

**Meeting:** General Purposes Committee

Portfolio Area: Health and E- government

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**TAXI DELIMITING AND WAITING LIST POLICY**

(Environmental Health and Licensing)

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**1 PURPOSE**

To consider whether the Council should continue to limit of the numbers of Hackney Carriages that operate within the Borough. To review the current waiting list policy.

**2 RECOMMENDATIONS**

To delimit the numbers of Hackney Carriages in the Borough by a process of managed growth over the next four years, as detailed in the report.

To issue new plates on a first come first served basis for wheel chair accessible vehicles only. Subject to the requirement that any offer of a plate within the transition period being taken up within three calendar months of the offer being made.

**3 BACKGROUND**

**3.1 Regulating the number of taxis**

The legal position with regard to the ability of a Local Authority to limit the numbers of hackney carriages (also termed quantity regulation) is as follows:

- Before a local authority can refuse an application for a vehicle licence in order to limit the number of licensed hackney carriages, they must be satisfied that there is no significant unmet demand for the services of taxis, within the area to which the licence would apply, which is unmet;
- If the Local authority are thus satisfied, a discretion, as opposed to an obligation, arises to refuse the grant of a licence; but
- If the local authority are not so satisfied, they cannot refuse to grant a licence for the purpose of limiting the number of licensed hackney carriages and are thus obliged to grant it.

### **3.2 Previous Policy (1997 – 2003)**

On 12 November 1997, the Council's Environmental Services Committee resolved that the "*Regulation of Hackney Carriages*" should continue and that 4 new licenses should be issued on 1 January each year (subject to the provision of an approved disabled assessable vehicle).

### **3.3 Unmet Demand Study (2002/2003)**

3.3.1 The most recent unmet demand study in Stevenage was carried out at the end of 2002 and the report published in April 2003. The study comprised the following elements:-

- Identification of the existence, or otherwise, of unmet demand for hackney carriages;
- Rank review and development recommendations;
- Public opinion of the taxi service generally and taxi companies in particular; and
- Taxi services to the Leisure Park

### **3.4 Current Policy (2003 – present)**

3.4.1 The results of the "Unmet Demand Study" indicated that insofar as Hackney Carriages were concerned there was "no evidence of any significant unmet demand" and, consequently, the Council's previous policy of issuing 4 new licences per year was reviewed.

3.4.2 The policy review concluded that should the Council decide to stop issuing new licences each year, the results of the study would give sufficient independent support to defend a challenge from an applicant whose application for a licence was refused.

3.4.3 Therefore, the practice of issuing new licenses ceased in 2003 and that is the current position – regulation with no new licences being issued. Currently there are 100 hackney carriage licences issued (limited) and 125 private hire licences issued (unlimited).

3.4.4 The 2002 study also concluded that at that the time:-

- The policy of maintaining a limit on the number of hackney licences did not appear to be disadvantaging the public in the area.
  - The level of vehicles was relatively high compared to other similar areas (except in those areas that are delimited).
  - There was some concern about the availability of vehicles on a Saturday night, which needed to be addressed particularly with regard to the Leisure Park.

3.4.5 An extract from the Unmet demand study completed in 2002 is shown at Appendix A.

### **3.5 Waiting List Policy**

3.5.1 The existing policy in respect of the waiting list was determined by the Environmental Services Committee on 12<sup>th</sup> November 1997. This policy prioritised applicants for Hackney carriage plates as follows:

“Applications will only be considered from persons on the waiting list and such applications will be assessed in accordance with the following priorities namely to those:

- Who have held Hackney Carriage and or Private Hire drivers licences issued by the Council the longest;
- Who do not or have not held a Hackney Carriage Vehicle Licence;
- Who reside in Stevenage or within a radius of 8 miles of the Borough of Stevenage and
- Who are employed full time in the Hackney Carriage/Private Hire trade in Stevenage”:

3.5.2 A decision was also taken at that time that new plates would only be issued to wheel chair accessible vehicles.

## **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

### **4.1 Office of Fair Trading Study**

4.1.1 In November 2003, the long awaited market study by the Office of Fair Trading (OFT) into the regulation of taxis and private hire vehicles in the UK was published.

The OFT report looked at three main areas:

- · Quantity Regulation
- · Quality and Safety Regulation
- · Fare Regulation

4.1.2 In respect of quantity regulation, the OFT concluded that the overall quality of taxi services could be enhanced by reforming elements of the regulatory framework. While some aspects of regulation are entirely sound, other aspects can be improved, and in particular, quantity regulation should be removed (para 1.7).

