

Body: General Licensing Committee
Date: 10th March 2008
Subject: Hackney Carriage Proprietors Licence Allocation – Update
Report Of: Karen Plympton, Licensing Manager
Ward(s) All
Purpose At the request of the Leader and Licensing Chair, provide an information report to the Full Licensing Committee regarding hackney carriage proprietors licence allocation in the Borough and options for the future
Contact Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937
E-mail address karen.plympton@Eastbourne.gov.uk

1.0 Background

- 1.1 Quantity controls on hackney carriage vehicles in England and Wales currently have their basis in the Town Police Clauses Act 1847. Section 16 of the Transport Act 1985 requires a Licensing Authority to grant a hackney carriage proprietors licence to any valid applicant. However,
- '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.'*
- 1.2 In 1998 White Paper, "A New Deal For Transport, Better For Everyone," gave consideration to taxi services, and the subsequent Transport Act 2000 requires Local Authorities to recognise the importance of taxis in an integrated transport system, and consider them in local transport plans, with reference to the provision of sufficient and suitable taxi ranks.
- 1.3 Guidance from Central Government in 2004 required Licensing Authorities to review any policy of restricting the number of licences, and any mechanism of quality control in respect of the release of hackney carriage licences on a regular basis and publish the findings of such a review, if they intend to refuse to grant further licences. This guidance suggests that the Licensing Authority must address the issue of "consumer detriment." That is to say, if the number of licences is limited, what evidence is there that consumers benefit from this limit, and conversely, how will it be to the detriment of consumers to remove the limit?
- 1.4 Central Government have also indicated that it intends to apply regulations relating to the 1995 Disability Discrimination Act in relation to licensed vehicles. This will require any new vehicle to comply with standards yet to be fully determined, but with a view to offering improved facilities for persons with a disability.

- 1.5 As part of the review process, and where it is intended that the Licensing Authority shall maintain a policy of restricting the number of hackney carriage proprietor licences, the Authority must undertake unmet demand surveys, and publish the findings. This survey can then form the basis of maintaining a position, and/or reviewing it as necessary.
- 1.6 Local Authorities are also permitted to initiate a policy which de-limits the number of hackney carriage proprietor licences granted in the Borough. This means that there are no limits on the available number of hackney carriage proprietor licences.
- 1.7 Local Authorities are not, however, permitted to dictate or control the number of private hire vehicle licences in the Borough.

2.0 Review Of Current Restriction Policy

- 2.1 In June 2005, the Council was contacted a second time by the Department for Transport in respect of its current policy of limiting the number of hackney carriage proprietors licences. At that time, the Council, as the Licensing Authority, had issued 84 Hackney Carriage Proprietor Licences. The last release of such licences took place in 1976.
- 2.2 Following this request from the Department For Transport late 2005, the Full Licensing Committee agreed to review the matter, and agreed that a survey of unmet demand should be undertaken in order to ensure that information was current and provided an up to date means of data to facilitate the decision making process.
- 2.3 The previous unmet demand survey, undertaken by Halcrow Fox Limited had been undertaken in 2000, and could no longer be relied upon as reflecting the Borough. In general terms, it is accepted that survey of this nature has a "life span" of 3 years, however can be repeated sooner if required.
- 2.4 Following a tender process, MCL, independent transport consultants, were appointed to carry out the unmet demand survey. The findings are collated in a report, released in August 2006, can be found at www.eastbourne.gov.uk/licensing.
- 2.5 MCL investigated the provision and use of hackney carriage services in the Borough, and assessed:
 - The overall demand for hackney carriages services in Borough
 - Periods and locations giving rise to significant unmet demand
 - The suitability and locations of taxi ranks and of services for persons with disabilities.
- 2.6 The survey, in summary, concluded that there was evidence of unmet demand and found the following:
 - The survey found that the Council cannot refuse applications for new hackney carriage proprietor licences on the basis that there was unmet demand which needed to be addressed
 - It recommended that minimum of six new hackney carriage proprietor licences should be released immediately to ensure 'no consumer detriment'. This would be a minimum number, and would not preclude a larger number of licences being issued if the Council were so minded.

