

<b>Title of Report:</b>	<b>Hackney Carriage Licensing</b>
<b>Report to be considered by:</b>	Licensing
<b>Date of Meeting:</b>	29 <sup>th</sup> June 2011
<b>Forward Plan Ref:</b>	

**Purpose of Report:** To consider a request from the Hackney Carriage (taxi) trade to regulate the numbers of taxi vehicle licences issued by the Council

**Recommended Action:** To consider the options provided

**Reason for decision to be taken:** Demand Survey outcomes and request from the trade

**Other options considered:** None

**Key background documentation:** West Berkshire Hackney Carriage and Private Hire Survey.

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

- CPP1 – Support our communities through the economic downturn** – 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 crime and the fear of crime**

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:  
Restricting the numbers of hackney carriage vehicle licences issued by the Council thus contributing to a reduction in carbon emissions

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	15 <sup>th</sup> June 2011

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

## Implications

<b>Policy:</b>	The current policy is for the Council to issue taxi vehicle licences to any person providing a vehicle which meets the Council's standards.
<b>Financial:</b>	Restricting the number of licences could have some impact on income. However, the current 2011/12 budget will be unaffected. If there are any financial implications contained within this report this section <b>must</b> be signed off by a West Berkshire Finance Manager. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.
<b>Personnel:</b>	None
<b>Legal/Procurement:</b>	A restriction on numbers of vehicle licences is legal following the recent outcomes of the demand survey carried out by Halcrow, on behalf of the Council.
<b>Property:</b>	None
<b>Risk Management:</b>	None
<b>Equalities Impact Assessment:</b>	EIA carried out Where a decision is required, Policy and Communication are not able to accept your report without an EIA being completed. These should be sent to P&C along with your report and should be copied to the Principal Policy Officer (Equality & Diversity). For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.
<b>Corporate Board's Recommendation:</b>	N/A

**NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.**

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

# Executive Summary

---

## 1. Introduction

- 1.1 The Council may issue taxi vehicle licences to applicants who provide a vehicle which meets the Council's standards. This duty is discretionary, not mandatory, and accordingly the local authority can exercise its discretion in relation to both the vehicle and the applicant personally. The only situation in which a licence specifically cannot be refused (assuming that the applicant and vehicle are acceptable) is if there is a significant demand which remains unmet.
- 1.2 Until the introduction of the Transport Act 1985, local authorities had an unrestricted discretion to limit the number of hackney carriages which they would licence. The Transport Act 1985 removed this discretion.
- 1.3 In order to determine whether or not there was significant unmet demand in West Berkshire, a survey was undertaken by an independent consultant. The results of this survey are that there is no significant unmet demand in the district.

## 2. Proposals

- 2.1 To consider the trades request to limit the number of hackney carriage proprietors (vehicle) licences issued by this authority.

## 3. Conclusion

- 3.1 Any decision taken by Members to limit taxi numbers could take immediate effect and would be at a level which slightly exceeds the current number. However, should Members decide to allow market forces to determine the demand and provision of taxis then the current policy would continue.

# Executive Report

---

## 1. Introduction

- 1.1 At the Licensing Committee meeting held on the 8<sup>th</sup> September 2009 a report was presented which addressed the trade's request for limiting the number of taxi licences issued by the Council.
- 1.2 The trade's view was that there were too many taxis available for hire in the district, particularly in Newbury and Thatcham, and as a consequence the income derived from operating a taxi had been eroded to a level whereby it was becoming difficult to earn a decent living. That position has not changed, and a further request for Members to consider regulation, has been submitted.
- 1.3 Members were advised in a report presented to the Committee on the 8<sup>th</sup> September 2009, that regulating the number of licences in West Berkshire had ceased in 2000 and that the current policy was one of issuing a licence to anyone who met the legal criteria of proprietor and vehicle.

## 2. Limitation of Numbers (Capping)

- 2.1 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 Town Police Clauses Act 1847. Section 16 states:

### **“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.

- 2.2 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 that do limit the number of hackney carriages and those that do not.
- 2.3 West Berkshire District Council is currently in the category of not limiting the numbers of licences issued, by virtue of the decision taken by committee in 2000 which took full effect in April 2004.

