

LICENSING COMMITTEE AGENDA

Wednesday, 11 September 2019 at 7:15pm

Council Chamber, Braintree District Council, Causeway House, Bocking
End, Braintree, CM7 9HB

THIS MEETING IS OPEN TO THE PUBLIC
(Please note this meeting will be audio recorded)

www.braintree.gov.uk

Members of the Licensing Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor J Baugh (Chairman)	Councillor S Rehman
Councillor Mrs J Beavis	Councillor B Rose (Vice Chairman)
Councillor P Euesden	Councillor Mrs J Sandum
Councillor A Hensman	Councillor P Schwier
Councillor H Johnson	Councillor Mrs L Walters
Councillor Mrs J Pell	Councillor Mrs S Wilson
Councillor R Ramage	Councillor B Wright

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Question Time

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee Meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

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Documents

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We welcome comments from members of the public to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these via governance@braintree.gov.uk

PUBLIC SESSION		Page
1	Apologies for Absence	
2	Declarations of Interest To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
3	Minutes of the Previous Meeting To approve as a correct record the Minutes of the meeting of the Licensing Committee held on 10th July 2019 (copy previously circulated).	
4	Public Question Time (See paragraph above)	
5	Street Trading Consent Application - High Street, Braintree	4 - 12
6	Quantity Restrictions - Taxi Licences	13 - 64
7	Air Quality Regulations 2019	65 - 68
8	Licensing Committee Update	69 - 72
9	Urgent Business - Public Session To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.	
10	Exclusion of the Public and Press To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.	
PRIVATE SESSION		Page
11	Urgent Business - Private Session To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.	

APPLICATION FOR STREET TRADING CONSENT – HIGH STREET, BRAINTREE		Agenda No: 5
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A prosperous district that attracts business growth and provides high quality employment opportunities Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public Report	
<ol style="list-style-type: none"> 1. Application – Street Trading Consent (Appendix 1) 2. Representation received during the consultation period (Appendix 2) 3. Braintree District Council Street Trading Policy 	Key Decision: No	
Executive Summary:		
<p>To consider an application by Mr Roger Green for a Street Trading Consent at High Street (outside Connelly Jewellers), Braintree. The Council’s Street Trading and Collections Policy specifies that if representations are received the application is required to be determined by the Licensing Committee.</p>		
Decision: To determine one of the following options:-		
<ol style="list-style-type: none"> 1. To GRANT the application for a Street Trading Consent. 2. To GRANT the application for a Street Trading Consent with amendments. 3. To GRANT the application for a Street Trading Consent with additional conditions. 4. To REFUSE the application for a Street Trading Consent. 		
Purpose of Decision:		
<p>Members of the Licensing Committee are requested to consider an application made by Mr Roger Green for High Street (outside Connelly Jewellers), Braintree.</p>		

Corporate Implications	
Financial:	If the application is unsuccessful the fee will be returned to the applicant.
Legal:	There is no right of appeal given to the applicant.
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The decision made could have an impact on the applicant's business and that of surrounding businesses.
Environment and Climate Change:	The representation received has raised some issues that Members will need to consider.
Consultation/Community Engagement:	A 14 day consultation period has taken place regarding this application.
Risks:	None
Officer Contact: John Meddings	
Designation: Principal Licensing Officer	
Ext. No: 2213	
E-mail: john.meddings@braintree.gov.uk	

1. Application

1.1 The Licensing Authority received an application for a Street Trading Consent from Mr Roger Green on 8th August 2019, which was validated on the same day (Appendix 1).

1.2 In accordance with the Council's Street Trading Policy the Licensing Department consulted with the following:

Essex Police
Essex County Council Highways and Highways Agency
Local Ward Members
Parish/Town Council
Braintree District Council – Planning Department
Braintree District Council – Environmental Health
Relevant local traders selling similar commodities within 500m radius of the proposed site

1.3 The hours the applicant is proposing to trade are set out below:

Monday, Tuesday, Thursday, Friday and Sunday 09:00 to 17:30

1.4 The applicant proposes to sell ice creams, drinks, sweets and ice lollies.

2. History

2.1 A Street Trading Consent has been held since 2008 for this location by the applicant Mr Roger Green.

3. Representations

3.1 During the consultation period the application received a representation from Braintree District Council, Environmental Health (Appendix 2).

4. Policy

4.1 Relevant extracts from Braintree District Council's Street Trading Policy:-

4.2 *For every such application, or renewal, Braintree District Council may impose such conditions as may be reasonable, having regard to all the circumstances to prevent:-*

(b) Nuisance or annoyance (whether to persons using the street or otherwise).

Standard conditions will be imposed unless circumstances dictate otherwise.

4.3 *Where the imposition of conditions is not adequate to control potential problems, applications will be refused. Refusal or withdrawal of street trading consents will be normal in the following circumstances:-*

Where the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, mal-odour, litter, disturbance or anti-social behaviour.

5. Decision

- 5.1 Following the determination of an application by the Committee, the applicant and any objectors will be notified of the decision after the meeting. The Licensing Team will then send confirmation in writing as soon as possible after the decision, or in any case within seven days of the meeting.
- 5.2 There is **no right of appeal against refusal** to issue consent; therefore any applicant that is aggrieved by the Council's decision has an option to seek a Judicial Review. Where an application is refused, **payment of the application fee shall be refunded.**

19/01142/STR

ST162

Please return to LICENSING,
Braintree District Council,
Causeway House, Bocking End,
Braintree, Essex CM7 9HB



BRAINTREE DISTRICT COUNCIL

**Application for the Grant or Renewal of a
Street Trading Consent**

Local Government (Miscellaneous Provisions) Act, 1982 Section 3, Schedule 4)

NOTE: Before completing this form applicants are requested to read the Braintree District Council Street Trading Policy, which accompanies this application form

You are requested to complete this form in block capitals

1. I, ROGER GREEN

of

.....

Date of Birth

Daytime telephone number :-

hereby apply for a street trading consent to trade in the following streets:-
(Please specify streets and areas in which you wish to trade)

TONIBELL, OUTSIDE CONNELLY
JEWELLERS, HIGH STEET, BRAINTREE
.....
.....

PLEASE ENSURE YOU DO NOT INCLUDE ANY REQUEST FOR MARKET DAY
TRADING (See Braintree District Council Street Trading Policy – Item 9)

2. I wish to trade on the following days between the hours specified.
(Please see Note – See Braintree District Council Street Trading Policy – Item 8)

Monday: From 9:00 To 5:30 Friday: From 9:00 To 5:30
Tuesday: From 9:00 To 5:30 Saturday: From _____ To _____
Wednesday: From _____ To _____ Sunday: From 9:00 To 5:30
Thursday: From 9:00 To 5:30

3. If you wish to trade for a short period, please specify what period below. (i.e Month of January). You will pay the day's trading fee per day you wish to trade.

..... ONLY WHEN WEATHER IS GOOD

4. I proposed to trade in the following items:-

..... ICE CREAM, DRINKS, SWEATS, ICE LOLLIES

5. The registration number of the vehicle from which I propose to trade is:-

.....
A photograph or truly drawn details of the proposed stall/vehicle, giving dimensions, must be submitted with new applications or if the stall/vehicle has changed.

Special Events

At special events, we will issue one consent to the person organising the event, rather than to each individual trader. We will issue a single consent, which will cover a number of traders. Traders wishing to sell hot or cold food are not covered by a consent issued for a special event. Each trader wishing to sell food is required to apply for an individual consent

NOTE :* If the event is being held on behalf of raising funds for a charity etc the fee will be waived.

Please identify the number of traders to be covered:

Category 1 – Up to 10 traders

Category 2 – Between 11 and 19 traders

Category 3 – Over 20 traders

A photograph or fully drawn details of the proposed stalls/vehicles, giving dimensions, must be submitted with applications.

6 I enclose a payment of:-

For 1 day's trading per week per annum	108.00	111.00
For 2 day's trading per week per annum	189.00	194.00
For 3 day's trading per week per annum	259.00	265.00
For 4 day's trading per week per annum	324.00	332.00
For 5 day's trading per week per annum	431.00	441.00
For 6 day's trading per week per annum	486.00	498.00
For 7 day's trading per week per annum	540.00	553.00

One day's trading ²³ 22.00 per day

Special Events

Category 1 – Up to 10 traders	43.00	44.00
Category 2 – Between 11 and 19 traders	59.00	60.00
Category 3 – Over 20 traders	75.00	77.00

(Cheques should be made payable to "Braintree District Council")

7 I am 17 years of age. or over

Signature:

Date: 8.8.19

Please return this form to:-

Licensing Officer
 Braintree District Council
 Causeway House
 Bocking End
 Braintree
 Essex
 CM7 9HB

IMPORTANT if you intend to be a 'static trader', to assist in the consideration of your application, you are asked to provide a small sketch of the area from which you wish to trade and the proposed position of the vehicle. Please specify one or two roads and landmarks to help with identifying your proposal.

However, if you apply to renew the consent you currently hold and that application is for precisely the same site, a sketch will not be required.

The information given here may be used in conjunction with other Local Authorities for the prevention and detection of fraud and is held on computer, which is subject to the Data protection Act 1998.

Licensing Consultation Response
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Application No.:19/01142/STR

To: Licensing Section

From: Public Health & Housing Team

Date: 21stth August 2019

**19/01142/STR - STREET TRADING CONSENT - TONIBELL, OUTSIDE
CONNOLLY JEWELLERS, HIGH ST, BRAINTREE, CM7 1JX**

I refer to the application to trade from an ice cream van at the above town centre site by Mr Roger Green.

In recent months, I have received complaint relating to the emission of diesel engine fumes from the vehicle which is the subject of this application. Environmental Health has made the applicant aware of the complaint which alleges that given the trading position in the vicinity of the benches, the complainant is deterred from using the benches for seating.

The applicant has been made aware of the complaint but needs to keep the engine running whilst trading to maintain the necessary temperature in the ice cream freezer.

It is understood by Environmental Health following discussions with Mr Green (the applicant) that the intention is to convert the freezer to electric operation before returning to trade next Spring/Summer. However there is no guarantee that there will be a compatible electric connection at the current trading position.

Environmental Health wishes to promote actions which provides better air quality and minimizes the concentration of air pollutants and greenhouse gases along with preventing localized nuisance/annoyance in the town centre.

For the above reasons particularly given that there is no certainty that the applicant will not continue to trade with the engine permanently running seven days per week (two additional days are market days) during Spring/Summer of 2020 then
Environmental Health raises objection to the application.

Pam Sharp
Environmental Health
01376 551414 ext 2224

QUANTITY RESTRICTIONS - TAXI LICENCES		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure	
Report presented by:	Daniel Mellini Environmental Health Manager (Food, Health & Safety and Licensing)	
Report prepared by:	Daniel Mellini Environmental Health Manager (Food, Health & Safety and Licensing)	
Background Papers:	Public Report	
<ol style="list-style-type: none"> 1. Competition & Markets Authority review of licensing conditions on taxis and private hire vehicles imposed by Licensing Authorities 2017, Pages 7-8 (Appendix 1 – copy attached) 2. Letter to Head of Licensing from John Kirkpatrick Senior Director, Advocacy Competition & Markets Authority 19th June 2017 (Appendix 2 – link attached at end of report) 3. Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance March 2010, Paragraphs 45 – 51 (Appendix 3 – link attached at end of report) 4. Letter dated 16th June 2004 from Department for Transport (Government request to all Councils restricting the number of taxi licences in England and Wales outside London to review quantity control policies) (Appendix 4 – copy attached) 5. Law Commission Review No 347 Taxi and Private Hire Services May 2014, Pages 144 – 166 (Appendix 5 – link attached at end of report) 6. Braintree District Hackney Carriage unmet demand survey May 2016 by Vector Transport Consultancy (Appendix 6 – link attached at end of report) 7. Braintree District Council Hackney Carriage Allocation Policy (Appendix 7– copy attached) 	Key Decision: No	

Executive Summary:

The Council currently places a quantity restriction (QR) on the number of Hackney Carriage proprietor licences it issues to 84. The Council has issued all available licences at this time, however there is evidence to suggest there continues to be demand for taxi licences in the Braintree district.

The Council has issued 8 returned licences since 2015 in accordance with the Council's Hackney Carriage allocation policy. At each allocation, the number of expressions of interest for a taxi licence continues to be significant.

National Advice – Quantity Restrictions

The Department for Transport (DFT) considers it best practice not to impose (QR) on the Authority to regularly reconsider the matter.

In accordance with current (DFT) guidance issued in 2010 and S.16 of The Transport Act 1985, should the Council wish to continue to defend its current policy of (QR's), it must first undertake a survey to assess whether there is an unmet demand for taxis in the area.

As part of any consideration, the (DFT) urges the Authority to first reconsider whether the restrictions should continue at all. The matter should be approached in terms of the travelling public, the people using taxis including analysing the advantages or disadvantages that arise for them as a result of the continuation of (QR) and what advantages or disadvantages would result for the public if the (QR) were removed.

The Office of Fair Trading (OFT) undertook a market study in 2003. The study found that (QR) had the following effects on the supply of taxis:

- (1) fewer taxis per head of population;
- (2) people waited longer for taxis;
- (3) increased use of less suitable alternative modes of transport, with potential safety implications;
- (4) creation of a shortage premium on taxi licences; and
- (5) long waiting lists for taxi licences.

The conclusion reached by the (OFT) was that quantity restrictions do not serve the best interests of consumers, and in fact have a "clear detrimental impact on the public". This is because they restrict customers from securing the services they require, and also impede those wishing to become taxi proprietors. Such restrictions fail to address any problems in the market which could not be addressed more effectively by other means. The report recommended that the legislative provisions which enable Authorities to impose quantity restrictions should be removed and that, until such time as they are, Authorities who impose such restrictions should remove them.