4.1.3 The OFT stated that consumers would benefit from their recommendations by:-

- Putting more taxis on the road - removing quantity restrictions could increase the number of taxis in affected areas by 50%.
- Making journeys safer - removing quantity restrictions and increasing the number of licensed taxis will reduce the need for illegal taxis when either the driver or vehicle have been subject to appropriate quality and safety checks.
- Reducing passenger waiting times - removing quantity restrictions will save an overall 2.5 million hours across the UK.
- Creating more choice - removing quantity restrictions could put an extra 15,000 taxis on the road. This will substantially increase people's choice of transport mode when deciding how to reach their destination.
- Promoting best practice in LA's application of quality and safety controls to ensure the needs of local people are met and that individuals and businesses are not deterred from supplying taxi services.

- Protecting people in vulnerable situations from overcharging, while encouraging the benefits of fair competition. (para 1.8).

4.1.4 Several arguments have been put forward in favour of retaining quantity control, but the OFT reject these due to lack of evidence.

4.1.5 The OFT found that quantity regulations restrict those wanting to set up a taxi business by creating a premium on taxi licences typically ranging from £12,000 - £50,000 and by creating waiting lists for people wanting to set up taxi businesses. (para 1.13). It is known that licence plates in Stevenage change hands for in excess of £20,000.

4.1.6 The overall recommendation of the OFT in respect of taxi quantity controls is as follows: "We therefore recommend that the legislative provisions allowing Licensing Authorities to impose quantity controls should be repealed. In the meantime, we recommend that Local Authorities with quantity controls remove them".

## 4.2 Government's Current Position

**4.2.1 The Department for Transport has now issued advice in the form of an action plan to those local authorities that restrict the number hackney carriage licenses issued (approx 45% countrywide) which states: -**

*"The Government believes restrictions should be only retained where there is shown to be clear benefit to the consumer, and the councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached. Thus, the Government considers that, unless a specific case can be made, it is not in the interests of the consumers for market entry to be refused to those who meet the application criteria."*

4.2.2 However, the Government also makes it clear in the Action Plan that local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. So it is not proposing at this time to take away the power to restrict taxi licences from the local authorities. The Government's Action Plan is shown at Appendix B. The Action Plan goes on to say: -

*"We ask you to review the case for restricting taxi licences to your area and to make the conclusions of that review public by 31<sup>st</sup> March 2005"*

4.2.1 The Government's Action Plan sets out the following on-going arrangements for those councils continuing to restrict taxi licences beyond 2005: -

- A three yearly review, with published conclusions.
- Justification of the local policy for quantity restrictions in the 5 yearly Local transport Plan process.

4.2.2 The Action Plan also commits the Government to review the situation regarding quantity controls in three years time, in order to monitor progress towards the lifting of controls. If necessary the Government will consider further action through legislative processes if insufficient progress has been made.

### **4.3 Review of Current Policy to limit the number of taxis in Stevenage**

4.3.1 In November 2004, a workshop was held to consider the current Taxi Licensing arrangements. This involved Members of the Environment and Economy Review Panel, together with representatives of both the Hackney Carriage and Private Hire trade, service users and the Police. This meeting considered a wide variety of issues including delimiting and the outcomes were referred to the Policy, Performance and Improvement Group.

4.3.2 Information considered at this meeting identified concerns regarding the lack of availability of taxis during the evening, particularly on the leisure park. It also identified a shortage in the availability of wheel chair accessible vehicles. The following options were considered in relation to quantity controls:-

#### **4.4 Option 1 – Delimit from January 2005**

4.4.1 On the face of it, this may appear to be easiest option to follow, but it is the least favoured option by the taxi trade. It can be seen from the “unmet demand study” that in 2002 there was a good mix of vehicle types and companies serving the Stevenage community. Experience from neighbouring authorities and national reports suggest that this option can cause a major influx of new drivers and operators. The OFT report of Nov 2003 indicates that, in general, following deregulation, there is a 50% increase in hackney carriage licences taken up with a similar but generally smaller reduction in the number of private hire licences caused by owner/drivers transferring over.

4.4.2 Whilst in theory this may not appear to be detrimental to the service, in practice there is evidence to suggest that, in the first few years thereafter, deregulation can lead to an undesirable situation with an influx of unknown/undesirable companies and drivers undercutting the established companies, causing them to go out of business and then either increasing their tariffs for a lower grade of service or withdrawing the service altogether thereby diminishing the overall taxi service available.

