

**BODY:** General Licensing Committee

**DATE:** 21st March 2011

**SUBJECT:** Evaluation of decision to delimit the number of hackney carriage proprietor licences, linked to a policy of Quality Control.

**REPORT OF:** Kareen Plympton, Licensing Manager

**Ward(s):** All

**Purpose:** To provide Members with an overview of the outcome since its decision in April 2009 to remove the numerical limit on hackney carriage proprietor licences.

**Contact:** Kareen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937

E-mail address [kareen.plympton@eastbourne.gov.uk](mailto:kareen.plympton@eastbourne.gov.uk)

## **1.0 Background**

- 1.1 Quantity controls on hackney carriage proprietor licence have their basis in the Town Police Clauses Act 1847. The Licensing Authority cannot place limits on the number of private hire vehicle licences, of which there are currently 337.
- 1.2 Section 16 of the Transport Act 1985 requires a Licensing Authority to grant a hackney carriage proprietor licence to any valid applicant.
- “the grant of a licence may be refused for the purposes of limiting the number of hackney carriages in respect of which licences are granted if there is no significant unmet demand for the services of hackney carriages which is unmet.”
- 1.3 If an Authority cannot demonstrate that there is no unmet demand, a licence must be granted.

## **2.0 The Eastbourne Context**

- 2.1 In 2004, Eastbourne Borough Council was asked by the Department For Transport to account for its decision to maintain a policy which restricted the number of hackney carriage proprietor licences.
- 2.2 At that time, the Council had issued 84 hackney carriage proprietor licences, with the last release taking place in 1974.
- 2.3 Following a renewed request from the Department For Transport in 2005, 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 remained appropriate.

- 2.4 In August 2006, the Full Licensing Committee acted upon the recommendations of this survey, and released 6 new hackney carriage proprietor licences, subject to a series of terms and conditions. This included that the 6 licences be aligned to vehicles which are wheelchair accessible, and have attained European Whole Vehicle Type Approval safety certification. This took the number of hackney carriage proprietor licences to 90.
- 2.5 In 2008, a series of communications took place between the Council's Licensing Team, Hackney Carriage Trade and the Disability Involvement Group (DIG) regarding the apparent lack of wheelchair accessible vehicles (WAV) particularly at key times.
- 2.6 The DIG stated that the lack of WAVs restricted the opportunity for disabled people to travel freely. This led to a petition being lodged by the DIG, seeking delimitation of hackney carriage proprietor licences, and for any new licences to be issued to purpose built wheelchair accessible vehicles only.
- 2.7 At the Full Licensing Committee meeting in March 2009, Members agreed to remove the limits on the number of hackney carriage proprietor licences, linked to a policy of Quality Control. A copy of the Quality Control Policy is included at Appendix 1.
- 2.8 Members also directed that the decision to delimit the number of hackney carriage proprietor licences be monitored. As a result, the Licensing Manager established the Delimitation Review Group, made up of members of the hackney carriage and private hire trade, Sussex Police, elected members and a representative of the DIG.

### **3.0 The Current Position**

- 3.1 Since the decision to delimit the number of hackney carriage proprietor licences in April 2009, the Council's Licensing Team has received 21 initial enquiries about the process. This has resulted in the issue of 10 new hackney carriage proprietor licences.
- 3.2 8 of these licences have been issued to existing licensed drivers formerly operating as journeymen, or private hire drivers wanting to become hackney carriage proprietors.
- 3.3 This takes the number of hackney carriage proprietor licences to 100, and means that 16% of the hackney carriages licensed by the Council are purpose built WAVs.
- 3.4 It is recognised by the Council that there is no one vehicle in existence that meets all the needs of the travelling public. The wider Policy to retain a "mixed fleet" of licensed vehicles remains in place, and applies to the 84 licences issued historically, where there are no conditions aligned to the type of vehicle to be licensed.
- 3.5 The robust Quality Control Policy adopted by the Council in April 2009 has also been instrumental in managing the number of hackney carriage proprietor licences.

- 3.6 However, the condition requiring applicants to obtain the NVQ/Btech in Road Transport (Taxis and Private Hire) is posing challenges, as there are no longer service providers in Sussex, and much of the funding available has been withdrawn. The average cost of the course where funding has been withdrawn ranges from £900 – £1200. Therefore, Members are asked to revise the Quality Control Policy to remove this requirement.
- 3.7 A further measure that has limited the number of applications being received relates to the availability of Railway Station Rank Permits. Meteor, the organisation managing the number of permits issued to enable hackney carriages to operate from the Railway Station Rank advises that they have placed a cap on the number of permits available.
- 3.8 This varies, but at the time of this report, the limit is currently set at 74. The cap on permits has been a significant factor in deterring applications from prospective hackney carriage proprietors.
- 3.9 It is noted that the Railway Station Rank is considered to be the most financially viable rank from which to operate. However, those proprietors unable to obtain a railway station permit have been utilising rank space elsewhere, which is of benefit to the travelling public.

