

WIRRAL COUNCIL
LICENSING, HEALTH AND SAFETY, AND GENERAL PURPOSES
COMMITTEE
21 SEPTEMBER 2011

SUBJECT:	INDEPENDENT STUDY OF THE SUPPLY AND DEMAND FOR HACKNEY CARRIAGE VEHICLES IN WIRRAL
WARD/S AFFECTED:	ALL
REPORT OF:	HEAD OF REGULATION
RESPONSIBLE PORTFOLIO HOLDER:	CLLR BILL DAVIES COMMITTEE CHAIR
KEY DECISION?	NO

1. EXECUTIVE SUMMARY

- 1.1. This report presents the results of an independent study of supply and demand for Hackney Carriage Vehicles in Wirral.
- 1.2. Committee Members are requested to consider the conclusions and recommendations contained in the Study Report and specifically the principle finding that there is no evidence of unmet demand for Hackney Carriage Vehicles in Wirral.

2. RECOMMENDATION

- 2.1. That Members consider the conclusions and recommendations of the independent study of supply and demand for Hackney Carriage Vehicles (taxis) carried out by the Halcrow Group Limited.
- 2.2. That the Director of Law, Human Resources, and Asset Management submit a further report to this Committee with proposals to promote and publicise the range of wheelchair accessible vehicles available for pre booking together with information regarding the type of vehicle.

3. REASON FOR RECOMMENDATION

- 3.1. The Study Report sets out a number of options arising from the findings of the survey and Members are asked to give consideration to these options including the relevant risks and practical implications

attached to each when deciding policy in relation to Hackney Carriage Vehicles.

- 3.2 The Halcrow Study Report contains a recommendation at paragraph 11.7 that the range of wheelchair accessible vehicles and the type of vehicle available be promoted.

4. BACKGROUND AND KEY ISSUES

- 4.1. On 28 July 2010 Members of this Committee authorised officers to proceed with a tender for an independent investigation into the supply and demand for Hackney Carriage Vehicles in Wirral.
- 4.2 A review of the demand for Hackney Carriage Vehicles is usually carried out by a Licensing Authority that seeks to maintain or impose a policy to limit the number of Hackney Carriage Vehicle licences that it issues. The unfettered discretion to limit the number of Hackney Carriage Vehicle licences was removed by Section 16 of the Transport Act 1985 and the following test for Licensing Authorities now applies;

“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 demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”.
- 4.3. At the meeting of this Committee on the 8 November 2010, the results of a procurement process were reported and Halcrow Group Limited, (Halcrow), were appointed to carry out an independent survey of the supply and demand for Hackney Carriage Vehicles in Wirral.
- 4.4 The Survey undertaken by Halcrow has been completed and their report is attached at Appendix 1. The purpose of this Committee Report is for Members to consider the results and recommendations of the Halcrow Report.
- 4.5 A Representative from Halcrow Group Ltd will be present at the meeting.

5.0 THE CONCLUSIONS OF THE HALCROW REPORT

- 5.1 The study has determined that there is no evidence of significant unmet demand for Hackney Carriage Vehicles in Wirral. This conclusion is based on an assessment of the current demand for taxis, the implications of case law that has emerged since 2000, and the results of Halcrow’s analysis.
- 5.2. The Study reports that overall the public were satisfied with the service of taxis. This finding was based upon over 570 face to face surveys. Key points included:

- High levels of satisfaction with delay on last trip were recorded for those making hackney trips;
 - Majority of respondents had not given up waiting for a Hackney or Private Hire vehicle in the last three months with just 19.2% stating they had given up trying to obtain a vehicle by rank and/or flagdown in Wirral;
 - The majority of respondents felt safe using them during the day (87.2%) and at night (74.5%) in Wirral;
 - Some people responding to the survey considered taxis to be too expensive.
- 5.3. All Hackney Carriage Vehicles are required to be fully wheelchair accessible and are licensed every 12 months until they are 10 years old. From 10 years old, they are required to be licensed every 6 months however there is no upper age limit.
- 5.4. In respect of wheelchair accessible vehicles the study reports that consultation with the general public has identified that 10.8% of respondents do not use taxis more often as there is a lack of wheelchair accessible vehicles. However, consultation with disability groups found that representatives would like to see vehicles with wheelchair access at the rear to allow the user to face forward.
- 5.5. The Study Report states that Wirral Council in line with Best Practice currently does not restrict the number of Hackney Carriage Vehicles across the authority. Consultation has identified that a restriction on the number of licences issued is something that the trade would like to see re introduced.
- 5.6. The Study further reports that introducing a policy of entry control would provide considerable benefit to the trade. The Hackney trade have stated a clear desire for this policy to be introduced.

6.0 **THE HALCROW RECOMMENDATIONS**

6.1 The Halcrow Study has identified that there is no evidence of significant unmet demand for Hackney Carriage Vehicles in Wirral. 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. The Study reports that on this basis the authority has a discretion in its Hackney Carriage Vehicle licensing policy and may either:

- Continue to allow market forces to dictate the number of Hackney Carriage licences; or