4.4.3 A number of local authorities that previously decided to immediately delimit have since changed back to a regulated service because of the problems highlighted above. Those authorities that have continued a policy of delimiting acknowledge that it has taken a number of years for the service to “settle down” after deregulation.

4.4.4 It is quite clear from published material that the Transport and General Workers Union, who represent the taxi trade nationally, strongly oppose this option.

4.4.5 In view of the above, the immediate de-regulation of the service is not favoured.

#### **4.5 Options 2-4 – Continue Regulation**

##### **4.5.1 Option 2 – No Change (Maintaining the Current Limit)**

It is clear that the Government does not consider restricting the issue of licences to be in the best interests of consumers, unless a specific case can be made. Therefore, if this Council wanted to maintain the current limit, it would be mainly reliant on the results of the 2002/03 Unmet Demand Study for justifying its case. The 2002 study presented a reasonably robust case for maintaining the limit that applied at that time but it should be noted that this study is now nearly 3 years old. In view of this and the Government’s deadline of 31<sup>st</sup> March 2005 for a comprehensive review it is considered that a case for maintaining the current limit for a further 3-year period

(2005 – 2008) cannot be justified. It would therefore be necessary to undertake another unmet demand study during 2005/2006 and respond according to the results obtained. A further unmet demand study would then have to be commissioned in 2008 to coincide with the Government's deadline date for a second review.

It should be pointed out that the OFT have looked at unmet demand studies as part of their research, and consider that they do not accurately measure unmet demand for taxis (para. 4.51). In the OFT's opinion, unmet demand studies do not properly address latent demand (i.e. passengers who would chose to go by taxi if more were available, or if waiting times were lower). The OFT also found that after the removal of quantity controls, the number of people using ranks or hailing a taxi in the street increased substantially (para. 4.52 and 4.53).

It should be noted that undertaking an unmet demand study would cost in excess of £15,000 on each occasion, which would have to be recovered through fees charged to drivers/owners/operators. The fees in Stevenage are already generally high in comparison to neighbouring authorities.

In view of the above, this option is not favoured.

#### 4.5.2 Option 3 – Granting New Licences based on a further Unmet Demand Study

This option would necessitate commissioning a new Unmet Demand Study immediately and amending the policy to ensure an adequate supply of taxis to meet the unmet demand identified (if any). The OFT's view regarding the unreliability of unmet demand studies is still relevant. Further unmet demand studies would be required every three years thereafter as required by the Government. As stated previously, such surveys would cost in excess of £15,000 on each occasion, and would have to be recovered through fees charged to drivers/owners/operators. These costs are inevitably passed on to the consumer.

Although this option would give a much clearer indication of consumer satisfaction, it is difficult to justify the cost of 3-yearly unmet demand studies in terms of the value of the information that such studies would provide. Furthermore, it would be difficult for this authority to maintain its fees comparable with other authorities.

In view of the above, this option is not favoured

#### 4.5.3 Option 4 – Granting a Specific Number of Licences each Year (Managed Growth)

This option is effectively the policy this council operated from 1997 to 2002 by issuing 4 new licences in January each year. If the statistics provided by the OFT report are correct, complete deregulation usually leads to an increase in numbers of approximately 50%. If the previous policy of issuing 4 new licences per annum were resumed in Stevenage, it would be 2016/17 before the anticipated level would be achieved (i.e., from the current 100 to 150). It is unlikely that this level of growth would be sufficient to comply with the Government's requirements as set out in their action plan.

If, however, 15 new licences were issued this year and then 10 more each year until 2008, the number of licences issued would increase to 145 by the time that the Government's second review was required. This revised policy would enable the Council to demonstrate to the government that by January 2009 the number of hackney carriage licences issued would, in any event, be at a level equivalent to the number that would have resulted from complete deregulation. In effect, this council

would be delimited by 2009, but with the advantage of having achieved this by steady growth over a 3-4 year period. This policy would obviate the need for undertaking any more unmet demand studies between now and 2008.

A further advantage of this option is that the risk of reduced service quality and/or “price wars” (e.g. Bus De-Regulation) is minimised.

#### **4.6 Conclusions**

4.6.1 The Government expects the outcome of a policy review to be one of the following: -

- a) To deregulate and thus grant a licence to anyone meeting the criteria, or
- b) To continue restricting the number of taxi licences issued.

If option (b) is selected this would give rise to three possible scenarios: -

- Maintain the current limit of taxi licenses (no change)
- Commissioning a new “unmet demand” study and granting a number of new licences to meet the unmet demand that may be identified;
- Not undertaking any new “unmet demand” study and granting a specific number of new licences each year.

