

Regulatory & Appeals Committee – 27 November 2023

Title of paper:	Hackney Carriage Unmet Demand Survey	
Director(s)/ Corporate Director(s):	Colin Wilderspin Director - Communities	Wards affected: All
Report author(s) and contact details:	John Davis – Taxi Licensing Compliance Manager 07572262275 john.davis@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Ann Barrett Team Leader, Planning Environment and Leisure Solicitors	
Date of consultation with Portfolio Holder(s) (if relevant)	N/A	
Does this report contain any information that is exempt from publication? No		
Relevant Council Plan Outcome:		
Green, Clean and Connected Communities	<input type="checkbox"/>	
Keeping Nottingham Working	<input type="checkbox"/>	
Carbon Neutral by 2028	<input type="checkbox"/>	
Safer Nottingham	<input type="checkbox"/>	
Child-Friendly Nottingham	<input type="checkbox"/>	
Living Well in our Communities	<input type="checkbox"/>	
Keeping Nottingham Moving	<input checked="" type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Serving People Well	<input type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>Nottingham City Council (“the Council”) currently limits the number of Hackney Carriage Vehicle (“HCV”) licences that it will issue to 420.</p> <p>Following reports to this Committee on 14 December 2020 and 6 September 2021 this report considers the outcome of a Survey of Unmet Demand and whether it is appropriate to maintain a limit on the number of Hackney Carriage Vehicle licences which the Council will issue.</p>		
Recommendation(s):		
1	It is recommended that the Committee considers the results of the Survey of Unmet Demand at Appendix 1 and resolves what action they wish to take from the following options;	
1.1	To maintain the current restriction on the number of hackney carriage vehicle licences which the Council will issue at 420 or	
1.2	To consider reviewing the existing policy on the issue of hackney carriage vehicle licences to either reduce or remove the restriction on numbers.	
2	Should the Committee be minded to consider reviewing the existing policy, a consultation will be carried out with all current stakeholders and the public.	

1. **Reasons for recommendations**

- 1.1 The results of the Survey of Unmet Demand are brought to the Committee for its consideration in accordance with the Committee's earlier resolutions and
- 1.2 If it is felt appropriate to review the Council's current policy as a result of the Survey, then guidance indicates that it may be appropriate to consult on any proposed changes.

2. **Other options considered in making recommendations**

- 2.1 The three available options are listed in the report.

3. **Consideration of Risk**

- 3.1 The advantages and disadvantages of the various options are considered in the report below and see also the Legal Comments

4. **Background (including outcomes of consultation)**

- 4.1 Legal Requirements and department for Transport Best Practice Guidance.
- 4.2 Section 16 of the Transport Act 1985 states that a local authority may only limit the number of hackney carriages which it will licence if it is satisfied that there is no significant unmet demand for hackney carriages within the area. Effectively this has resulted in any council which numerically restricts the number of hackney carriage licences issued having to undertake a survey of unmet demand to provide evidence that there is no significant unmet demand and the level at which any cap on licence numbers should be set. Following the earlier reports, an unmet demand survey has been conducted by specialists, Licensed Vehicle Surveys and Assessment (LVSA), and a final report produced. The report (the Survey Report) is attached as Appendix 1.
- 4.3 The Department for Transport has issued best practice guidance regarding limiting the number of hackney carriage licences issued. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?
- 4.4 Nottingham City Council (the Council) currently not only exercises quantity controls but also exercises quality controls through its Age and Specification Policy. Prices for hackney carriages that comply with this latter policy are high with there being only one ULEV Hackney Carriage model available at the moment and due to a current shortage of new and used euro 6 diesel hackney carriages. As previously reported a large number of Hackney Carriage proprietors made the decision not to purchase policy compliant vehicles and, having lost their appeals against the Council's policy and refusal to renew non-compliant vehicle licences, have left the trade. Whilst the Council's quantity controls currently restrict the number of hackney carriage vehicle licences it will issue to 420,

there are currently only 205 licensed vehicles with the quality controls contributing to the significant decrease in licence take-up. Notwithstanding this the Survey has concluded that even with this reduced number of licensed vehicles there is still no significant unmet demand.

- 4.5 LVSA carried out the survey between September 2022 and February 2023. On street pedestrian survey work occurred in November 2022. Video rank observations occurred in mid-October 2022 once the universities were back in full term-time operation. Licensed vehicle driver opinions and operating practices were obtained by an all-driver on-line survey available from August 2022 to the end of October 2022. Key stakeholders were consulted throughout the period of the survey. The conclusion of the Survey Report states.