In 2017 the Competition and Markets Authority (CMA) formerly the (OFT) undertook a review of licensing conditions on taxis and private hire vehicles imposed by Licensing Authorities. The (CMA) took the view that, in the interest of consumers, competition should only be restricted or distorted by regulatory rules to the extent that doing so is necessary to protect passengers.

The (CMA) stated that (QR) 'reduce competition between taxi licence holders and thereby allow them to earn monopolistic profits at the expense of passengers'.

Where (QR) have been removed, passengers have benefitted and evidence from Authorities that have removed (QR) increases taxi availability and the number of journeys, reduces passenger waiting times, and increases downward pressure on taxi fares.

The (CMA) however advises that should the Authority remove (QR) it should also monitor/review taxi fares to ensure they are set at the right level.

In July 2011, the Law Commission (LC) undertook a project into the reform of taxi and private hire services originally proposed by the (DFT).

Part of this review included the most comprehensive assessment to date of the impact of (QR) upon the provision of taxis in England and Wales. The results were published in May 2014.

The (LC) concluded by saying.

"We take the view that we should not propose a change to the existing legal position unless we are satisfied that it will yield an improvement. We are not satisfied of this in the light of apparent empirical evidence to the contrary".

"In summary, evidence from consultation suggests that we cannot be confident that removing quantity restrictions would bring significant consumer benefit".

"We have noted the strong view put forward during consultation that (QR) can have a positive role to play within the taxi licensing framework and have found a lack of empirical evidence of the benefits of derestriction".

"Our initial view was that derestriction would be likely to provide the most efficient use of resources by enabling the market to determine supply and demand. However, having listened to the responses to our consultation, we recognise that some limitation on taxi licence numbers may, in some areas, be desirable".

Based on the results of the consultation, the Law Commission acknowledged the importance of local decision-making in respect of taxis; and the trades have argued that number regulation falls squarely within that local remit and as part of the exercise recommended "that Licensing Authorities should continue to have power to limit the number of taxi vehicles licensed in their area".

Local Context - Braintree District

The Council has placed a (QR) on the number of taxis in the district since at least 1996 where the licensing Committee at that time resolved that an independent survey should be commissioned at regular intervals to ascertain whether there were sufficient licensed taxis in the district.

The last survey to assess demand for taxis in the Braintree district was undertaken in 2016. The survey highlighted there was no unmet demand for taxis in the district at that

time and the Licensing Committee determined not to remove the (QR) or issue any more taxi licences.

The Council can choose to commission a new survey to defend its current position of placing a (QR) on the number of taxis in the district for the next 3 to 4 years.

Should the Council commission a survey, the cost will be in the region of £6,000 to £8,000 which is funded entirely through the collection of the taxi licence fee. Should the (QR) be removed at any point in the future, this will be reflected in the reduction of the taxi licence fee.

Conversely should the Council wish to remove the current (QR) it does not need to commission a survey to achieve this. If this were to be a consideration, it is however advised that the Council should undertake a consultation exercise seeking stakeholders' views on whether the Council should remove the (QR) on the number of taxi licences it issues. The consultation will allow those who may be greatly affected by any change to express their views before any final decision is made.

Should the Committee chose this option, the Council will open an 8 week consultation with relevant stakeholders. The results will be collated and a further report presented to the Licensing Committee for determination.

Decision:

The Licensing Committee is invited to choose one of the following options.

1. To continue to limit the number of taxi licences it issues and commission an independent survey to assess whether there is an unmet demand for taxi licences in the district.
2. To undertake a consultation exercise seeking stakeholders' views on whether the Council should continue to limit the number of taxi licences it issues and reconsider the matter based on the results of the consultation.

Purpose of Decision:

Should the Council wish to defend its policy of placing a (QR) on the number of taxis operating in the district, it should consider current (DFT) guidance and Section 16 of the Transport Act 1985 which state: 'that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of taxis if, but only if, the Licensing Authority is satisfied that there is no significant demand for the services of taxis (within the area to which the licence would apply) which is unmet'.

To meet this requirement, the Council must commission an independent survey and assess whether there is any unmet demand for taxis in the district.

The Council can alternatively chose not to a commission a survey at this time and open a consultation to seek stakeholders' views on whether the Council should continue to place a (QR) on the number of taxi licences.

Corporate Implications	
Financial:	<p>The cost of the survey should it be commissioned will be in the region of £6,000 to £8,000 funded through the collection of the relevant licence fee.</p> <p>In the event the (QR) is removed the taxi licence fee will need to be revaluated to take into account the reduction of the cost of administering the licence.</p>
Legal:	<p>In a national context there has been significant litigation with respect to (QR) over the years.</p> <p>The Council has placed a (QR) on the number of taxis for at least two decades which means taxi licences will have an unofficial value beyond the cost of the set licence fee. Should the Council chose to remove the (QR) or increase the number of taxis significantly, this could have an impact on those who have invested in procuring a business.</p> <p>As a result there is a possibility that the Council could be subject to litigation by parties wishing to maintain the current position of a (QR).</p> <p>The Council could also be subject to legal challenge from parties wishing to obtain a taxi licence but are prevented from doing so by the current (QR).</p>
Safeguarding:	No matters arising from this report.
Equalities/Diversity:	See customer impact section below.
Customer Impact:	<p>Vehicle quality controls would be maintained regardless of whether the (QR) is maintained or removed.</p> <p>In the event the (QR) is removed there could be an increased number of Wheelchair accessible vehicles (WAV's) on the fleet as all new vehicle licences would need to be wheelchair accessible. At this time 19 (23%) of the taxis fleet are (WAV's).</p> <p>Should the Council remove the (QR) it would be necessary to monitor/review the taxi fares to ensure the travelling public are paying the right fare.</p>
Environment and Climate Change:	<p>There could be indirect consequences of removing the (QR) on the number of taxis which could include:</p> <ul style="list-style-type: none"> • increased number of taxis • localised congestion near or on taxi ranks
Consultation/Community Engagement:	<p>If the Council commissions a survey, it will include consultation with the taxi trade and the travelling public including disability user groups.</p> <p>If the Council does not commission a survey, it will still consult with the taxi trade and the general public on the proposal to remove the (QR).</p>

Risks:	<ul style="list-style-type: none"> • Localised congestion near or on taxi ranks due to the increased number of taxis • Litigation by parties wishing to maintain the existing (QR) • Litigation by parties wishing to remove the existing (QR)
Officer Contact:	Daniel Mellini
Designation:	Environmental Health Manager (Food, Health & Safety and Licensing)
Ext. No:	2228
E-mail:	daniel.mellini@braintree.gov.uk

1. Background

- 1.1 Braintree District Council is the Licensing Authority under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 for Hackney Carriage Proprietors' licences (hereafter referred to as taxis, or taxi licences).
- 1.2 The Council currently places a quantity restriction (hereafter referred to as QR) on the number of taxi licences it issues to 84. At the time of writing this report all 84 licences are issued.
- 1.3 The Council has placed a (QR) on the number of taxi licences for at least two decades. The Licensing Committee resolved in 1996 that an independent survey should be commissioned at regular intervals to ascertain whether there were sufficient licensed taxis in the district.
- 1.4 Following the survey in February 2003 it was suggested that there was an unmet demand within the district and that issuing a total of 10 new taxi licences would meet the supply requirement.
- 1.5 Following the 2003 decision by the Licensing Committee, a policy was introduced that required all newly issued taxi licences to be for wheelchair accessible vehicles (hereafter referred to as WAV's) and licences must be retained by the licensee for a period of no less than two years before they could be transferred to another party. 10 licences were subsequently issued on this basis, which brought the number to 84 licensed taxis.

2. Current Position

- 2.1 Should the Council wish to maintain the current (QR), it should in accordance with current (DFT) guidance and S.16 of The Transport Act 1985 commission and independent survey. The survey will ascertain whether there is a demand for taxis, which is unmet in the district.
- 2.2 If this is the chosen option, Officers will commission and ideally complete a survey before the end of the calendar year, with the results presented to the Licensing Committee in early 2020.
- 2.3 The survey is relevant should the Council wish to defend its current position of maintaining the current (QR). A survey is not required when considering whether the (QR) should be removed entirely, or if the Authority wishes to issue an additional number of taxi licences.
- 2.4 The cost of conducting a survey is recovered through the collection of licence fees. The existing taxi licence proprietors are aware that the process of funding the survey does not provide any rights over the decision making process.
- 2.5 It is expected that a survey will cost in the region of £6,000 to £8,000.
- 2.6 As part of any consideration, the (DFT) urges the Authority to first reconsider whether the restrictions should continue at all. The matter should be

approached in terms of the travelling public, the people using taxis including analysing the advantages or disadvantages that arise for them as a result of the continuation of (QR) and what advantages or disadvantages would result for the public if the (QR) was removed.

- 2.7 The following sections of the report and attached background papers provide evidence, including the advantages and disadvantages for (QR) at a national and local level.
- 2.8 The Licensing Committee can consider the evidence provided and not commission a survey at this time and instead open a consultation with relevant stakeholders with the view of considering whether the Committee should make a recommendation to Council to remove the current (QR) entirely or issue more taxi licences.
- 2.9 If chosen, the consultation will be open for a period of 8 weeks and any responses will be collated and presented to the next appropriate Licensing Committee for determination.
- 2.10 The Licensing Committee should then be in a position to determine whether the existing (QR) should remain, be removed, or to issue more taxi licences.
- 2.11 If the Licensing Committee decide to maintain the current (QR) after the results of the consultation have been determined, a survey would need to be commissioned and considered as a matter of priority.

2. Results of Last Survey Completed in 2016

- 2.1 The Authority commissioned its last survey on 18th November 2015. The methodology consisted of:
 - Rank observations
 - Taxi & private hire trade questionnaire
 - Public attitudinal questionnaire
 - Other stakeholder consultation
- 2.2 Rank observations were undertaken between 7pm on Thursday, 14th April 2016 to 7pm on Monday, 18th April 2016 (96 hours).
- 2.3 The taxi and private hire trades and public attitudinal questionnaires and other stakeholder consultation were undertaken in May & June 2016.
- 2.4 The results of the survey are shown in detail in the report provided by Vector Transport Consultancy.
- 2.5 In summary the results of the rank surveys indicated there was no significant unmet demand for taxis in the Braintree district. The results of the other stakeholder and public consultation which ran alongside the rank surveys also indicated there were normally sufficient taxis to satisfy demand.
- 2.6 The survey indicated that there were sufficient taxis at that time and there would be for the next 3 years or until the next survey was completed.

2.7 The Licensing Committee of 20th July 2016 determined to maintain the (QR) placed upon the number of taxis in the Braintree District.

4. Current Distribution of Licences

4.1 At the time of writing this report in 2019, 55 of 84 taxi licences are issued to individual owners/drivers or Private Hire Operators. The remaining 29 licences are held by 12 individuals/partnerships and businesses, seven of which hold two taxi licences each and five hold three taxi licences each.

4.2 Ownership of taxi licences has changed since the last survey. In 2016, 40 of 84 taxi licences were issued to individual owners/drivers or Private Hire Operators. The remaining 44 taxi licences were held by 15 individuals, partnerships, and businesses. 14 of the total number of taxi licences were issued to 2 individuals, partnerships and businesses.

4.3 Current information reveals that possession of taxi licences has changed since the last survey. There are now more individuals that hold a licence compared to 2016 when a significant part of the taxi trade was dominated by a few individuals.

5. Benchmarking

5.1 The following section looks at the number of taxis available in the Braintree District compared to other comparable Local Authorities in the region.

5.2 A direct comparison has also been made with all the neighbouring Authorities to the Braintree District shown in table 1 of this report shown below.

Neighbouring Districts	Mid 2014 population estimate	Taxis (as of 2015)	Private Hire (as of 2015)	Total licensed vehicles (as of 2015)	Taxis per 1,000 population	Private Hire per 1000 population	Total Licensed vehicles per 1,000 population
Braintree (Limit)	149,985	84	161	245	0.6	1.1	1.7
Colchester (Limit)	180,420	131	498	629	0.7	2.8	3.5
Chelmsford (No limit)	171,633	183	127	310	1.1	0.7	1.8
Uttlesford (No limit)	84,042	63	1,028	1,091	0.7	12.2	13.0
Maldon (No limit)	62,767	97	17	114	1.5	0.3	1.8
Babergh (No limit)	88,845	39	124	163	0.4	1.4	1.8
St Edmundsbury (Limit)	112,073	61	314	375	0.5	2.8	3.5
South Cambridgeshire (No limit)	153,281	8	855	863	0.1	5.6	5.6

Table 1 taxis and private hire vehicles by population (all neighbouring authorities) 2015

Neighbouring Districts	Mid 2017 population estimate	Taxis (as of 2018)	Private Hire (as of 2018)	Total licensed vehicles (as of 2018)	Taxis per 1,000 population	Private Hire per 1000 population	Total Licensed vehicles per 1,000 population
Braintree (Limit)	151,677	84	170	254	0.6	1.1	1.7
Colchester (Limit)	190,098	131	580	711	0.7	3.1	3.7
Chelmsford (No limit)	176,194	199	128	327	1.1	0.7	1.9
Uttlesford (No limit)	87,684	75	1,848	1,918	0.9	21.0	21.9
Maldon (No limit)	63,975	75	6	81	1.2	0.1	1.3
Babergh (No limit)	90,794	52	127	179	0.6	1.4	2.0
St Edmundsbury (Limit)	113,725	71	333	404	0.6	2.9	3.6
South Cambridgeshire (No limit)	156,705	33	1,147	1,180	0.2	7.3	7.5

Table 2 taxis and private hire vehicles by population (all neighbouring authorities) 2018

- 5.3 Table 1 shows that based on the mid 2014 population estimates for the Braintree District (149,985 people), there were 0.6 taxis per 1,000 population and 1.7 taxis and private hire vehicles per 1,000 population in the Braintree District.
- 5.4 Table 2 shows that based on the mid 2017 population estimates for the Braintree District (151,677 people) the number of taxis and private hire vehicles remains static per 1,000 population.
- 5.5 When comparing table 1 and 2 the total number of licensed vehicles per 1,000 population has increased in all the other Authorities shown except for Maldon District Council which has decreased and the Braintree District which has remained the same.
- 5.6 The comparison shows that the Braintree District is less well served by licensed vehicles by population compared with 6 of the 7 Authorities that border the District. Chelmsford City Council has 1.9 vehicles per 1,000 population. Colchester has 3.7 vehicles per 1,000 population, St Edmundsbury 3.6 vehicles per 1,000 population, Babergh 2.0 vehicles per 1,000 population, South Cambridgeshire 2.6 vehicles per 1,000 population and Uttlesford 21.9 vehicles per 1,000 population.
- 5.7 The only exception is Maldon District which has 1.3 vehicles per 1,000 population which has reduced by 0.5 vehicles per 1,000 population.
- 5.8 When making a comparison with all the other 47 Authorities in the region, the Braintree District has the 9th lowest number of licensed vehicles per 1,000 population.
- 5.9 As highlighted by the (OFT) in its 2003 Market Study (see paragraph 9.2.3), there is evidence to suggest that (QR) placed on taxi numbers could be restricting the number of licensed taxis in the district.

