Body: General Licensing Committee

Date: 9th March 2009

Subject: Provision of Hackney Carriage Proprietors Licences – Petition

from the Disability Involvement Group

Report Of: Kareen Plympton, Licensing Manager

Ward(s): All

Purpose: The Committee is asked to determine its future approach in

relation to the provision of hackney carriage proprietor licences

in the Borough.

Contact: Kareen Plympton, Licensing Manager, Telephone 01323 415937

or internally on extension 5937

E-mail address kareen.plympton@Eastbourne.gov.uk

1.0 Background

- 1.1 Quantity controls on hackney carriage licences in England and Wales currently have their basis in the Town Police Clauses Act 1847. A series of additional, legislation and guidance has also been created since the Act.
- 1.2 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.'
- 1.3 If the Authority cannot demonstrate that there is no unmet demand, the hackney carriage proprietors licence must be granted. (Kelly and Smith V Wirral Metropolitan Borough Council 2006).
- 1.4 In 1998, the White Paper, "A New Deal For Transport, Better For Everyone," gave consideration to taxi services The subsequent Transport Act 2000 requires Local Authorities to recognise the importance of taxis in providing an integrated transport system, and consider them in local transport plans. This should be balanced with reference to the provision of sufficient and suitable taxi ranks.
- 1.5 Guidance from central Government in 2004 required Licensing Authorities to review any policy of restricting the number of hackney carriage proprietor licences; and any mechanisms of quality control on a regular basis. Authorities must publish the findings of such a review where it is intended to refuse to grant further licences.
- 1.6 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?

- 1.7 Central Government has also indicated that it intends to apply regulations relating to the 1995 Disability Discrimination Act to licensed hackney carriage vehicles. This will require any new vehicle to comply with specific standards, although at the time of writing this report, these standards are still being developed, since there is no one single type of vehicle able to accommodate individuals with varying requirements. It is anticipated that these standards will offer improved facilities for disabled people.
- 1.8 As part of the review process, and where it is intended that the Licensing Authority maintains a policy of restricting the number of hackney carriage proprietor licences, it must undertake an "unmet demand" survey on a regular basis.
- 1.9 It is widely accepted that surveys of this nature have an average "life span" of three years. However, such can be repeated sooner if required.
- 1.10 The outcome of this survey must be published and its findings can be used to form the basis of maintaining a position, and/or reviewing it.
- 1.11 The Licensing Authority is also permitted to initiate a policy which totally delimits the number of hackney carriage proprietor licences granted in the Borough. This means that there are no limits whatsoever on the available number of hackney carriage proprietor licences or any conditions linked to the release of any licences.
- 1.12 The Licensing Authority is 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 for a second time by the Department for Transport in respect of its current policy which seeks to limit the number of hackney carriage proprietor licences.
- 2.2 At that time, the Council had issued 84 Hackney Carriage Proprietor Licences. The last release of licences took place in 1976.
- 2.3 As a result of the request from the Department For Transport, the Full Licensing Committee reviewed the matter, and agreed that a survey of unmet demand be undertaken to establish whether the policy of restricting the number of licences continued to be appropriate.
- 2.4 An "unmet demand" survey aims to ensure that information gathered is current in assessing the level of demand for hackney carriages, and considers interrelated factors. The survey offers the Authority with a means to defend its approach if challenged. It also provides Members with current data, and a mechanism to facilitate the decision making process.
- 2.5 It was determined by Members that the previous unmet demand survey, undertaken by Halcrow Fox Limited in 2000, could no longer be relied upon as reflecting the requirements of the Borough.
- 2.6 Following a tender process, MCL, independent transport consultants, were appointed to carry out the most recent unmet demand survey. The findings are collated in a report, released in August 2006.

