

<b>Title of Report:</b>	<b>Hackney Carriage Licensing</b>	<b>Item 4</b>
<b>Report to be considered by:</b>	Licensing	
<b>Date of Meeting:</b>	8 September 2009	
<b>Forward Plan Ref:</b>	N/A	

**Purpose of Report:** To consider the request from the Taxi Association and others to limit the number of taxis operating in West Berkshire.  
To consider a request from the Taxi Association to abolish the two Taxi operating zones.

**Recommended Action:** To consider the report and options provided  
To abolish the taxi zones.

**Reason for decision to be taken:** A request from the trade.

**Other options considered:** None

**Key background documentation:** DfT consultations and guidance

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO<sub>2</sub> emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**

<input type="checkbox"/>	<b>CPT14 - Effective People</b>
<input type="checkbox"/>	<b>CPT15 - Putting Customers First</b>
<input type="checkbox"/>	<b>CPT16 - Excellent Performance Management</b>
<p>The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:                  Considering requests from the trade.</p>	

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
<b>E-mail Address:</b>	hcole@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	-

Contact Officer Details	
<b>Name:</b>	Brian Leahy
<b>Job Title:</b>	Senior Licensing Officer
<b>Tel. No.:</b>	01635 519209
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**Implications**

- Policy:** Although the Council has an existing policy for the issuing of taxi vehicle licences and conditions of vehicle suitability these are revisited from time to time as legislation or social changes occur.
- Financial:** There will be financial implications if a survey is carried out. As quoted the Council can retrieve any costs of a survey from the trade through an increase of licence fees. Some slight savings in stationery costs.
- Personnel:** None
- Legal/Procurement:** The Council has a duty to licence hackney carriage vehicles.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** None  
 For advice please contact Principal Policy Officer (Equalities) on Ext. 2441.

<b>Is this item subject to call-in?</b>	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

## Executive Report

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### 1. Introduction

- 1.1 West Berkshire Council is the licensing authority for the purpose of hackney carriage licensing under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 The Council may limit the number of taxi vehicle licences they issue, by refusal, but only where they are satisfied that there is no significant demand for taxi services (Transport Act 1985) which is unmet. If the Authority cannot demonstrate there is no unmet demand, the licences must be granted assuming that all of the Council's conditions are met.

### 2. Background

- 2.1 At a meeting of the Public Protection Committee on 6<sup>th</sup> June 2000, Members agreed, in principle, to lift the restriction on the numbers of taxis which were allowed to trade in the District and allow a number of new licences to be issued. This followed the commissioning of a Study of Hackney Carriage Services by independent consultants MLC in February 2000. This survey found that there was some unmet demand for taxis in one of the two zones of the Council's area.
- 2.2 The scheme was intended to increase the numbers of taxis over 3 years with limits being removed altogether on 1st April 2004 (Delimitation of numbers). The final consultant's report was published in May 2000.
- 2.3 Since 2004 the Council has issued taxi licences to anyone applying so long as the vehicle meets the legal requirements and conditions imposed by the appropriate committee, at the time.
- 2.4 It is important to note that prior to the introduction of the changes in limiting numbers the, then District of Newbury, was split into two licensing zones for the purposes of taxi licensing. These zones were known locally as the Town Zone and the District Zone. There were originally 65 licensed taxis in the "Town Zone" and 129 in the "District Zone".
- 2.5 Byelaws were introduced by the Council made under Section 68 of the Town Police Clauses Act 1847 and Section 171 of the Public Health Act 1875 for the Area of the Former Borough of Newbury (Town) and the Whole of the Council's Area except the Area of the former Borough of Newbury (District) on the 16<sup>th</sup> November 1992.
- 2.6 In effect this meant that only the Town licences could operate in an area which covered Newbury Town Centre, which includes most of the District's ranks. District Licence holders could operate throughout the area of West Berkshire with the exception of an area which extended 3 miles from the Newbury Central Post Office.
- 2.7 In order to facilitate the lifting of the restriction on issuing licences (Deregulation: see para 2.1/2.2) the Council decided to suspend the Zones thus allowing all licensed taxis to operate anywhere in the District.

2.8 The Zone suspension has remained in place to the present day. In order to legalise the situation 2 paper licences have been issued to each licensed vehicle, one for the area of the former Borough of Newbury and one for the whole of the Council's area except the area of the former Borough of Newbury. Vehicle licence plates have been deemed to be dual plates. Hackney Carriage drivers have also received two paper licences but only one badge.

### **3. Current Situation**

3.1 Requests have been received from the West Berkshire Hackney Carriage & Private Hire Operators Association, Daniel Griffiths, the proprietor of Bluebird Cars and, CABCO for the Council to consider ways in which new vehicle licences can either be refused (capped), or restricted, by imposing conditions for new and renewed licences. The reason given for "capping" is that in the current economic downturn there is not enough taxi work for the number of vehicles currently licensed and any increase in numbers would further exacerbate the financial problems being experienced by the trade.

3.2 A letter has also been received from the proprietor of Dolphin Cars, Mr Matt Castle, who suggests that capping would be a retrograde step as, in his opinion, demand is not met in Newbury Town Centre or the rest of the district.