6. Wheelchair Accessible Vehicles (WAV's)

- 6.1 There are currently 19 wheelchair accessible taxis operating in the district at this time which equates to 23% of the current taxi fleet. All the other vehicles within the taxi fleet are either 4 door saloons, 5 door hatchbacks, or Multi-Purpose Vehicles.
- 6.2 There is currently no incentive for taxi proprietors to introduce (WAV's) on to the current fleet. (WAV's) generally cost more to purchase and operating costs are higher.
- 6.3 In the event that taxi licences are returned to the Council, in accordance with the Council's Hackney Carriage Allocations Policy any new vehicle must be wheelchair accessible.
- 6.4 In the event that the (QR) were to be removed entirely or more taxi licences issued, in accordance with the Council's Hackney Carriage Allocations Policy all new taxi licences would be required to be wheelchair accessible.
- 6.5 Renewals of existing taxi licences which are not (WAV's) would not be required to conform to this policy and could maintain the current type of vehicle already licensed.

7. Mileage Data

- 7.1 This section of the report looks at data collected with respect to vehicle mileage over two distinct periods. Data was collected between September 2015 to April 2016 at the time of the last unmet demand survey and September 2018 to April 2019. Both sets of data are compared between both periods.
- 7.2 This data is collected when the vehicles are inspected for roadworthiness as part of the licence process, or by looking at the mileage data supplied at the MOT test.
- 7.3 This data is important as it provides an indication of how much the taxis are potentially working and vice versa.
- 7.4 Data was collected with respect to the mileage travelled by 72 of the 84 taxis between September 2018 and April 2019.
- 7.5 12 of the vehicles' mileage data was not used as the vehicles were changed during this period.
- 7.6 The results highlighted in table 3 below show the average daily mileage.

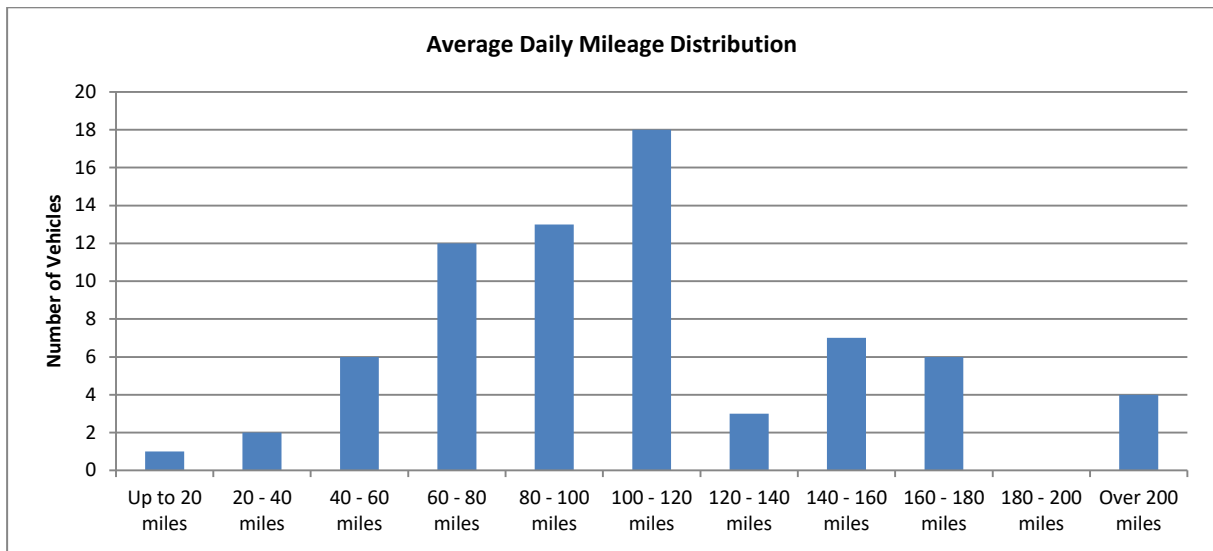


Table 3 - Average daily Mileage per Taxi September 2018 to April 2019

- 7.7 The most common mileage travelled by a taxi during this period was between 100 to 120 miles per day. 43 out of 84 vehicles fall within the range of 60 to 120 miles per day which could be considered a typical average daily mileage for a vehicle working a single shift working 5-6 days per week. 20 vehicles travelled more than 120 miles a day. The four highest mileage vehicles travelled 38566, 41189, 41412 and 55845 in this period.
- 7.8 Nine vehicles were shown to have travelled less than 60 miles per day. Of the nine vehicles, three travelled less than 40 miles per day and one travelled less than 20 miles per day.
- 7.9 The four vehicles with the lowest mileage travelled 165, 4025, 6762 and 7528 miles during the period.
- 7.10 A comparison has been made with data collected from September 2015 to April 2016 and September 2018 to April 2019.
- 7.11 The results highlighted in table 4 below show the average daily mileage of 61 out of 84 taxis from September 2015 to April 2016.

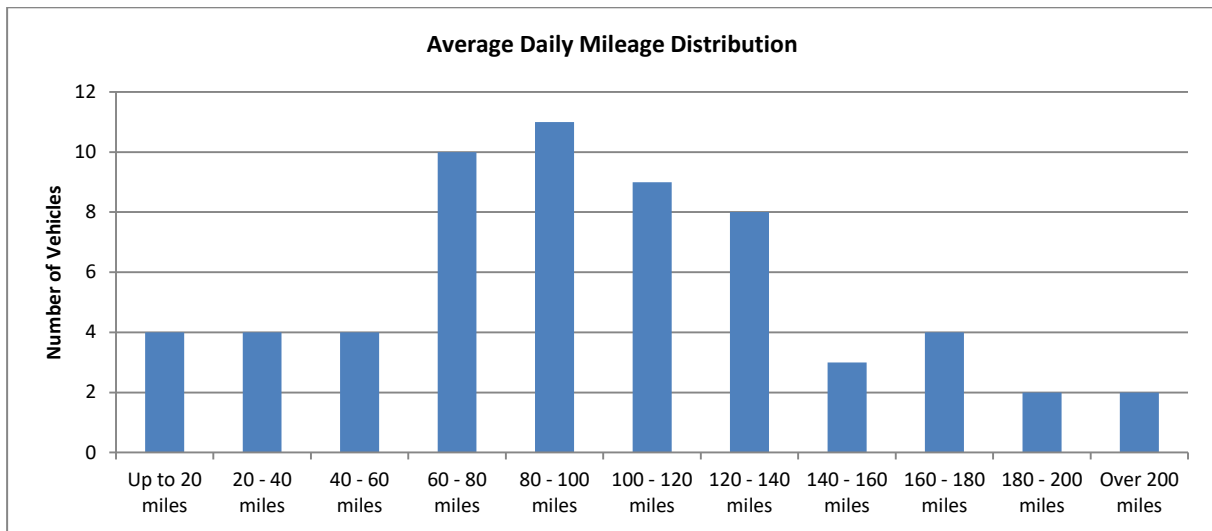


Table 4 - Average daily Mileage per Taxi September 2015 to April 2016

- 7.12 The most common mileage travelled during this period by a taxi was between 80 to 100 miles per day. Approximately half the vehicles fell within the range 60 to 120 miles per day and approximately a third of the vehicles travelled more than 120 miles per day. The four highest mileage vehicles travelled 32,568, 34,928, 36,017 and 37,127.
- 7.13 The results highlighted that there were 12 vehicles travelling less than 60 miles per day. Of the 12 vehicles, four travelled less than 40 miles per day and four travelled less than 20 miles per day.
- 7.14 The four vehicles that travelled less than 20 miles per day travelled 81, 318, 2022 and 2175 miles respectively in a 6 month period.
- 7.15 In 2016 the recorded low mileage for the minority of vehicles was an area of concern. There are a number of reasons why the mileage could be as low. The most common reasons highlighted in other surveys of this nature are that low mileage vehicles may be in use part time, such as only in use at weekends, or vehicles which are leased to drivers, but for which there is no demand.
- 7.16 The Authority had received anecdotal evidence that a minority of proprietors that either do not wish to use their taxi, or are unable to find drivers, will hold onto the “licence” due to the perceived value attached to the licence itself. In effect the licence holder would rather keep the asset because of what it could be worth rather than return it to the Council and allow it to be used by someone else.
- 7.17 In general terms, vehicles are travelling further in 2018/19 than they were in 2015/16. There were only three vehicles travelling less than 40 miles per day in 2018/19 compared to eight over the same period in 2015/16. The average daily mileage has increased and there were 17 vehicles travelling more than 140 miles per day in 2018/19 compared to 11 in 2015/16. The

average six monthly mileage for the whole fleet in 2015/16 was 17,489 miles compared to 19,742 for 2018/19.

- 7.18 It is not possible to state at this time whether the average mileage will continue to increase over the next few years, however it is possible to state that more vehicles are now being used more frequently and are travelling further distances which could be an indication of more available work.

8. Obtaining a Taxi Licence

- 8.1 The Council grants taxi licences in accordance with the requirements of the Town Police Clauses Act 1847 (the 1847 Act) and the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act).
- 8.2 The grant of taxi licences is based on the test of whether the proprietor(s) is/are "Fit and Proper Person(s)" in accordance with the Act and the Council's standard vehicle conditions and allocations policy.
- 8.3 The licence once issued remains the property of the Council and at no time becomes the property of the licence holder. The vehicle is the property of the proprietor/s and it is the vehicle which is licensed.
- 8.4 Licences generally do not get returned to the Council and are normally transferred between the trades. A process exists where a licence can be transferred legitimately in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976.
- 8.5 In recent years a small number of licences have been returned to the Council. Examples of when a licence has been returned to the Council includes when an existing proprietor has passed away and the business hasn't been transferred beforehand, or in the case of the insolvency of a business.
- 8.6 As a result of (QR), entrants wishing to obtain a taxi licence for the first time, or businesses wishing to expand are unable to do so easily within the current system as there are no licences available from the Licensing Authority.
- 8.7 Entrants are required to either purchase a business outright or in partnership from an existing proprietor, or lease a car/plate from an existing proprietor on an agreed basis. In this respect, the existing taxi licence holders are at an advantage to those trying to enter the trade for the first time.
- 8.8 Due to the methods in which licences are exchanged within the trade, there is insufficient evidence to establish the value of existing taxi licences. Anecdotally, it is suggested that the value of a licence can range from anywhere between £5,000 and £25,000 and may be affected by external factors.
- 8.9 Such factors may include whether the Council is due to make a decision on (QR), the buoyancy of the local market, the general wider economic position and of course how much someone is willing to pay at any given time.

- 8.10 Entrants who are not able to “purchase” a taxi licence outright, or even in part, are known to lease or even sub lease a vehicle from an existing proprietor or lessee. In some cases it is understood that an individual will be required to provide their own vehicle’ in effect renting the licence, which is not lawful.
- 8.11 The Council is aware of the current demand for taxi licences. The Council has issued eight returned taxi licences since 2015 in accordance with the Council’s allocation policy as shown in table 5 below.

Date of taxi allocation	Number of licences allocated	Expressions of interest
March 2015	3	51
September 2015	3	48
September 2016	1	59
May 2018	1	54

Table 5 Numbers of licences allocated and expressions of interest

- 8.12 The average number of expressions of interest is 53, the lowest number of expressions was 48 in September 2015, and the highest was 59 in September 2016. At the last allocation in May 2018, there were 54 expressions of interest for a taxi licence.
- 8.13 Anyone obtaining a licence via the ballot, is required to make a significant investment in a (WAV), which can’t be sold or transferred for a period of five years.
- 8.14 The high number of expressions of interest indicate that there is significant demand for taxi licences in the district, which is consistent with the 2003 (OFT) market study, which highlights the potential for long waiting lists for taxi licences as a result of (QR). (See paragraph 9.2.3)

9. Quantity Restrictions – National Advice

9.1 Department for Transport (DFT)

- 9.1.1 (DFT) guidance re-issued in 2010 reinforces the Government’s position on quantity restrictions for taxi provision outside of London, which is also set out in Section 16 of the Transport Act 1985. This section of the Act states that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of taxis ‘if, but only if, the Licensing Authority is satisfied that there is no significant demand for the services of taxis (within the area to which the licence would apply) which is unmet’.
- 9.1.2 Guidance states that it is best practice for Licensing Authorities not to impose (QR) and Licensing Authorities that impose restrictions are urged to reconsider the issue on a regular basis.
- 9.1.3 When making a decision, the first consideration should be 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.

