

# **REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS**

## **LICENSING & REGULATORY COMMITTEE 28 SEPTEMBER 2020**

### **THE UNDERTAKING OF A SURVEY TO REVIEW THE CURRENT POLICY IN RELATION TO QUANTITY CONTROL OF HACKNEY CARRIAGE VEHICLES THAT ARE LICENSED WITHIN THE CITY OF SUNDERLAND**

#### **1.0 PURPOSE OF THE REPORT**

- 1.1** To request the Committee to approve the undertaking of a survey on behalf of the Council by a third party, (an independent consultant), within the City of Sunderland concerning hackney carriage vehicles that is designed to test for unmet demand and to determine if this is significant, or not in terms of Section 16 of the Transport Act 1985, when deemed to be appropriate by the Principal Licensing Officer. The third party will be selected via a procurement exercise.
- 1.2** Once the intended survey has been undertaken and the resultant report has been produced the Committee will then be asked to consider the gathered evidence to determine its views on the continuation, or otherwise of the policy of limiting the numbers of hackney carriage vehicles that are licensed within the City of Sunderland.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1** The Committee is recommended to:-
  - (a) Approve the undertaking of the intended survey, when deemed to be appropriate by the Principal Licensing Officer, to test for unmet demand for hackney carriage vehicles and to determine if this is significant, or not in terms of Section 16 of the Transport Act 1985; and
  - (b) Once the resultant report has been produced to consider the gathered evidence to determine its views on the continuation, or otherwise of the policy of limiting the numbers of hackney carriage vehicles that are licensed within the City of Sunderland.

#### **3.0 INTRODUCTION / BACKGROUND**

- 3.1** The Council has a policy of limiting the number of licensed hackney carriage vehicles that are licensed to operate within the City. By virtue of Section 16 of the Transport Act 1985 local authorities may refuse an application for a hackney carriage vehicle licence in order to limit the number of hackney carriages that are licensed if, but only if, they are satisfied there is no significant unmet demand for hackney carriage services in their respective area. If a decision is to taken refuse an application for a licence for a hackney carriage vehicle then this could result in the applicant presenting an Appeal to the Magistrates' Court. Section 16 does not apply to private hire vehicles, meaning that their number cannot be restricted in the same way.
- 3.2** In order to determine demand and whether a policy restricting the number of licensed hackney carriage vehicles is required local authorities utilise the services of

independent consultants to undertake surveys of demand. As to Sunderland, the last survey was undertaken in the City in 2017.

**3.3** Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance advises that those local authorities that restrict hackney carriage vehicle numbers to review such restriction by undertaking a survey every three years, hence the reason why approval for a new survey is being sought now.

**3.4** The following extracts from the Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance and the section relating to "Quantity Restrictions of Taxi Licences Outside London" are relevant and are highlighted for the benefit of the Committee:-

- (a) *"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'";*
- (b) *"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": this is done via the undertaking of demand surveys which would be relied upon in the event of any challenge before the Courts;*
- (c) *"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 a deterioration in the amount or quality of taxi service provision?";*
- (d) *"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"; and*
- (e) *"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".*

- 3.5** It is anticipated that the intended survey will include the following matters, namely:-
- i. The length of time that would-be customers have to wait at ranks;
  - ii. Waiting times for street hailings and for telephone bookings;
  - iii. Latent demand, such as people who have responded to long waiting times by deciding against trying to travel by hackney carriage. This can be assessed via surveys;
  - iv. Peaked demand. Peaks in demand are the most popular times for consumers to use hackney carriages. The issue of when peaks occur and who is being disadvantaged through restrictions on provision of taxi services can be important; and
  - v. Consultation. In addition to statistical surveys, assessment of quantity restrictions should include consultations with relevant stakeholders, including user groups, (including groups representing disabled persons), the Police, hoteliers, operators of pubs and clubs and visitor attractions, plus providers of other transport modes, such as train operators who want hackney carriage vehicles to be available to take their passengers to and from stations.
- 3.6** The evidence gathered in the survey will be published in a report. The report will include an explanation of what conclusions have been drawn from the survey and why. In the event that quantity restrictions are proposed under the report to be continued, then the benefits to consumers and the reasons for the particular level at which the number is set should be explained in the report.
- 3.7** In terms of the financing of the intended survey, it is not good practice for surveys to be directly paid for by the local trade. Instead, this should be done through general revenues from licence fees. If this approach is not adopted this could call into question the impartiality and objectivity of the survey process and the possible outcomes. The practice followed with previous unmet demand surveys has been that the costs incurred by the Council have been recovered through the Hackney Carriage Vehicle Licence fees. Accordingly, it is intended that the same approach be taken in dealing with the costs associated with the next survey, in that all licensed hackney carriage proprietors will be required to equally share such costs through a 'one-off' increase in the next annual licence fee.
- 3.8** Given the current Covid-19 pandemic and the ongoing restrictions that are affecting the normal operation of services provided by hackney carriage operators within the City the timing of the assessment will be critical to gain an accurate picture of the 'normal' state of affairs. It is for this reason that permission is being sought for the intended survey to be undertaken at a time deemed appropriate by the Principal Licensing Officer. It is hoped that the survey will be undertaken sooner, rather than later. To avoid any inaccuracies on the assessment it is important to ensure that the survey reflects a true picture of the demand for hackney carriage vehicles, in addition to accurate views of relevant stakeholders.

## **4.0 CURRENT POSITION**

- 4.1** The number of hackney carriage vehicles licensed by the Council is limited to 349, with this being split as follows:-

(a) 284 licences in the Sunderland Zone; and

(b) 65 licences in the Hetton, Houghton and Washington Zone.

The 349 number reflects the recommendations of the consultant who undertook the last survey in 2017. However, there are presently three licences awaiting allocation in the Hetton, Houghton and Washington Zone.

## **5.0 REASONS FOR THE DECISION**

**5.1** To enable the Council to follow advice issued by the Government in relation to the restricting of the number of hackney carriage vehicles within the City of Sunderland, if deemed to be appropriate.

## **6.0 ALTERNATIVE OPTIONS**

**6.1** None submitted.

## **7.0 RELEVANT CONSIDERATIONS**

**7.1** None submitted.

## **8.0 GLOSSARY**

**8.1** No acronyms, or abbreviations have been used in this report.

## **9.0 APPENDICIES**

**9.1** None.

## **10.0 BACKGROUND PAPERS**

**10.1** Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance - dated March, 2010.

**10.2** Hackney Carriage Unmet Demand Survey report dated August 2017