3.3 Letters from the above are shown as Appendix A, B, C, and D however, in brief, the proposals Members are asked to consider are:

- (1) To consider restricting the further supply of hackney carriages for a period of three years or to consider placing a moratorium on issuing new licences for a lesser period of time to allow the trade to recover from the recession.
- (2) 1<sup>st</sup> time applicants for hackney carriage licences to provide a brand new wheelchair vehicle conforming with the Department of Transport M1 specifications. It should be a condition of the licence that the vehicle be replaced at 5 years old, again with a new vehicle.
- (3) Existing hackney carriages should be retired on reaching 8 years of age or 250,000 miles.
- (4) When replacing vehicles, existing hackney carriage plate holders should provide a vehicle no older than 5 years from when first registered and carry a maximum of 100,000 miles.
- (5) To abolish the two taxi zones.
- (6) To leave the situation as it currently stands.

3.3 Before considering any of the trade's proposals Members should be aware of the extremely complicated issues which affect any decisions. To this end this report is split into 3 sections, these are;

- Delimitation (Capping) – history and legal implications
- De-zoning – history and legal implications
- Disabled Access to Taxis - history

#### 4. Delimitation of Numbers (Capping)

- 4.1 Until the introduction of the Transport Act 1985, local authorities had an unrestricted discretion to limit the number of hackney carriages which they would licence. Section 16 of the Act removed that discretion by amending the wording of section 37 of the 1847 Act. Section 16 stated:

**“Taxi Licensing: control of numbers**

16. The provisions of the Town Police Clauses Act 1847 with respect to hackney carriages, as incorporated in any enactment (whenever passed), shall have effect –

- a) as if in section 37, the words “such numbers of” and “as they think fit” were omitted; and
- b) as if they provided that 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 unmet demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.”
- 4.2 As a result of this, the local authority can only refuse to grant a hackney carriage proprietor’s licence if they are satisfied that there is no significant unmet demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet. This has led to two distinct situations: those authorities which do limit the number of hackney carriages and those which do not.
- 4.3 West Berkshire District Council are in the category of not limiting the numbers of licences issued by virtue of the decision taken by committee which took effect in April 2004.
- 4.4 Some of the current requests from the trade would seek to change this position.
- 4.5 If members were to consider re-introducing a cap how would they have to approach this legally?
- 4.6 They would have to prove that there is or is not significant unmet demand in the Council’s area, by survey. As the area is now the whole of West Berkshire the survey must address demand throughout, not just in Newbury Town Centre, which is where the trade suggest that there are too many taxis currently allowed to operate.
- 4.7 Any survey should be impartial and it is suggested that a survey carried out by the Council’s licensing officers is likely to be seen as partial and, therefore, unlikely to be capable of being relied on in any appeal against refusal to grant a hackney carriage proprietor’s licence. Notwithstanding that officers could undertake an impartial study, the time and resource required to undertake such a survey would be disproportionate to the normal activities of council staff.
- 4.8 Most authorities employ the services of totally impartial bodies to carry out a survey, report back on the current demand and offer suggestions for any change, if

necessary. These surveys are not inexpensive and initial enquiries as to cost are between £8000 and £14000.

- 4.9 Section 70(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows the recovery of:

“any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles”.

Note: “foregoing” refers to the charging of fees for vehicle licences.

- 4.10 This is an approach which could prove unpopular with the hackney carriage trade as it will increase their fees, but as the maintenance of a limit on numbers is arguably in the interests of existing licence holders this may be considered reasonable by Members.
- 4.11 The alternative to cross charging the cost of a survey to the trade is for the Council to absorb the cost. There is no provision within the licensing budget for such a sum at this time.
- 4.12 If Members were minded to approve a survey with the trade being cross charged, officers cannot see a fair and impartial way of addressing the proportionate payment per existing licence holder. It must be assumed that as all 194 licence holders are licensed to trade within Newbury Town Centre, all must pay. However there are an unknown number of licence holders who ply for hire predominantly in other parts of the district and would not wish to pay for a survey which could have no effect on the way in which they conduct their business.
- 4.13 A further issue would be that the survey would have to be paid for upon completion. As the customer would be the Council, it follows that the bill would have to be met by the Council and cross charging the trade made through either an increase in fees in year one, to cover the whole cost (approx £46 - £80), or a fee increase over an agreed payback period which is longer than one year. The downside to the latter is that individuals who relinquished their licences would not legally be obliged to repay the remaining amount.
- 4.14 A further alternative would be for the taxi association to commission the survey at their own cost.
- 4.15 Obviously the outcome of any survey cannot be predetermined, however given that the survey would be for the whole of the district, officers cannot see how, if the survey determined over capacity in Newbury Town Centre, licences could be re-allocated to restrict vehicles using the town centre.

## **5. Zones**

- 5.1 As explained in paras 2.4 to 2.7 there is currently a suspension on zones in West Berkshire. However, there are legally two.
- 5.2 The Taxi Association has suggested in their letter to the Chairman (Appendix A) that it may now be prudent to abolish the zones altogether.