- 9.1.4 The second consideration is whether there is evidence that removal of the controls would result in deterioration in the amount or quality of taxi service provision?
- 9.1.5 Anecdotal evidence implies that where (QR) are imposed, taxi licence plates command a premium, often of tens of thousands of pounds which indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 9.1.6 If the Council does take the view that a (QR) can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand.
- 9.1.7 It is suggested by the (DFT) in its 2004 letter to Licensing Authorities of 16th June 2004 that a range of considerations should be taken into account when assessing the issue, these considerations are summarised below.
- (1) Waiting times at ranks;
 - (2) Waiting times for street hailing and telephone bookings;
 - (3) Latent demand, by assessing people who do not use hackney carriages to find out why not.
 - (4) Peaked demand - the Department does not agree that delays at peak times are not "significant" for the purposes of the unmet demand test;
 - (5) Consultation with a wide range of people and organisations, including other transport providers; and
 - (6) Publication of evidence and an explanation of the conclusions; and
 - (7) Financing of surveys

9.2 Office of Fair Trading (OFT) Review 2003

- 9.2.1 In 2003 the (OFT) published a market study considering the impact of quantity restrictions on hackney carriage and private vehicle hire regulation. At the time the report was written, the (OFT) found that 45% of UK local Authorities imposed quantity restrictions of which 72% were in urban areas.
- 9.2.2 This enabled the (OFT) to consider the effects in areas where controls existed, as against those where they did not. They were also able to consider the effect in Local Authority areas where quantity restrictions had been removed.
- 9.2.3 The (OFT) found that quantity controls had the following effects on the supply of taxis:
- fewer taxis per head of population;
 - people waited longer for taxis;
 - increased use of less suitable alternative modes of transport, with potential safety implications;
 - creation of a shortage premium on taxi licences; and
 - long waiting lists for taxi licences.

- 9.2.4 Where quantity controls were in place, any shortfall in taxi licences often gave rise to an increase in the number of private hire vehicles. Furthermore, areas where limits on the number of taxi licences were removed saw a shift from private hire to taxi licences, meaning the increase in the overall number of licensed vehicles was relatively small.
- 9.2.5 The report found that the shift from private hire to taxi licences may benefit customers. This is because taxis offer greater flexibility because they can be hailed in the street and hired at ranks as well as booked over the phone.
- 9.2.6 The (OFT) expressed concern that a restriction in the number of taxis may result in people using alternative and less safe modes of transport. For example, concerns were raised that a shortage of taxis could push users towards unlicensed vehicles. It also impacted the time taken to clear town centres at night. Potential customers are deterred by waiting times, and areas which removed restrictions found a substantial increase in the number of taxis hailed in the street and hired on ranks.
- 9.2.7 The (OFT) also expressed concerns that the effect of restrictions may be to prevent some people entering the market. This is evidenced both by the high cost of licences in restricted areas, and the fact that many areas which impose restrictions have long waiting lists for licences.
- 9.2.8 The conclusion reached by the (OFT) was that quantity restrictions do not serve the best interests of consumers, and in fact have a “clear detrimental impact on the public”. This is because they restrict customers from securing the services they require, and also impede those wishing to become taxi proprietors. Such restrictions fail to address any problems in the market which could not be addressed more effectively by other means. The report recommended that the legislative provisions which enable Authorities to impose quantity restrictions should be removed and that, until such time as they are, Authorities who impose such restrictions should remove them.
- 9.2.9 The (OFT’s) 2003 market study received critical responses from the Select Committee on Transport in 2004. The Committee suggested that the study lacked evidence to support its recommendations against quantity restrictions and that the statistics and survey evidence were flawed. The failure to consider the inter-relationship between taxis and private hire vehicles (rather than each trade separately) was also considered a major weakness in the approach.
- 9.2.10 In 2007, Europe Economics undertook a follow-up study evaluating the impact of the (OFT’s) report. Europe Economics recognised problems with the way the original study was conducted, in particular in respect of market definition, interactions between different regulations, and inadequate assessment of consumer detriment and benefit. Overall, Europe Economics found that although customer waiting times decreased more as a result of deregulation (a key consumer benefit), driver waiting times rose disproportionately leading to an overall decrease in productive efficiency in the industry. On the other hand, deregulation resulted in increased utility through additional taxi journeys and an overall consumer benefit.

9.3 Competition and Markets Authority (CMA)

- 9.3.1 The (OFT) now the Competition and Markets Authority (CMA) undertook a review of licensing conditions on taxis and private hire vehicles in 2017.
- 9.3.2 The (CMA) have taken the view that, in the interest of consumers, competition should only be restricted or distorted by regulatory rules to the extent that doing so is necessary to protect passengers.
- 9.3.3 The (CMA) feel that (QR) 'reduce competition between taxi licence holders and thereby allow them to earn monopolistic profits at the expense of passengers'
- 9.3.4 Where (QR) have been removed passengers have benefitted and evidence from Authorities that have removed (QR) shows increased taxi availability and the number of journeys, reduced passenger waiting times, and increased downward pressure on taxi fares.
- 9.3.5 The (CMA) however advises that should the Authority remove (QR) it should also monitor/review taxi fares to ensure they are set at the right level.

9.4 Equality Act 2010

- 9.4.1 Section 161 of The Equality Act 2010 qualifies the law in relation to unmet demand. The section states that Licensing Authorities with relatively few wheelchair accessible vehicles cannot refuse to licence such vehicles for the purpose of regulating the number of issued taxi licences.
- 9.4.2 In order for section 161 to be enacted, the Secretary of State must introduce secondary legislation specifying:
- 9.4.3 The proportion of wheelchair accessible taxis that must operate in an area before the Authority is lawfully able to refuse to licence such a vehicle on the grounds of regulating taxi numbers and

The dimensions of a wheelchair that a wheelchair accessible vehicle must be capable of accommodating in order for it to fall within this provision.

- 9.4.4 It is not clear **when** or **if** secondary legislation will be enacted bringing this provision into place. It is however clear that it is unlikely to be at any point in the immediate future, if at all.

9.5 Law Commission (LC) Review

- 9.5.1 In July 2011, the (LC) announced the Eleventh Programme of law reform. The programme included a project into the reform of taxi and private hire services originally proposed by the Department for Transport
- 9.5.2 Part of this review included the most comprehensive assessment to date of the impact of (QR) upon the provision of taxis in England and Wales. The results were published in May 2014.

- 9.5.3 The review included a draft Bill presented to Government for consideration.
- 9.5.4 The Commission provisionally proposed abolishing the power to impose quantity restrictions on taxis. The Commission suggested that entry into the industry should depend on standards-based criteria with appropriate quality controls rather than the blunt tool of numerical caps. The Commission also asked consultees what problems, temporary or permanent, might arise from abolishing quantity restrictions.
- 9.5.5 The provisional proposal generated a great number of consultation responses, and the most concern amongst the trades during consultation meetings. The Commission received approximately 1500 responses on this topic; the vast majority disagreed with lifting restrictions.
- 9.5.6 The Government's response to the consultation reaffirmed the position of the (OFT) in 2003 and the Department of Transport advice in 2010 and is highlighted below.
- 9.5.7 *"The Government agrees that Licensing Authorities should no longer have the power to restrict taxi numbers".*
- 9.5.8 *"We recognise that loss of plate premiums and a possible over-supply of taxis might be undesirable effects associated with a removal of the power to restrict taxi numbers, although this is likely to even out over a period of time. Nonetheless, we would see advantage in putting special transitional measures in place. A staggered or phased removal of the power to control taxi numbers might be a sensible way to proceed."*
- 9.5.9 *"We would ask the (LC) to consider the best approach to a phased approach to quantity control removal in order to control the impact on the current market".*
- 9.5.10 The review itself considered in detail both the positive and negative aspects of applying a (QR). The results can be found pages 144 – 166 of the report.
- 9.5.11 The arguments presented in the review can be categorised into two groups.

The arguments presented in favour of removing (QR) included, it would allow new people automatic entry into the trade and would allow existing businesses to grow. The removal would help remove the trade in plates which in itself can act as a barrier to enter the trade. There would be increased flexibility for private hire drivers wishing to utilise the benefits a taxi would bring, although some Private Hire Operators did express concern that opening up the taxi market would loosen the control over private hire drivers. For example, a driver on their circuit who had obtained a taxi licence would be able to pick up a hail or a job from a rank, disrupting his presence on the circuit. Finally there would be less opportunity for some drivers to be exploited by having to pay high rents for a plate.

- 9.5.12 The arguments presented against removing quantity restrictions included current taxi plate holders would be severely affected; there would be

increased taxi numbers, which in turn would bring increased competition and provide the existing proprietors/drivers with a thinner slice of the travelling public's spend. It was felt that whilst the travelling public's wait for a taxi would reduce, the average driver wait would increase. Standards could be affected, the potential for increased air pollution, congestion on around ranks which could affect the local population, potential threat to safety by drivers having to work longer hours and the potential impact upon Licensing Authorities to undertake increased enforcement to maintain standards.

9.5.13 The Law Commission concluded by saying:

9.5.14 "We take the view that we should not propose a change to the existing legal position unless we are satisfied that it will yield an improvement. We are not satisfied of this in the light of apparent empirical evidence to the contrary".

9.5.15 "In summary, evidence from consultation suggests that we cannot be confident that removing (QR) would bring significant consumer benefit".

9.5.16 "We have noted the strong view put forward during consultation that (QR) can have a positive role to play within the taxi licensing framework and have found a lack of empirical evidence of the benefits of derestriction".

9.5.17 "Our initial view was that derestriction would be likely to provide the most efficient use of resources by enabling the market to determine supply and demand. However, having listened to the responses to our consultation, we recognise that some limitation on taxi licence numbers may, in some areas, be desirable".

9.5.18 Based on the results of the consultation, the (LC) acknowledged the importance of local decision-making in respect of taxis; and the trades have argued that number regulation falls squarely within that local remit, and as part of the exercise recommended "that Licensing Authorities should continue to have power to limit the number of taxi vehicles licensed in their area".

9.5.19 The review and Bill have not been progressed further to this date and there is no timetable for implementation.

10. Data Collection

10.1 Statistics collected by the (DFT) from Licensing Authorities in England and Wales details which authorities have (QR) in place and those that do not.

10.2 The results of the data in table 6 shows that as at 31st March 2018, 91 Authorities in England and Wales currently place a (QR) on the number of taxi licences they issue. This equates to 29.16% of the total number of Authorities that have answered that question in the survey. 70.14% of Authorities did not impose any (QR) at that time. The results in the table also show that the number of Authorities that either do, or do not, impose a (QR) have remained relatively static over the last seven years. Since 2011, five Authorities that were not imposing (QR) are now doing so, whereas the number of Authorities no longer placing restrictions has also increased by eight.

Year	2011	2013	2015	2017	2018
Number of LA's with Quantity Restrictions in place	86	88	89	91	91
Number of LA's with no quantity restrictions in place	213	217	223	224	221
Total	299	305	312	315	312

Table 6 Quantity restrictions (numbers of LA's by year)

- 10.3 When focussing on the East of England in more detail, table 7 shows that as at 31st March 2018, 38 Authorities place no (QR) whereas nine Authorities still impose a (QR). This equates to 80.85% of all Authorities in the East that do not impose a (QR).

Area	No quantity restrictions	Quantity restriction in place	No response
Norfolk	6	0	1
Peterborough	1	0	0
Cambridgeshire	4	1	0
Suffolk	7	0	0
Luton	0	1	0
Bedford	0	1	0
Central Bedfordshire	1	0	0
Hertfordshire	8	2	0
Essex	10	4	0
London	1	0	0
Total	38	9	1

Table 7 Quantity restrictions (numbers of LA's in the East of England)

- 10.4 In Essex 4 (28%) out of the 14 Local Authorities place a (QR) which is higher than any other County in the East of England. The Authorities are Braintree District Council, Colchester Borough Council, Southend on Sea Borough Council and Harlow District Council. The report written to Licensing Committee on 20th July 2016 with respect to the last survey undertaken in 2016 highlighted that there were only three Authorities in Essex that placed (QR) and omitted Harlow District Council from the report. This was incorrect and is corrected for the purposes of accuracy now.

11. Conclusions

- 11.1 The last unmet demand survey undertaken in 2016 indicated there were sufficient taxis in the district and there were likely to be enough to cater for the needs of the population over the three year period, or until the next survey is completed.
- 11.2 Should the Council wish to maintain the current policy of placing a (QR) on the number of taxis in the district, it must commission a new survey to assess whether demand for taxis currently exists.

- 11.3 As part of any consideration the (DFT) urges the Authority to first reconsider whether the restrictions should continue at all. The matter should be approached in terms of the travelling public, the people using taxis including analysing the advantages or disadvantages that arise for them as a result of the continuation of (QR) and what advantages or disadvantages would result for the public if the (QR) was removed.
- 11.4 The report and its background papers set the scene with respect to both the national and local context regarding whether quantity restrictions should be applied or removed.
- 11.5 As a result of the existing restriction, the report has identified a number of factors that can act as a barrier to new entrants wishing to obtain a licence or businesses wishing to expand. Anecdotal evidence exists of plates being leased, or even sub leased without the knowledge or approval of the Council, or businesses changing hands for inflated values.
- 11.6 Whilst taking into account the findings of the survey and current guidance available, it is important to consider whether the travelling public are either affected by the existing policy to maintain a quantity restriction, or will be affected should the current (QR) be removed.
- 11.7 The Committee are provided with the following options:
- 11.7.1 To continue to limit the number of taxi licences it issues and commission an independent survey to assess whether there is an unmet demand for taxi licences in the district.
- 11.7.2 Undertake a consultation exercise seeking stakeholders' views on whether the Council should continue to limit the number of taxi licences it issues and reconsider the matter based on the results of the consultation.