- 2.7 MCL investigated the provision and use of hackney carriage services in Eastbourne, and assessed:
 - The overall demand for hackney carriages services in Borough
 - Periods and locations which gave rise to significant unmet demand
 - The suitability and locations of taxi ranks and of services for persons with disabilities.
- 2.8 A series of "interested parties," including members of the taxi trade, Sussex Police, East Sussex County Council Highways and the travelling public, were involved in the consultation process and contributed to its findings.
- 2.9 The survey, in summary, concluded that there was evidence of significant unmet demand and identified 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 and this needed to be addressed.
 - It recommended that a minimum of 6 new hackney carriage proprietor licences be released immediately to ensure 'no consumer detriment'. This would be a minimum number, and would not preclude a greater 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 disabled persons and those with specific requirements.
 - That Disability Awareness training should be considered.
- 2.10 In November 2006 a report was presented entitled 'Outcome of Study of Demand for Hackney Carriages' undertaken by MCL Limited to the Full General Licensing Committee. A full copy of the survey methodology and results can be found at www.eastbourne.gov.uk/licensing.
- 2.11 The Full General Committee agreed to release six additional hackney carriage proprietor licences, the minimum recommended, subject to a series of terms and conditions.
- 2.12 On the 23 January 2007, the Full Licensing Committee was presented with a further report, entitled 'Consideration and Allocation of New Hackney Carriage Licenses,' and agreed to release the 6 hackney carriage proprietor licences, allocating such by way of an "in house" draw held in open session.
- 2.13 The 6 licences were released subject to a number of conditions. These included that the licence shall remain linked to a vehicle that had European Whole Vehicle Type certification, and be wheel chair accessible.
- 2.14 Whilst some of those allocated a licence had initial difficulty sourcing a vehicle of this nature, the additional hackney carriage proprietor licences are now being utilised, taking the number of licences from 84 to 90.

3.0 <u>Department of Transport Best Practice Guidance & Survey of Local</u> Authorities

- 3.1 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 report, with particular reference to quantity control can be found at www.dft.gov.uk/pgr/regional/taxis/taxiandprivatehirevehiclelic.
- 3.2 The relevant section which Members will need to familiarise themselves with is included at Appendix 1, however, in summary, it states that:
 - 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 in place 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
- 3.3 The Department For Transport has consistently asked Councils to justify any decision to restrict the number of hackney carriage proprietor licences and clearly favours de-limitation.
- 3.4 It urges that a regular review is undertaken where restrictions apply and that any decisions should be approached in the interests of the travelling public.
- 3.5 A subsequent report "Taxi Licensing: Review of Local Authority Quantity Control Policies" released in 2008, the Department For Transport indicates that out of the 82 Local Authorities who responded, 35 authorities had decided to remove quantity controls and 57 have decided to retain a limit on the number of hackney carriage proprietor licences they are prepared to grant.
- 3.6 A number of authorities sent interim replies indicating that they were still considering the matter. A full transcript of the report detailing the position in 2005 can be found at www.dft.gov.uk/pgr/regional/taxis/taxilicensingreviewoflocal
- 3.7 Members will note that Eastbourne Borough Council appeared not to offer a response to the survey. However, this is not the case and the Department For Transport were advised that the Authority were undertaking a review.
- 3.8 An overview of the Report is included at Appendix 2. It is worth noting that the responses outline the stance in 2005. Since that date, a number of Authorities have reviewed their position and there has been a trend towards de-limitation, and this has certainly been the case across Sussex.

4.0 Why Review?

i) Department For Transport

- 4.1 The Department For Transport view is outlined in detail at Section 3 of the report, and clearly favours de-limitation. It urges Local Authorities to take decisions which focus on the interests of the travelling public.
- 4.2 The primary purpose of the licensing regime is to provide a safe, accessible service for all.

ii) Disability Involvement Group Petition

- 4.3 In mid 2008, the Licensing Manager attended a meeting of the Disability Involvement Group (DIG) at the request of its Members to discuss the issue of taxi licensing, wheelchair accessible vehicles (WAVs) and their overall availability.
- 4.4 The issues raised by members of the DIG included:
 - The lack of wheelchair accessible vehicles (WAVs) generally, both hackney carriages and private hire vehicles.
 - The lack of WAVs at key times, for example early in the morning and in the afternoon.
 - The lack of WAVs available on the ranks, requiring members to book a suitable vehicle well in advance of any anticipated journey, usually through a Private Hire Operator. This limited an individuals opportunity to travel freely, as often a WAV could not be secured.
- 4.5 The lack of WAVS in the morning and afternoon may be attributed to such undertaking school runs and contract work, catering for children and young people with specific needs. The DIG were keen to establish whether the Council could stipulate the working patterns of licensed vehicles, however it was explained that this would be unlawful. Members were advised that the Full Licensing Committee would be keen to hear their views, resulting in the petition.
- 4.6 At the end of 2008, the issue regarding the apparent lack of available WAVs was taken to the Taxi and Private Hire Forum. An attempt was made to broker a general agreement with the main operators and other attendees to ensure that a minimum number of WAVs would be made available for hire at all times.
- 4.7 It is fair to say that whilst the Trade empathised with the challenges faced by members of the DIG, they were reluctant to enter into any such agreement
- 4.8 Of the 90 hackney carriage proprietor licences, at the time of writing this report, approximately 12% of the 90 Hackney Carriage licensed vehicles are designated as WAVs.
- 4.9 In October 2008, the Licensing Team received a petition from the Disability Involvement Group, seeking a total delimitation of the number of hackney carriage proprietor licences, and for any subsequent new licences to be issued to WAVs only.

