

# Licensing Committee



THE PUBLIC MAY ATTEND THIS MEETING

Please note this meeting will be audio recorded.

**Date: Wednesday, 20 July 2016**

**Time: 19:15**

**Venue: Committee Room 1, Braintree District Council, Causeway House,  
Bocking End, Braintree, Essex, CM7 9HB**

## **Membership:**

Councillor Mrs J Allen  
Councillor M Banthorpe (Chairman)  
Councillor J Baugh (Vice Chairman)  
Councillor S Canning  
Councillor J Elliott  
Councillor J Goodman  
Councillor A Hensman

Councillor H Johnson  
Councillor Mrs J Money  
Councillor Mrs J Pell  
Councillor R van Dulken  
Councillor Mrs L Walters  
Councillor Mrs S Wilson

**Members are requested to attend this meeting, to transact the following business:-**

## **PUBLIC SESSION**

### **1 Apologies for Absence**

### **2 Member Declarations**

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 11th May 2016 (copy previously circulated).

**4 Public Question Time**

(See paragraph below)

**5 Study of Service Provided by Hackney Carriage Vehicles in the Braintree District 4 - 21**

**6 Licensing Committee Update 22 - 23**

**7 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.

**8 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.

*At the time of compiling this Agenda there were none.*

**PRIVATE SESSION**

**9 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.

E WISBEY  
Governance and Member Manager

**Contact Details**

If you require any further information please contact the Governance and Members Team on 01376 552525 or email [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk)

**Public Question Time**

Immediately after the Minutes of the previous meeting have been approved there will be a period of up to 30 minutes when members of the public can speak.

Members of the public wishing to speak should contact the Governance and Members Team on 01376 552525 or email [demse@braintree.gov.uk](mailto:demse@braintree.gov.uk) at least 2 working days prior to the meeting.

Members of the public can remain to observe the whole of the public part of the meeting.

**Health and Safety**

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**Mobile Phones**

Please ensure that your mobile phone is either switched to silent or switched off during the meeting.

**Comments**

Braintree District Council welcomes comments from members of the public in order to make its services as efficient and effective as possible. We would appreciate any suggestions regarding the usefulness of the paperwork for this meeting, or the conduct of the meeting you have attended.

Please let us have your comments setting out the following information

Meeting Attended..... Date of Meeting.....

Comment .....

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Contact Details: .....

STUDY OF SERVICE PROVIDED BY HACKNEY CARRIAGE VEHICLES IN THE BRAINTREE DISTRICT		Agenda No: 5
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"><li>Quantity Restrictions – Summary of current advice (Appendix 1)</li><li><a href="#">Law Commission Review No 347 Taxi and Private Hire Services May 2014, Pages 144 – 166.</a></li><li><a href="#">Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance March 2010, Paragraphs 45 – 51.</a></li><li><a href="#">Letter dated 16 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).</a></li><li><a href="#">Braintree District Hackney Carriage unmet demand survey May 2016 by Vector Transport Consultancy</a></li><li><a href="#">Braintree District Council Hackney Carriage Allocation Policy.</a></li></ol>		Key Decision: No
Executive Summary:		
<p>The Council currently places a quantity restriction on the number of Hackney Carriage proprietor licences it issues to 84. In accordance with Department for Transport guidance issued in 2010 and S.16 of The Transport Act 1985, the Council is required to undertake a survey at regular intervals to assess the validity of the existing position.</p>		

The Council commissioned Vector Transport Consultancy to undertake a survey to ascertain whether there is any demand which is unmet for taxis in the District. The results of the survey are set out within this report.

#### **Recommended Decision:**

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

1. To note the conclusions of the report prepared by Vector Transport Consultancy that there is no significant unmet demand for hackney carriage services in the Braintree District and not issue any additional Hackney Carriage proprietor licences.
2. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and issue such other number of Hackney Carriage proprietor licences as the Licensing Committee considers appropriate.
3. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and recommend to Full Council a policy to immediately remove the quantity restriction of Hackney Carriage proprietor licences.
4. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and recommend to Full Council a policy to remove the quantity restriction of Hackney Carriage proprietor licences over a specified period and to issue an additional agreed number of licences per year 2016, 2017, 2018, and 2019 followed by complete removal of a quantity restriction.