Appendices

Appendix 1 - Copy attached

Appendix 2 – Link attached below

<https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities>

Appendix 3 – Link attached below

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

Appendix 4 – Copy attached

Appendix 5 – Link attached below

https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf

Appendix 6 – Link attached below

<https://braintree.cmis.uk.com/braintree/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/848/Committee/7/Default.aspx>

Appendix 7– Copy attached

CMA review of licensing conditions on taxis and private hire vehicles imposed by licensing authorities

Introduction

1. The Competition and Markets Authority (CMA) is the UK's primary competition and consumer authority, and has a statutory duty to promote competition for the benefit of consumers. The Enterprise Act 2002 gives the CMA the function of making proposals or giving information or advice to any public authority on matters relating to any of its functions. In *A Better Deal*,¹ HM Treasury has asked the CMA to consider how local authorities 'can support competition and challenge them when they do not'.
2. In response, the CMA has undertaken a review of conditions imposed by licensing authorities on the hackney carriage (taxi) and private hire vehicles (PHVs), drivers and operators. As part of this review, the CMA has been in touch with various local authorities where it considers that existing or proposed conditions may harm competition and the interests of passengers.²
3. The CMA's understanding of the taxi and private hire markets is informed by the Office of Fair Trading's (OFT's) 2003 Market Study of the regulation of taxi and private hire services,³ the OFT's 2007 evaluation of the 2003 market study,⁴ the findings of the CMA's examination of a merger between private hire operators in Sheffield⁵ and by our recent evidence review and analysis of licensing authority existing and proposed conditions. We have also considered the Law Commission's 2014 report into taxi and private hire services.⁶
4. Regulation that protects passengers by ensuring that the vehicle is safe, the driver competent and responsible, and that passengers are not overcharged by unscrupulous operators is clearly beneficial to passengers. However, regulation that restricts competition beyond what is necessary to protect passengers is likely to harm passengers through poorer service or higher

¹ HM Treasury's November 2015 [competition plan](#): A Better Deal.

² You might like to consider the [response](#) we made to a consultation run by Transport for London, and the [letter](#) we wrote to Sheffield City Council for more detail on the CMA's view.

³ OFT (November 2003), [The regulation of licensed taxi and PHV services in the UK](#). OFT676.

⁴ OFT (October 2007), [Evaluating the impact of the taxis market study: A report for the OFT by Europe Economics](#). OFT956.

⁵ See the Sheffield City Taxis / Mercury Taxis (Sheffield) merger inquiry [case page](#).

⁶ Law Commission (May 2014), [Taxi and Private Hire Services](#). Law Com No 347.

prices. Competition in markets is a process of rivalry between firms that benefits consumers. Passengers benefit from effective competition among taxis and private hire operators on both price and service quality and from the innovation that competition stimulates. The CMA takes the view that, in the interest of consumers, competition should only be restricted or distorted by regulatory rules to the extent that doing so is necessary to protect passengers.

5. The unique right of taxis to ply for hire provides a justification for a two-tier regulatory framework where taxis (but not PHVs) are subject to fare regulation, and greater regulation of service standards. However, there is scope for competition between taxis and private hire operators, and such competition is likely to benefit consumers. Therefore, to facilitate this competition, regulatory differences between taxis and PHVs should not go beyond what is required by the differing legislative frameworks or necessary to protect passengers.
6. The remainder of this review describes licensing conditions that may restrict competition and hence harm passenger welfare.

Licensing conditions that restrict the development of the private hire market

7. On several occasions the CMA has found existing or proposed licensing conditions which may directly or indirectly restrict the number of operators that a private hire driver is able to work for. Such conditions include restrictions that forbid a driver to work for more than one operator as well as requirements that make it in practice difficult for a driver to work for more than one operator. The latter includes requirements that the operator's contact details are printed on the side of the car in a permanent and non-tamperproof format (and restricting the use of magnetic decals), or in a format that means that it would in practice not be realistic for a driver to switch the sign mid-shift. We understand that such requirements may be motivated by the desire to prevent drivers working unsafe hours. However, we would urge authorities to consider the harm these restrictions may cause passengers in terms of higher fares or lower service quality, and to work with operators to consider other ways of achieving this objective. We would also note that many authorities do not impose such requirements.
8. Preventing drivers from working for more than one operator can create a strong network effect among drivers who work for such firms, as drivers are likely to choose the firm with the most customers. This network effect is likely to become stronger with the development of app-based private hire firms; the

consequence could be fewer private hire operators, or even a single dominant firm. This reduces the possibility of competition between such firms and could create the potential for significant harm to passengers in terms of higher prices, reduced choice or lower service quality. The CMA considered the ability of new operators to employ part-time drivers already working for another private hire operator to be a critical factor in providing sufficient competition to the business being created by the merger of Sheffield City Taxis and Mercury Taxis.

Licensing conditions that overly-specify the quality or exact nature of the service provided

9. The CMA found several existing or proposed conditions that look to specify the nature of the service that private hire operators must provide. This includes conditions which mandate that private hire operators must provide a landline telephone helpline, sometimes to be based within the boundaries of the licensing authority; that operators must provide an advance pre-booking service (ie whereby a vehicle can be booked several days in advance, rather than just for the same day); and that private hire drivers must pass topographical skills assessments.
10. Such conditions may undermine competition and thereby harm the interests of passengers. In general, private hire passengers are in a good position to choose between a range of different providers and therefore are able to select the trade-off between price and quality that best matches their preferences. Mandating levels of service above what passengers would be willing to pay extra for is therefore likely to increase the cost of provision and the prices that passengers pay.
11. In terms of the specific conditions outlined above, the requirement to provide a landline helpline appears designed to ensure that passengers can speak to someone other than the driver in the event of a problem. However, it does not seem necessary to specify the detail of this provision in order for the passenger to receive a satisfactory resolution. Moreover, the CMA believes that this proposal could raise barriers to entry (new businesses would have to provide both a number and staff to handle calls) as well as restricting innovation (such as app-based business models). It could therefore lead to private hire operators facing increased costs, reducing the competition between them. These are likely to result in higher fares for passengers.
12. The requirement to provide a pre-booking service is also likely to raise barriers to entry. Firms who are unable or unwilling to provide such functionality will be excluded from the market, resulting in less competition

between providers and hence potentially higher prices or lower quality on other aspects of service. The effect of requiring an advanced pre-booking service could particularly impact on PHV operators that aim to compete as much as possible with taxi services. The CMA's experience is that where consumers find such add-on functions useful, they are likely to be provided by some firms in a competitive market without the need for these to be specified by regulation.

13. Finally, the CMA is unconvinced that extensive navigational skills assessments for private hire drivers are appropriate, given that satellite navigation is widely used by private hire drivers, and given that passengers are likely to be in a position to choose between different levels of quality in a competitive private hire market. It may or may not be the case that the skills checked by such assessments provide an effective or necessary backup for satellite navigation. However, such assessments raise barriers to entry, thereby reducing the supply of private hire drivers and potentially increasing fares paid by passengers. Research carried out by the CMA's predecessor, the OFT, found that consumers are generally unwilling to pay extra for higher quality standards. Moreover, to the extent that passengers do value differing levels of navigational skill, the CMA would expect the market to be able to provide a range of alternatives with varying trade-offs between price and quality; it therefore does not appear necessary to seek to guarantee high levels of navigational skill through regulation. By contrast, entry assessments that test an applicant's understanding of a broader range of issues including safeguarding, disability awareness and knowledge of the local area, may provide a more balanced approach.

Licensing conditions that forbid aspects of service that are valuable to the consumer

14. The CMA found two sets of proposed conditions in particular that are likely to result in the discontinuation of services which passengers value. These are prohibition of the display of available vehicles in-app, and conditions that impose a **minimum** waiting time between ordering and getting into a private hire vehicle. Such conditions would be likely to directly harm consumers by reducing the quality of service that private hire operators are able to provide, as well as indirectly as it would render PHVs less able to compete with taxis.
15. App-based models are relatively new, and licensing authorities are of course in the process of understanding how they fit in a legislative framework that was designed prior to their conception. This provides some challenges, but some proposed licensing conditions may harm the interests of passengers. Some app-based operators allow the user to see the availability of vehicles by

providing virtual icons on a map. One licensing authority proposed to ban such functionality on the basis that it would reduce the possibility of illegal touting activity. We are not aware of evidence to show that such virtual representations encouraged illegal touting activity – and in any case we are concerned that such conditions would undermine the ability of the private hire trade to attract customers who might otherwise use taxis, as it would make it more difficult to demonstrate availability to passengers who place a high value on time that a vehicle could arrive quickly.

16. The proposal to impose a minimum waiting time had the intention of improving public safety, although again we are not aware of evidence that short waiting times harm public safety. As well as directly causing a loss to passengers, this proposal would also have the effect of reducing competition between private hire operators and taxis as private hire operators will be less able to compete on the basis of quick arrival time. This reduced rivalry will weaken the competitive downward pressure on prices and upward pressure on service quality. Furthermore, this restriction would reduce the incentive to innovate in a way that improves efficiency by reducing downtime and waiting times faced by passengers.

Licensing conditions that restrict private hire business or operating models

17. The CMA has found a wide array of existing or proposed conditions that restrict how private hire operators undertake their business or manage internal processes. These include:
 - requirements for records to be kept in specific (eg written) format;
 - outright bans on advertisements being placed on the inside or the outside of the vehicle;
 - restrictions on where PHVs can park (beyond parking restrictions that apply to all vehicles);
 - requirement to specify exact fares in advance, rather than an estimate;
 - requirement to seek licensing authority approval prior to business model changes; and
 - controls on ride-sharing services.
18. The justifications provided for these conditions are a mixture of safety, traffic management and customer protection concerns. These conditions may,

however, distort competition and hence harm the interests of passengers in several ways, while going beyond what is required to achieve the aims of the conditions. First, by specifying the exact way in which a business must operate, rather than regulating for an outcome, licensing conditions may undermine the ability of private hire operators to undertake cost saving or service improving innovations, the benefits of which would be likely to feed through to the passenger in terms of lower fares or better service. For example, requiring a certain format for records storage as well as requiring an individual to take each booking may eliminate the possibility of equally reliable but lower cost electronic or cloud-based storage systems. We recognise that there is a legal requirements on record keeping, but we would urge authorities to interpret this in a way that facilitates innovation. Similarly, requiring business model changes to be pre-approved is likely to make consumer welfare-enhancing innovations more costly, and hence reduce the competitive pressure between providers. We note that licences can be suspended or revoked if there is a material change in the circumstances of an operator since a licence was issued, but it is not clear that this ought to mean that operators should seek approval for any business model change. Specifying exact fares may result in higher overall fares for consumers by ruling out the possibility of more efficient dynamic pricing models under which operators can provide an estimate rather than an exact fare. And finally, whilst passenger protection is clearly important in this context, controls on ride-sharing services may prevent the associated benefits to passengers in terms of lower fares from being realised.

19. Secondly, to the extent that these conditions place greater burdens on private hire operators than on taxis, they are likely to distort competition between the two, to the detriment of passengers. We recognise that private hire and taxi licensing operate under different legal frameworks, and the justification for this distinction. Nevertheless, passengers do still benefit from competition between the two, and it is our view that licensing authorities should avoid creating regulatory distinctions between the two, beyond what is required by law and necessary to protect the interests and safety of passengers. Where private hire operators have greater costs as a result of regulation, or have the freedom to set their own commercial strategy restricted to a greater extent, they will impose less of a competitive constraint on taxis thereby reducing the benefits for passengers that arise in a competitive market. Conditions that restrict advertising on PHVs (beyond clarifying that a PHV cannot advertise itself as a taxi or cab service, or restricting inappropriate content), restrict where they are allowed to wait or park (beyond normal traffic restrictions), or require private hire operators to specify exact fares rather than estimates in advance are all conditions that place burdens on private hire operators not

faced by taxis and therefore hamper private hire operators' ability to offer an attractive alternative to taxis.

Restrictions on the number of Hackney Carriages within the geography of the licensing authority

20. With the exception of Transport for London, licensing authorities in England and Wales have the power to impose a quantity limit on the number of taxis within their area subject to the statutory test set out in section 16 of the Transport Act 1985. At present, around a third of local authorities choose to use this power. As the OFT found in its 2003 Market Study,⁷ quantity restrictions (QRs) reduce competition between taxi licence holders and thereby allow them to earn monopolistic profits at the expense of passengers. This can be seen by the fact that licences in restricted areas sell for, on average, around £30,000.⁸
21. Where QRs have been removed, passengers have benefited. The experience from local authorities in England and Wales, and evidence from, among others, New Zealand⁹ and Ireland,¹⁰ is that the removal of QRs increases taxi availability and the number of journeys, reduces passenger waiting times, and increases downward pressure on taxi fares. Furthermore, it seems likely that concerns around enforcement costs, emissions, congestion, and the effect on the taxi trade, all of which have been used to justify the imposition or retention of QRs, appear either to be over-emphasised, or could be effectively addressed by less costly means.
22. However, for the benefits to passengers of removing QRs to be fully realised, fare caps must be set at the right level after QRs are removed. It might be expected that removing QRs should increase the supply of taxis, encourage greater price competition between taxis, and thereby increase the number of passengers who use them (and thus passenger welfare). However, if fares are too high and do not fall following the removal of QRs, then passengers may not increase their usage of taxis to the extent that they would if fares fell to the competitive level. Furthermore, the hail-and-rank section of taxi markets are often characterised by a lack of price competition (hence the need for fare regulation). Therefore, competition may not ensure that fares are competitive and so it is necessary for licensing authorities to ensure that the regulated fare is set at the right level.