- 4.10 A copy of the petition is at Appendix 3. Due to data protection, the signatures and addresses of the 37 signatory's have been concealed; however Members may have sight of such if they wish at the Committee hearing.
- 4.11 A further submission from the DIG was received on the 23rd February 2009 in support of the petition and has been included at Appendix 4.

iii) Local Area Agreement - National Indicator 175 (Accessibility)

- 4.12 National Indicator 175 (Accessibility) forms part of the second East Sussex Local Area Agreement and has been provisionally agreed as follows:
 - "The proportion of the total population in East Sussex within 30 minutes access by public transport for arrival at a key centre between 0700-1000 hours and for the return journey from that centre between 1600 hours and 1900 hours."
- 4.13 The national indicator aims to improve overall accessibility to and from town and city centres. Hackney Carriage and private hire vehicles have a key role to play in the attainment of this target, which is explained in more detail in Appendix 5.

iv) <u>Currency of The Unmet Demand Survey</u>

- 4.14 The last unmet demand survey was undertaken by MCL Limited in August 2006. As previously outlined, it is accepted that survey of this nature generally has a "life span" of 3 years. Therefore, if the Committee decides to maintain its policy of restricting the number of hackney carriage licences or to adopt a policy of "managed growth, ", a new survey will need to be undertaken at the end of 2009-2010.
- 4.15 The average cost of an unmet demand survey is £25000. This cost has previously been met through hackney carriage proprietor licence fees and this position will not change. Whilst a proportion can be found from the budget reserves, the remainder of money to cover the cost of a new survey will need to be found by increasing fee levels associated with the hackney carriage trade.

iv) Department for Transport Consultation Improving Access to Taxis

- 4.16 This consultation, commenced in February 2009 and concluding at the end of April 2009 looks at the ways of improving access to both private hire and hackney carriage vehicles by disabled people.
- 4.17 It looks at the challenges faced by disabled people, but is also mindful of the importance Local Authorities in influencing the future of its fleet of licensed vehicles, both hackney carriage and private hire. It seeks to achievement in the technical standards of vehicles, for more taxis to be available to disabled people so that they can have improved access to jobs, services and social networks and for the Trade to remain viable.
- 4.18 The document looks at four options and is accompanied by an impact assessment and draft technical specifications for vehicles. The options are:

- Amending and commencing Section 36 of the Disability Discrimination Act 1995, placing a duty on the drivers of WAVs to assist disabled passengers, carry them in comfort and safety, and not charge them more for doing so.
- Implementing a programme of Department for Transport led initiatives that would involve measures such as issuing technical standards as an advisory note, guidance to Authorities and a demonstration scheme.
- Regulations in respect of taxi accessibility standards
- Leaving the market, Trade and Licensing Authorities to make local decisions on the make-up of the taxi and private hire fleet.
- 4.19 A full transcript of the consultation document can be found at www.dft.gov.uk.

5.0 <u>Supporting Information to facilitate the decision making process Rank</u> <u>Space, Location And Suitability</u>

5.1 Members are advised that there are hackney carriage ranks at the following locations. A list of designated ranks, provided by East Sussex County Council is included at Appendix 6.

