b>		Cabinet	
<b>DATE:</b>		09 February 2022	
<b>PORTFOLIO:</b>		Cllr Joyce Plummer - Resources	
<b>REPORT AUTHOR:</b>		Wendy Redfern – Licensing Manager	
<b>TITLE OF REPORT:</b>		Quantity Restrictions - Hackney carriage Vehicles.	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>Options</b>	Not applicable	
<b>KEY DECISION:</b>	<b>Options</b>	If yes, date of publication:	

## 1. **Purpose of Report**

- 1.1 To enable members to consider the findings of the recent consultation conducted by the licensing manager regarding the possible removal of limits on the numbers of hackney carriage licences issued in the Borough in favour of wheelchair accessible vehicles.

## 2. **Recommendations**

- 2.1 Cabinet are asked to consider the responses to the consultation and to consider what action to take in the light of the responses and the apparent current shortage of available licensed vehicles in Hyndburn.
- 2.2 Based on the responses received officers would recommend that the limit be removed in favour of wheelchair accessible vehicles.

## 3. **Reasons for Recommendations and Background**

- 3.1 As members will be aware, the Council currently has a policy of restricting the number of hackney carriage licences issued. The limit in Hyndburn is currently 59 and all plates are issued. However in maintaining such a policy the Council has to provide evidence that there is no significant unmet demand for hackney carriage services in the area in order to be in a position to refuse any new applications for additional licences.
- 3.2 The starting point for any local authority should be whether limiting the number of hackney carriage plates it issues can be justified at all and any policy to limit the numbers should be regularly reviewed.

- 3.3 The present legal provision on quantity restrictions outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi (hackney carriage) licence may be refused, for the purpose of limiting the numbers 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.'
- 3.4 Around three quarters of local licensing authorities do not impose quantity restrictions. The Department for Transport Best practice Guidance states that '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 travelling public - that is to say, the people who use taxi services. What benefits or disadvantages would result for the public if the controls were removed? Is there evidence that the removal of controls would result in deterioration in the amount or quality of taxi service provision?'
- 3.5 A 4 week consultation has just taken place in order to get a view from licence holders, taxi and private hire users, the police and any other stakeholders in order to enable members to make an informed decision about whether or not limits should be maintained.
- 3.6 The consultation was instigated after several complaints were received from members of the public who had struggled to book a taxi to take them home after a night out in the Borough. Elected members had also raised concerns about this, having received complaints from residents and there have been issues raised with the MP. The complainants were stating that the situation is so bad that they preferred to stay at home rather than risk being stranded and having to walk home late at night or in the early hours of the morning. This in itself poses a risk to members of the public and it is the duty of the Council first and foremost under the licensing regime to protect the public. Members of the 'Pub Watch' scheme in Accrington were also raising the issue regularly, there were comments made that members of staff had been taking customers home due to the shortage of taxis available. This in itself raises safety issues as this activity is completely unlicensed with no safety or background checks being carried out on either the drivers or the vehicles. The 'Pub Watch' members complained that the night time economy is suffering as a consequence of people choosing to stay at home due to the shortage of licensed vehicles.
- 3.7 There was a good response both from members of the trade and from members of the public and an analysis of the responses received on Survey Monkey is attached at appendix 1 to this report whilst the comments from members of the trade are attached at appendix 2.
- 3.8 There were 26 responses from the private hire and hackney carriage trade and they were quite predictable with most hackney carriage proprietors wanting to maintain the current policy of restricting numbers and most private hire owners wanting the

restrictions removed. Of the 26 responses received 14 were against the removal of restrictions and the remainder were in favour. Some of the responses in favour of removal of the restriction thought that the limits should be removed with no requirement to licence wheelchair accessible vehicle, however this seems to be based purely on cost and not customer requirement.

- 3.9 A lot of the hackney carriage proprietors see the problem of lack of vehicles being a private hire issue as many of the private hire drivers have chosen to deliver food for Uber Eats rather than work late at night carrying people home from licensed premises. However the Council cannot control that situation. We must look at whether there is demand for licensed vehicles or not and work with what we have to try and alleviate that problem.
- 3.10 Hackney proprietors who responded also pointed out that there would not be enough rank space for all of the vehicles to park if we issued additional plates. However a rank is not meant to be a parking space. Not all of the licensed vehicles would be working at the same time and those that are working should be mostly on the road driving people home with the occasional stop at a rank to pick customers up. A busy night time rank should be constantly moving. Further, hackney carriage vehicles can be flagged down on the street and in most towns hackney carriages would drive around popular and busy areas in order to get flagged down. The situation relating to ranks would be monitored with the possibility of looking at further rank spaces if required in the future, or positioning 'flagging points' at popular locations. A flagging point is an area probably just marked with a post where customers are advised to go to if they need to flag a taxi down and taxi drivers are advised to regularly drive past that area.
- 3.11 The lack of availability of private hire vehicles is compounded by the low fares set by the private hire companies in the Borough which means that the drivers are struggling to make a living driving private hire vehicles, this is also the major cause of the migration of drivers to Uber to deliver food. Members should be aware that the Council have no control over the level of fares set and charged by private hire companies. However we do set the fares for hackney carriage vehicles. If there were more hackney carriage vehicles licensed it could have the knock on effect of drivers being able to charge a reasonable fare, as set by the Council, and being able to make a reasonable living.
- 3.12 It is understandable that some hackney proprietors will feel concerned about this proposal as their current plates demand a retail cost when sold on due to the restricted numbers, however this only proves that there are people wanting to get into the trade who are restricted from doing so by the current policy. There would be somewhat of a safeguard for current proprietors however if any new licences are only issued to either purpose built wheelchair accessible vehicles or professionally modified vehicles with full certification, as it is proposed that the existing proprietors would maintain grandfather rights and still be permitted to licence saloon cars etc.