- That there was no strong justification for new ranks.
- That there should be a mixed fleet of vehicles, and a strong case for an increase in the number of "accessible" vehicles for persons with disabilities.
- That Disability Awareness training should be considered.

2.7 On the 1 November 2006 the Licensing Manager presented a report, 'Outcome of study of demand for Hackney Carriages' to the full General Licensing Committee.

2.8 The Committee's decision was to release six additional hackney carriage proprietor licences, subject to a series of terms and conditions of release, primarily relating to vehicle type and associated accessibility issues.

2.9 It was agreed that 'a further report would be presented to the Committee at the earliest opportunity for a decision on how it is proposed such licences will be allocated.'

3.0 Allocation of Hackney Carriage Proprietor Licences

3.1 On the 23 January 2007, the Full Licensing Committee was presented with a further report from the Licensing Manager, entitled 'Consideration and Allocation of New Hackney Carriage Licences'.

3.2 The report outlined the history leading to the review of a restrictions policy, including the decision by the Licensing Committee to release six hackney carriage proprietor licences. It requested that the mechanism for release be considered and agreed. In addition, the report requested the Licensing Committee to 'agree to allocate such accordingly', subject to the terms and conditions agreed previously.

3.3 The report made specific reference to a 'list' of individuals who had previously expressed an interest in applying for a Hackney Carriage Proprietors Licence and advised that the list had been 'sporadically maintained' since 1976.

3.4 The report also advised that in order to ensure that any party wishing to be considered for a licence be afforded the opportunity to make an application, an advert had been placed in the Evening Herald the week commencing the 8th January 2007, included at paragraph 2.3.

3.5 In addition, information was placed on the Council's website outlining the decision to release six licences, the terms and conditions of release, and that expressions of interest should be made by the 22nd January 2007.

4.0 Mechanism Of Allocation

4.1 The report outlined research in relation to method of hackney carriage proprietor allocation. Following research of Authority practice and legal advice from J Button, Solicitor specialising in Hackney Carriage and private hire matters, it was recommended that an in-house 'draw' take place, and was deemed as the most sound method of allocation.

4.2 At the meeting on the 23 January 2007, the Licensing Committee reviewed the options as presented and following discussion and further legal advice from Victoria Simpson, Principle Lawyer for the Council, agreed to allocate licences via an "in house draw," conducted in open session.

- 4.3 The Licensing Team received nineteen expressions of interest, all of whom were placed in the draw, and during the public session all nineteen were drawn alternately by the Chair and Vice Chair of the General Licensing Committee, with the first six names taken recorded in the minutes as being allocated Hackney Carriage plates.
- 4.4 The 6 licences were released subject to a number of conditions. These included that any the licence shall remain linked to a vehicle that had European Whole Vehicle Type certification, and shall be wheel chair accessible.
- 4.5 Whilst some of those allocated a licence had difficulty sourcing a vehicle of this nature, the additional hackney carriage proprietor licences are now being utilised, taking the number of hackney carriage proprietor licences from 84 to 90.

6.0 Expressions Of Interest

- 6.1 Following the Full Licensing Committee in January 2007, steps were taken to ensure that all parties wishing to express an interest in obtaining a hackney carriage proprietor licence in the future must properly register with the Council's Licensing Team in a prescribed manner. A copy of the duplicate "expression of interest" form is attached at Appendix 1 with one copy being retained by the Licensing Department and one by the applicant.
- 6.2 This "expressions of interest" record is properly kept and maintained. The "expression of interest," records are kept, and reviewed on an annual basis. Persons wishing to maintain their expression must re- register their interest every year.
- 6.3 Should the Full Licensing Committee agree to release further Hackney Carriage proprietor licences in the future, in addition to the pool of individuals having expressed an interest using the prescribed form , an advertisement inviting "expressions of interest" from the wider public will also be placed in a local newspaper prior to any release.
- 6.5 It is important to note that even where an "expression of interest" may be lodged, it does not mean that the individual will be awarded a hackney carriage proprietor licence, it merely means that they are forming one of a "pool" of interested parties. Further, that where a persons details alter, the onus is on the applicant to re-register their interest.
- 6.6 At the time of writing this report, the current "expressions of interest list" is effective, operating between 0900 hours on 23rd January 2008 and closing at 1200 on 22nd January 2009.