4.6.2 Members of the Environment and Economy review Panel and the majority of the other participants at the Taxi Licensing Workshop favoured this last option. In consequence we embarked upon a comprehensive trade consultation.

#### **4.7 Summary of representations received**

4.7.1 Approximately 270 letters were sent to Hackney and Private Hire license holders. 101 representations were received giving a 37% response rate. 97 objections were related to delimiting.

4.7.2 A petition signed by 91 members of the taxi trade was submitted strongly opposing delimiting. It also requested that an unmet demand survey should be undertaken for which the trade would contribute. Ten of these petitioners also wrote individual letters.

4.7.3 Consultation was also carried with Herts County Council, WAGN and user groups in accordance with advice from the Department of Transport.

#### **4.8 Waiting List Policy**

4.8.1 Four of the objections received related to the current selection criteria. The details of these objections are outlined in Appendix D attached.

4.8.2 As discussed earlier the current selection criteria are based on a previous decision taken by the Environmental Services Committee in 1997, as outlined in paragraph 3.5.1 above.

4.8.3 It is apparent that some of these criteria are contradictory. Further, following advice from the Borough Solicitor it is considered that imposing a rigid policy framework is inappropriate as they may be seen to fetter our discretion. It is therefore proposed that all future applications will be prioritised on a first come, first served basis and each case will be judged on its merits.

- 4.8.4 It is further suggested that during the transition period, when a quantity limit remains in place, that a time limit of three months is prescribed for an applicant to take up the offer of a plate. Applicants who fail to take up this offer within this time will lose their entitlement, and will be placed at the end of the list.
- 4.8.5 The previous policy of requiring all additional vehicles to meet the wheel chair accessibility requirements will be retained.
- 4.8.6 In addition to consulting the trade on the proposals relating to delimiting the opportunity was also taken to update the waiting list. This list was substantially out of date, and included individuals who no longer had an interest in acquiring a licence. There were also a number of detailed investigations undertaken following concerns expressed by some individuals regarding their date of initial application. The revised waiting list has now been completed and includes a total of 159 persons.

## **5 Implications**

### **5.1 Financial Implications**

If the proposed option 4 is approved, this will result in a saving of £15,000 every three years, which is the amount required to fund an unmet demand study. In reality this sum is recovered in licence fees and is therefore passed on to customers.

The Government are not proposing any changes in the current financial regulations concerned with taxi licensing fees.

### **5.2 Legal Implications**

The Government are not proposing any major legislative changes on taxi licensing at this stage but wish Licensing Authorities to carefully consider the delimiting issue. If necessary the government will consider further action through legislative processes if insufficient progress has been made on lifting current controls.

### **5.3 Policy Implications**

The current policy of not issuing any licenses was last reviewed in 2003. The policy for managing the waiting list was determined by the Environmental Services Committee on 12<sup>th</sup> November 1997.

### **5.4 Environmental Implications**

Additional taxis in the town may lead to slightly less reliance on private motor vehicles, although the effects would be difficult to quantify. It is also difficult to quantify whether extra congestion would result, particularly in localised areas such as where the taxi ranks are sited.

### **5.5 Human Rights Implications**

The Human Rights Act provides certain guarantees in respect of the protection of property rights, including licences and other permits necessary to conduct a business. Case law has shown that there is nothing to preclude a Council from reversing its policy of restricting taxi numbers, providing it acts reasonably and without malice.



## **5.6 Equal Opportunities Implications**

If delimitation is agreed more people will be eligible for hackney carriage vehicle licenses in the long term, thus opening the market to more applicants. This represents the opportunity for individuals to start their own businesses without necessarily working through a third party, which private hire drivers are frequently required to do for financial reasons.

## **5.7 Community Safety Implications**

Increased taxi provision is one of the elements to making a safer town and contributes to the Community Safety Strategy. Increasing the number of taxis in a district reduces the incidence of illegal plying for hire by unlicensed vehicles.

Significant problems are currently experienced on the leisure park due to the shortage of taxis during the evening.

## **BACKGROUND DOCUMENTS**

- **Unmet demand study 2002**
- **The Government's Action Plan for Taxis and Private Hire Vehicles in England and Wales**
- **Market study by the Office of Fair Trading - The regulation of taxis and private hire vehicles in the UK. November 2003**

## **APPENDICES**

- Appendix A – Extract from the Unmet demand study 2002.**
- Appendix B - The Government's Action Plan for Taxis and Private Hire Vehicles in England and Wales**
- Appendix C - Details of objections received in respect of delimiting**
- Appendix D - Details of objections received in respect of the Waiting List Criteria**