

Crawley Borough Council

Report to Licensing Committee

7 February 2023

Hackney Carriage Unmet Demand Survey 2022

Report of the Head of Community Services – HCS/054

1. Purpose

- 1.1 On 7th September 2011, the Licensing Committee decided to implement a policy of limiting the number of hackney carriage vehicle licences granted by Crawley Borough Council, and the Committee subsequently decided to continue this policy.
- 1.2 Before the Council as Licensing Authority can decide to continue to restrict hackney carriage licences, the Council must first undertake an unmet demand survey to ascertain whether there is any significant unmet demand. It is considered best practice that these surveys should be conducted at least every 3 years. The last survey was undertaken in 2017 and considered by the Licensing Committee, where it was determined that there was no significant unmet demand and the Committee decided to continue the policy of limiting the number of hackney carriage vehicles licences granted to a maximum of 123.
- 1.3 Another survey was planned for 2020/2021, but was not carried out due to the COVID-19 pandemic, since this was not considered that demand could be appropriately assessed in such exceptional circumstances to be a representative sample of the activities of the Trade.
- 1.4 The required unmet demand survey has been conducted by a privately commissioned company, CTS Traffic and Transportation Ltd trading as LVSA (Licensed Vehicle Surveys and Assessment), and a report completed by them. This survey is commissioned by the Council and paid for by the Hackney Carriage Trade through an element of the licence fee.
- 1.5 Committee members are now asked to determine whether or not to continue the policy of limiting the number of hackney carriage licences granted by the Council.

2. Recommendations

- 2.1 The Licensing Committee is recommended to:
 - a) Give due consideration to the unmet demand survey report which was undertaken on behalf of Crawley Borough Council, and in doing so, confirm that it is satisfied that there is no significant unmet demand for the services of hackney carriages.

If the Committee is so satisfied, it is recommended to:

- b) Agree that the Council should continue to have a policy of limiting the number of hackney carriage vehicle licences issued by Crawley Borough Council, subject to any applicant demonstrating exceptional circumstances, and confirm the level (number of licences) at which the limit is to be set.

3. Reasons for the Recommendation

- 3.1 The Council currently has a policy of limiting the number of licensed hackney carriage vehicles within the Borough of Crawley.
- 3.2 If the Borough Council must regularly review that policy based on evidence of significant unmet demand and may decide to continue with the policy if, and only if, it is satisfied that there is no significant unmet demand. The survey of unmet demand has been conducted and completed, so the Committee is now asked to determine whether or not it is satisfied there is no significant unmet demand, and if so satisfied, whether to continue the policy of restricting the number of hackney carriage vehicle licences, subject to an applicant demonstrating exceptional circumstances.

4. Background

- 4.1 On 7th September 2011, the Licensing Committee decided to implement a policy of limiting hackney carriage proprietor licences. There was a period between 2007 – 2011 where the number of hackney carriage proprietor licences increased from 79 to the present number, 123, following a decision to delimit without any terms or conditions.
- 4.2 However, the Committee decided to re-impose a limit in 2011, following an unmet demand survey demonstrating that there was no significant unmet demand thus providing evidence to support the decision to impose this policy.
- 4.3 The Council retains a policy of retaining mixed fleet of hackney carriage vehicles, including wheelchair accessible vehicles (WAVs) to cater for the varying needs of service users.
- 4.4 Section 16 of the Transport Act 1985 permits a Council to refuse an application for a hackney carriage vehicle licence for the purpose of limiting the number of hackney carriages within its area “if, but only if” the Council is “satisfied that there is no significant demand for the services of hackney carriages ... which is unmet”. Therefore, to have a general policy of limiting numbers within the Borough, the Council must be satisfied that there is no significant unmet demand for such services.
- 4.5 The Department for Transport 2010 Best Practice Guidance recommends that Councils, if there is a policy of limiting the number of licences issued, must demonstrate that there is no significant unmet demand by means of a survey which is conducted sufficiently frequently. The Guidance notes indicate that surveys should be conducted at intervals of 3 years and is “commonly regarded as the maximum reasonable period between surveys” undertaken for this purpose.
- 4.6 However, a survey was not undertaken in 2020 as planned, due to the COVID-19 Pandemic and was delayed until 2022/2023 to allow for matters to return to “normal” and for a survey to be undertaken during a representative period, with the aim of providing an accurate picture of demand.
- 4.7 The Council commissioned LVSA to undertake the unmet demand survey. A report detailing the survey conducted and analysis of the results has been prepared and is included at Appendix A of this report.