#### **Purpose of Decision:**

To meet the Council's obligations in accordance with Section 16 of the Transport Act 1985 on the control of the number of hackney carriages within the Braintree District.

**Any Corporate implications in relation to the following should be explained in detail.**

<b>Financial:</b>	<p>The potential cost of defending the Council's current position, or new position if the Authority decides to remove the existing quantity restriction placed on the number of hackney carriages (either immediately or via a phased approach). It is not possible to determine the potential cost at this stage.</p> <p>In the event that the Council removes the existing quantity restriction, the current fee for a hackney carriage vehicle licence is likely to reduce as a result. The direct and non-direct costs attributed to commissioning and undertaking the survey, which equates to approximately £9,000 every 3 to 4 years are currently added to the cost of an existing licence.</p>
<b>Legal:</b>	<p>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 proprietor licences.</p> <p>Section 16 of the Transport Act 1985 sets out the legal provision for quantity restrictions for hackney carriages.</p> <p>S.16 provides that the grant of a hackney carriage proprietor licence may be refused, for the purpose of limiting the number of licensed hackney carriages 'if, but only if, the Local Authority is satisfied that there is no significant demand for the services of hackney carriages'.</p>
<b>Safeguarding:</b>	No issues arising from this report.
<b>Equalities/Diversity:</b>	Potential impact upon some disabled users who may be disadvantaged from being able to obtain a suitable hackney carriage.
<b>Customer Impact:</b>	<p>It is not clear what the exact impact could be to customers using hackney carriages within the Braintree District should the Council remove the existing quantity restriction.</p> <p>Pages 148 – 150, Paragraphs 11.21 – 11.30 of the Law Commission Review No 347 "Taxi and Private Hire Services" highlights possible impacts to the public/customers and real impacts experienced in other areas that have removed quantity restrictions in the past.</p>
<b>Environment and Climate Change:</b>	Should the Council remove the quantity restriction on the number of hackney carriage proprietor licences it issues, congestion could increase which in turn could have a detrimental impact upon the environment as a whole and the local environment on and near to busy Hackney Carriage ranks.

	However, where there is a lack of Hackney Carriage provision, most people will opt to use a car rather than other forms of public transport and, in many instances, there may not be a public transport option. Congestion and emissions may also be controlled through other means.
<b>Consultation/Community Engagement:</b>	The survey undertaken by Vector Transport Consultancy included consultation/community engagement which consisted of the following: <ul style="list-style-type: none"> <li>• Hackney carriage/private hire trade questionnaire</li> <li>• On street public questionnaire</li> <li>• Other consultation with key Stakeholders</li> </ul>
<b>Risks:</b>	There are risks of removing the quantity restriction. See appendix 1 of the report.
<b>Officer Contact:</b>	Daniel Mellini
<b>Designation:</b>	Environmental Health Manager (Food, Health & Safety and Licensing)
<b>Ext. No:</b>	2228
<b>E-mail:</b>	<a href="mailto:daniel.mellini@braintree.gov.uk">daniel.mellini@braintree.gov.uk</a>

## **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 Authority currently regulates the number of taxi licences it issues to 84.
- 1.3 At the time of writing this report 83 taxi licences are issued. The one remaining licence is in the process of being issued.
- 1.4 Section 16 of the Transport Act 1985 sets out the provisions for quantity restrictions for taxis. S.16 provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the Local Authority is satisfied there is no significant demand for the services of taxis (within the area to which the licence would apply) which is unmet'.