-	Ashford Road	4 spaces
-	Bolton Road	10 spaces
-	The Pier	4 spaces
-	Hyde Gardens	4 spaces
-	Church Road	4 spaces
-	Langney Road	2 spaces
-	Old Orchard Road	9 spaces
-	Susans Road	4 spaces
-	Station approach	4 spaces

- 5.2 The Borough Council has no authority to designate hackney carriage rank space, since this is undertaken by East Sussex County. Discussions have been held with Mr Hyde, Highways Department, East Sussex County Council regarding available rank space. He envisages that delimitation with a quality control policy will not result in a significant increase in the number of vehicles seeking rank space.
- 5.3 At the time of writing this report, there are 45 rank spaces for hackney carriage vehicles. The use of the designated ranks varies according to the time of day and perceived financial viability by the Trade.
- 5.4 This results in some ranks becoming over subscribed, for example, Old Orchard Road and others being under utilised.
- 5.5 In 2008, a Scrutiny Review was undertaken by the Council into the suitability and location of hackney carriage ranks. A survey was undertaken with the Citizens Panel, consisting of over 1000 local residents and a series of focus groups were held to obtain the view of the Hackney Carriage Trade, East Sussex County Council Highways Department, Sussex Police, and various other "interested" parties forming the travelling public, including members of the DIG.

- 5.6 A copy of the Action Plan associated with the Scrutiny Review is included at Appendix 7, and includes the following:
 - Private vehicles parking illegally on taxi ranks, causing congestion.

This has improved significantly following the introduction of the civil parking scheme.

- Improved signage at taxi ranks to inform the travelling public of locations

This is an ongoing action, with funding steams and suitable signage being identified in conjunction with East Sussex County Council

- Education of the travelling public as to the location of taxi ranks as well as safe travel practices.

A series of posters, advertisements and other media has been developed and is in place to promote the responsible drinking and safe travel practices.

- Provision of new taxi ranks and shelter provision for those waiting for taxis

Following the Scrutiny Report, East Sussex County Council agreed to designate a rank at Langney Road with space for 2 hackney carriage vehicles. This aims to provide a service for the daytime shopping trade and the night time economy.

In relation to additional shelter provision for those waiting for taxis, this has not been pursued further due to the significant cost and planning implications.

- Reconfiguration of road layout and traffic management schemes to allow for easier access by licensed vehicles.

This has been explored in detail by East Sussex County Council and the Licensing Team, and will be kept under review as part of the Town Centre Management Strategy and wider Borough Transport Plan.

- 5.7 A key issue raised in the discussion surrounding the allocation of hackney carriage licences is the potential lack of available rank space if there were an increase in the number of hackney carriage licences.
- 5.8 Over crowding at ranks is challenging since it causes traffic congestion, poses difficulties in terms of traffic management, and compromises the wider safety of all drivers, vehicles and pedestrians.
- 5.9 Targeted activity to tackle rank overcrowding has been undertaken in partnership with Sussex Police, the Council Licensing Team and National Car Parking Enforcement Officers. Drivers commit a byelaw offence if they do not move to the next available rank space where a rank is already full. A letter has also been sent to all hackney carriage drivers advising them of this and included at Appendix 8.
- 5.10 However, it is fair to say that some ranks are under utilised since there is reluctance on the part of the Trade to utilise some of the ranks where it is felt

- that it does not offer the required amount of work to make it financially viable to work from that rank.
- 5.11 This creates a challenge, since the public do not go to the ranks where there are no taxis and the trade do not service the ranks because they are unlikely to get the desired financial return.
- 5.12 The Licensing Team have launched a number of posters and media campaigns too educate the travelling public as to the location of ranks and East Sussex County Council is developing signage to hi-light such.
- 5.13 However, it is key that the taxi trade start to service these under utilised ranks at all times, to ensure that all ranks are used to best effect, and alleviate overcrowding at other ranks, for example, Old Orchard Road. This will encourage the public to go to ranks where they are properly serviced by the hackney carriage trade, and result in a more favourable financial return for the drivers of hackney carriages.
- 5.14 Concern has been raised by the Trade regarding the amount of available rank space to accommodate new hackney carriage vehicles, particularly where an Authority has adopted a policy of de-limitation. The experience of other Sussex Authorities has shown that rank space has not presented a problem where delimitation has taken place alongside a policy of quality control. This is explored in more detail in Section 10 of the Report.

