

|  |                          |
|--|--------------------------|
| <b>12 July 2006</b>  | <b>ITEM 6</b>            |
| <b>Licensing Committee</b>   |                          |
| <b>CONTROLS ON NUMBERS OF HACKNEY CARRIAGES</b>  |                          |
| <b>Report of Environmental Health Team Leader</b>  |                          |
| <p><b>Purpose:</b> To receive a presentation from a representative from Halcrow Group Limited on their Hackney Carriage Unmet Demand Study and to consider the Council's future policies on controlling the number of hackney carriages it licences to operate in the borough.</p> |                          |
| <b>Wards affected:</b> All   | <b>Key decision:</b> Yes |
| This report is to be considered in public.   |                          |

**1. RECOMMENDATIONS:**

- 1.1 That the presentation and report on the Hackney Carriage Unmet Demand Study be noted.**
- 1.2 To acknowledge that, at the present time, there is no 'unmet demand' that would merit an increase in the maximum number of hackney carriage licences granted by the Council under its existing 'quantity control' policy.**
- 1.3 That the Head of Strategy, Environment and Development Services be instructed to submit a report to the next meeting of the Committee a report to consider ending the Council's policy of controlling the number of hackney carriage licences it issues ('Taxi Delimitation').**

**2. INTRODUCTION:**

- 2.1 The Regulation Department commissioned Halcrow Group Limited as transport consultants to carry out on the authority's behalf a survey of the demand for hackney carriages in the district. A representative from Halcrow will give Members a presentation of their findings.**
- 2.2 It is essential that the Council undertakes studies of this kind in order to support its current policy of controlling the number of hackney carriage licences it issues. This is commonly referred to as 'Quantity Control'. In the**

light of the study, the Council, acting as licensing authority, can take an informed view on whether there is any need to vary the number of hackney carriages currently operating in the borough.

- 2.3** Government has instructed local authorities such as Thurrock, who have adopted Quantity Control policies, to review not only the number of licences it issues, but also to challenge whether a policy on limiting licence numbers is needed at all?
- 2.4** Whilst a change in policy would fall within the Cabinet's remit as a 'key decision' of the executive, both the Portfolio Holder for Environment and Officers would appreciate the views of the Committee on this subject before taking the matter further.

### **3. BACKGROUND:**

- 3.1** The Council is the licensing authority for hackney carriages (HCs) within the district. It has a statutory power to limit the number of hackney carriages it licences. The same discretion does not exist in respect of private hire vehicles (PHVs), which are also licensed by the Council to carry passengers. This means that in respect of PHVs, so long as a suitable vehicle is presented by a 'fit and proper person' for licensing, the Council would be bound to issue a PHV licence, regardless of the number of PHVs already operating in the district.
- 3.2** Briefly, a HC can pick up passengers from ranks and be flagged down in the street whereas a journey by PHV must be pre-booked.
- 3.3** Thurrock Council currently licences 90 hackney carriages, which is the maximum number of licences it has set under the present quantity control policy. Historically Thurrock has for many years sought to control HC numbers in this way.
- 3.4** Whilst there are no outstanding applications for additional HCs, as matters presently stand, any such applications submitted at this time would have to be automatically refused, even if an applicant were in a position to satisfy all the Council's standard criteria for licensing a HC.
- 3.5** It is rare for a HC proprietor's licence to be cancelled or revoked, or a licence not to be renewed. Only in these circumstances would a HC licence (one of the 90) revert to the Council for re-issue to another individual. On the few occasions that this has occurred, the HC licence has been allocated by way of a ballot.
- 3.6** This situation means that the 90 HC licences tend to remain in the hands of a comparatively limited number of proprietors who are at liberty to sell their vehicle to a new owner, and who can at the same time transfer the HC plate to himself. Thus a 'private market' in taxis is created, whereby a HC-plated

vehicle can be sold for a price in excess of the normal 'open market' value of an equivalent used-vehicle that did not have HC plates mounted on it.

