



Title of meeting: LICENSING COMMITTEE

Date of meeting: 29 JULY 2024

Subject: AVAILABILITY OF LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE WHEELCHAIR ACCESSIBLE VEHICLES (WAVs)

Report by: LICENSING MANAGER

Wards affected: ALL

Key decision: No

Full Council decision: No

1. Purpose of report

The purpose of this report is for the Licensing Committee to consider the resolution by Council on 17 July 2023 and the subsequent question to Council on 19 March 2024 in respect of considering amendments to the current hackney carriage and private hire statement of licensing policy with the aim of increasing accessibility to taxis and private hire vehicles by persons with disabilities.

2. Recommendations

That the Licensing Committee resolves:

- a) **To note the legal framework available to the Licensing Committee with respect to licensing of hackney carriage and private hire vehicles;**
- b) **To determine whether the current quantity restrictions on hackney carriage vehicles should be reviewed and if so, to require a future report to be prepared for consideration by the Licensing Committee;**
- c) **To note the publication of the updated Best Practice Guidance issued by the Department of Transport (issued in November 2023);**
- d) **To require a future report to be prepared for the Licensing Committee to consider the best practice recommendations made by the DfT and whether any amendments are considered appropriate to the current statement of licensing policy.**
- e) **To note the current ongoing work to provide a full business case, currently being prepared by Traffic and Transportation to investigate the affordability of borrowing, for a scheme to provide wheelchair accessible taxis to the private hire and taxi trade in Portsmouth; and**



- f) To note the current policy directive in relation to disability awareness training for licensed drivers.

3. Background

Council Motion and resolution - Tuesday 18 July 2023

- 3.1 On Tuesday 18 July 2023, Council considered a motion proposed by Councillor Charlotte Gerada and seconded by Councillor Yinka Adeniran in respect of improving accessibility in Portsmouth taxis for disabled people.
- 3.2 The motion acknowledged that *"although there are taxis operating in the city that can accommodate wheelchairs, and drivers who are willing to assist, these seem to be in limited supply. Accessible taxis do not appear to be as easy to acquire during peak periods such as school runs or at the beginning and end of the evening. As a consequence, disabled people, and wheelchair users in particular, are more disadvantaged than the rest of the city's population in their access to transport"*
- 3.3 In response to this motion, Full Council made the following resolutions:
- To ask the Licensing Committee to commission a review into the level and availability of wheelchair accessible taxis in Portsmouth, such review to be undertaken and reported upon within this municipal year - including its policy that may limit or control the number of hackney carriage vehicle licences it issues - with the aim of improving licensing policy to increase accessibility in taxis for disabled people;
 - To ask the Licensing Committee to explore and report upon how it can increase take-up of disability awareness training for taxi drivers in Portsmouth.

Demand and Quantity Control of licensed hackney carriages and private hire vehicles

3.4 Private Hire Vehicles

Part II of the Local Government (Miscellaneous Provisions) Act 1976 (which sets out the statutory framework for the licensing regime for private hire) specifically **prohibits** the local authority from controlling private hire vehicle numbers.

3.5 Hackney Carriage Vehicles

The Town Police Clauses Act of 1847 is still the primary legislation controlling hackney carriage vehicles, proprietors and drivers.



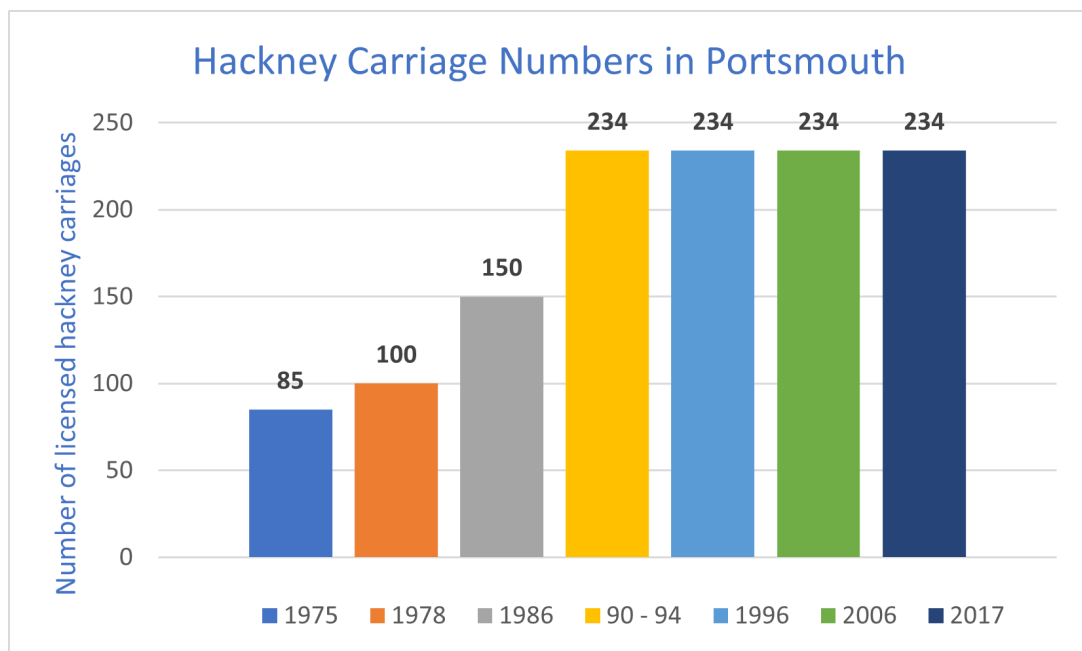
Section 37 of the 1847 Act gave the Licensing Authority an unfettered discretion to determine the number of hackney carriages that could be licensed to stand or ply for hire within the city of Portsmouth.

