

LICENSING AND SAFETY COMMITTEE
5 February 2009

**REQUEST FROM BRACKNELL LICENSED TAXI FORUM FOR
BRACKNELL FOREST TO INTRODUCE A LIMITING POLICY ON
HACKNEY CARRIAGE LICENCES**
(Chief Officer: Environment and Public Protection)

1 PURPOSE OF DECISION

- 1.1 This report will update the Committee with respect to the Council's response to the Hackney Carriage trade request for a limit to be set on the number of Hackney Carriage Licences issued.
- 1.2 Members were informed at the meeting on 2 October 2008 that a prerequisite of the introduction of a limiting policy was an unmet demand survey that provides evidence to support a limiting policy. It was agreed that officers would bring a progress report on the discussions with the trade and companies interested in conducting the unmet demand survey.
- 1.3 This report also highlights the present legal basis required for the restriction of Hackney Carriage Licences within Bracknell Forest.

2 RECOMMENDATIONS

- 2.1 **That the Committee agrees that subject to the verbal update on the evening:**

Officers bring to the Committee meeting on 23 April 2009 a report on the options for an unmet demand survey. The report to include an evaluation of the proposals by interested companies, the legal implications of such an action, and proposals for financing a survey.

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The legal implications are contained within the report.

Borough Treasurer

- 3.2 Financial implications arising from a survey will be addressed within a subsequent report.

Equalities Impact Assessment

- 3.3 The introduction of a Limiting Policy would have an impact for those residents seeking entry into the Hackney Carriage Trade, in that they may have to pay an existing licence holder to transfer a licence to them.

Strategic Risk Management Issue

- 3.4 A person who is refused a hackney Carriage licence due to a Limiting Policy has a right of appeal to the Courts to challenge the legal status of that policy.

4 SUPPORTING INFORMATION

- 4.1 Five companies known to have the relevant expertise and knowledge to carry out a survey were contacted. Three agreed to meet with officers and members of the trade to discuss possible options. These meetings took place on 27 January and Members will receive a verbal update on those discussions at the meeting on 5 February.

- 4.2 The legal basis for quantity restrictions on taxi numbers outside of London lies within 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 which is unmet.

- 4.3 This was the position until 2003 when the Office of Fair Trading published its report which recommended, amongst other things, that Local Authorities which had limiting policies for taxi licences should lift those restrictions. The Office of Fair Trading identified that the lifting of such restrictions would provide a number of benefits to consumers, including reduced waiting times.

- 4.4 Whilst the Government did not remove the power of Local Authorities to restrict numbers it did agree that consumers should enjoy the benefits of competition in the taxi market and considered that restriction is detrimental to those seeking entry to the taxi trade. The Department of Transport in a letter to all Chief Executives in 2004 stated:

“The Government is therefore strongly encouraging all those local authorities who still maintain quantity restrictions to remove restrictions as soon as possible. Restrictions should only be retained if there is a strong justification that removal of the restrictions would lead to significant consumer detriment as a result of local conditions.”

- 4.5 The Government decided that rather than move to a legislative solution it would leave it to Local Authority determination based on local need. The Government does however require all Local Authorities to review their policy every three years and make their conclusions available to the public. This is to ensure that decisions on restrictions are based upon strong up-to-date evidence of benefits to consumers locally for their retention and that the decision making process is both transparent and consultative. If restrictions are not shown to be delivering clear benefits to consumers, it is the view of the Government that local authorities should remove them.

- 4.6 In October 2006 the Department of Transport issued Best Practice Guidance for Local Authorities in the field of Taxi and Private Hire Vehicle Licensing. This included quantity restrictions on Taxi Licences outside of London. Attached to the report as Annex 1 is a copy of the relevant Guidance. This guidance reflects much of the information contained in the 2004 letter and I would draw Members' attention to the following.

31. Most local authorities do not impose quantity restrictions: The Department regard that as best practice – It is suggested that the matter should be approached in terms of the interests of the travelling public.

32. 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.
34. 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.

- 4.7 In 2007 the Office of Fair Trading Commissioned a report into the impacts in the taxi sector since the original 2003 report which had resulted in the above guidance being issued by the Department of Transport. The report found that since 2003 one third of local authorities (48) that had limiting policies in place have removed them. A number of benefits for consumers outlined in 2003 have been realised in those local authorities including reduced waiting times and increased journeys by taxis. The report estimated that annual consumer benefits in the street and rank hiring segment ranged from £2-5million within those 48 authorities.
- 4.8 The Department of Transport has considered the 2007 Office of Fair Trading report and has decided at this time not to change its present position on limiting policies, which are referred to earlier in this report.
- 4.9 Best Practice Guidance and comments issued by the Department of Transport can be summarised as follows:
 - Best practice for a Local Authority is not to restrict numbers.
 - Consumers should enjoy the benefits of competition in the taxi market.
 - A restriction policy is detrimental to those seeking entry to a market.
 - Those Authorities who have policies are strongly encouraged to remove restrictions as soon as possible.
 - Restrictions should only remain if there is a strong justification that removal would lead to significant consumer detriment as a result of local conditions.
- 4.10 Officers are not aware of any Local Authority that has introduced a limiting policy since the Office of Fair Trading report in 2003. In fact as stated earlier 48 authorities had removed those policies by 2007. A survey by the Department of Transport of Local Authorities in 2008 is due to be released shortly and will update the position since the 2007 Office of Fair Trading report.
- 4.11 If the Council is to introduce a limiting policy, it must carry out an unmet demand survey which must address the guidance from Government and clearly demonstrate that the policy would deliver benefits for consumers, and restriction to those wishing to enter the trade is justified.
- 4.12 The meetings on 27 January with the possible suppliers of a survey will have a focus upon how they would seek to satisfy the “consumer benefit” requirement and comments will be fed back to Members at the meeting.
- 4.13 The information gained from the meeting will influence future thinking on the viability of conducting an unmet survey and the introduction of a limiting policy. It is essential that officers have the opportunity to discuss the outcomes with the Taxi trade so that all alternatives can be considered and clear conclusions drawn. The recommendation therefore seeks to provide sufficient time for this process to take place before members are asked to decide on this matter.

4.14 Attached to this report are the following documents received from the Bracknell Licensed Taxi Forum on Monday 26 January 2009:

- i) Letter dated 21 January 2009 from John Yexley and Andrew Watson (Annex 2).
- ii) Letter dated 21 January 2009 from Mick Hildreth, branch secretary of GMB Professional Drivers branch (Annex 3).
- iii) Response from City of Oxford Licensed Taxicab Association (Annex 4).

This correspondence addresses some of the issues raised within the report and puts forward a case for an unmet demand survey and the introduction of a limiting policy.

Background Papers

1. The Regulation of Licensed Taxi and PHV Services in the UK – Office of Fair Trading, November 2003.
2. Government response to Office of Fair Trading Response – Department of Transport, June 2004.
3. Taxi and Private Vehicle Licensing – Best Practice Guidance - Department of Transport October 2006.
4. Evaluating the Impact of the Taxis Market Study – OFT, October 2007

Contact for further information

Robert Sexton, Head of Trading Standards and Licensing - 01344 352580

robert.sexton@bracknell-forest.gov.uk

Doc ref

G:\Secs1\WinwordML&S Cttee\2009\Feb\Request from Bracknell Licensed Taxi Forum for Bracknell Forest to introduce a Limiting Policy on Hackney Carriage Licences\26.1.09(3)