## **2. Quantity Restrictions**

- 2.1 Attached to the report (Appendix 1) is a comprehensive review of the latest guidance with respect to quantity restrictions summarised from the listed background papers.
- 2.2 National and Local Picture – Quantity Restrictions
  - 2.2.1 The Department of Transport collects statistics periodically (usually every 2 years) from all the relevant Local Authorities in England and Wales.
  - 2.2.2 As of 31<sup>st</sup> March 2015, 89 out of 315 Councils surveyed place quantity restrictions on the number of taxi licences they issue. Compared with the same survey undertaken in 2013, the number of Authorities that have chosen to remove quantity restrictions over the two year period 2013 to 2015 has remained roughly the same.
  - 2.2.3 A survey of all the 14 Licensing Authorities in Essex was undertaken to ascertain how many currently impose quantity restrictions. A question was also asked as to whether quantity restrictions may be imposed in their respective areas in the near future.
  - 2.2.4 The survey highlighted that there are currently 3 of the 14 Licensing Authorities that currently place a quantity restriction on the number of taxi licences they issue. The Authorities are Braintree District Council, Colchester Borough Council and Southend on Sea Borough Council. The remaining 11 Licensing Authorities do not apply quantity restrictions at present and there are no plans to re-introduce quantity restrictions in the near future.
- 2.3 Quantity Restrictions in the Braintree District
  - 2.3.1 The Licensing Committee resolved in 1996 that a full external survey should be carried out at regular intervals to ascertain whether there are sufficient licensed taxis in the District. This survey is necessary for the Authority to be



able to defend its position of putting a quantity restriction on the number of taxi hackney licences it issues in accordance with section 16 of the Transport Act 1985.

- 2.3.2 Following the survey in February 2003 it was suggested that there was an unmet demand within the Braintree District and that issuing a total of 10 new taxi licences would meet the supply requirement.
- 2.3.3 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 and licences must be retained by the licensee for a period of no less than two years before they could be transferred. 10 licences were subsequently issued on this basis.
- 2.3.4 As a result of this change the current number of licensed taxis in the Braintree District is 84.
- 2.3.5 Following the last survey in 2012, the Licensing Committee accepted that the survey concluded there was no unmet demand and no changes were made to the existing policy.
- 2.3.6 The cost of the 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. The Taxi Association were provided with a copy of the Braintree District – Hackney Carriage Unmet Demand Survey report and were given the opportunity to make representations either via the consultation or the taxi liaison meeting held on 28<sup>th</sup> June 2016.

### **3. Current Distribution of Taxi Licences**

- 3.1 At the time the survey was conducted in May/June 2016, 40 of 84 taxi licences were issued to individual owner/drivers, or Private Hire Operators. The remaining 44 taxi licences are held by 15 individuals, partnerships and businesses. 14 of the total number of taxi licences are issued to 2 individuals, partnerships and businesses.

### **4. 2016 Survey – Vector Transport Consultancy**

- 4.1 On 18<sup>th</sup> November 2015, the Licensing Committee approved the commissioning of a survey to assess the current demand for taxi provision in the Braintree District.
- 4.2 The survey methodology consisted of:
  - rank observations
  - taxi & private hire trade questionnaire
  - public attitudinal questionnaire
  - other stakeholder consultation.
- 4.3 The rank observations were undertaken from 7pm on Thursday 14<sup>th</sup> April 2016 to 7pm on Monday 18<sup>th</sup> April 2016 (96 hours).

4.4 The taxi and private hire trades and public attitudinal questionnaires and other stakeholder consultation were undertaken in May & June 2016.

#### 4.5 Results

4.5.1 The results of the survey are shown in detail in the report provided by Vector Transport Consultancy<sup>1</sup>.

4.5.2 The results of the rank surveys indicate there is no significant unmet demand for taxis in the District. The results of the other stakeholder and public consultation which run alongside the rank surveys also indicate there were normally sufficient taxis to satisfy demand.

4.5.3 The survey indicates there are sufficient taxis in the District at present and likely to be enough to cater for the needs of the population over the next 3 year period, or until the next survey is completed.

### 5. Additional Information

5.1 Whilst the report, which forms the basis of the evidence provided, indicates there is no unmet demand for taxis, it is pertinent to draw Members' attention to the following additional information. The information includes an analysis of relevant benchmarking and mileage data, waiting times and a review of the process of obtaining a taxi licence.

#### 5.2 Benchmarking

5.2.1 The survey included a comparison of the number of taxis in the Braintree District compared to other Local Authorities in the region<sup>2</sup>.