- 5.3 This can be achieved by the Council passing an extension resolution under the Local Government Act 1972, Sch 14, Pt 11, para 25, abolishing the zones and applying hackney carriage licensing throughout the area. As of 30 October 2008, Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008 allows for the Council to proceed with the abolition of zones without having to have the approval of the Secretary of State.
- 5.4 By abolishing the zones the Byelaws (para 2.5) would become obsolete.
- 5.5 Officers are taking legal advice as to whether Byelaws would need to be re-introduced for the whole of the District or if the current Byelaws could be absorbed as conditions to the licence. (verbal update to be given at meeting)

## **6. Disabled Access to Taxis**

- 6.1 The Council's Planning and Licensing Committee determined in July 2000:
- to require all newly licensed taxis to become adapted for disabled people by 2003. It was decided that any taxis first licensed by the Council before 1<sup>st</sup> April 2001 would not be required to adapt. All taxis licensed on or after this date would in the absence of national legislation, have the requirement to provide some form of adaptation for the disabled. Therefore, anyone applying to have a licence transferred into their name would be required to provide a disabled friendly vehicle from 1<sup>st</sup> April 2003. This applied to any licence whether it was existing prior to 1<sup>st</sup> April 2001 or new applications. Older taxis, that is, those first licensed before April 2001, were to be exempted. There was some dissent from the taxi association and it was therefore decided to change the date of implementation to 31<sup>st</sup> August 2003 to allow for further consultation. The new condition became operational on 31<sup>st</sup> August 2003. Many taxi drivers complied with this condition. A minority of proprietors did not comply before the deadline and appealed the condition.
- 6.2 On 17<sup>th</sup> February 2004 following a two day hearing, District Judge English sitting at West Berkshire Magistrates' Court in Newbury allowed the appeal of Jack Socker and others against the decision of the Council to impose the condition on his hackney carriage proprietors licence on the 1<sup>st</sup> April 2003 (deferred to 31<sup>st</sup> August 2003), in accordance with section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976.
- 6.3 The condition appealed was one which required the licence holder to provide a vehicle which was disabled accessible by 1<sup>st</sup> April 2003. The form of disabled access could take either one of two forms, a swivel seat which swivels to the left and is capable of being locked in this position, enabling a person to be seated and is then capable of being returned to its original travelling position, carrying the weight of a passenger. This type of seat must be of a design and construction which is approved by the vehicles manufacturers and must be capable of being locked facing forward once the passenger is seated in the travelling position or a vehicle which is capable of taking a person in a wheelchair, accommodating the person in the wheelchair in comfort and safety. Access can be by tail or side lift or by means of a ramp.

- 6.4 District Judge English allowed the appeal on the grounds that “the operation of the swivel seats leaves a lot to be desired and did very little in achieving easy access to the vehicles and would be greatly detrimental to the comfort of passengers being carried in it”. He did however state that “the Council’s aims are laudable and is to be applauded for their wish to see that proper provision is being made for the disabled taxi user in advance of statutory regulations and would very much like to find in favour of it but in view of the current lack of proper development of the swivel seat technology I cannot”.
- 6.5. The Council served notice of appeal to the Chief Clerk of the Crown Court at Reading on 8<sup>th</sup> March 2004. This appeal was later withdrawn.
- 6.6. The Licensing Committee met in September 2004 and resolved to suspend issuing further new taxi licences or those pending. This provided a further opportunity for officers and members to consult with the trade and interested parties. This consultation exercise was carried out and a report presented to the Committee.
- 6.7 The Committee met again in December 2004 and resolved to continue the moratorium on issuing new licences until 31<sup>st</sup> March 2005. They also resolved that no taxi proprietor may enter into arrangements with another person to share an interest in a taxi plate/licence in circumstances intended to avoid any condition providing facilities for the disabled. A task group of members was established to further explore the question of access to taxis by the elderly, infirm and disabled. The Task Group would report back to the committee at its next meeting in March 2005.
- 6.8 At the 14<sup>th</sup> March 2005 meeting it was resolved that the following would apply:
- (1) a mixed fleet of vehicles be maintained in service;
  - (2) those taxis licensed before April 2001, the group presently not subject to conditions requiring disabled access, should continue to be free from conditions relating to disabled access, subject to any national legislation which might be introduced at a later date;
  - (3) applicants who were granted licences subject to disabled access conditions and who met those conditions by providing either wheelchair access or a swivel seat, should remain subject to those conditions;
  - (4) all taxis first licensed from 15<sup>th</sup> March 2005 should be granted on the condition that vehicles provide full wheelchair access;
  - (5) unadapted taxis (that is taxis first licensed after April 2005 which were not equipped with either a swivel seat or that could provide full access to wheelchairs) should provide full wheelchair accessibility from either the next change of vehicle or 1<sup>st</sup> October 2006, whichever was the sooner.
- 6.9 These revised conditions now replaced all conditions previously applying to all licences.
- 6.10 At a further Licensing Committee meeting held on the 26 April 2005 the Committee resolved that: the following conditions be attached to all hackney carriage licences:



- (a) If a taxi proprietor transfers in whole or in part his interest in a hackney carriage proprietor's licence, that transfer shall, subject to the family exemption, be treated as a grant of a new licence for the purpose of the applicability of the disabled access condition. Therefore, the disabled access condition requiring the provision of a fully wheelchair accessible vehicle will be applied to that licence with immediate effect from the date that the licence is transferred.

#### The Family Exemption

- (b) Any transfer by a hackney carriage proprietor of an interest in his licence, in whole or in part, which is limited to a transfer of such interest to a member of the proprietor's immediate family as defined below, shall not be affected by the disabled access condition to any greater extent than the licence would have been affected had the transfer not occurred. Therefore, upon a transfer to a family member of an interest in a hackney carriage proprietor's licence, the relevant disabled access condition applicable to that licence immediately before the transfer was effected will remain in force.