‘Drawing on all the evidence within this report, there is no evidence of any unmet demand which could be counted significant in terms of Section 16 of the 1985 Transport Act.

The fleet is providing a good level of service to the public and covers the city centre well both spatially and temporally.

Key actions require public information about ranks and how they can access the licensed vehicle service safely and effectively.

Unless legislation changes, there would be strong merit in undertaking a further demand survey three years hence, meaning rank work would be during October 2025 once University students had returned.’

- 4.6 Taking into consideration the findings of the Survey Report, if the Council is satisfied there is no significant unmet demand, it is able to continue to restrict to the current level the number of hackney carriage vehicle licences issued. A further independent survey of unmet demand should be carried out in three year’s time. Alternatively, should the Committee be minded to consider reviewing the existing policy on the issue of hackney carriage licences whether to allow for a decrease in the current number or complete removal of quantity controls, the Statutory Taxi and Private Hire Standards suggest that licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. If the Committee feels that the current policy should therefore be reviewed it is recommended that a period of consultation should be undertaken to get the views of stakeholders and members of the public. A further report would then be provided for members to consider the consultation responses and make a decision as to the policy.
- 4.7 The Council’s options in relation to the review of its policy, together with the advantages and disadvantages are as follows:

4.8 **Option 1**

To retain the existing restriction at 420.

Advantages:

Retains the current status. Is in line with the conclusion in the Survey Report of there being no significant unmet demand.

Due to the geography of the city centre the benefits relate to the managing congestion, preventing over ranking at the limited number of designated rank spaces available and prevents unofficial ranks forming. All of which will add to poor air quality issues already experienced across the city.

Prices for hackney carriages that comply with the Council's Age & Specification policy are also at a premium due to the high cost of the only ULEV hackney available at the moment and the current shortage of new and used euro 6 diesel hackney carriages. A restriction on numbers allows drivers the opportunity to earn a living wage.

A restriction on the number of hackney carriages may prevent drivers working excessive hours which would affect the safety of the travelling public.

Disadvantage:

This option is contrary to Department of Transport Guidance and would need to be justified.

In most cases where quantity restrictions are imposed, vehicle licences command a premium, often in tens of thousands of pounds, however this is not currently the case in Nottingham as not all vehicle licences have been issued.

A further unmet demand survey will be required in 3 year's time which has cost implications for the Council. The current survey cost in the region of £19,140 and prices are likely to rise over the next 3 years.

The travelling public would not enjoy the benefits of more competition within the taxi market.

4.9 **Option 2**

To reduce the number of licences issued to 250.

Advantage:

The unmet demand survey was conducted whilst the number of licensed hackney carriages was around 200 and the conclusion of the survey was that there is no evidence of any unmet demand for the services of hackney carriages which is significant at this time in the Council's licensing area.

Prior to Covid-19 and the introduction of the Council's Age & Specification Policy on 01 January 2020, the number of licensed hackney carriages was 411 (9 licences were never issued) and never dropped below this number.

Since the introduction of the Age & Specification Policy, the number of licensed hackney carriages has remained at around 200. This can be linked to a number of factors. Hackney carriages are required to be either ZEC ULEV or a Euro 6 diesel and these vehicles can cost between £35,000 and £65,000, the number of people travelling to the City for work or business has not returned to pre-Covid levels with people continuing to work from home and the Night Time economy has also not returned to pre-Covid levels with a number of night clubs and other venues reducing the number of days or hours that they are open.

Where a proprietor has made a significant investment in a cleaner compliant hackney carriage, then having a reduced number of licensed hackney carriages operating in the City will give those proprietors and drivers more opportunity to earn a living wage.

It will reduce the amount of time that a hackney carriage is sitting on a rank between jobs and potentially prevent vehicles sitting with their engines idling especially in winter when the drivers are using the vehicle heaters and therefore will contribute to reducing pollution in the City Centre.

A restriction on the number of hackney carriages may prevent drivers working excessive hours which would affect the safety of the travelling public.

Disadvantage:

This option is contrary to Department of Transport Guidance and would need to be justified.

In most cases where quantity restrictions are imposed, vehicle licences command a premium, often in tens of thousands of pounds, however this is not currently the case in Nottingham as not all vehicle licences have been issued.

A further unmet demand survey will be required in 3 year's time. Which has cost implications for the Council. The current survey cost in the region of £19,140 and prices are likely to rise over the next 3 years.