⁷ OFT (November 2003), [The regulation of licensed taxi and PHV services in the UK](#). OFT676.

⁸ Law Commission (May 2014), [Taxi and Private Hire Services](#). Law Com No 347.

⁹ PS Morrison, [Restructuring Effects of Deregulation: The Case of the New Zealand Taxi Industry](#).

¹⁰ Sean Barrett (2010), 'The sustained impacts of taxi deregulation', *Economic Affairs*.

23. In addition, if fares are too high in the absence of QRs, this can reduce the efficiency of the taxi industry. As outlined in the 2007 evaluation of the OFT's 2003 Market Study,¹¹ due to the limited nature of price competition between hail-and-rank taxis, removing QRs can result in 'excessive entry' where too many new drivers enter the market due to high fares, but demand stays stable (or only rises slightly) as fares do not fall to entice new customers. This means drivers have to wait longer between journeys (but are willing to do so as each fare is high). To address these problems, licensing authorities might like to monitor market developments, in particular waiting times, and consider adjusting the regulated fare cap to eliminate mismatches between supply and demand. In such a scenario, a lower regulated fare would be likely to reduce the scale of entry whilst also increasing demand. The reduced waiting times for taxi drivers would be likely to, at least to some extent, offset the loss of income resulting from the reduced fare. Licensing authorities might also like to consider how they can encourage greater fare competition below the price cap among hail-and-rank taxis.

¹¹ OFT (October 2007), [Evaluating the impact of the taxis market study: A report for the OFT by Europe Economics](#). OFT956.

Licensing conditions that may harm competition and the interests of passengers

Category	Examples	Nature of passenger harm
Restricting market development	<ul style="list-style-type: none"> • Banning drivers from working for more than one operator • Conditions on vehicle signage that make it difficult for drivers to work for more than one operator 	Such conditions make it difficult for firms to enter the market or expand by recruiting existing drivers on a part-time basis. They may also encourage drivers to move to the largest operator. This may reduce the number of firms, which in turn may cause harm to passengers by reducing competitive pressure to reduce prices or improve service quality.
Service provision over-regulated beyond passenger needs/wants	<ul style="list-style-type: none"> • Compulsory landline helpline, sometimes having to be based within the authority • Compulsory advanced pre-booking function • Extensive navigational skills assessments for private hire drivers 	Private hire is a market where passengers are likely to be in a good position to choose the trade-off between price and quality that best suits their needs. Such high minimum standards are likely to mean higher costs, and hence higher fares for passengers. They may also create barriers to entry, reducing the number of operators in a market and hence reducing competitive pressure between them

Category	Examples	Nature of passenger harm
Restrictions on business model, or unnecessary distinction between conditions imposed on PHVs and taxis	<ul style="list-style-type: none"> • Records keeping restrictions • Restrictions on advertising products on vehicle • Restrictions on where PHVs can park • Requirement to specify exact fare in advance • Approval required for changes to operating models • Controls on ridesharing 	<p>These conditions specify how private hire operators must or must not operate. As such, they are likely to undermine innovation by private hire operators that could reduce costs or improve the quality of services for passengers.</p> <p>By applying overly restrictive conditions to private hire operators, licensing authorities may increase their costs, making it harder for them to provide an attractive alternative to taxis, and hence resulting in higher fares or lower service quality for passengers.</p>
Quantity restrictions	<ul style="list-style-type: none"> • Quantity restrictions on taxis 	<p>Limiting the number of taxis in an area is likely to cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares, reduced choice, and greater risks to passenger safety (as it may encourage the use of illegal taxis).</p>

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Our Ref: PT2 10/9/30

16 June 2004

Dear Sir/Madam,

Government request to all councils restricting the number of taxi licences in England and Wales outside London to review Quantity Control policies

1. I am writing to ask you, following the announcement of a Government Action Plan for taxis (and private hire vehicles), to review your local policy to restrict the number of taxi licences that you grant and to publish the outcome by 31st March 2005.

Background to this letter

2. As you will know, the Office of Fair Trading published a market study into the regulation of taxis and private hire vehicles in the UK in November 2003. The Government responded in respect of England and Wales on 18th March by means of a Written Statement in the House of Commons.
3. The Written Statement included an Action Plan for Taxis and Private Hire Vehicles that I attach as annex **A** to this letter. Paragraphs 1 to 11 of the Action Plan, in particular paragraphs 4 to 8, cover restrictions on the number of taxi licences issued by licensing authorities.
4. As a result, this letter is for the attention of those taxi licensing authorities in England and Wales outside London that restrict the number of taxi licences that they issue. I am addressing this letter to the Chief Executives of the councils listed at Annex **B**¹. For ease, I enclose a further copy for the appropriate taxi licensing officer. I am also copying this letter for information to the Chief Executives of County Councils and Passenger Transport Executives who will need to include justification of local policies to restrict taxi licences in their Local Transport Plans².

¹ Please note this list has been compiled from the latest information that we hold centrally, but some councils may have subsequently changed their local policy with regard to quantity restrictions. In such cases, we should be grateful if you would let us know of the policy change.

² Those few authorities that will not be required to produce a Local Transport Plan will still be expected to justify their quantity restriction policy if any of the districts in their area have such restrictions.

The power to issue taxi licences

5. Section 37 of the Town Police Clauses Act 1847, as amended by section 16 of the Transport Act 1985, enables district/borough councils or unitary authorities to license taxis within their area and to restrict the number of taxi licences issued only if they are satisfied that there is no significant unmet demand for taxi services in their area.
6. In effect, this means that a council can:
 - issue a taxi licence to any applicant meeting the local application criteria
 - grant at least such number of taxi licences as it considers necessary to ensure that no significant unmet demand remains
 - refuse to grant additional taxi licences provided that it is satisfied that there is no significant unmet demand.

However

- if a council is unsure of the presence or absence of significant unmet demand it is not in a position to refuse to grant a taxi licence provided the application criteria are met.

The Government's position

7. The Action Plan makes clear that the Government believes restrictions should only be retained where there is shown to be a clear benefit for the consumer, and that councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached. Thus, 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.
8. However, the Government also makes clear in the Action Plan that local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. So it is not proposing at this time to take away the power to restrict taxi licences from local authorities.

What we are asking you to do

9. Accordingly, **we ask you to review the case for restricting taxi licences for your area and to make that review public.**
10. Though this is a new request, we do not consider that this should be burdensome in the light of what you should already be doing for your licensing area in respect of issuing taxi licences.
11. It is of course for you to make the case for your area in the light of your local knowledge of local needs and circumstances. Inevitably, this will mean that you will need to know whether or not there is any unmet demand for taxi services in your area.

For example, if your understanding of (unofficial) taxi plate values in your district is that they are high, this would seem to indicate that there is significant unmet demand for taxis in your area.

12. Unless you are confident of the situation in this regard in your area, your consideration may therefore necessitate an unmet demand survey. However, such a survey may not be necessary if a recent survey can be demonstrated to have addressed the issues adequately.
13. In those areas that need to undertake a new unmet demand survey, the Action Plan makes clear that for the survey to be effective, latent demand should be taken into account.
14. To help you formulate and carry out a comprehensive review and reach a satisfactory conclusion, we thought it might be useful to provide some questions that highlight the issues that you will almost certainly need to take into consideration. The checklist of questions is at Annex C. Please note that the checklist is not exhaustive, but is offered in the spirit of aiding local consideration.
15. In reaching your decision, we would also ask you to take into account the advice we issued to all councils about local accessibility policies in September 2002. In particular, if you are lifting restrictions or issuing new taxi licences because you have found unmet demand in your area, we would urge you to consider whether the new licences should be for accessible vehicles. For ease, that advice is attached at Annex D.
16. We would encourage you to make all the evidence gathered to support the decision-making process available for public scrutiny.
17. Those councils who have not undertaken an unmet demand survey for some time and now decide to do so, might find it helpful to consult neighbouring, local councils who have recent experience of such surveys.
- 18. We would ask you to make your conclusions public by 31st March 2005 and would appreciate a copy of them no later than 30th April 2005.**
- 19. It seems to us that the outcome of your review will be either (i) to deregulate and thereby grant a taxi licence to anyone meeting the application criteria, or (ii) to continue restricting the number of taxi licences issued. In that instance, three scenarios would appear to be possible outcomes:**
 - **maintaining the current limit of taxi licences;**
 - **granting a number of new licences to meet the unmet demand that you have identified by means of a new survey;**
 - **granting a specific number of new taxi licences each year.**

Future requirements

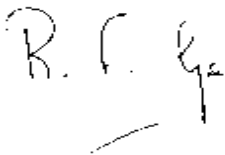
20. The justification by 31st March 2005 is a one-off requirement for local councils. The Action Plan sets out the following on-going arrangements for councils continuing to restrict taxi licences:

- a three yearly review, with published conclusions
- justification of the local policy for quantity restrictions in the 5 yearly Local Transport Plan process.

21. The Action Plan commits the Government to review the situation regarding quantity controls in three years' time, with a view to further action if necessary.

22. We look forward to hearing from you.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'R. F. Cope', with a horizontal line underneath.

R F Cope

The Government's Action Plan for Taxis and Private Hire Vehicles in England and Wales

Restrictions on the numbers of taxis

- 1 In England and Wales outside London, local authorities (district/borough councils or unitary authorities) have been able to restrict the number of taxi licences that they issue since at least 1847. In practice, some 45% of authorities do so at present, but the legislation allows them to control numbers only if they are satisfied that there is no significant unmet demand.
- 2 Local authorities with quantity restrictions must be able to justify their policy in the event of an appeal by a taxi licence applicant who has had his application refused on the grounds of quantity controls. The usual method of ascertaining the level of demand is by means of a survey. The legislation does not stipulate any specific frequency for the surveys, but any licensing authority which controlled taxi numbers would want to ensure that its policy was based on up to date and sound information.
- 3 The OFT recommended that local authorities should not retain this power because they considered that such restrictions can:
 - a) reduce the availability of taxis
 - b) increase waiting times for consumers
 - c) reduce choice and safety for consumers
 - d) restrict those wanting to set up a taxi business.
- 4 The Government agrees that consumers should enjoy the benefits of competition in the taxi market and considers that it is detrimental to those seeking entry to a market if it is restricted. The Government is therefore strongly encouraging all those local authorities who still maintain quantity restrictions to remove restrictions as soon as possible. Restrictions should only be retained if there is a strong justification that removal of the restrictions would lead to significant consumer detriment as a result of local conditions.
- 5 However, the Government received a significant number of representations expressing the view that ultimately local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. The Government believes that local authorities should be given the opportunity to assess their own needs, in the light of the OFT findings, rather than moving to a legislative solution.
- 6 Nevertheless the Government believes that local authorities should publish and justify their reasons for restricting the number of taxi licences issued. The Government will therefore write shortly to each district/borough council or unitary authority maintaining quantity restrictions and ask them to review by 31st March 2005 the local case for such restrictions, and at least every three years thereafter, and make their conclusions available to the public.

- 7 The Government intends that the letter will include guidelines on quantity restrictions, including a review of the level of service available to consumers and consumer choice. The guidelines will cover:
- a) **effective surveys** to measure demand, including latent demand, for taxi services;
 - b) **consultation** with:
 - i) all those working in the market;
 - ii) consumer and passenger (including disabled) groups;
 - iii) groups which represent those passengers with special needs;
 - iv) the police
 - v) a wide range of transport stakeholders e.g. rail/bus/coach providers and traffic managers.
 - c) **publication** of conclusions. This will include an explanation of the particular local circumstances which justify restrictions, what benefits they deliver to consumers and how decisions on numbers have been reached. Authorities will be encouraged to make all the evidence gathered to support the decision-making process available for public scrutiny.
- 8 This is to ensure that decisions to impose restrictions are based upon strong up-to-date evidence of benefits to consumers locally for their retention, and that the decision-making process is transparent and consultative. The Government considers that this would help local authorities with quantity restrictions to justify their policy if they were challenged about refusing to issue a taxi licence in the courts. If restrictions are not shown to be delivering clear benefits to consumers, it is the view of Government that local authorities should remove them.
- 9 The Government itself will review in association with the OFT the extent of quantity controls in three years' time to monitor progress towards the lifting of controls. If necessary, the Government will then explore further options through the RRO or legislative process if insufficient progress has been made.
- 10 The Local Transport Plan process requires local transport authorities to look holistically at how the transport provision for their area contributes to wider objectives such as economic growth, accessibility and the environment. Taxis and private hire vehicles are an integral part of local transport provision and should be properly taken into account in this process. The Government intends that the next 5-year Local Transport Plans, due to be submitted by authorities in 2005, will include justification of any quantity restrictions in the wider local transport context³.
- 11 The Government will also include guidelines on quantity restrictions in its best practice guidance on taxi licensing.

³ Those few authorities that will not be required to produce a Local Transport Plan will still be expected to justify their quantity restriction policy if any of the districts in their area have such restrictions.

Maintaining quality in service provision

- 12 The OFT states that there is a strong case for regulating quality and safety both for taxis and PHVs as:
- a) consumers cannot judge certain standards when getting into a taxi or PHV; and
 - b) taxi services can have a role to play in broader social welfare policy.
- 13 The OFT concludes that quality and safety standards should be maintained and supported by effective enforcement. The Government agrees.
- 14 The OFT recognises that local authorities should be able to apply quality and safety regulations to suit their needs. In doing this, local authorities should ensure that any quality and safety specifications set do not go beyond what is required to achieve their policy aim. To help them, OFT recommended that the Department for Transport promote and disseminate local best practice in applying quality and safety regulations.
- 15 The Government agrees with OFT that quality standards have an important role to play in securing the safety of the travelling public and ensuring that they are provided with a high level of service. The Government also agrees that these decisions should continue to be made by local authorities, but considers that there is scope for more sharing of best practice, particularly in ensuring proportionality.
- 16 The Government will therefore consult local authorities and other stakeholders in order to develop and publish best practice guidance as OFT recommend. The Government intends that this will comprehensively cover licensing issues, including suitable criteria for licensed vehicles, drivers and PHV operators; driver training; safety; security and other topical issues. The draft guidance will also include sections on quantity controls; fares (see below); enforcement; taxi zones; flexible transport services; and a model taxi/PHV policy for the Local Transport Plan process.
- 17 The aim would be to consult on draft guidance later this year, with a view to publication by the end of the year.