7.0 Department Of Transport Best Practice Guide

- 7.1 In November 2006, the Department For Transport released "Taxi and Private Vehicle Licensing: Best Practice Guidance." Section 10 of this document makes reference to "quantity restrictions of taxi licences outside London." A copy of this section relating to quantity control is included at Appendix 2, however, in summary, it hi-lights:
- Most authorities do not impose quantity restrictions , and the Department regards this as good practice

- Where restrictions are imposed, the Department would urge that the matter be regularly re-considered, and that any review should include consideration as to whether restrictions should be considered at all.
- Decisions should be approached in the interests of the travelling public
- Where quantity restrictions apply, the licences themselves command a high commercial value, indicating that there are people wanting to enter the taxi market and provide a service to the public, but who are prevented from doing so by the quantity restrictions.
- If Local Authorities feel that quantity restrictions can be justified, then a regular means to review this shall be undertaken, normally by way of a survey

8.0 Overview of Future Actions & Considerations

8.1 The General Licensing Committee will need to ensure that the position it adopts can be defended in the event of a legal challenge to the Magistrates Court.

8.2 In short, the Committee can:

- (a) Maintain the position of quantity restriction, meaning that the Committee agrees not to release further licences at this time.
- (b) Adopt a policy of "managed growth." "Managed growth" means that the Committee adopts a policy of releasing a specified number of licences over a period of time. For example, the Committee could release 3 licences every year to effectively manage the growth of the Borough.
- (c) Opt for total delimitation. This means that there are no restrictions on the number of hackney carriage proprietor licences.
- (d) Opt for total delimitation, subject to conditions whereby licences will only be released to vehicles meeting a required specification, for example, that they must meet European Whole Vehicle Type Specification and are wheelchair accessible.

8.3 In respect of actions (a) and (b) the Committee are still effectively restricting the number of licences available, and as such, a survey will need to be undertaken on a regular basis as a means of informing this process and offering evidence to defend this position.

8.4 The average "life span" of a survey is considered to be 3 years, and as such, the current survey will need to be repeated in 2009. However, the survey can be undertaken earlier if appropriate, should there be any significant changes to the Borough, for example future growth in leisure facilities.

Background Papers

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Halcrow Fox Study For Unmet Demand, 2000
- MCL Study of Demand For Hackney Carriages August 2006
- Department For Transport, Taxi and Private Hire Vehicle Licensing. Best Practice Guide, 2006

**EXPRESSION OF INTEREST NOTICE
LICENSING TEAM COPY**

Eastbourne Borough Council

**Application for inclusion on the hackney Carriage proprietor vehicle licence
"expression of interest" for the period from 0900 hours on the 23rd January 2008 and
closing on the 22nd January 2009. Expressions of interest must be received no later
than 1700 hours on the 22nd January 2009.**

Personal Details

Surname/Family Name
(BLOCK CAPITALS)

Forename(s)

Permanent Home Address & Postal Code

.....
.....

Contact Number

Date Of Birth

Have you, at any time been the proprietor of a hackney carriage in Eastbourne or elsewhere?
If Yes, please give details, including the Authority and dates:

.....

Declaration

**I hereby apply for my name to be recorded on the hackney carriage vehicle licence
"expressions of interest" list for the period specified. I declare that the information
I have given on this form is true and that no material particular has been omitted.**

**I agree for my details to be recorded by Eastbourne Borough Council, and authorise
for my details to be recorded on a public register, which will include my full name,
address and date of birth.**

Signature

Date

**Please note that even where you may have lodged an expression of interest on a
previous occasion, you will be required to re- register this interest every year.
Should your details change, you will also be requires to complete a further
expression of interest notice. It must also be made clear that should the Full
Licensing Committee agree to release more plates at any time, simply forming part of
the" pool" of those parties expressing an interest via this method does NOT in any
way mean that you will be awarded a licence/plate.**