

# Licensing Applications Committee

20 February 2024



**Reading**  
Borough Council  
*Working better with you*

<b>Title</b>	Hackney Carriage Unmet Demand Survey
<b>Purpose of the report</b>	To make a decision
<b>Report status</b>	Public report
<b>Report author</b>	Rob Abell, Consumer Protection Group Manager
<b>Lead Councillor</b>	Councillor John Ennis, Lead Councillor for Climate Strategy and Transport
<b>Corporate priority</b>	Not applicable, but still requires a decision
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. That the results of the Unmet Demand Survey be noted.</li><li>2. That the Best Practice Guidance issued by the Department for Transport be noted.</li><li>3. That the current limit on Hackney Carriage licences be retained.</li></ol>

## 1. Executive Summary

- 1.1 In accordance with the provisions of the Town & Police Clauses Act 1847, as amended by the Transport Act 1985, Reading Borough Council currently limits the number of Hackney Carriage licences to 216.
- 1.2 The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a Hackney Carriage Vehicle licence (HCVL) may be refused for the purpose of limiting the number of licensed taxis if, but only if, the licensing authority is satisfied that there is no significant unmet demand for taxi services in their area.
- 1.3 The Department of Transport (DfT) published guidance in 2023 which advises that licensing authorities may continue to choose to limit the number of Hackney Carriage (HC) licences, provided that, in order to justify the imposition of quantity restrictions, they conduct an unmet demand survey at least every five years (previously 3yrs) to assess any significant unmet demand. This is provided as Appendix 2.
- 1.4 In April 2017 the Competition and Markets Authority (CMA) issued guidance to Local Authorities in relation to the limitation of hackney carriage numbers. In the opinion of the CMA

*“Quantity restrictions are not necessary to ensure the safety of passengers or to ensure that fares are reasonable. However, they can harm passengers by reducing availability, increasing waiting times, and reducing the scope for downward competitive pressure on fares.”*

The CMA takes the view that concerns around congestion, air pollution and enforcement costs can generally be addressed through measures less harmful to passengers’ interests than quantity restrictions.

<https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities/regulation-of-taxis-and-private-hire-vehicles-understanding-the-impact-on-competition>

A PDF version of this is provided as Appendix 3.

- 1.5 The DfT's view is that licensing authorities that elect to restrict taxi licences should review this decision and, if the policy continues, the frequency should be at least every 5 years and aligned to the production of local transport plans where possible. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process where this is their responsibility.
- 1.6 Since re-applying the limit on hackney carriage vehicle numbers after a survey in 2009, the licensing team has undertaken regular 3-yearly reviews of the level of unmet demand in line with DfT best practice. A new Unmet Demand Survey has now been carried out by CTS Traffic and Transportation Ltd which identifies that there is no unmet demand within the boundaries of Reading Borough Council.
- 1.7 This report is to allow members to consider the results of the recently completed hackney carriage unmet demand survey (a copy of which is attached at Appendix 1) and then consider whether it is appropriate to continue to limit the number of Hackney Carriage Vehicles licensed or amend the current limiting policy approach to hackney carriage numbers.

## **2. Policy Context**

- 2.1 The Council is the licensing authority for Hackney Carriages. Under the Town Police Clauses Act 1847, a licensing authority had an unfettered discretion to limit the number of Hackney Carriage licences by being able to licence only such numbers as it thought fit. It was a power, which was widely used by many authorities to restrict the numbers of HC's for the purposes of exercising control and supervision over them. Under the Transport Act 1985, the position in law changed and the 1847 Act, as now amended by Section 16 of the Transport Act, provides as follows:

*“that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”.*

<https://www.legislation.gov.uk/ukpga/1985/67/section/16>

- 2.2 If the decision is taken to continue with a limitation policy, then there is the possibility of legal challenge to the decision in court, albeit this risk is mitigated by the carrying out of the survey every 3 years to identify whether there is any significant unmet demand or not. Regular three-year surveys have enabled Council's that have been challenged to put up a robust defence of their regulatory policies which has been accepted by the Courts.
- 2.3 If a decision was taken to de-limit the number of taxis, then subsequent monitoring of taxi ranks may reveal a need to expand their size or number, which the Council would be responsible for funding. Any further monitoring would be covered by the licensing fee income. At this stage it is unknown if there would be a need to increase the number of ranks. Any decision to do so would be subject to the normal budgetary processes. Demand from drivers to reduce the cap on numbers is very low.

### 3. Summary and Proposals

- 3.1 The report suggests the next review should commence in October 2026.
- 3.2 In relation to ranks, the review found the general picture of service to ranks in Reading is of a wide service provided generally promptly across all ranks in the central area. Some severe peaks do occur, but the trade seemed well-placed and organised to meet the overall demand requirements of the area.
- 3.3 From surveying the public, when asked if there were enough hackney carriages in the Reading area, of the respondents 59% (60% 2018) said there were enough and the balance saying there were not.
- 3.4 From trade stakeholder views, in terms of options moving forward, all those responding gave an answer. 44% said no more plates for at least the next three years; 56% said a restricted number should be issued. When split by owners and renters, unsurprisingly, 92% of owners said the limit should be retained, with two saying add one plate per month. For renters, 93% said add more plates with the balance saying retain the limit. Of those saying more plates, 75% said add one a month, with one renter each saying add two per month, add ten per month, add five a year, add 15-20 a year and finally add 12-24 immediately then one per month for five years.