- 2.4 In order to determine whether or not demand for taxis in West Berkshire was being met, Members agreed that officers commission a survey to be carried out by an independent company during the latter part of 2010.
- 2.5 The survey report is lengthy and whilst of interest to the trade and to the Authority, it is the conclusions/recommendations that are most important in the context of this report. The report recommendations are attached at Appendix A.
- 2.6 At a trade liaison meeting held on the 26<sup>th</sup> April 2011, after a brief discussion on the survey, the associations asked for a cap on taxi numbers to be set at 200, if Members were minded to agree to regulate. This figure, is of course, only appropriate if the number of taxis as of the date of this meeting is 200 or less. It was suggested that wherever the number of licensed taxis stands as of this meeting, a cap could be set at 5 above that number. Vehicle licence numbers as at the time of submission of this report are 189.
- 2.7 It will be of interest to Members to note that the annual average number of vehicle licences issued or renewed by the Council over the last 3 years is 188.

### **3. Department for Transport and Office of Fair Trading Reports**

3.1 Both the DfT and the OFT have published reports which give their individual views on quantity restriction.

3.2 Section 47 of the DfT Taxi and Private Hire Vehicle Licensing Best Practice Guidance March 2010 states;

Most local 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 reconsideration is whether the restrictions should continue at all.

3.3 The OFT report November 2003, The Regulation of Licensed Taxi Services in the UK covers the subject of regulation extensively but summarises its views as “limiting the number of taxis reduces availability and lowers the quality of service to the public. These restrictions should therefore be lifted. OFT advice to Government in 2004/5 as part of a consultation exercise asks government to “repeal regulation allowing local authorities to restrict the numbers of taxis in their area.”

3.4 The above reports/guidance, are purely that, and are not mandatory requirements of law. It will be for Members to decide, having considered all ramifications of setting a limit, if they wish to do so or not.

### **4. Options**

- 4.1 a) Set a limit at 200.
- b) Set a limit at a figure determined by Members.
- c) Leave the current situation of un-regulated numbers of licences in place.

## **5. Conclusion**

- 5.1 There is no legal reason why Members cannot set a maximum limit on the number of taxi vehicles licences it issues each year for the next 3 years.
- 5.2 It is strongly recommended by DfT /OFT that where a council regulate the number of taxi licences, the matter is reconsidered no later than 3 years after setting a limit, or sooner

## **Appendices**

---

Appendix A – Halcrow survey - recommendations

## **Consultees**

---

**Local Stakeholders:** Cabco, West Berkshire Hackney & Private Hire Association, Taxi Liaison attendees

**Officers Consulted:** Paul Anstey

**Trade Union:** None

## Appendix A

### Halcrow survey - recommendations

The 2010 study has identified that there is NO evidence of significant unmet demand for hackney carriages in West Berkshire. This conclusion covers both patent and latent/suppressed demand and is based on an assessment of the implications of case law that has emerged since 2000, and the results of Halcrow's analysis.

On this basis the authority has discretion in its hackney licensing policy and may either:

- continue to allow market forces to dictate the number of hackney carriage licences;
- issue any number of additional plates as it sees fit, either in one allocation or a series of allocations; or
- introduce a limit on the number of vehicles at 195 or higher.

The vast majority of evidence collected during this study indicates a high level of service to consumers of hackney carriage services in West Berkshire as a result of the current policy of free entry to the market. The re-introduction of a fixed limit would be very unlikely to have any deleterious effect on this level of performance in the short term (one to three years). In the medium term, however, as demand for transport continues to grow, it is possible that consumers may be inconvenienced by a limit of 195 vehicles. When considering re-introducing a limit the Council therefore needs to balance this possible dis-benefit to the consumers of hackney carriage services with the likely benefit to the suppliers of the service. In its most recent guidance to local authorities, the Department for Transport is very clear on this point - it believes councils should allow free entry. One consequence of this view is that the evidence required in practice to defend and maintain a policy of limitation is becoming more stringent. The council should expect to have to re-visit its evidence at least every three years.

If the Council wishes to depart from the current policy of free entry, one approach might be to restrict future growth rather than to stifle it completely. This would have the benefit of protecting consumers whilst at the same time providing greater certainty to members of the hackney trade. This can be achieved in one of two ways:

- by retaining a free entry policy but introducing more demanding conditions on the type of vehicle (e.g. requiring much newer wheelchair accessible vehicles); or
- by introducing a policy of continuing to issue licences but only up to an annual limit. Limiting the growth to between five to ten licences per year would be reasonable, allowing for a six to twelve percent increase in the fleet over a three year period.

Both of these approaches have been successfully applied by licensing authorities elsewhere, with the first being possibly the most straightforward to administer.

It is also recommended that the authority look to promote and publicise the range of wheelchair accessible vehicles available for pre booking together with information regarding the type of vehicle.