- 3.13 In any case when making their decision members should be mindful of the DFT Guidance set out in paragraph 3.3 above which clearly states that the issue should be considered in terms of the travelling public.
- 3.14 The consultation response from the police clearly sets out a need for more licensed vehicles late at night and refers to possible crime and disorder and public safety issues due to the current shortage. A copy of the police response is attached at appendix 3 to this report.
- 3.15 Of course members should be mindful that issuing more hackney carriage plates may not necessarily resolve the problem particularly late at night as the Council cannot dictate the hours that a licence can be used. However if fares set by the Council can be charged, and they are set at a higher rate late at night, this should encourage drivers to work later. The current fare table allows for drivers to charge slightly more between midnight and 6am. The fares haven't been reviewed for quite a number of years and this is possibly because the private hire fares are keeping the hackney carriage fares low.
- 3.16 If members take the view following the consultation that a quantity restriction can be justified, there remains the question of the level at which it should be set.
- 3.17 For this purpose it would be necessary to commission an independent survey to assess the level of demand for hackney carriage services, and such survey should be carried out by an organisation specialising in that area. The cost of any survey should be covered by the hackney carriage trade as they are the ones that benefit from any quantity restriction policy.

#### **4.0 Conclusion**

- 4.1 The consultation has clearly set out that there is significant unmet demand for hackney carriages in Hyndburn with 66.63 % of people responding on the Survey Monkey questionnaire stating that they have given up waiting on ranks and 56.45% stating that they had given up trying to hail a cab in the street due to the lack of availability and had to look for alternative ways of getting home. The concern is that this could sometimes mean walking home late at night, getting a lift in a unlicensed vehicle with an unlicensed driver or even risking driving themselves after having a drink.
- 4.2 When asked what would encourage someone to use a taxi more often 55.78% said more hackneys they could phone for and 43.89% said more hackneys that I could hail on the street or get at a rank. When asked if there are enough hackney carriage vehicles in Hyndburn 78.9% of those responding on Survey Monkey said no.
- 4.3 Of the responses to the question about requiring a wheelchair accessible vehicle 12.9% said they knew someone that needed to use one and 2.58% said they needed to use one themselves.

- 4.4 Taking into account the outcome of the consultation, officers recommend that the Council remove the restrictions on the numbers of hackney carriage licences that we issue.
- 4.5 Further officers recommend that any new licences should only be issued to purpose built or professionally modified wheelchair accessible vehicle and that current proprietors of hackney carriage vehicles should maintain their grandfather rights.
- 4.6 Members may wish to remove the limits on hackney carriage vehicle licences issued completely for any type of vehicle, however there is a requirement for wheelchair accessible vehicles in the Borough.
- 4.7 Members could choose to maintain the limits on hackney carriage vehicle licences and instruct the licensing manager to commission an Unmet Demand Survey. If this option is taken members should determine how the survey should be paid for.
- 4.8 When making the decision members should consider the issue from the travelling public's point of view and consider what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that the removal of controls would result in deterioration in the amount or quality of taxi service provision?
- 4.9 If members are minded to remove the restrictions on numbers in favour of wheelchair accessible vehicles officers recommend that the policy wording be amended to reflect this change as set out at appendix 4 to this report.

## **5. Alternative Options considered and Reasons for Rejection**

- 5.1 The Council could have taken the option to do nothing however it is clear from the complaints received and the consultation responses, that there is a real problem in Hyndburn that the Council need to deal with. Further, in the event of a challenge to a decision to refuse a licence, we would have to prove that we had reasonably, been satisfied that there was no significant unmet demand.

## **6. Consultations**

- 6.1 A consultation was carried out with members of the private hire and hackney carriage trade as well as the police, members of the travelling public and other stakeholders.

7. **Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None
<b>Legal and human rights implications</b>	<p>Failure to give proper regard to the consultation responses and the provisions of the Transport Act 1985 could lead to a legal challenge.</p> <p>Failure to issue any further licences without establishing that there is no significant unmet demand could also lead to legal challenge.</p>
<b>Assessment of risk</b>	<p>Failure to give proper regard to the consultation responses could lead to a legal challenge.</p> <p>Failure to provide a comprehensive transport infrastructure to service the night time economy could lead to a risk to public safety and crime and disorder on the streets late at night. It could also risk a decline in the night time economy in the Borough.</p>

<p><b>Equality and diversity implications</b>  <i>A <u>Customer First Analysis</u> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"> <li>• eliminate unlawful discrimination, harassment and victimisation; and</li> <li>• advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and</li> <li>• foster good relations between those who share a relevant protected characteristic and those who don't.</li> </ul> <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. To assist the Cabinet in this regard a Customer First Analysis has been carried out as part of the review process and is attached as Appendix 5 to this report. Cabinet is advised to consider the Customer First Analysis and its obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p>
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**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

- Survey Monkey Analysis - Appendix 1
- Survey email responses - Appendix 2
- Police response - Appendix 3
- Suggested amended policy wording - Appendix 4
- Customer First Analysis- Appendix 5