- 3.7** Currently the choice of whether or not to impose a limitation on the number of taxis is left to local licensing authorities. If an authority decides to set a limit, it must conduct an independent 'unmet demand' survey and be prepared to repeat these surveys at approximately 3-year intervals. The survey provides sufficient qualitative and quantitative data upon which a decision can be made. Failure to do this would invite legal challenges as the Council would lack any up-to-date evidence to justify maintaining a limit, or in choosing to cap the number of licences at a particular level.
- 3.8** Thurrock's last unmet demand survey was conducted in 2003. The survey identified that there was no unmet demand at the time, as did the one in 2000. Both of these earlier surveys were also carried out by Halcrow.
- 3.9** The matter of limiting the numbers of HC licences was the subject of a lengthy Report by the Office of Fair Trading (OFT) in November 2003. Broadly speaking, the OFT found that quantity control policies were not in the best interests of consumers in the following ways:
- Shifting consumers onto less preferred and/or suitable modes of transport
  - Increased waiting times
  - Compromising public safety
- 3.10** Whilst the OFT did recognise some arguments in favour of quantity controls, they concluded that these were "*unsupported by the evidence and/or outweighed by the clear benefits of de-regulation.*" The OFT went on to recommend to government that the legal provisions that allows licensing authorities to impose quantity control should be repealed and that, in the meantime, Councils should themselves dispense with such policies.
- 3.11** The Government's reaction to this debate was to issue a letter to all licensing authorities. The letter expressed the view that, "*restrictions should only be retained where there is shown to be a clear benefit to the consumer, and that Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached. The Government considers that, unless a specific case can be made, it is not in the interests of consumers for market entry to be refused to those who meet the application criteria.*" They went on to say, "*We ask you to review the case for restricting taxi licences for your area and make the review public.*"
- 3.12** A preliminary consultation exercise was carried out in the early months of 2005. It immediately became clear that any change in policy would prove to be controversial and as a result it would constitutionally be considered a 'key decision' that would have to be made by Cabinet.
- 3.13** The Portfolio Member for Environment and Officers also concluded that any final decision on deregulation was premature, bearing in mind that a taxi demand survey was due the following year (2006). The study would establish if there was any 'unmet demand' and the independent consultant could be

instructed by the Council to specifically investigate and comment on what effect deregulation might have i.e. whether in the long term deregulation would have deleterious effect on passenger transport by taxis in the borough? Members of the local trade and all other interested parties could again be fully consulted as part of the survey.

- 3.14 The consultants were thus engaged on this basis. As a result, their study not only covers the issue of 'unmet demand', it also evaluates the predicted effects of delimitation on the provision of this kind of local passenger transport. In other words, what changes to local conditions would result if it were concluded that there was no longer any clear benefit to the consumer for retaining quantity control?
- 3.15 Such policy decisions fall within the Cabinet's remit. A "key decision" is an executive decision, and includes those likely to be significant in terms of their effects on communities living or working in an area comprising two or more wards in the borough. Key decisions must be made in accordance with the Procedure Rules in Part 4 of the Constitution. This means that they should be made available to all members and to the public. In particular, they must also be available to the Overview and Scrutiny committee.

#### 4. ISSUES AND/OR OPTIONS:

- 4.1 Halcrow's full report will be made available to all Members of the Committee, however the consultant's summary and conclusions on the question of delimitation are reproduced as an Appendix to this report.
- 4.2 The report is clear on the matter of 'unmet demand': **there is no evidence of significant unmet demand for hackney carriage services in Thurrock and therefore, on the basis of Thurrock's present quantity control policy, there would be no justification in recommending an increase in licences required to eliminate any significant unmet demand.**
- 4.3 This cannot be the end of the matter as it is abundantly clear from messages coming from the Department of Transport that they are keen for Councils to remove the limitations on the number of HCs as soon as possible. In order to 'encourage' Council to comply with this objective, the Government have indicated that it will scrutinise the approach taken by each licensing authority. Individual authority's will have to specify the particular circumstances why it believes the status quo should remain and keep this situation under review at some cost to itself (both financially and in Officers time) to continually support its view.
- 4.4 Delimitation would allow market forces to dictate how many HC licences are required to provide an adequate service, in exactly the same way as currently exists for PHVs. The Government believes that market conditions should regulate the number of taxis and that competition will be good for the consumer. Furthermore, quantity controls should be retained only where a clear benefit to the consumer can be demonstrated. Any resulting commercial loss to present HC licence holders, for example, due to increased competition

or decrease in the value of their vehicles, should not be of concern to licensing authorities when making their decision.