5. Detail (including consultation carried out)

- 5.1 LVSA has carried out an independent survey of unmet demand of hackney carriage services on behalf of the Borough of Crawley. The survey involved extensive consultation with the hackney carriage and private hire trades, the public and other special interest groups of hackney carriage users, including disability groups.

- 5.2 The report concludes that there is no evidence of any unmet demand which is significant in the Crawley Borough licensing area. Full details of the survey and analysis are set out in the report at Appendix A.
- 5.3 It is important to note that the survey focusses primarily on the hackney carriage trade, albeit that the private hire trade are consulted as part of the survey.
- 5.4 No observations were made, nor demand monitored, at or around private hire operator offices. However, anecdotally Private Hire Operators located in the town centre report to Licensing Officers that passengers face significant wait times from booking a journey to the private hire driver attending to carry out the booking.
- 5.5 The Licensing Service is also fielding complaints that Private Hire Operators are now charging a premium for a journey when demand is at its highest. (This reported to be double the cost of the original fare listed by the Private Hire Operator) The Council does not have powers to set private hire fares and so cannot take action about these concerns; whereas the Council does specify a maximum fare that can be charged by a hackney carriage. Some private hire companies have been encouraging customers to share journeys due to wait times, however the practice of customers sharing journeys is actively discouraged by the Council as Licensing Authority due to safeguarding concerns.
- 5.6 In its 2010 Guidance, the Department for Transport is clear that it considers it is Best Practice for Councils to **not** place numerical restrictions (limits) on the number of hackney carriage vehicle licences issued. Members are referred to Paragraphs 45 to 51 of the Guidance.
- 5.7 There is, however, no current statutory prohibition on continued numerical restriction (limit) provided the Council is satisfied there is no significant unmet demand. Nonetheless, the Council should demonstrate, if it does not follow the Government Guidance by continuing to limit numbers, that it has robust reasons for so doing and has acted reasonably in making its determination.
- 5.8 Members should note that Section 161 of the Equality Act 2010 provides an exception to any limit on numbers because that section provides that a local authority cannot refuse to grant a licence on grounds of numerical limit where the application is in respect of a wheelchair accessible vehicle if the proportion of such vehicles in the local licensing area for which the licence would be granted is less than a proportion prescribed by the Secretary of State. However, to date no regulations have been made using these powers and so at present there is no prescribed proportion. Currently, WAV vehicles make up approximately 19% of the hackney carriage fleet.
- 5.9 In 2002, the Council decided to de-limit numbers, there having been previously a policy of limiting numbers, and also resolved that all taxis licensed after this time would be wheelchair accessible. 6 additional hackney carriage licences were granted prior to the current policy of limiting numbers and these vehicles were restricted to London Taxis type vehicles thus were wheelchair accessible by nature and at least 1 other purpose built vehicle was licensed at that time.
- 5.10 However, the wheelchair accessible policy was never fully implemented for existing licence holders with vehicle plate numbers 1-73. This resulted in a disjointed policy creating a source of friction within the trade. Those who had to provide a wheelchair accessible vehicle felt that it was not a level playing field due to the increased costs associated with an accessible vehicle, balanced against the number of customers requiring this type of vehicle. The current policy is that, with one exception, all vehicles beyond 74 must be WAVs.

5.11 The Council is fully committed to meeting the needs of the travelling public in Crawley including those who have disabilities of any nature. In addition to the mandatory Disability Awareness Training all drivers required to undertake, there is also mandatory wheelchair training. The Licensing Committee may therefore decide in future to increase or decrease the number of wheel chair accessible vehicles (WAVs) based on local need.

6. Implications

6.1 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from fees and charges arising from the taxi licensing regime.

6.2 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.

6.3 The Council is required to consider the impact any decision may have on crime and disorder in the area (Section 17 of the Crime and Disorder Act 1998) which states as follows:

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;

(a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and

(b) The misuse of drugs, alcohol and other substances in its area, and

(c) Re-offending in its area.

6.4 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

(b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment
- marriage/civil partnership
- pregnancy/maternity
- race
- religion/belief
- gender and sexual orientation

7. Background Papers

Report: '[Crawley – Hackney Carriage Unmet Demand Study](#)' by CTS May 2017 & [Report](#)

[Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, March 2010](#)

[Taxi and Private Hire Vehicle Licensing. Best Practice Guidance for Licensing Authorities in England](#) (Still under review post consultation concluded 2022)

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