- (c) For these purposes, "immediate family" shall mean the:

- Mother or Father
- Spouse or partner
- Children
- Brothers or Sisters
- Step-Mother or Step-Father
- Step-Children
- Step-Brothers or Step-Sisters

of the hackney carriage proprietor, but shall not extend to any additional family member.

- (d) Where it is claimed upon the transfer of an interest in a hackney carriage proprietor's licence that the family exemption applies, it shall in every case be for the proprietor of the licence to prove that a family relationship exists within the above definitions. The standard vehicle conditions were amended to reflect this decision.

6.11 Officers appreciate that this subject has been placed before committee on a number of occasions however the recent requests from the trade could have ramifications on future decisions regarding the regulation of taxi numbers should disabled access be a primary consideration.

6.12 At a recent meeting between officers and the trade association, the trade asked if the "Family Exemption" could be abolished thus allowing the change of ownership of taxis to be passed to anyone and not just immediate family. The case cited was one where a long standing employee of a taxi proprietor could acquire a taxi from his employer which was not required to become wheelchair accessible and retain protection from so becoming albeit he was not an immediate family member.

- 6.13 Members can see from sections 6.1 to 6.10 of this report why the disabled access condition and the family exemption were introduced and thus far these conditions have succeeded in increasing the numbers of disabled accessible taxis to 95 in a taxi fleet of 196 vehicles currently licensed. This total number is almost equal to the number of taxis licensed when limits were lifted in 2004. (194)
- 6.14 The Department for Transport has carried out a consultation exercise in relation to "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance which is due for initial publication in late 2009. This document will offer guidance to licensing authorities on all aspects of vehicle licensing best practice and will address accessibility.
- 6.15 In addition a further DfT consultation on improving access to taxis has now ended and results are awaited. This document sought comments on 3 options;
- Do nothing approach - leaving local councils to determine their own policy
  - Using a proactive programme of DfT led initiatives
  - By regulation
- 6.16 The DfT have also commissioned a further paper entitled "Travel Behaviour, Experiences and Aspirations of Disabled People".
- 6.17 All of these documents are available via the DfT website at [www.dft.gov.uk](http://www.dft.gov.uk) and in officers opinion the outcomes will be crucial to determining the Council's future position with regard to taxi accessibility.

## **7. Conclusions**

- 7.1 This report, as previously mentioned, considers three separate issues with regard to taxi licences but officers felt it appropriate to include each in the one report due to the interlinkage and implications there from in answer to the initial requests from the trade.

## **8. Delimitation of numbers**

- 8.1 In answer to the trade's request to reintroduce a restriction on the number of taxi licences issued in the future, Members must consider that before making such a decision they must be satisfied that the demand for taxi services throughout the district is met. This report indicates that the only way to determine this is by way of survey. DfT recommend that a survey be carried out at roughly three year intervals although this is not mandatory. Legal advice suggests that it is not lawful to place a moratorium on the issuing of new licences until the survey is completed. The last taxi survey was in 1999/2000.
- 8.2 A possible type of Delimitation may be introduced by restricting the types of vehicle which are approved for licensing, by condition. Such conditions may be introduced using the guidance available on vehicle specification and type, as suggested by the results of recent government consultation and already available specifications suggested by DfT. However, as can be seen from paras 6.13 to 6.16 we are still awaiting consultation outcomes on a number of issues.

8.3 Where conditions are to be considered it is appropriate that a full consultation exercise is carried out with those organisations which have an interest i.e. taxi association, those taxi operators who are not members of a recognised association, disabled groups/representatives etc. Members should be aware that the imposition of arbitrary conditions could be challengeable in the courts through Judicial Review or where a licence is refused due to the vehicle not meeting the specification required, through appeal.

## **9. Zones**

9.1 It would seem sensible to abolish the taxi zones, as requested, thus creating taxi licensing for vehicles and drivers throughout the district. The Council would save on time and administration by not having to duplicate licences.

9.2 As previously reported the abolition of the Zones would make any survey of demand applicable to the whole area. Were the zones to be retained and a survey carried out in each, further thought would have to be given to the reallocation of licences within each zone if the survey showed unmet demand in one but not the other, as officers believe is likely.

## **10. Disabled Access to Taxis**

10.1 The report shows that this authority has spent some considerable time over the last 10 years in trying to improve access to taxis for the disabled. However in meetings with the Council's Access Officer, the trade association and disability action groups, it is clear that although the policy exists it is not robust enough to ensure equality to all, in particular those members of society who cannot access certain types of vehicle.

10.2 The trade would argue that there is a demand for a saloon type taxi whilst access groups might argue that all taxis should be compatible to all types of passengers at all times. Thus making all taxis disabled friendly and not just considering wheelchair users alone.

## **11. Options**

11.1 Commission the undertaking of a survey of taxi services to determine demand, whilst still issuing licences.

11.2 Suspending the issuing of licences until the results of any survey are published. (subject to legal advice)

11.3 Undertake extensive consultation as to changes in licence conditions for vehicles. This to include disability access which may be included in any survey, if commissioned or undertaken separately.