The travelling public would not enjoy the benefits of more competition within the taxi market.

4.10 **Option 3**

The removal of the numerical restrictions on the number of hackney carriage licences issued.

Advantage:

This option is in line with best Practice guidance.

Potential better service for consumers by increasing the competition and reducing waiting times at peak times.

There will be no need for a triennial survey with associated extra work, this option lets market forces immediately dictate the number of hackney carriages without Council intervention and accords fully with Government guidance. Whether a better service would be provided overall would only be ascertained after a period of implementation.

The Council's quality restrictions in terms of the Age and Specification Policy and the cost of policy compliant vehicles are still likely to act as some form of control on the numbers of hackney carriage vehicles.

Disadvantage:

Potential dissatisfaction within the taxi trade due to perceived additional competition. However, “public safety” is the primary licensing test and economic and business considerations are irrelevant.

Concerns that the City will become flooded with more vehicles causing congestion and pollution. These concerns should however be balanced against the effect of the Council’s Age and Specification Policy which is still likely to have a limiting effect on the number of persons who will apply for vehicle licences meaning that the market will not suddenly become flooded.

An unlimited number of hackney carriages could result in driver’s working excessive hours which may affect passenger and driver safety.

5. Finance colleague comments (including implications and value for money)

- 5.1 Based on the Survey’s findings concluding that there is no significant unmet demand for Hackney Carriages the City Council has proposed 3 options.
- 5.2 To remain at current levels or to reduce the license numbers would have little financial implications as the resources it needed to administer and enforce the hackney carriage licensing regime would need to be reviewed and the licence fees adjusted accordingly to provide no effect on the general fund. Both of these options require the 3 year unmet demand survey to be completed ongoing at a current cost of circa £19,140.
- 5.3 If the option is made to remove the cap the 3 year unmet survey will no longer be required ongoing as this would be in line with best practice and with the current level of Hackney carriages being at circa 205 and the cap is only limiting at 420.
- 5.4 In the event of an appeal against the first two capping options, the Council will have to bear the costs of defending this decision.

Susan Turner, Senior Commercial Business Partner, 16/11/2023

6. Legal colleague comments

- 6.1 The Survey Report has concluded that there is no significant unmet demand for hackney carriages within the City providing the Council with the **option** of retaining a limit on the number of hackney carriage vehicle licences which it issues. Whilst this provides evidence that the statutory test in section 16 of the Transport Act 1985 has been met the Committee is not bound to continue to impose restrictions and should consider the range of options available to it. In doing so it should have regard to Best Practice Guidance and other relevant considerations.
- 6.2 The Current Best Practice Guidance remains that issued by the Department for Transport (DFT) in 2010 with the salient points being expressed in similar terms in the revised consultative draft version issued in 2022 referred to in the body of this report. That guidance confirms that:-

“most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice.”

The draft DFT guidance also refers to guidance issued by the Competition and Markets Authority in 2017 that :-

“Quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares”

6.3 Both versions of the DFT Guidance indicate that :-

The matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services.

- *what benefits or disadvantages arise for them as a result of the continuation of controls?*
- *what benefits or disadvantages would result for the public if the controls were removed?*
- *Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?*

In addition, the draft guidance asks if there are alternative ways in which the issue could be addressed and suggests that if an alternative measure could be used to achieve the same effect then those measures should be used in preference to quantity restrictions.

6.4 Whichever option the Committee chooses it is potentially open to challenge on the usual administrative law grounds. The Committee may depart from the guidance should it wish but in order to minimise risk should have regard to it (together with any other relevant considerations,) and should confirm its reasons for departing from the guidance should it choose to do so.

Ann Barrett, Team Leader Legal Services, 02/11/2023

7. **Other relevant comments**

7.1 None.

8. **Crime and Disorder Implications (If Applicable)**

8.1 N/A

9. **Social value considerations (If Applicable)**

9.1 N/A

10. **Regard to the NHS Constitution (If Applicable)**

10.1 N/A

11. **Equality Impact Assessment (EIA)**

11.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:

(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 2, and due regard will be given to any implications identified in it.

12. **Data Protection Impact Assessment (DPIA)**

12.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because there is no additional impact on the data protection requirements already in place.

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

13. **Carbon Impact Assessment (CIA)**

13.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because this policy has no impact on carbon emissions.

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

14. **List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

14.1 None.

15. **Published documents referred to in this report**

15.1 Taxi and Private Hire Vehicle Licensing: Best Practice Guidance – March 2010