No respondent suggested complete removal of the limit.

- 3.5 In the 'evaluation of unmet demand and its significance' section (section 7), it says: These results suggest that the current policy limiting vehicle numbers remains of benefit to the public interest. However, the increase implies a reduced level of service which needs to be noted although it has not taken the index over the threshold level of being significant.
- 3.6 The conclusion of the report does not recommend adding new plates at this time and states there is no evidence of any unmet demand. It states the committee is able to retain the present policy of limiting vehicle licences and at the same level of vehicle numbers.
- 3.7 The options for consideration are:

**Option 1** - To consider the unmet demand report prepared by CTS Traffic and Transportation Ltd and agree to retain the current limit as set out in their report attached at appendix 1. This is the officer recommendation.

**Option 2** - To consider the unmet demand report prepared by CTS Traffic and Transportation Ltd and agree to remove the existing limit on Hackney Carriage Vehicle Licences on condition that any new licences must be issued only to brand new ULEV or brand new fully electric purpose built hackney carriage vehicles for licensing within three months of being permitted to apply for a Hackney Carriage Vehicle licence and allowing market forces to determine on the number of licences that are applied for and issued.

**Option 3** - To consider the unmet demand report prepared by CTS Traffic and Transportation Ltd and agree an increase in the number of Hackney Carriage Vehicle Licences per year to be agreed by members. Any additional Hackney Carriage plates must be issued only to brand new ULEV or brand new fully electric purpose built hackney carriage vehicles for licensing within three months of being permitted to apply for a Hackney Carriage Vehicle licence.

### 4. Contribution to Strategic Aims

- 4.1 The HC trade contribute greatly to the transportation links provided in Reading and are part of the Local Transport Plan 2040 that is currently be developed.

## **5. Environmental and Climate Implications**

- 5.1. The CIA has been submitted for comments and we are currently awaiting a reply.

## **6. Community Engagement**

- 6.1. A consultation exercise was conducted through CTS Traffic and Transportation Ltd with Supermarkets, Hotels, Pubwatch / individual pubs / night clubs, Other entertainment venues, Restaurants, Hospitals, Police, Disability representatives, Rail operators and other council contacts within all relevant local councils.
- 6.2. A consultation was also carried out by the Licensing Team to all HC Drivers and owners the results of which are detailed in the report by CTS Traffic and Transportation Ltd.

## **7. Equality Implications**

- 7.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2 The Council will undertake an equality impact assessment scoping exercise on the projects included within the recommendations where applicable and at the appropriate stage of development.

## **8. Legal Implications**

- 8.1 Section 16 of the Transport Act 1985 gives us the ability to control numbers, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet. This is the legal reason this committee report has been prepared, in conjunction with the recent unmet demand survey.
- 8.2 The Department for Transport and Private Hire Vehicle Licensing: Best Practice Guidance lays out a set of recommended questions for licensing authorities to consider when setting any taxi quantity controls. The Guidance suggests that taxi quantity controls should be reviewed regularly and for proper justification of any control to be laid out in local transport plans. These questions are designed to support licensing authorities in reaching a verdict on any such controls and to give them an idea of the things they should be considering to demonstrate that control would be proportionate.
- 8.3 The Department for Transport and Private Hire Vehicle Licensing: Best Practice Guidance 2023, Section 9 (Quantity restrictions of taxi licences outside London) reaffirms the legal power to control numbers comes from the Transport Act 1985 (as above). It also comments on competition, gives guidance on conducting unmet demand surveys, recommends consultation, conduct reviews every 5 years, and poses a number of questions to be considered. It is our view that this section of the guidance has been complied with.
- 8.4 The Competition and Markets Authority 2017 guidance on the Regulation of taxis and private hire vehicles: understanding the impact of competition is relevant for consideration.

<https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities/regulation-of-taxis-and-private-hire-vehicles-understanding-the-impact-on-competition>

This notes that consumers are in a relatively weak position to compare offers, negotiate prices in relation to the taxi trade.

This guide is designed to help local authorities understand the impact some licensing conditions can have on consumers and hence help to reach the right balance between ensuring passenger safety and avoiding consumers having to face higher prices or lower service quality.

The CMA has found that some licensing conditions are likely to restrict or distort competition in ways that may result in higher prices and/or worse service for consumers.

- 8.5 Case law shows that in the decision of *R v Great Yarmouth Borough Council, ex p Sawyer* that a local authority can at any time decide to delimit the number of Hackney Carriages for which it will grant licences, subject only to the proviso that that decision must not, of itself, be *Wednesbury* unreasonable. Provided that the council has taken into consideration the relevant matters and, conversely, has not considered anything irrelevant, it can decide to take that course of action.

## **9. Financial Implications**

- 9.1 RBC legal costs could be incurred in defending any decisions made by members which are appealed against through the courts.
- 9.2 The cost of future unmet demand surveys required to help review the continuation or otherwise of a limitation policy, will be in the region of £16,000. The cost of carrying out the survey is covered by the annual licence fee for hackney carriage vehicle licences.

## **10. Timetable for Implementation**

- 10.1 To be determined following the decision by members if required.

## **Appendices**

1. Hackney Carriage Unmet Demand Survey 2023 by CTS Traffic and Transportation Ltd
2. Department for Transport Guidance November 2023 – Section 9  
<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance/taxi-and-private-hire-vehicle-licensing-best-practice-guidance-for-licensing-authorities-in-england>
3. Competition and Markets Authority (CMA) Guidance