5.2.2 A direct comparison has 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
<b>Braintree (Limit)</b>	<b>149,985</b>	<b>84</b>	<b>161</b>	<b>245</b>	<b>0.6</b>	<b>1.1</b>	<b>1.6</b>
<b>Colchester (Limit)</b>	180,420	131	498	629	0.7	2.8	3.5
<b>Chelmsford (No limit)</b>	171,633	183	127	310	1.1	0.7	1.8
<b>Uttlesford (No limit)</b>	84,042	63	1028	1091	0.7	12.2	13.0
<b>Maldon (No limit)</b>	62,767	97	17	114	1.5	0.3	1.8
<b>Babergh (No limit)</b>	88,845	39	124	163	0.4	1.4	1.8
<b>St Edmundsbury (Limit)</b>	112,073	61	314	375	0.5	2.8	3.5
<b>South Cambridgeshire (No limit)</b>	153,281	8	855	863	0.1	5.6	5.6

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

<sup>1</sup> (p.14 – p.57 Braintree District – Hackney Carriage Unmet Demand Survey provided by Vector Transport Consultancy)

<sup>2</sup> (p.9 Table 4 Braintree District – Hackney Carriage Unmet Demand Survey provided by Vector Transport Consultancy)

- 5.2.3 Based on mid 2014 population estimates for the Braintree District (149,985 people), there were 0.6 taxis per 1,000 population and 1.6 taxis and private hire vehicles per 1,000 population in the Braintree District.
- 5.2.4 The comparison shows that the Braintree District is less well served by licensed vehicles by population compared with all the other 7 Authorities that border the District. Chelmsford City Council, Maldon District Council and Babergh District Council all have 1.8 vehicles per 1,000 population. Colchester and St Edmundsbury Borough Councils have 3.5 vehicles per 1,000 population. South Cambridgeshire District Council has 5.6 vehicles and Uttlesford District Council has 13 vehicles per 1,000 population.
- 5.2.5 When making a comparison with all the Authorities that place a quantity restriction on the number of taxis in the region, Braintree District has the 10<sup>th</sup> equal lowest number of taxis per 1,000 population.
- 5.2.6 When making a comparison with all the other 47 Authorities in the region, the Braintree District has the second lowest number of licensed vehicles.

### 5.3 Mileage Data

- 5.3.1 The survey included an analysis of the mileage data collected by the Authority with respect to the mileage travelled by 61 of the 84 taxis for a 6 month period between September 2015 and April 2016. This data is collected when the vehicles are inspected for roadworthiness as part of the licence.
- 5.3.2 23 of the vehicles' mileage data was not used as part of the survey as the vehicles were changed during this period.
- 5.3.3 The results<sup>3</sup> highlighted in figure 1 below shows the average daily mileage of 61 out 84 taxis from September 2015 to April 2016.