Fares

- 18 The OFT recommends that local authorities should not set fixed or minimum fares. They should only set taxi fare tariffs which represent the maximum that can be charged:
- a) to protect vulnerable consumers;
 - b) to address a lack of price competition; and
 - c) to allow consumers to negotiate lower fares in certain situations.
- 19 The Government agrees that where taxi fares are set by local authorities they should be a maximum. As the OFT notes, this is already the case in England and Wales outside London. The Government agrees that the situation in London should be clarified and is therefore grateful that the licensing authority for London has agreed to make clear through secondary measures that fares set in London are a maximum

rather than mandatory as soon as it is feasible to do so.

20 The Government also notes OFT's advice that consumers should be encouraged to negotiate for lower fares, particularly when booking taxi services over the telephone. In promoting more competition in the market, the Government will ask the OFT to advise on guidance as part of the Government's best practice guidance for local authorities (which will also encompass best practice on quality and quantity controls including unmet demand surveys as outlined above). The guidance will make clear that initiatives to promote greater competition should not jeopardise the safety of consumers or drivers, or create enforcement issues. There is scope to encourage some firms to differentiate their services thereby providing a greater range of choice for consumers (for example by providing a "happy hour" of lower cost journeys for, say, pensioners).

Further issues

21 The OFT also commented on several further issues that concern taxi and PHV licensing but which are outside the remit of the report:

Regulatory Reform Action Plan

22 The Government's Regulatory Reform Action Plan published in 2002 contained a number of proposals to use the streamlined order-making procedure in the Regulatory Reform Act 2001 to amend burdensome primary legislation. The plan included four proposals for taxi and PHV legislation in England and Wales outside London, which were subject to Ministerial decision. These were:

- a) removing the requirement for Secretary of State approval of local authority resolutions to amalgamate taxi zones
- b) standardising driver and operator licence duration
- c) removing local authority powers to restrict taxi licence numbers in their area
- d) clarifying/simplifying the position on PHV cross border hirings across the borders of different licensing authorities.

23 The OFT considered that these proposals represented areas of concern and recommended that they should be addressed. The issue of restrictions of taxi licences is covered earlier in this action plan. The Government is taking forward the repeal of the need for the Secretary of State to approve taxi zone amalgamation resolutions in the regulatory reform order that will repeal various local authority consent regimes. The Government will include the issues of driver and operator licence duration and cross border hirings of PHVs (and taxis) for consultation in the draft best practice guidance.

Taxi Licensing Zones

24 The OFT considers that where taxi licensing areas are divided into more than one zone, greater clarity would be brought to the market if local authorities removed the zones and established a single licensing area. The Government agrees and will include a statement to this effect in the draft best practice guidance.

Local Licensing Authorities Operating Quantity Control Policies

Adur	Dover
Amber Valley	Durham
Ashford	Easington
Aylesbury Vale	East Lindsey
Babergh	East Northants
Barnsley	East Riding UA
Barrow-in-Furness	Eastbourne
Basildon	Eastleigh
Basingstoke	Ellesmere Port
Bassetlaw	Exeter
Bath & NE Somerset UA	Fylde
Bedford	Gosport
Blackburn Darwen UA	Great Yarmouth
Blackpool UA	Guildford
Blyth Valley	Gwynedd
Bournemouth UA	Halton UA
Bradford	Harlow
Braintree	Harrogate
Brighton and Hove UA	Hastings
Burnley	Havant
Calderdale	High Peak
Cardiff	Huntingdonshire
Carrick	Hyndburn
Castle Point	Ipswich
Chelmsford	Kerrier
Cherwell	Kettering
Chester	Kings Lynn
Chester-le-Street	Kingston-upon-Hull
Chorley	Kirklees
Colchester	Knowsley
Congleton	Lancaster
Conwy	Leeds
Copeland	Leicester UA
Corby	Lincoln
Crawley	Liverpool
Denbighshire	Luton UA

Maidstone	Southend-on-Sea UA
Manchester	St Edmundsbury
Merthyr Tydfil	St Helens
Middlesbrough UA	Stevenage
Mole Valley	Stockport
New Forest	Stoke-on-Trent UA
Newcastle on Tyne	Stratford-upon-Avon
Newcastle-under-Lyme	Sunderland
North East Lincolnshire UA	Swindon UA
Nottingham UA	Tameside
Oldham	Teignbridge
Oxford	Test Valley
Pendle	Thanet
Penwith	Thurrock UA
Plymouth UA	Torbay UA
Poole UA	Torfaen
Portsmouth UA	Torrige
Preston	Trafford
Reading UA	Tunbridge Wells
Reigate and Banstead	Wakefield
Restormel	Walsall
Ribble Valley	Wansbeck
Richmondshire	Warrington UA
Rochdale	Watford
Rotherham	West Somerset
Rugby	Weymouth
Salford	Wigan
Scarborough	Windsor and Maidenhead UA
Sefton	Woking
Selby	Wolverhampton
Slough UA	Worthing
Solihull	Wrexham
South Bedfordshire	Wycombe
South Ribble	Wyre
South Tyneside	Wyre Forest
Southampton UA	York UA

Useful questions when assessing quantity controls of taxi licences

- Have you taken into account the Government's view that quantity controls should be removed unless a specific case that such controls benefit the consumer can be made?

Questions relating to the policy of controlling numbers

- Have you recently reviewed the need for your policy of quantity controls? **No**
- What form did the review of your policy of quantity controls take?
- Who was involved in the review?
- What decision was reached about retaining or removing quantity controls?
- Are you satisfied that your policy justifies restricting entry to the trade?
- Are you satisfied that quantity controls do not:
 - reduce the availability of taxis; **Yes except for disabled**
 - increase waiting times for consumers; **Yes except for disabled**
 - reduce choice and safety for consumers? **Yes there is ample choice and safety standards are set.**
- What special circumstances justify retention of quantity controls? How does your policy benefit consumers, particularly in remote rural areas? **There are no taxi ranks in remote areas therefore consumers use telephone booking system. This question demonstrates a lack of awareness of the difference between Hackney Carriage and Private Hire usage.**
- How does your policy benefit the trade? **Gives the trade a predictable income and maintains business values.**
- If you have a local accessibility policy, how does this fit with restricting taxi licences? **It currently restricts the number of accessible vehicles.**

Questions relating to setting the number of taxi licences

- When last did you assess unmet demand? **September 2002**
- How is your taxi limit assessed? **By regulatory Committee as result of Unmet demand survey.**
- Have you taken into account latent demand, ie potential consumers who would use taxis if more were available, but currently do not? **It is assessed but not taken into account.**
- Are you satisfied that your limit is set at the correct level? **No more accessible vehicles required.**
- How does the need for adequate taxi ranks affect your policy of quantity controls? **Not at all.**

Questions relating to consultation and other public transport service provision

- When consulting, have you included etc
 - all those working in the market;
 - consumer and passenger (including disabled) groups;

- groups which represent those passengers with special needs; **Yes**
 - local interest groups, eg hospitals or visitor attractions;
 - the police;
 - a wide range of transport stakeholders eg rail/bus/coach providers and traffic managers?
- Do you receive representations about taxi availability?
 - What is the level of service currently available to consumers (including other public transport modes)?

Extract from DfT advice letter of September 2002

Local accessibility policies for taxis prior to taxi regulations being made under the Disability Discrimination Act 1995

1. As you know, we planned to make taxi accessibility regulations under the Disability Discrimination Act 1995 (DDA) effective between 2002 and 2012. When we realised that this could not be achieved in a way that would be acceptable to both disabled people and the taxi trade, the Minister announced in 2000 that regulations would not be introduced in 2002. Since that time we have been exploring a range of options to help to increase the number of accessible taxis available to disabled people throughout the country. We hope to issue further information on our future plans shortly.
2. In the meantime, local licensing authorities may of course make their own policy with regard to accessible taxis for their area, and many do so.
3. As we suggested in our letter to Chief Executives of 31 January 2000, local licensing authorities wishing to set local accessibility standards are advised to look at the various accessible vehicles on offer and judge their suitability against local circumstances and operating conditions. One effective way of making comparisons is to invite several manufacturers to present vehicles on the same day and to invite local disability organisations to try out the options and to offer comments. There are a number of vehicles currently available, which offer good accessibility, and from discussions with industry the Department expects that several vehicles are likely to be suitable.
4. We would stress that the adoption of a policy for accessible taxis is entirely a matter for local consideration and decision. There are several options for such policies which could result in the taxi fleet being wholly or partly accessible. Some authorities require the whole taxi fleet to be accessible whilst others require all new taxi licences issued to be for accessible vehicles only. Moreover, some authorities in areas where the number of taxi licences is controlled have issued additional licences specifically for accessible vehicles in order to improve the number of accessible taxis in their area.
5. In assessing the accessibility of particular vehicles, licensing authorities will want to ensure that they meet the needs of the widest range of disabled people, not only those who are wheelchair users. They will also wish to assure themselves that the equipment provided for wheelchair access and securing is appropriate. For example, the design should allow for wheelchair users to travel facing forward or rearward – never sideways.
6. The choice of vehicle is clearly important. However, unless the drivers know how to use the equipment which is provided for disabled people, for example, the ramps for wheelchair access, and have an understanding of the needs of disabled people, then many of the benefits of accessible transport will be lost. Licensing

authorities will therefore want to consider what training is necessary for drivers, both would-be and existing, to help them better meet the needs of their disabled passengers.

7. We know that some authorities have been holding back on any local initiative in this area in anticipation of national regulations. We would urge them not to do so. As and when any national requirements are introduced there will be a sufficient lead-time for any necessary changes to be made. In the meantime licensing authorities may be able to make significant improvements in the availability of taxis to disabled people in their area.
8. Some points to consider and questions which we consider might be useful for licensing authorities when making an accessibility policy for their area are attached as an annex to this letter. Please note that neither list is meant to be exhaustive.

Annex to September 2002 letter:

POINTS TO CONSIDER WHEN ASSESSING VEHICLES

- Other authorities may already have experience of introducing accessible vehicles, or are in the process of doing so. Sharing experience and resources may be useful.
- The vehicles should be available for viewing, but it might also be useful to invite the companies involved to provide data on the basic specification of their vehicles, and information on any optional extras. This information can then be made available to those attending the viewing or to others with an interest who are unable to attend in person. The companies should also make clear what specification of their vehicle is on display.
- It will be important to involve local disabled people and their organisations in the assessment process. In doing so authorities will want to consider the accommodation provided – which should preferably be somewhere with weather protection and access to facilities such as toilets and refreshments. They will also need to ensure disabled people can get to the venue and may wish to provide transport support.
- Authorities will want to ensure that the vehicles meet the needs of the widest range of disabled people, not only those who are wheelchair users.
- The wheelchair users who participate should ideally represent a cross-section of wheelchair users, eg users of both manual and powered wheelchairs. They should be invited to look at wheelchair entry, exit and the restraint equipment provided for wheelchairs and occupants.
- This exercise should help authorities to establish their minimum standard for accessible taxis which ideally should provide for a range of vehicles, catering for the needs of the widest range of disabled people. A list of the vehicles, including the specifications, which are accepted for licensing should be publicly available.

- It is important, however, that new designs of vehicle are not excluded because they do not feature on the published list. The minimum standard set by the authority could, therefore, be used as the benchmark against which to assess any new vehicle presented to the authority for licensing as a taxi.

USEFUL QUESTIONS WHEN ASSESSING VEHICLES

Entry for Ambulant and Semi-ambulant Passengers

How easy do people find it to enter and exit the vehicle?

How easy is it to open and close the door from both inside and outside the vehicle?

Are grab handles provided in appropriate places; are they highly visible and are they helpful?

Would the doors be sufficiently illuminated at night?

Assisted Entry

On vehicles with a high floor height, is a step provided and how easy is it to use?

Is a swivel seat provided and how helpful is it?

Entry for wheelchair users

How easy is it for wheelchair occupants to enter, exit and manoeuvre within the vehicle?

Are the wheelchair and occupant restraint systems suitable for a range of wheelchairs?

Internal Features

How easy is it for people with different disabilities to locate and operate passenger controls within the passenger area?

Safety Considerations

Is there a slip-resistant surface to the ramp, step (where fitted) and vehicle floor?

What is the Safe Working Load of the ramp?

Do the wheelchair and occupant restraint systems secure the wheelchair and occupant safely? Have they been tested in the vehicle?

Are the wheelchair and occupant restraint systems easy to use?

To which one of the following has the vehicle been tested in the converted state:

- European Community Whole Vehicle Type Approval
- UK Low Volume National Type Approval
- Single Vehicle Approval?



ALLOCATION OF HACKNEY CARRIAGE PROPRIETORS LICENCES

2014

Policy for the allocation of Hackney Carriage Proprietors Licences

1. Introduction

- 1.1 This report provides information in relation to the allocation of Hackney Carriage proprietors' licences in Braintree District. There may be other options that the licensing committee wishes to consider.