#### **4.0 Delimitation Review Group**

- 4.1 The Delimitation Review Group has met regularly to consider the outcome of the decision to remove the numerical limit on hackney carriage proprietor licences. The findings of the Group representatives are summarised below, and copies of the minutes are available from the Licensing Manager on request.

##### The Hackney Carriage Trade

The economic climate continues to be a challenge, resulting in a reduced trade. Trade patterns and demand for licensed transport varies according to the time of year.

Fluctuations in trade mean that drivers are working longer hours to achieve a suitable financial return. It is recognised that drivers accrue a greater number of hours as part of their working week, as there is a greater waiting/resting period in between fares. There are also an increasing number of individuals becoming licensed drivers, particularly those who carry out the role on a part time basis.

The Hackney Carriage Trade representatives also noted that drivers are selecting fares that enable them to achieve the best financial return. It is also acknowledged that many drivers set a target earning figure for a period of work, and finish working once that sum has been reached.

It was also identified that since the release of additional hackney

carriage proprietor licences, there has been a drop in the commercial value of hackney carriage plates, although it is accepted that this is not something that the Council has control over.

It is seen as unfair that the increase in hackney proprietor licences and drivers means that work is covered by a greater number of drivers, resulting in a drop in earnings for existing drivers.

It was acknowledged by the Hackney Carriage Representatives that the number of licences being issued by the Council had been far less than anticipated by the Trade.

It is believed that this could be attributed to the financial outlay required to purchase a suitable WAV, the limit on railway station permits, the robust Quality Control Policy and the current economic climate.

However, the Hackney Carriage Trade representatives wish to see limits re-imposed.

#### Private Hire Trade

The Private Hire representatives indicate that the decision to delimit the number of licences had not impacted significantly upon their business. There has also been a growth in the number of private hire operators in the town, resulting in the available work being covered by more service providers, and increased competition within the private hire sector.

#### Disability Involvement Group

The Disability Involvement Group Representative recognises the significant investment made by those purchasing suitable WAVs. The increase in WAVs continues to offer greater freedom of choice, and flexibility in travel for disabled people.

The DIG state that delimitation should be retained linked to the current policy of Quality Control so that any new hackney carriage proprietor licence is only issued to a suitable WAV.

It was noted that there is no one single vehicle type in existence that could accommodate the wide range of disabilities or needs that an individual may have. For this reason, it was important to retain a mixed fleet of licensed vehicles.

#### Sussex Police

The various representatives of Sussex Police continue to support the policy of delimitation and want it to be retained.

Taxis are the only form of public transport at key times and more taxis, particularly late at night enable groups of people to leave the Borough quickly and safely, resulting in less crime, disorder, noise and nuisance. The multi seater WAV vehicles are favoured as they can

accommodate between 5-8 people, and help disperse groups. This, in turn has placed less pressure on the finite Police resources.

#### Business Crime Manager – Nightwatch

The Business Crime Manager, representing the views of Nightwatch, comprising of late night businesses and licensed premises in the Borough, advises that members want the delimitation policy to remain in place.

It is key that more taxis are available to transport patrons away from their premises quickly, particularly during the night time hours, where Members still report that it can be challenging to get taxi transport, resulting in delays and conflict.

4.2 The Group also looked at a number of related factors, including:

- Enforcement at taxi ranks to prevent private vehicles parking there. Work continues with the Council's Licensing Team, Sussex Police and Eastbourne Parking Enforcement to target this issue.
- Rank space, availability and provision. The Council continues to work with East Sussex County Council (ESCC) to tackle the issues faced by the Trade. Further consideration is being given to the option to allow taxis and private hire vehicles to use bus lanes. Rank space, availability and configuration are being re-examined.

At the time of writing this report, ESCC confirm that there are 64 rank spaces.

- There continues to be rank congestion at key times at Old Orchard Road, the rank servicing the railway station. However, ESCC advise that rank space, locations and configuration will be explored as part of the Town Centre Re-generation Strategy and not before then.
- A lack of signage directing the public to taxi ranks. This is being explored with ESCC.
- The growth in the number of private hire operators in the town, resulting in a greater spread of work across companies, coupled with growth in the number of

individuals becoming licensed drivers has resulted in greater competition for work.

- Hackney carriage fares and associated levels.
- The issue of overcharging by drivers. The Licensing Team has undertaken an extensive public awareness campaign regarding this, and has warned all drivers against this practice. Further action has also been taken against 2 drivers who admitted

overcharging, and targeted activity will continue where complaints are received.

- Overall standard of licensed driver. The Licensing Team listened to the concerns of the Trade, and has modified the Knowledge Test to make it more challenging. The pass mark has also been revised to 80% to ensure that new drivers are better equipped to serve the needs of the travelling public.

An increasing number of applicants whose first language is not English are also being referred to the Cultural Communities Network. This Network offers a range of courses to help individuals to improve their communication skills.

- Appropriate training for licensed drivers using WAVs. This is currently being explored within the context of the Equalities Act 2010, in conjunction with the DIG, and neighbouring Authorities.
- The importance of retaining a "mixed" fleet of vehicles to cater for the differing needs of the travelling public.