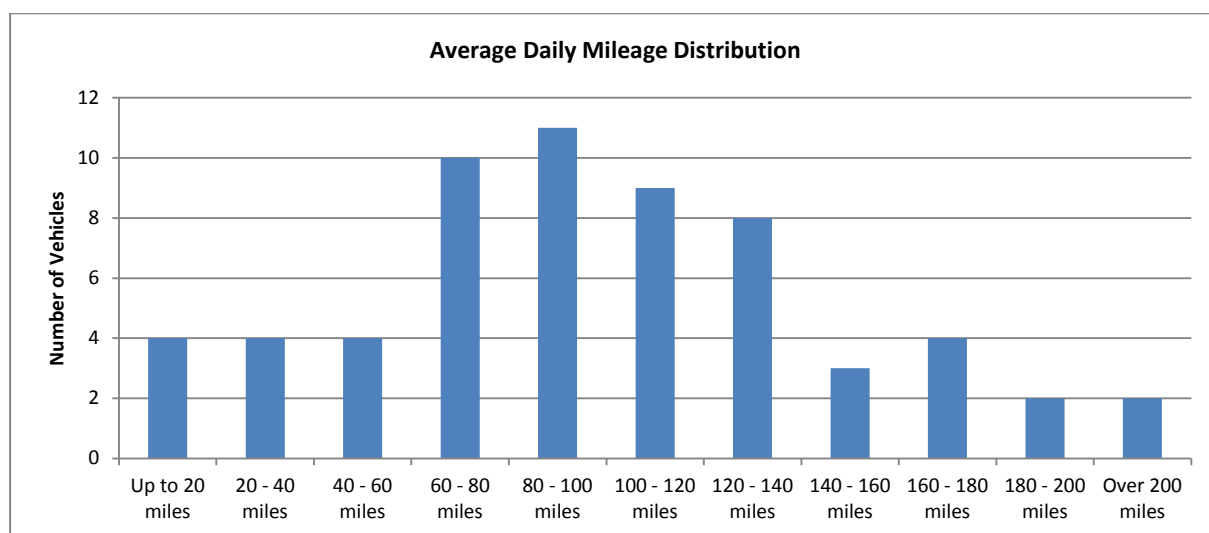


Figure 1 - Average daily Mileage per Taxi

<sup>3</sup> p.12 section 3.4 of the Braintree District – Hackney Carriage Unmet Demand Survey

- 5.3.4 The most common mileage travelled by a taxi is between 80 to 100 miles per day. When comparing this with a number of other studies undertaken in the Country this mileage is representative of a fairly common level of travel for a single shift vehicle working 5-6 days per week. Approximately half the vehicles fall within the range 60 to 120 miles per day and approximately a third of the vehicles travel more than 120 miles per day. The four highest mileage vehicles travelled 32,568, 34,928, 36,017 and 37,127.
- 5.3.5 The survey highlighted that there were 12 vehicles travelling less than 60 miles per day. Of the 12 vehicles, 4 travelled less than 40 miles per day and 4 travelled less than 20 miles per day.
- 5.3.6 The four vehicles that travelled less than 20 miles per day travelled 81, 318, 2022 and 2175 miles respectively in a 6 month period.
- 5.3.7 The recorded low mileage for the highlighted minority of vehicles is 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.
- 5.3.8 The Authority has 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.

#### 5.4 Waiting Times

- 5.4.1 The survey measured any unnecessary waiting, or queues experienced by the travelling public.
- 5.4.2 The survey classifies passenger waiting, or queuing as either<sup>4</sup>:
- a) "When passengers occasionally have to wait for a taxi to arrive but no other passengers join the queue before a taxi arrives. This type of waiting is characterised as occasional waiting by individual passengers or groups of passengers travelling together" or;
  - b) "When passengers waiting for taxis are joined by additional passengers and the queue is not cleared by taxis arriving. This type of queuing is known as continuous queuing".
- 5.4.3 During the survey period there were 27 occurrences of passenger occasional waiting affecting 42 passengers. A further 60 passengers waited in brief, but continuous queues.

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<sup>4</sup> Page 27 Paragraph 4.6 Braintree District – Hackney Carriage Unmet Demand Survey

- 5.4.4 The queues and passengers affected occurred at Braintree Station rank (19 passengers), Manor Street rank (4 passengers) and Witham Station rank (37 passengers). In total 102 passengers were seen waiting at various times.
- 5.4.5 The total waiting time for the waiting passengers was 797.25 minutes or an average of (7 minutes 49 seconds) per waiting passenger.
- 5.4.6 To put this into context, the average waiting time to obtain a taxi when compared to the total number of passenger journeys over the period<sup>5</sup>, equates to an average waiting time of 19 seconds. As a percentage this equates to 3.9% of passengers that had to wait for a taxi.
- 5.4.7 When measuring whether unmet demand exists, the incidence of Significant of Unmet Demand (ISUD) is measured<sup>6</sup>. In 2012, at the time of the last survey, the ISUD Factor was 0. In comparison the ISUD factor was measured as 27 when the survey was completed in 2016.
- 5.4.8 Although the ISUD value increased between the two surveys in 2012 and 2016, where the ISUD value is less than 80, it is generally considered to be an indicator that there is no unmet demand.
- 5.4.9 An issue identified by the survey was a convention operated by Hackney Carriage drivers that drivers from each of the principal towns in the District should only work the ranks in their home areas. This practice leads to some inefficiency in service and the convention leads further to localised unmet demand at times as a result of this artificial constraint.
- 5.4.10 The Council does not recognise the legal validity of this “convention” and licenses vehicles to operate across the District. Whilst the Council cannot force vehicles to travel the whole of the District to seek fares; one option to meet potential concerns would be to either remove the restrictions on the number of licences, or increase the number of licences.