- 4.5** There would inevitably be a readjustment in the HC & PHV market if quantity controls were to end. As the report shows, there would be a small increase in the number of HCs licensed. All new HC licensed vehicles would need to fully comply with the Council's Vehicle Specifications. This would include the requirement for any newly-licensed taxi to be 'wheelchair accessible'.
- 4.6** Whatever the merits of delimitation, the council cannot expect an abandonment of its quantity control policy to be universally popular. The main group to voice its opposition to the proposal so far has been the Thurrock Licensed Drivers Association, who represent the collective interests of the local trade, particularly in this case, the interests of existing HC proprietors. Licensing Officers have endeavoured to keep the Association fully informed regarding the future of the Council's 'Quantity Control' policy and have assured the Association that the Council will progress this matter in an open and transparent manner.
- 4.7** Representatives of the Association met with the independent consultants during the period of the study and their views are reflected in the contents of Halcrow's final report. Solicitors acting on behalf of the Association have since written to the Regulation Department to ask that they be given a further opportunity to make representations on the subject of delimitation following sight of the consultants report. (A copy of the consultants report has been sent to the Association and other organisations that contributed to the consultation).
- 4.8** It would be sensible to consider any comments from the Association and any other interested parties on the results of the survey and the conclusions drawn by the consultants. These views can then be taken into account before any final decision is made and published (in accordance with Government instructions). It is for this reason that it is recommended that the decision be delayed until the next meeting of the committee when this issue can be further debated.
- 4.9** Whilst the consultants have gone some way to predict the likely effects of delimitation, it is not possible to *precisely* predict the benefits or detrimental effects on the travelling public who use taxis. Unless the government proceeds to remove the power of local councils to restrict taxi numbers in their areas, it would always be open to the authority to review and, if felt necessary, later reintroduce quantity control.

#### **RELEVANT POLICIES**

- Thurrock Council's 'Quantity Control' policy for HC Licences.
- Thurrock Council's Vehicle Specifications for HCs & PHVs
- Thurrock Local Transport Plan

**FINANCIAL IMPLICATIONS**

The HC & PHV licensing service provided by the Regulation Department aims to be self-financing through the fees and charges paid by applicants and licence holders. The Department bears the cost of the 3-yearly taxi demand survey. The Council would have to pay the costs involved in any litigation arising from the consequences of any of its decisions being challenged in court. For example, applicants seeking the grant of further HC licences from Councils maintaining quantity control policies have in the past sought judicial reviews. Similarly, organisations seeking to prevent delimitation have applied for judicial reviews to keep restrictions in place.

**LEGAL IMPLICATIONS**

Section 16 of the Transport Act 1985 allows the Council to restrict the number of taxi licences 'if and only if' it is satisfied there is 'no significant demand' that is 'unmet' for taxis.

**OTHER IMPLICATIONS**

None.

**BACKGROUND PAPERS**

- Halcrow Hackney Carriage Unmet Demand Study (Full Report) June 2006
- TBC Consultants Brief for Taxi Unmet Demand Study
- Dept of Transport Circular 3/85
- Regulatory Reform: The Government's Action Plan. Cabinet Office, Feb 2002
- OFT Report on the Regulation of Licensed Taxi and PHV Services in the UK, Nov 2003
- House of Commons Transport Select Committee Reports
- Government Response to OFT Report, March 2004
- Government's Response to the Transport Committee's Report on the Regulation of Taxis and PHV services in the UK, May 2004
- Letter from Dept of Transport to all Chief Executives of Councils that restrict taxi licences, 2004
- Correspondence between Dept of Transport and Thurrock Council on Quantity Controls
- Correspondence between Thurrock Licensed Drivers Assn and TBC Regulation Dept
- Legislation relating to the HC & PHV licensing regime
- Taxis – Licensing Law & Practice, James Button

**Contact: Phil Easteal**

**Telephone: 01375 652955**

**E-Mail: [peasteal@thurrock.gov.uk](mailto:peasteal@thurrock.gov.uk)**

**APPENDIX**

Extract from Halcrow's Hackney Carriage Unmet Demand Study – Part 2 Response to Issues Raised by the Dept for Transport: Summary and conclusions