- Introduce a limit on the number of vehicles at 289 or higher.
- 6.2 The Study reports that the vast majority of evidence indicates a high level of service to consumers of Hackney Carriage Vehicles in Wirral as a result of the current policy of free entry to the market. It is stated that 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). However, the Study does report that in the medium term, as demand for taxis may continue to grow with the redevelopment of Wirral, it is possible that consumers may be inconvenienced by a limit of 289 vehicles.
- 6.3 The Study states that 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. The Study further points out that 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.
- 6.4 Recommendations within the Study Report suggest that 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. It is reported that this would have the benefit of protecting consumers whilst at the same time providing greater certainty to members of the Hackney trade. The Study Report indicates that 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 five to ten percent increase in the fleet over a three year period.
- 6.5 The Study Report states that both of these approaches have been successfully applied by licensing authorities elsewhere, with the first being possibly the most straightforward to administer.
- 6.6 In summary from the Halcrow Study Report recommendations, Wirral has the following options to consider in relation to its entry policy.
- Option 1 Continue to allow market forces to dictate the number of Hackney Carriage licences

- Option 2 Introduce a limit on the number of vehicles at 289 or higher
- Option 3 Retain a free entry policy but introduce more demanding conditions on the type of vehicle (e.g. requiring much newer wheelchair accessible vehicles)
- Option 4 Continue 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 five to ten percent increase in the fleet over a three year period.

6.7 The Halcrow Study also recommends 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

7.0 RELEVANT RISKS

- 7.1 Table 11.1 on page 66 of the attached Halcrow Study Report summarises advantages and disadvantages for the option of whether to have free entry as opposed to a numerical limit on taxi licences.
- 7.2 The Department for Transport suggests that the matter of whether there should be restrictions on the number of Hackney Carriage Vehicle licences should be approached in terms of the interests of the travelling public and what benefits or disadvantages arise from controlling the number of licences issued.
- 7.3 In respect of the risks to the Council of a decision to cease or restrict the issue of taxi licences, contained within Options 2 and 4, the principle risk is that any decision to refuse to issue a licence to an applicant on the grounds of limiting numbers is subject to challenge by way of Appeal to the Crown Court and or Judicial Review to the High Court.
- 7.4 Before a local authority can refuse an application for a vehicle licence in order to limit the number of licensed taxis, they must be satisfied that there is no significant demand for the services of taxis, within the area to which the licence would apply, which is unmet.
- 7.5 If the local authority are thus satisfied, a discretion, as opposed to an obligation, arises to refuse the grant of a licence.
- 7.6 If the local authority are not so satisfied, they cannot refuse to grant a licence for the purpose of limiting the number of licensed taxis and are thus obliged to grant it.
- 7.7 It is widely accepted that a local authority which is considering limiting hackney carriage numbers, or maintaining an existing limit, must

demonstrate independent assessment of demand. This is achieved by means of a survey conducted by an independent body.

- 7.8 The Halcrow Report attached in Appendix 1 would be used as the Council's evidence to support a decision to refuse to grant an application for a Hackney Carriage Vehicle Licence on the grounds that there was no significant demand for taxis in Wirral that was unmet and may be subject to challenge by the Appellant. A decision to limit numbers will require further independent surveys into demand at three yearly intervals if a limit is then to be maintained.
- 7.9 In respect of option 1, the Council can continue to issue licences without the risks attached to refusals contained within Options 2 and 4.
- 7.10 In respect of option 3, policies relating to the type of vehicle that can be licensed as a Hackney Carriage and conditions attached to a Hackney Carriage Vehicle licence can be subject to legal challenge. Wirral policy currently requires that for new licences, vehicles must be wheelchair accessible and that every vehicle must be three years old or less from the date of first registration or date of manufacture (whichever is the earlier).

8.0 PRACTICAL IMPLICATIONS

- 8.1 There are practical implications attached to each of the options set out in the Halcrow report. These include:

Option 1 Legal challenges could not be made regarding the refusal to grant a licence on the grounds that there was no demand for Hackney Carriages that was unmet
No requirement for three yearly unmet demand surveys
No requirement for considerations of who should be granted licences should a licence become available
No concept of a waiting list for Hackney Carriage Licences

Option 2 Members will have to determine the numerical limit beyond which no further licences will be issued
Potentially significant legal costs to the Council related to the refusal to grant licences
The Council will need to set out clearly how it will consider potential applications for licences and the criteria for granting licences

The Council will have to consider how it will determine applications in circumstances where:
a licence expires, is surrendered, the owner wishes to change their vehicle, the Council receives an application for a vehicle to be used by a driver who's vehicle has

been involved in an accident, the Council receives an application for a Horse Drawn Carriage or Rickshaw.

- Option 3 The Council will need to review and consult upon existing licence conditions and criteria for licensing Hackney Carriage Vehicles
- Option 4 Members will need to determine the level at which to set a managed growth policy
Potentially significant legal costs to the Council related to the refusal to grant licences
The Council will need to set out clearly how it will consider potential applications for licences as set out in relation to Option 2

9.0 OTHER OPTIONS CONSIDERED

9.1 None.

10.0 CONSULTATION

10.1 A full range of stakeholders were consulted as part of the survey that was undertaken.

11.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

11.1 There is no implication specific to any of these groups

12.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

12.1 The adoption of a limit on the number of licences issued will require that an independent survey of demand be undertaken every three years if the limit is to be maintained.

13.0 LEGAL IMPLICATIONS

13.1 The implications are detailed in section 7.0 of the report

14.0 EQUALITIES IMPLICATIONS

14.1 A change in Policy may affect access to Hackney Carriage Vehicles by wheelchair users.

14.2 Equality Impact Assessment (EIA)

(a) Is an EIA required?

Yes Attached

15.0 CARBON REDUCTION IMPLICATIONS

15.1 None

16.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

16.1 The availability of taxis during the night time is important to ensure that those involved in the night time economy can safely get home.

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APPENDICES

1 – Wirral Hackney Carriage Unmet Demand Study (The Study Report)

REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
The Licensing Health and Safety and General Purposes Committee	28 July 2010 8 November 2010