6.0 Vehicle Standards And Type

- 6.1 The Authority has high vehicle standards, and has a mixed fleet of licensed vehicles and needs to retain its policy of having a mixed fleet. This means that several different types of vehicle are licensed to meet the differing needs of the travelling public.
- 6.2 However, it is suggested that if new hackney carriage proprietor licences are to be released, these should be WAVs meeting European Whole Vehicle Type Approval.
- 6.3 Members will recall that at the last release of hackney carriage proprietor licences, a condition was attached that these licences remain linked to vehicles meeting European Whole Vehicle Type Approval in relation to safety standards and that such were WAVs.
- 6.4 Concern has been expressed by the Trade that any form of de-limitation will result in a lowering of vehicle standards. This is unfounded, since all* vehicles currently licensed in the Borough are only licensed if:
 - They meet specific safety standards
 - Are only permitted to enter the trade if they are under seven years of age.
 - Undergo an annual vehicle suitability test to ensure that they remain "fit for purpose" up until seven years of age.
 - In exceptional cases, where a vehicle is over nine years of age and is considered to be in excellent condition and the proprietor wishes for it to remain licensed, a thorough examination of the vehicle is undertaken by the Licensing Team to ensure standards are maintained. It must also undergo a 6 monthly vehicle suitability test.

* The purpose built wheelchair accessible vehicles are subject to slightly different age requirements. There is no upper age limit in relation to purpose built WAVs to encourage investment in this style of vehicle.

7.0 Position of other Sussex Authorities in 2009

- 7.1 Research undertaken by the Licensing Team in January 2009, provides an overview of the Sussex wide approach in relation to hackney carriage proprietor licences.
- 7.2 Where Figure 1 refers to a Quality Control policy, this generally means that licences are only released to vehicles meeting European Whole Vehicle Type Approval, which are wheelchair accessible and/or which, when entering the trade are no older than a specified number of years in age. This ranges from 1-3 years.

Authority	Approach
Arun	Delimited/No Quality Control Policy
Brighton &	Managed Growth of 5 per annum & Quality Control.
Hove	20 WAVs released last year following complaints re a
City	lack of wheelchair accessible vehicles
Worthing	Delimited & Quality Control – WAVs/Age
Adur	Delimited & Quality Control –WAVs
Rother	Delimited
Mid Sussex	Limit on the number of licences
Hastings	Limit on the number of licences
Eastbourne	Limit on the number of licences
Crawley	Delimited & Quality Control – WAVs only
Chichester	Delimited/Quality Control Policy-WAVS only
Horsham	Delimited/No Quality Control
Lewes	Delimited/No Quality Control
Wealden	Delimited/No Quality Control

Figure 1

- 7.3 Members will see from the table above that 9 of the 13 Sussex Authorities have delimited the number of hackney carriage proprietor licences. Eastbourne remains 1 of 4 authorities maintaining a limit on the number of hackney carriage proprietor licences.
- 7.4 The Licensing Team have spoken to all of the authorities in Figure 1, Where such have delimited, this does not appear to have a detrimental affect on the Borough, particularly where a quality control policy is in place, as detailed in 10.2, and that delimitation has improved service provision for the travelling public and anecdotally, has not impacted upon rank space availability.
- 7.5 In order to guard against the over proliferation of vehicles at taxi ranks and to maintain standards, several authorities, in addition to delimitation, have implemented a policy of quality control.
- 7.6 It can be argued that this provides a natural mechanism to effectively manage the type of and number of hackney carriage proprietor licences being issued and therefore licensed vehicles entering the trade and can be kept under review

- 7.7 This is due to the level of investment required to purchase a vehicle which is wheelchair accessible and which meets European Whole Vehicle Type Approval. It also ensures that the standards and type of vehicle being licensed are maintained and has improved overall service provision which is in the interests of the travelling public.
- 7.8 For example, Crawley and Worthing have both delimited with a quality control policy that new licences are linked to WAVs and not older than a specific number of years when entering the trade. Crawley have only released 23 licences in the past 6 years. In March 2007, Worthing released an additional 8 licences, of which only three were taken up, and in March 2008, de-limited with a quality control policy. Since then, a further 2 licences have been released.

8.0 Feedback From the Trade

- 8.1 In February 2009, all hackney carriage drivers were written to do advise them of the forthcoming Full Licensing Committee. As a result of this, feedback has been received from:
 - Mr Staines
 - Mr Green
 - Mr Venner
 - Mr Divall
 - Mr Murray
 - Mr Sazeidies
 - Mr Hopkins on behalf of Eastbourne and Country Taxis.
- 8.2 Copies of the correspondence received are included at Appendix 9.
- 8.3 For clarity, Mr Sazeidies makes reference to the fact that he purchased a hackney carriage proprietor licence at a cost of £22500. The fact that a licence still commands a high commercial value indicates that there is a demand for such. The fact that a hackney carriage proprietor licence commands a commercial value is not a matter for the Council, and something it has no control over. .
- 8.4 Mr Murray and Mr Sazeides also make mention in his correspondence that 2 of the original 6 hackney carriage proprietor licences have never been worked by the people who were issued them and that the vehicles aligned to these licences are "rented out" for use by other licensed individuals, who act as "journeymen." This is an entirely lawful practice and as such, the Council cannot influence this.