## **6. Obtaining a Taxi Licence**

- 6.1 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).
- 6.2 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.
- 6.3 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.

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<sup>5</sup> Page 63 Section 9.3 Paragraph 2 Braintree District – Hackney Carriage Unmet Demand Survey states 2556 passengers counted at the surveyed ranks.

<sup>6</sup> Page 61-63 Section 9.1 Braintree District – Hackney Carriage Unmet Demand Survey, Calculation of ISUD factor.

- 6.4 Licence plates which are taken off vehicles 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.
- 6.5 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.
- 6.6 As a result of quantity restrictions, 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.
- 6.7 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.
- 6.8 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. Such factors may include whether the Council is due to make a decision on quantity restrictions, 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.
- 6.9 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.
- 6.10 Existing licensed drivers were asked in the trade survey<sup>7</sup> if they rented a taxi licence and if so how much they pay for the licensed vehicle and whether, if renting, they are responsible for maintaining the vehicle.
- 6.11 The response was limited, however 3 out of the 28 taxi drivers and dual taxi and private hire drivers who responded indicated they did rent a plate. The 2 drivers who responded to the question indicated they paid £70 and £280 per week for use of a vehicle.
- 6.12 The Council is acutely aware of the current demand for taxi licences. The Council has issued 6 taxi licences over the last 18 months and at the time of writing this report are due to issue 1 further taxi licence in accordance with the Council's allocation policy.
- 6.13 At the time of issuing the taxi licences in March and September 2015, the Council opened up a temporary register of expressions of interest to all those

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<sup>7</sup> Page 39 Paragraphs 2-3 1 Braintree District – Hackney Carriage Unmet Demand Survey, Renting a taxi plate

eligible. At the first allocation of 3 licences in March 2015, the Council received 51 expressions of interest. At the second allocation of 3 licences in September 2015, the Council received 48 expressions of interest. All licences were allocated and 6 wheelchair accessible vehicles were licensed.

## **7. Conclusions**

- 7.1 The results of the rank surveys completed over a 4 day period (96 hours) indicate there is currently no significant unmet demand for taxis in the District. The results of the stakeholder and public consultation which ran alongside the rank surveys also indicated there were normally sufficient taxis to satisfy demand.
- 7.2 The survey indicates there are sufficient taxis in the District at present and likely to be enough to cater for the needs of the population over the next 3 year period or until the next survey is completed.
- 7.3 Whilst the survey depicts no unmet demand, benchmarking data highlights that when making a comparison with all the other 47 Authorities in the region, the Braintree District has the second lowest number of licensed vehicles by population.
- 7.4 The report and its background papers set the scene with respect to both the National and local context regards whether quantity restrictions should be applied or removed.
- 7.5 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.
- 7.6 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 quantity restriction be removed.
- 7.7 The Committee are provided with the following options:
  - 1. To note the conclusions of the report prepared by Vector Transport Consultancy that there is no significant unmet demand for hackney carriage services in the Braintree District and not issue any additional Hackney Carriage proprietor licences.
  - 2. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and issue such other number of Hackney Carriage proprietor licences as the Licensing Committee considers appropriate.
  - 3. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and recommend to Full Council a policy to

immediately remove the quantity restriction of Hackney Carriage proprietor licences.

4. To note the conclusions of the report prepared by Vector Transport Consultancy and this report and recommend to Full Council a policy to remove the quantity restriction of Hackney Carriage proprietor licences over a specified period and to issue an additional agreed number of licences per year 2016, 2017, 2018, and 2019 followed by complete removal of a quantity restriction.