11.4 Do nothing until the DfT paper on "Improving Access to Taxis is published later this year

11.5 Take action to abolish the two, currently suspended, zones.

11.6 Re-instate the zones.

11.7 Leave the zones in suspension.

## Appendices

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Appendix A – Request from West Berkshire Taxi and Private Hire Operator's Association  
Appendix B – Request from Daniel Griffiths (Bluebird Cars)  
Appendix C – Request from CABCO  
Appendix D – Request from Dolphin Cars

## Consultees

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**Local Stakeholders:** West Berkshire Hackney Carriage Vehicle Proprietors (vehicle) Licence holders. Disability Alliance and other representatives of the disabled, elderly and infirm. Members of the public

**Officers Consulted:** David Holling, Sarah Clark, Valerie Witton

**Trade Union:** None

**Appendix A**

**West Berkshire Hackney Carriage  
&  
Private Hire Operators  
Association**

3.4 31 Bodin Gardens, Newbury, Berkshire, RG14 7SG

Mr Tony Linden  
Chairman Licensing Committee  
West Berkshire Council  
Council Offices  
Market Street  
Newbury  
Berkshire  
RG14 1BZ

**(1)**

Friday, 29 May 2009

Dear Mr Linden

Re: West Berkshire Council Hackney Carriages (Taxis)

On behalf of West Berkshire Taxi owners, and members of the Association. I wish to request a restriction of licensing taxis (Hackney Carriages) under your control, in West Berkshire.

The present legal provision on quantity restrictions for taxis is set out in Section 16 of the Transport Act 1985. This act 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 authority is satisfied that there is no significant demand, for the services of hackney carriages (within in the licensing area) which is unmet.

The licensing team will be aware that, in the event of a challenge to a decision to refuse a licence, the authority will have to establish that it had reasonably been satisfied that there was no significant unmet demand.

The facts that were distributed at the Licensing Annual General meeting held on the (14<sup>th</sup> May 2009), showed that there are 194 Hackney carriage Vehicles Licensed with the authority. 93 of those are disabled friendly. Plus the 134 Private Hire Vehicles a total of 328 vehicles working in and around the 127square miles of West Berkshire.

The total number of spaces available to ply for hire in Newbury is 30. There are 194 vehicles, not all out looking for space at the same time, but when the taxi rank is full, drivers have to proceed to the next taxi rank, if there are no available spaces. A Hackney Carriage, can only collect from a taxi rank, be hailed in the street, (but has to be in motion) or be at a pre booked location to collect passengers that may have booked in advance. Since the introduction of Council civil enforcement officers, it's not possible to wait, as they

are requesting taxi drivers to move on. So now drivers have to circle the town, to try and earn a living, also passengers don't tend to hail taxis in West Berkshire.

New Hackney Carriage licences have been taken up in times of hardship before. New drivers have worked these vehicles on a part time ad hoc evenings or weekends to supplement their full time job income.

This is not helping drivers who offer a service full time, Drivers will still be able to earn a living driving one of the all ready licensed vehicles available, who can work for owners keeping the vehicles working, but allowing the full time owner / drivers, time off still providing a service to the community.

In the current economic climate driver's earnings have fallen between 15.2% and 35%. Compared to last year's accounts for the same period. The 15.2% are drivers working for large radio companies and are covering the Private Hire telephone work, and the 35% being independent drivers working the town's taxi ranks. One of our member's reports his taking have dropped for the 1<sup>st</sup> three months of 2009 by 61.3%. Drivers report that the amount of passengers around Newbury has fallen, what with the smoking ban, development and recession.

The withdrawal of concession travel tokens hasn't helped. One of our members income for twelve months being £3,400 in revenue supplying transport in rural areas, this will be greatly reduced this next financial year, due to the amount of disabled passengers carried was 8% in the 2008-09 trading accounts. Driver's earnings are close to the minimum wage, and having to extend there working hours to compensate. Health and safety issues are paramount but you have to make ends meet.

As reported 29 hackney carriage vehicle licences have already been surrendered, in the last year (2008/09) to be fair I don't know the reasons behind all of these.

The Councils Passenger Transport Strategy LTP2 2006/07 – 2010/11 under Services PS7 states, to review the numbers of taxi licenses issued and fleet mix to ensure that it meets the needs of the community. (Bearing in mind the drivers are members of the community) With this in mind can we please restrict the further supply of hackney carriages for a period of three years, or engage with you to come to an amicable time limit for the trade to recover. Three years is the time limit given by the Department of Transport between surveys?

West Berkshire Council put in place a moratorium on Hackney Carriages in Sept 2004. The temporary moratorium was imposed upon the granting of any new licences until 1<sup>st</sup> December 2004, to enable revised draft conditions to be prepared and consulted upon prior to consideration, by the Licensing Committee. We feel that this will be the way forward for the trade to get back on track, and supply a Safe, first class service to the community, and visitors to West Berkshire.

## TAXI ZONES

West Berkshire Council has two licensing zones. These are the Area of West Berkshire Council (Known as the District) and the former Borough of Newbury (The Town) these zones exist for historical reasons, which can be discussed with you if required. Currently this council has suspended the zones but not abolished them. The Department of Transport recommends the abolition of zones, that is chiefly for the benefit of the travelling public. Abolition of zones can also reduce costs for the council, through simpler

administration and enforcement, perhaps this is now the time to engage and implement the one zone for the 127 square miles of West Berkshire.