## **5.0 The National Context**

- 5.1 In its latest "Taxi and Private Hire Vehicle Licensing Best Practice Guide," March 2010, the Department For Transport advises:-

"Most local licensing authorities do not impose quantity restrictions; the Department regards this 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 when reconsidering an approach 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 deterioration in the amount or quality of taxi service provision?"

- 5.2 Research shows that there is a continuing trend amongst Local Authorities towards delimitation, with a few exceptions. Of the 343 Authorities surveyed, only 73 (21%) have quantity control limits.
- 5.3 In a few instances, limits have been re-imposed where the release of hackney carriage proprietor licences was not aligned to a Quality Control Policy, or conditions restricting vehicle type, suitability or age.
- 5.4 This resulted in a significant increase in the number of hackney carriage proprietor licences being applied for and granted, causing rank congestion and disquiet amongst the Trade.

- 5.5 The Equalities Act 2010 brings together in one Act a number of different strands of legislation, including disability discrimination. Sections 160 to 173 of the Act relate specifically to hackney carriage and private hire vehicles and those who drive them. In short, from April 2011, the Act places duties on the drivers of designated wheelchair accessible vehicles to:
- Carry the passenger whilst in the wheelchair;
  - Not to make any additional charge for doing so;
  - If the passenger chooses to sit in a passenger seat, to carry the wheelchair in a secure manner in the vehicle;
  - To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and;
  - To give the passenger such mobility assistance as is reasonably required.
  - The driver must also offer to load the passenger's luggage into and out of the vehicle.
- 5.6 A list of designated, purpose built and adapted licensed vehicles to which these provisions apply is being prepared by the Licensing Team for publication on the Council's website and via other information sources. Licensed drivers have already been made aware of these provisions, a summary of which is included at Appendix 2.
- 5.7 The Licensing Team will work closely with the Disability Involvement Group to progress the issue of disability awareness and the safe transportation of individuals.

## **6.0 Community Safety and Links To Strategic Vision**

- 6.1 The Corporate Plan sets out the Council's priority themes and aims by 2015. It aims to promote:
- A prosperous economy offering an 'outstanding seaside destination and gateway to South Downs National Park';
  - A wide range of employment;
  - A transformed and accessible Town Centre;
  - A modern sophisticated town that people want to live in, work & visit with space for businesses to grow;
  - More community enforcement activity.

## **7.0 Financial & Resource Implications**

- 7.1 The cost of administering the licensing service is recovered by way of the licence fee income. There are no financial implications as a direct result of this report.

## **8.0 Human Rights**

- 8.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act, 2003. 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.

8.2 Article 8 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, 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:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory;

## **9.0 Conclusions**

- 9.1 The primary aim of the hackney carriage and private hire regime is to provide a safe, accessible service which meets the travelling needs of the public.
- 9.2 The continuation of the decision to remove the numerical limit on hackney carriage proprietor licences, linked to a policy of Quality Control, has been a success in responding to the needs of the travelling public.
- 9.3 Sussex Police have advised that the increase in hackney carriage vehicles which are multi seater has assisted the dispersal of patrons at key times, particularly during the night time and early morning hours. This has had a positive impact on crime, disorder, noise and nuisance. Sussex Police want the decision to delimit to continue as a result.
- 9.4 It has also afforded disabled people greater freedom and flexibility of travel. This has been instrumental in meeting the varying requirements of those in wheelchairs, whilst the maintenance of a "mixed fleet" recognizes that there is no one type of vehicle that caters for all needs, but that the Authority is offering choice and equality of opportunity. The DIG seek that delimitation, linked to the current Quality Control Policy be maintained.
- 9.5 It is recognized that the Delimitation Policy has been adopted in the midst of challenging economic times, and that the hackney carriage trade want limits re-imposed. However, the robust quality Control Policy, requiring vehicles to be a certain age, standard and type necessitates significant investment, and has ensured that a high standard, multi-functional vehicle is available to service the needs of the traveling public.
- 9.6 Set alongside the limit on the number of railway station permits, this has been instrumental in ensuring a managed growth in the number of hackney carriage proprietor licences.
- 9.7 The Delimitation Review Group has been an effective means to evaluate the decision to delimit linked to quality control. It is



recommended that this Group continues to meet on an ad hoc basis and in any event every 6 months to continue to monitor matters.

**Background Papers:**

The Background Papers used in compiling this report were as follows:

- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Department For Transport Good Practice Guide for Taxis and Private Hire Vehicles, March 2010
- Taxi and Private Hire Monthly Data Source – Delimitation and Quality Control, February 2011
- Equalities Act 2010
- Taxi and Private Hire James TH Button, Button on Taxis, Licensing Law and Practice, Edition 2009

To inspect or obtain a copy of the above documents please refer to the contact officer, or visit [www.eastbourne.gov.uk/housing](http://www.eastbourne.gov.uk/housing).