## **Appendix 1 - Quantity Restrictions - Current advice**

### **Office of Fair Trading review 2003**

In 2003 the Office of Fair Trading 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 Office of Fair Trading found that 45% of UK local Authorities imposed quantity restrictions of which 72% were in urban areas.

This enabled the Office of Fair Trading 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.

The Office of Fair Trading found that quantity controls 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.

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.

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.

The Office of Fair Trading 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.

The Office of Fair Trading 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.

The conclusion reached by the Office of Fair Trading 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.

The Office of Fair Trading'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.

In 2007, Europe Economics undertook a follow-up study evaluating the impact of the Office of Fair Trading'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 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.

### **Department for Transport guidance 2010**

Department for Transport 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'.

Guidance states that it is best practice for Licensing Authorities not to impose quantity restrictions and Licensing Authorities that impose restrictions are urged to reconsider the issue on a regular basis.

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.

The second consideration is whether there is evidence that removal of the controls would result in deterioration in the amount or quality of taxis service provision?

Anecdotal evidence implies that where quantity restrictions 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.

If the Council does take the view that a quantity restriction 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.

It is suggested by the DfT in its 2004 letter to licensing authorities of 16 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
- (7) Financing of surveys

## **Equalities Act 2010**

Section 161 of The Equality Act 2010 qualifies the law in relation to unmet demand. The section states in cases where Licensing Authorities that licence relatively few wheelchair accessible vehicles do not refuse to licence such vehicles for the purposes of regulating the number of issued taxi licences.

In order for section 161 to be enacted, the secretary of state must introduce secondary legislation specifying:

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.

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.

## **Law Commission Review**

In July 2011, the Law Commission announced the Eleventh Programme of law reform. The programme included a project into the reform of the taxi and private hire services originally proposed by the Department for Transport

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

The review included a draft Bill presented to Government for consideration.

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.

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.

The Government's response to the consultation reaffirmed the positions of the Office of Fair Trading's in 2003 and the Department of Transport advice in 2010 and is highlighted below.

*"The Government agrees that licensing authorities should no longer have the power to restrict taxi numbers".*

*"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.*

*"We would ask the Law Commission to consider the best approach to a phased approach to quantity control removal in order to control the impact on the current market".*

The review itself considered in detail both the positive and negative aspects of applying a quantity restriction. The results can be found p 144 – 166 of the report.

The arguments presented in the review can be categorised into two groups.

The arguments presented in favour of removing quantity restrictions 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 of 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.

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 reduce provide the existing proprietors/drivers a thinner slice of the travelling publics spend. It was felt whilst the travelling public 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.

The Law Commission 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 quantity restrictions 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 numbers 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”.

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

Licensing Committee Update		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Licensing Officer	
Report prepared by:	John Meddings, Licensing Officer	
Background Papers:	Public Report	
None	Key Decision: No	
Executive Summary:		
To update Members on applications determined since the last Committee cycle.		
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:	Licensing Officer	
Ext. No:	2213	
E-mail:	<a href="mailto:john.meddings@braintree.gov.uk">john.meddings@braintree.gov.uk</a>	

## **1. Background**

- 1.1 Members have requested regular updates on applications determined by the Licensing Sub-Committee and Drivers' Panel. A summary of all applications determined since the last Committee cycle is listed below.

## **2. Hackney Carriage & Private Hire Drivers Licences**

- 2.1 There have been no applications presented to the Drivers' Panel since the previous meeting of the Licensing Committee.

## **3. Licensing Act 2003**

- 3.1 A new premises licence application for Stock Street Farm Barn, Coggeshall was set to be determined by the Licensing Sub-Committee. However, the representation that was received during the consultation period was withdrawn and the licence was granted subject to the operating schedule and agreed conditions.
- 3.2 An application for a Temporary Event Notice for Cressing Sports and Social Club received an objection notice from Environmental Health. The application was set to be determined by the Licensing Sub-Committee, but the application was subsequently withdrawn by the applicant.

## **4. General**

- 4.1 All secondary schools in the District received letters advising of the licensing requirements for vehicles used as transport for school proms. The dates and locations of all of the school proms within the District were obtained. This will allow officers to monitor the various proms for compliance.