2. Background

- 2.1 In 2013 Braintree District Council conducted a review of its policy in relation the allocation of hackney carriage proprietors licences.
- 2.2 Part of this review involved a 3 month consultation (October 2013 to January 2014) involving a wide range of people, e.g. Hackney Carriage and Private Hire trade, local businesses and the public.
- 2.3 The overall objective for this policy is to enable Braintree District Council to reallocate hackney carriage proprietors licenses in a fair and open manner.
- 2.4 There is currently no policy in place regarding the issuing of new hackney carriage licences.

3. Eligibility

- Must hold a current Hackney Carriage, Private Hire or Dual drivers licence issued by Braintree District Council.
- Not currently hold more than one hackney carriage proprietor's licence (including, for the avoidance of doubt, those proprietors who obtained their current licence via transfer).
- Not have had any proprietor's licence (including both Hackney Carriage and Private Hire) revoked during the 5 year period immediately prior to the closing date for registrations of interest to be entered into the lottery
- Not be a person who has previously held a hackney carriage proprietor's licence issued to that individual by the Council (i.e. a free plate).

4. Vehicle specification

- Must be wheelchair accessible.
- Must meet the Council's current guidelines in terms of age and specification.

5. Allocation

- The method of allocation will be by random ballot.
- The ballot will take place at a Licensing committee or subcommittee as soon as possible once the applications have been scrutinised.
- Lots will be drawn to cover the number of available licences. Then a number of reserves will be drawn to allow for unsuccessful applications.

Example: If two licences are required to be allocated, then the random ballot will take place as soon as practicable. Four lots will be drawn; Lot 1 & Lot 2 will have the opportunity to apply for the available proprietors licence and complete the applications within 28 days. If either of the first two lots are unsuccessful with their applications then Lot 3 will have the opportunity to apply. Then if any of the previous three lots drawn are unsuccessful with their applications then Lot 4 will have an opportunity to apply.

6. Timescales

- Once the authority has received notification that a Hackney Carriage proprietor's licence will be returned to the authority, the licensing team will endeavour to notify all licensed drivers and operators. An advert will also be placed on the Council website.
- The register of interest will then close one month after it opens. All applications to join the register of interest must be received within a period of one month.
- The vehicle will need to be licensed within 28 days of the ballot.

7. Conditions

- No new Hackney Carriage proprietors licence may be sold or transferred for a period of five years from issue.
- Should the successful applicant already be an existing Hackney Carriage proprietor licence holder, and then they will be required to undertake not to sell or transfer any existing licences for a period of five years.

8. Declaration

- Any person wishing to register an interest in the random selection draw will be required to complete a statutory declaration confirming they meet the above requirements.

THE AIR QUALITY (TAXI AND PRIVATE HIRE VEHICLES DATABASE) (ENGLAND AND WALES) REGULATIONS 2019		Agenda No: 7
Portfolio	Environment and Place	
Corporate Outcome:	A sustainable environment and a great place to live, work and play Residents live well in healthy and resilient communities where residents feel supported	
Report presented by:	Daniel Mellini (Environmental Heath Manager)	
Report prepared by:	Daniel Mellini (Environmental Heath Manager)	
Background Papers:	Public Report	
<ol style="list-style-type: none"> 1. The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 2. The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 Statutory Guidance 3. UK plan for tackling roadside Nitrogen Dioxide concentrations An overview July 2017 4. Supplement to the UK plan for tackling roadside nitrogen dioxide concentrations October 2018 5. Clean Air Zone Framework Principles for setting up Clean Air Zones in England May 2017 	Key Decision: No	
Executive Summary:		
<p>The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 came into force on 1st May 2019. The guidance provided to Local Authorities was published on 18th July 2019 and it is likely that the Authority will be required to start the process of transferring data to the Secretary of State around the end of October 2019.</p>		
The duty to provide taxi and private hire vehicle information is detailed as follows:		
3.	(1)	A Licensing Authority must provide information to the Secretary of State in accordance with this regulation.
	(2)	The information to be provided is, in relation to every relevant vehicle in respect of which a licence is granted under one of the licensing provisions by that Licensing Authority:-
		(a) the vehicle registration mark of the vehicle;
		(b) the date from which the licence has effect;

<p>(c) the date on which the licence is due to expire;</p> <p>(d) a statement as to whether the vehicle is a taxi or a private hire vehicle;</p> <p>(e) such other information the Licensing Authority holds in relation to the vehicle that may be relevant for the purposes of ensuring the accurate identification of vehicles, having had regard to any guidance issued by the Secretary of State.</p>	
<p>(3) The Licensing Authority must provide the information at least as frequently as once a week.</p>	
<p>Recommended Decision:</p> <p>Members are asked to note the report.</p>	
<p>Purpose of Decision:</p> <p>Members are asked to note the report.</p>	
<p>Corporate Implications</p>	
Financial:	No implications arising from this report.
Legal:	<p>The Authority must comply with 'data principles' in accordance with the Data Protection Act 2018.</p> <p>The Authority is required to enter into a Memorandum of Understanding with DEFRA with respect to the protection of data.</p>
Safeguarding	No implications arising from this report.
Equalities/Diversity:	No implications arising from this report.
Customer Impact:	No implications arising from this report.
Environment and Climate Change:	No implications arising from this report.
Consultation/Community Engagement:	No implications arising from this report.
Risks:	<ol style="list-style-type: none"> 1. Non-compliance with the regulations 2. Inappropriate handling and transfer of data
Officer Contact:	Daniel Mellini
Designation:	Environmental Health Manager (Food, Health & Safety and Licensing)
Ext. No:	2228
E-mail:	daniel.mellini@braintree.gov.uk

1. Background

- 1.1 The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 came into force on 1st May 2019. The regulations place a duty on all Local Authorities in England and Wales to provide certain information to the Department for Environment Food & Rural Affairs (DEFRA) with respect to Hackney Carriages (Taxis) and Private Hire Vehicles (PHV'S) that have been licensed to operate in their respective areas.
- 1.2 In particular, the Authority will be required to provide details including the licensed vehicles registration, the date from which the licence has effect, the date on which the licence is due to expire, a statement as to whether the vehicle is a taxi or private hire and the unique Local Authority identifier reference attached to a vehicle licence.
- 1.3 The information provided will allow the Secretary of State (DEFRA) to create a database with a view to the information being shared with other Local Authorities for the purpose of enforcing local air quality measures, and in particular locally introduced Clean Air Zones ("CAZ'S") that could apply charges in respect of vehicles including taxis and PHV's. The rationale for collecting the information in this way is to ensure that Taxis and PHV's can be differentiated from other vehicles when entering a specific clean air zone and are charged the appropriate rate.
- 1.4 Failure to introduce these measures at a national level could mean that the value of a particular CAZ scheme could be compromised by not knowing which vehicles attract a particular charge.

2. Policy Context

- 2.1 The United Kingdom published its plan for tackling roadside nitrogen dioxide concentrations in July 2017. The plan was followed by a further supplement published in October 2018. The original plan identified 61 Local Authorities in England showing exceedances of roadside concentrations of nitrogen dioxide and which have been required to carry out feasibility studies and if necessary develop bespoke plans to reduce roadside concentrations of nitrogen dioxide to within legal limits and in the shortest possible time frame.
- 2.2 A number of these plans will include the introduction of CAZ's. A number of cities including Birmingham, Leeds and Southampton have all been mandated to provide a CAZ. London is due to introduce an Ultra-Low Emission Zone (ULEZ) affecting all vehicles entering central London. Other cities throughout the Country have either considered, or are due to consider, the introduction of a CAZ.
- 2.3 There are no CAZ's at this time in Essex. The nearest CAZ's will be in London. Cambridge City Council are evaluating whether to introduce a CAZ within the existing Air Quality Management Area in Cambridge.

- 2.4 Basildon and Rochford Councils have been told by the Government that they must consider a CAZ to address two areas of illegal pollution by 2020, which includes parts of the A127. It is not clear if and when this will happen.
- 2.5 Although Braintree District Council (BDC) is not required to introduce a CAZ as part of the UK's response for tackling concentrations of roadside nitrogen dioxide, the Authority will be required to provide data as described above at least on a weekly basis via electronic transfer so that any BDC licensed taxis or PHV'S can be charged if applicable when entering, or travelling within a CAZ now, or in the future.

3. Data Protection

- 3.1 The Authority has an obligation to follow 'data protection principles' in accordance with The Data Protection Act 2018.
- 3.2 In this context, the Authority will manage the data it holds and the data it will transfer to DEFRA in accordance with these principles.
- 3.3 The Authority will enter into a Memorandum of Understanding (MOU) with DEFRA. The MOU lays out the roles and responsibilities with respect to data management and protection with respect to both organisations.
- 3.4 The Authority will inform all taxi proprietors and Private Hire Operators of its intention to transfer the data as described in advance of the introduction of the transfer of data, which at this stage is planned for October 2019.
- 3.5 The Authority will also amend its fair processing statement provided to those making an application for a vehicle licence so that anyone wishing to make an application will be aware of how the Authority intends to handle the data it processes and shares with others.

LICENSING COMMITTEE UPDATE		Agenda No: 8
Portfolio	Environment and Place	
Corporate Outcome:	Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public Report	
LGA Councillor Guidance for the Licensing Act 2003 – July 2019	Key Decision: No	
Executive Summary:		
To update Members on applications determined and relevant new information.		
Recommended Decision:		
To note the information detailed.		
Purpose of Decision:		
To update Members.		
Corporate Implications		
Financial:	None arising from this report	
Legal:	None arising from this report	
Safeguarding:	None arising from this report	
Equalities/Diversity:	None arising from this report	
Customer Impact:	None arising from this report	
Environment and Climate Change:	None arising from this report	
Consultation/Community Engagement:	None arising from this report	
Risks:	None arising from this report	
Officer Contact:	John Meddings	
Designation:	Principal Licensing Officer	
Ext. No:	2213	
E-mail:	john.meddings@braintree.gov.uk	

1. Background

- 1.1 Members have requested regular updates on applications determined by Licensing Sub-Committees and the Drivers' Panel. A summary of all applications determined since the previous meeting of the Licensing Committee held on 10th July 2019 are highlighted below.

2. Hackney Carriage and Private Hire Drivers Licences

- 2.1 There have been two applications presented to the Drivers' Panel since the previous update
- 2.2 The first hearing related to a Private Hire Operator wishing to exempt a vehicle from the requirements to display a full vehicle livery in accordance with the Council's Executive Vehicles Policy. In this case, the application was granted.
- 2.3 The second hearing related to a new application for a Private Hire Vehicle, including exemption, which on application did not meet the vehicle age requirements. The decision was adjourned to enable the applicant to carry out remedial works to the vehicle.

3. Licensing Act 2003

- 3.1 There have been no Licensing Act 2003 hearings since 10th July 2019.
- 3.2 An application for a new premises licence is due to be determined for 92 High Street, Braintree on 17th September 2019.

4. Updates

Group 2 Medicals

- 4.1 The Licensing Team and all Licensing Authorities received correspondence from Swansea Trading Standards regarding a provider of Group 2 medicals, Doctors on Wheels Ltd.
- 4.2 *In the letter Rhys Harries, Trading Standards Team Leader, wrote:*

Swansea Trading Standards is currently working with the DVLA and investigating the commercial services operated by 'Doctors on Wheels Ltd'. Limited information can only be provided at this time.

Doctors on Wheels Ltd is a company based in Leicester which offers and carries out various medical examination services at fixed and mobile locations across the UK; this includes a D4 medical examination report; this report can be required for a number of reasons including but not limited to applications for a Group 2 Bus or Lorry licence.

As from 20th June 2019 the DVLA are no longer accepting D4 Medical examination forms where Doctors on Wheels Ltd have carried out the examination on the applicant driver.

This letter is just to make each Licensing Authority aware of the situation; it is down to each Authority to action or not as you deem fit. The Investigating Authority will not provide advice on whether you should accept or reject

applications from this company as that is a decision for you.

Confirmation of this current action can be viewed on the DVLA website by using this link:

<https://www.gov.uk/government/publications/d4-medical-examiner-report-for-a-lorry-or-bus-driving-licence#history>

This information has also been publicised by the Road Haulage Association (RHA) and can be found using this link:

<https://www.rha.uk.net/news/press-releases/2019-06-june/dvla-says-no-to-doctors-on-wheels-medicals>

If you wish to make us aware of any concerns you have regarding this business please contact this Division by using our dedicated email address: trading.standards@swansea.gov.uk

- 4.3 The Licensing Team are in the process of identifying licensed hackney carriage and private hire licence holders that have used this service to provide a Group 2 medical. It is anticipated that these will be few in number as most medicals that are submitted are from other private providers, or applicants' own doctors surgery.
- 4.4 Swansea Trading Standards and the DVLA have so far not revealed publicly why they have taken this action.
- 4.5 Doctors on Wheels Ltd's website is currently showing the following information-

'Doctors On Wheels Ltd has made the decision to suspend its services until further notice as a consequence of an investigation by Swansea Trading Standards, notified to us on 20 June 2019, which has prompted an internal review of our operation.

We will automatically refund any medical booked with ourselves, these will be processed as quickly as possible'.

- 4.6 The Licensing Team will no longer accept medicals from Doctors on Wheels Ltd.

Rugby World Cup

- 4.7 There will be no national exemption order for the forthcoming rugby world cup in Japan.

The Home Office has confirmed that "There are no plans to relax the licensing hours for the Rugby World Cup 2019."

There is provision in the Licensing Act for the Secretary of State to make an Order so as to allow premises to open for specified, generally extended, hours on these special occasions. This avoids the need for large numbers of applications to vary premises licences and club premises certificates.

Staff

- 4.8 Alexandra Maschas, Licensing Officer will be leaving the team on 13th September 2019 to take up a position of Senior Licensing Officer at Basildon Borough Council.

Councillor's Handbook

- 4.9 The Local Government Association has updated the Councillor's Handbook (England and Wales).