Yours sincerely

R J Brown

Richard Brown  
Vice-Chairman

Daniel Griffiths  
Bluebird Cars  
24 Southend  
Cold Ash  
Thatcham  
RG18 3BW

Mr Brian Leahy  
Senior licensing Officer  
West Berkshire Council  
Faraday Road  
Newbury

RECEIVED  
30 JUN 2009  
PUBLIC PROTECTION

Monday, 29 June 2009

Re: Restriction to taxi fleet numbers.  
Cc: Dave Oram

Dear Brian,

This morning I read with great interest, the latest edition of the taxi trade newsletter. In particular, the paragraph relating to limiting the numbers of new vehicle licenses issued.

Rather than stopping the issue of new licenses completely, I believe the following measures would be far more beneficial to the trade & the public in general.

- 1<sup>st</sup> time applicants for Hackney Carriage licenses should provide a brand new wheelchair vehicle conforming completely with Department of transport M1 specifications. The specifications are freely available on the directgov.com website. It should be a condition that the vehicle should be replaced at 5 years old, again with a new vehicle.
- Existing Hackney vehicles should be retired upon reaching 8 years old or 250,000 miles.
- When replacing vehicles, existing Hackney plate holders should provide a vehicle no older than 5 years from when 1<sup>st</sup> registered & carry a maximum of 100,000 miles.

My reasons for these suggestions are as follows.

There are many taxis over 10 years old & in poor condition, used only at weekends. They are often rented from plate holders no longer directly involved in the trade. They are able to make a fast buck from part time renters without providing an investment in the trade or service to our community.

There are many wheelchair accessible vehicles that can be bought for less than £1000 that comply with existing conditions. These tend to be attracting foreign drivers able to earn money short term before returning to their country of origin. Again this does not provide a valid service to the community.

The opinion I hold & appears to be shared by many others, is that the licence conditions should be tightened considerably to deter the 'weekend warriors'.

By introducing the changes I have suggested, the taxi fleet in West Berkshire would consist of committed plate holders & drivers looking to build a career from our trade by making a long term investment in vehicles that are in good condition & of reasonable age.


I have no problems with foreign drivers working amongst us, as long as they are here to build a career for themselves whilst enhancing the quality of service that has been proudly upheld over the years. This is not the case currently.

By implementing my suggestions, it may negate the need for surveys to assess fleet numbers or unmet demand etc. I also believe it would re-create respect within the trade for new plate applicants as they are demonstrating their commitment to the trade.

You may be aware that within Cabco, the restrictions on age of vehicles have already been implemented. Our members have until January 2010 to replace any vehicle now over 8 years old with 1 that is less than 5 years old. The rule changes have been received positively.

I would be grateful if you would give my suggestions due consideration, I would appreciate hearing your thoughts on the matter.

Sincerely,



Dan Griffiths.





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Mr Brian Leahy  
Senior Licensing Officer  
West Berkshire Council  
Council Offices  
Faraday Road  
Newbury  
Berkshire  
RG14 2AF

23<sup>rd</sup> August 2009

Dear Brian,

I understand that you have been asked to prepare a report to present to councillors regarding the capping of the number of Hackney Carriage licences issued in the future.

Cabco recognise the need to restrict the number of licences issued in the current economic climate, but we also recognise the difficulties involved in doing so.

It is quite clear to us that to implement capping by undertaking a survey is impractical. The licensing area is now so large that to undertake an un-met demand survey would be hugely expensive and could prove totally inconclusive, while it might show no unmet demand in Newbury on a Friday night it could well show unmet demand in Tilehurst on a Wednesday. The cost of any survey one way or another would have to be met by the trade itself, and would place an unfair cost burden to many in the trade whom are already struggling to meet costs with what we are certain would be a negative result. A survey is not the way forward.

The council however have for sometime unwittingly already formed a capping policy by only allowing wheelchair accessible vehicles to be licensed for the first time. This policy should be strengthened. New applicants should be made to provide a new fully wheelchair accessible vehicle with only those vehicles approved by the London public carriage office (the best guide) being acceptable. Adopting this policy would have many benefits; new taxis licensed would be fully compliant with the latest E.U. regulations. Only fully committed individuals would be entering the trade. The quality of the taxi fleet should improve by virtue of the fact that many cheap taxi type van conversions are currently being licensed to circumnavigate the current licensing conditions.

I would be obliged if you would include our letter and our recommendations in your report to committee.

Yours sincerely,

Rodney Nemeth  
On behalf of the Cabco membership.

**Appendix D**

Licensing Officer  
West Berkshire Council  
Council Offices  
Faraday Road  
Newbury  
RG14 2AF  
United Kingdom

e-mail: [licensing@westberks.gov.uk](mailto:licensing@westberks.gov.uk)

26<sup>th</sup> August 2009

Dear Sir

**Consideration of taxi numbers in Newbury**

I understand that consideration is being give to the situation regarding taxi numbers in Newbury and that there is a suggestion that the numbers should be capped. On behalf of Dolphin Taxis, I would like to state that I am very much against the notion of capping the numbers and hope that my view will be taken into account in the deliberations. My reasoning is given below:

1. As with most trades, there will be some taxi companies that have seen decreased trade recently. However, other taxi companies are still growing and can still see opportunities for further expansion. Customers are clearly exercising their right to use companies which most meet their needs. This competition encourages best practice amongst companies, who must provide an excellent service to continue trading. Capping numbers would restrict this choice and penalise the companies that are providing the best service and are thus growing.
2. We have seen an increase in trade from rural areas both into town and returns, with the exciting prospect off the new cinema opening we expect this demand to increase further.
3. There is already a shortage of taxis at certain times such as:
  - in the mornings when taxis are busy with school runs
  - evenings and weekends, particularly late at night
  - Race days and other events.
4. Capping taxi numbers would make travel at busy times even more difficult. In terms of the shortage of taxis late at night, a restriction in numbers could result in:
  - The risk of drink driving
  - The risk of more safety issues for people who choose to walk home rather than face a long wait for a taxi

- The risk of more anti social behaviour, noise or disturbance to local residents, who would face people waiting around for taxis, or making a noise whilst walking home
- A reduction in the number of people that can come into Newbury from the country regions, where there is no other way to get home late in the evening
- The risk of unlicensed vehicles plying their trade illegally

In conclusion, it is my belief that restrictive trade practices, such as capping numbers, would be counter-productive to the overall trade within Newbury and would work against consumer interests. It is also not in accordance with current government guidance.

In any event, the results of a government consultation on taxis under DDA5 are due out later in the year. It would be difficult and potentially costly to make changes to our businesses now, when further changes may result from the government guidance. Therefore, I would like to suggest that West Berkshire Council does not make any changes to current arrangements until after the new Government guidance comes out. All issues can then, if necessary, be considered as part of one overall package.

I represent a company of 20 taxi drivers and the business is still growing, providing local employment. It would damage our business considerably if we could not expand further as we identify new markets. I would therefore be grateful if you would consider our views.

Yours faithfully

Matt Castle

<b>Title of Report:</b>	<b>Private Hire Licensing – Operator’s Licences.</b>	<b>Item 5</b>
<b>Report to be considered by:</b>	Licensing	
<b>Date of Meeting:</b>	08 September 2009	
<b>Forward Plan Ref:</b>	N/A	

**Purpose of Report:** To consider only issuing Private Hire Operator’s licences to persons/companies who operate from a base in West Berkshire.

**Recommended Action:** To approve the report

**Reason for decision to be taken:** To ensure that all private hire operators are operating within the district and are readily available for inspection and enforcement.

**Other options considered:** None

**Key background documentation:** Local Government (Miscellaneous Provisions) Act 1976 sections, 55, 56 & 57

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO<sub>2</sub> emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**

**CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:  
 By requiring operators to be located within the Council's boundaries, enforcement and record checks under section 56 (3) of the Local Government (Miscellaneous Provisions) Act 1976 will be facilitated more easily thus ensuring that the public are receiving an efficient legal service.

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
<b>E-mail Address:</b>	hcole@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	

Contact Officer Details	
<b>Name:</b>	Brian Leahy
<b>Job Title:</b>	Senior Licensing Officer
<b>Tel. No.:</b>	01635 519209
<b>E-mail Address:</b>	bleahy@westberks.gov.uk

**Implications**

- Policy:** There is no established policy on this subject.
- Financial:** -
- Personnel:** None
- Legal/Procurement:** The Local Government (Miscellaneous Provisions) Act 1976 allows for a council to issue an operator's licence for a business address outside the district. However, a district council may attach to the grant of a licence such conditions as they may consider reasonably necessary.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** None

<b>Is this item subject to call-in?</b>	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

## Executive Report

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### 1. Introduction

- 1.1 West Berkshire Council is the licensing authority for the purpose of private hire licensing under the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 It is a requirement of section 46 of the Act that no person shall in a controlled district operate any vehicle as a private hire vehicle without having a current licence under section 55 of this Act.
- 1.3 Section 55 requires a district council to issue an operator's licence to any applicant who appears to the Council as being fit and proper.

### 2. Background

- 2.1 Any application for an operator's licence made under section 57 of the Act allows for a district council to require the applicant to submit to them such information as to the addresses or address whether within the area of the council or not, from which he intends to carry on business in connection with private hire vehicles licensed under Part 11 of the Act.
- 2.2 In practical terms this section means that West Berkshire Council can, if it wishes, issue a licence to an operator, who also holds West Berkshire licences for vehicles and employs drivers who also hold West Berkshire licences, in another council's district.
- 2.3 Once an application has been received the Council is then under a duty to grant an operator's licence to that person unless they are satisfied that the applicant is not fit and proper to hold such a licence. This is the only ground under which a licence can be refused.
- 2.4 All of the existing private hire operators licences, with one exception, are issued to persons or companies whose address lies within West Berkshire. The one exception is a licence for a business which was originally within the borders but was forced to relocate due to no fault of their own. This operator found a base which is approximately 500 metres into Reading Borough. There has been one other company who occupied a premise at the same address however this licence was refused renewal due to criminal convictions on the part of the operator/company.
- 2.5 Officers have found that where an operating base is outside the enforcement jurisdiction of this council it can be difficult to determine which records are pertinent to West Berkshire, as often the base operates as a booking office for the authority in which the premises are situated and for the remote authority. It must also be considered that West Berkshire licensing enforcement/control checks by our officers are only legally justified within our boundaries and any encroachment into another authority must be with their permission.
- 2.6 In reality there is no reason why an operating address cannot be situated only within the authority of jurisdiction and its vehicles and drivers licensed by that authority.