9.0 Options open to the Committee

- 9.1 The Full 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.
- 9.2 The Full Committee can:
 - (a) Maintain the position of quantity restriction, meaning that the Committee agrees not to release any further licences at this time.
 - (b) Adopt a policy of "Managed Growth." This means that the Committee adopts a policy of releasing a specified number of licences over a period

- of time. For example, the release a specified number of licences to any vehicle annually which is deemed fit for purpose to effectively manage the level of demand for taxis in the Borough.
- (c) Opt for total delimitation. This means that there are no restrictions on the number of hackney carriage proprietor licences or the vehicles to which these licences are aligned.
- (d) Opt for total delimitation, subject to a Policy which supports quality control mechanisms. For example: whereby licences will only be released to vehicles meeting a required specification. This could be:
 - All new Hackney Carriage Proprietor Licences released after a X date will only be permitted to be used by vehicles which meet European Whole Vehicle Type Specification, are designated WaVs and are no older than 1 years of age when entering the Trade.
- 9.3 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. It will then act as a means of informing this process and providing an evidence base to defend this position.
- 9.4 In relation to Option (c) where it is intended to de-limit the number of licences available, but to implement a mechanism of quality control, no survey is required. This quality control policy could stipulate that a vehicle must be a specified type or make, for example European Whole Vehicle Type Approval and wheelchair accessible, and that any vehicle is no older than 12 months old at the time of being licensed, as previously detailed.
- 9.5 Members are advised that this position has been challenged but upheld in the cases of Regina V The City and County of Swansea ex parte Jones and Regina V The City of Newcastle Ex parte Blake. Therefore such an approach is considered to be lawful.
- 9.6 When determining a way forward, the Full Licensing Committee will need to consider the following information:
 - The Department of Transports Best Practice Guide, "Taxi and Private Vehicle Licensing: Best Practice Guidance."
 - Any decision should be approached in the interests of the travelling public, whatever their specific needs and wider consumer benefits.
 - Feedback from the Hackney Carriage Trade
 - The availability of transport systems, particularly at key times, for example, during peak school hours and late at night to facilitate dispersal.
 - Local Area Agreement target regarding the accessibility of transport services as detailed by national indicator 175
 - Feedback from the Disability Involvement Group
 - The cost of commissioning and undertaking an unmet demand survey and feedback from the current survey as detailed in the report undertaken on behalf of the Council by MCL Limited.
 - The Boroughs wider Transport Policy and need to offer a safe, accessible service.

10.0 Community Safety Issues

10.1 The overriding concern that the Council, as the Licensing Authority must consider is the provision of an accessible service where public safety is of paramount importance. Decisions should be approached in the interests of the travelling public.

11.0 Human Resource & Financial Implications

11.1 The cost of administering the Taxi & Private Hire Licensing function is fully recovered via the licence fee income.

12.0. Human Rights Act 1998

- 12.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Full Committee when taking licensing decisions. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property.
- 12.2 Article 8 which relates to the right to respect for private and family life, home and correspondence should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right.
- 12.3 Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference to a justifiable extent may be permitted as long as what is done:
 - O Has a basis in law;
 - O Is intended to pursue a legitimate purpose
 - O Is necessary and proportionate; and
 - O Is not discriminatory.

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, LA Quantity Control Policies, Improving Access To Taxis
- R V Swansea City Council ex parte Jones
- Taxi s, Licensing Law and Practice, Edition 2. James Button.
- R V City of Newcastle ex parte Blake
- Department of Transport Guide Best Practice Guide Taxi and Private Hire Licensing 2006
- Department of Transport "Taxi Licensing: Review of Local Authority Quantity Control Policy 2008
- White Paper, "A New Deal For Transport, Better For Everyone," HMO 1996
- Kelly and Smith V Wirral Metropolitan Borough Council 2006