### **3. Recommendation**

- 3.1 To agree that the Council's policy on the issuing of Private Hire Operator's Licences be amended to allow only for licences to be issued to business premises which are situated fully within the District of West Berkshire.

### **Appendices**

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There are no Appendices to this report.

### **Consultees**

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**Local Stakeholders:** West Berkshire Hackney Carriage & Private Hire Operators Association, West Berkshire Executive Hire Association

**Officers Consulted:** Sarah Clark

**Trade Union:** None





<b>Title of Report:</b>	<b>Private Hire Licensing – CRB’s</b>	<b>Item 6</b>
<b>Report to be considered by:</b>	Licensing	
<b>Date of Meeting:</b>	08 September 2009	
<b>Forward Plan Ref:</b>	N/A	

**Purpose of Report:** To consider the introduction of Criminal Record Checks (CRB’s) for Private Hire Operators.

**Recommended Action:** To approve the introduction of CRB’s.

**Reason for decision to be taken:** To ensure that all private hire operators and booking staff are free of criminal conviction and thus safeguard members of the public placing bookings with operators

**Other options considered:** None

**Key background documentation:** DfT Best Practice Guide Taxis & Private Hire

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO<sub>2</sub> emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
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- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:  
 preventing those persons with criminal backgrounds from being in a position of public trust and having access to sometimes sensitive information

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Hilary Cole - Tel (01635) 248542
<b>E-mail Address:</b>	hcole@westberks.gov.uk
Contact Officer Details	
<b>Name:</b>	Brian Leahy
<b>Job Title:</b>	Senior Licensing Officer
<b>Tel. No.:</b>	01635 519209
<b>E-mail Address:</b>	bleahy@westberks.gov.uk

**Implications**

**Policy:** There is no established policy on this subject, however it seems prudent to include operators and their staff, with drivers, in being CRB checked.

**Financial:** There would be a cost to the applicant only, currently, £23, payable directly to CRB for each disclosure.

**Personnel:** None

**Legal/Procurement:** The Local Government (Miscellaneous Provisions) Act 1976 allows for a council to require an applicant for an operator’s licence to submit to them such information as to – “any convictions recorded against them”. Section 55 of the Act allows for a council to attach such conditions as it may consider reasonably necessary.

**Property:** None

**Risk Management:** None

**Equalities Impact Assessment:** None

<b>Is this item subject to call-in?</b>	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council’s position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

## Executive Report

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### 1. Introduction

- 1.1 West Berkshire Council is the licensing authority for the purpose of private hire licensing under the Local Government (Miscellaneous Provisions) Act 1976.
- 1.2 It is a requirement of the Act for any private hire vehicle to be booked through a licensed private hire operator and for all private hire vehicles and drivers to also be licensed by the same authority.
- 1.3 Private hire vehicles cannot be hailed in the street or form ranks in the same way as hackney carriages. All bookings must be made in advance through a licensed operator.

### 2. Background

- 2.1 The Act requires that all applicants for a private hire operator's licence must be deemed to be "fit and proper" in order for a licence to be issued.
- 2.2 Once an application has been received the Council is then under a duty to grant an operator's licence to that person unless they are satisfied that the applicant is not fit and proper to hold such a licence. This is the only ground under which a licence can be refused.
- 2.3 The purpose of private hire licensing is to protect the public and as a consequence it would be inappropriate to issue a licence to a criminal. Notwithstanding this, the term "criminal" tends to be a sliding one and it is important that the nature of a person's convictions, and possible threat that they may pose to the public, is balanced against the loss of livelihood if the application is refused. To this end the Council has in place a guidance to the relevance of criminal convictions and also makes reference to the Rehabilitation of Offenders Act 1974, and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.
- 2.4 To date in West Berkshire, applicants for a private hire driver's licence are checked by the Criminal Records Bureau but those persons applying for an operator's licence and their staff are not. Many councils have taken the view that as the operator is the person taking the bookings and they could be party to sensitive information, such as bookings taken for holiday journeys to and from airports, they should be checked. This type of information could, in the wrong hands, have disastrous consequences for persons who may have left their homes empty.
- 2.5 A further consideration for having applicants and staff CRB'd could be that private hire operating companies have been accused of using private hire services for illegal purposes such as money laundering. Albeit not in West Berkshire and officers wish to make it clear that we are not casting any doubt on the reputation of those operators who are currently licensed with the council.
- 2.6 The DfT Best Practice Guide states "Private Hire Operators are not exceptions to the Rehabilitation of Offenders Act 1974, so standard or enhanced disclosures

cannot be required as a condition of a grant of an operator's licence. But a Basic Disclosure could be seen as appropriate".

- 2.7 If members were minded to approve this recommendation, CRB checks would become a requirement of the application and would be provided by the applicant through CRB Scotland. These disclosures can be obtained on line and presented as part of application. In the matter of an operator's staff other than drivers, it would become a condition of the licence for the operator to employ only those persons who have, to the satisfaction of the Council, been CRB'd in the same way as the operator.

### **3. References**

- 3.1 A copy of the DfT report is available at the DfT web site at, <http://www.dft.gov.uk/consultattaxis>

### **Appendices**

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There are no Appendices to this report.

### **Consultees**

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**Local Stakeholders:** West Berkshire Hackney Carriage & Private Hire Operators Association, West Berkshire Executive Hire Association

**Officers Consulted:** Sarah Clark, Steve Doel

**Trade Union:** None