However, section 16 of the Transport Act 1985 qualified this power to control numbers of hackney carriages by requiring the licensing authority to be satisfied **"... that there is no significant unmet demand for taxi services ..."** within the area.

This requirement does not mean that the Licensing Authority **MUST** limit numbers if satisfied that demand is met but prevents local authorities from limiting vehicle numbers if it is not satisfied that there is no significant demand for the services of taxis.

3.6 Portsmouth Policy on Hackney Carriage Vehicle Numbers and Key Dates

The Licensing Committee has reviewed its policy on quantity controls since adoption of the legislation in the seventies and is set out on the chart below:



Note: 1990 - 1994 - All new vehicle licences issued above the original 150 licences were restricted to wheelchair accessible vehicles only.

Therefore, 36% (84) of the current licensed vehicle fleet MUST be wheelchair accessible - (The "original" 150 licences issued up until 1986 can either be saloon or wheelchair accessible vehicles).



3.7 Private Hire Vehicles - Licensed WAVs

There are no policy requirements for licensed private hire vehicles to be WAVs. However, this does not prevent proprietors from licensing such vehicles should they wish to do so.

As of 15 July 2024, a total of 1160 vehicles are licensed as private hire vehicles and of that total, 35 vehicles are classed as WAV vehicles (3%)

3.8 Department for Transport - Best Practice Guidance for Licensing Authorities

The Department for Transport ("DfT") has issued guidance on the licensing of hackney carriage and private hire since 2006 in order to assist local authorities that have responsibility for the regulation of the taxi and private hire industry.

The latest guidance was issued in November 2023 and is attached as **Appendix A**.

3.9 Chapter 9 of the guidance deals with quantity restrictions of hackney carriage licences outside of London. Paragraph 9.2 of the guidance states:

The Competition and Markets Authority was clear in its 2017 guidance on the [Regulation of taxis and private hire vehicles: understanding the impact of competition](#) that:

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.

Most licensing authorities do not impose quantity restrictions. The department regards that as best practice. Where restrictions are imposed, the department would urge that the matter should be regularly reviewed. The matter should be approached in terms of the interests of the travelling public:

- What benefits or disadvantages arise for them because of the continuation of controls?*
- What benefits or disadvantages would result for the public if the controls were removed?*
- Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?*
- Are there alternative ways in which the issue could be addressed?*

If alternative measures could be used to achieve the same effect, then the department believes these should be used in preference to quantity restrictions.



It has been observed that where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This 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.

- 3.10 The guidance also reaffirms that if a licensing authority does form the view that a quantity restriction can be justified in principle then this has to be based upon the undertaking of a survey to establish whether there is no significant unmet demand which would justify the retention of quantity controls of hackney carriage vehicles.
- 3.11 If the licensing authority wishes to remove quantity controls then there is no need for a survey to be undertaken to allow for this change in policy.
- 3.12 However, for either course of action, consultation should take place with all those that may be affected by the retention/removal of existing controls.
- 3.13 It is proposed that, since the last review of quantity restrictions was undertaken in 2017, Members may wish to receive a future report on the imposition of quantity restrictions and determine whether they wish to retain or remove existing controls, particularly having regard to the availability of wheelchair accessible vehicles.
- 3.14 Since the last review of quantity restrictions, the Licensing Committee has made a number of changes to its statement of licensing policy for the hackney carriage and private hire trade in respect of the statutory guidance issued by the Department for Transport at its meeting on 24th February 2023, including increasing the maximum upper age limit for the licensing of vehicles from 8 years to 12 years of age and also consideration of increasing the minimum age limit for the licensing of vehicles from 4 to 6 years on this meeting's agenda.
- 3.15 In considering any change in policy to increase accessibility of licensed vehicles to persons with disabilities, particularly Wheelchair Accessible Vehicles, it is important to note that the licensing authority is unable to regulate the availability of licensed vehicles for pre-booking purposes or indeed how many vehicles are available at anyone time for hiring purposes.
- 3.16 As mentioned in paragraph 3.8 above, the Department for Transport has published updated Best Practice Guidance for Licensing Authorities. This guidance is intended to promote the regulation of the taxi and private hire industry in a way that enables the provision of safe, accessible, available and affordable services that meet the wide range of passenger needs by a thriving trade.
- 3.17 Individual licensing authorities are still responsible for deciding their own policies and making decisions on individual licensing matters applying the relevant law and any other relevant authorities. The Best Practice Guidance is primarily



intended to assist licensing authorities, but it is only guidance and does not intend to give a definitive statement of the law - any decisions made by a licensing authority remain a matter for them to determine.

- 3.18 It is proposed that a future report will be prepared for the Licensing Committee to consider the best practice recommendations made by the DfT and whether any amendments are considered appropriate to the current statement of licensing policy.
- 3.19 Whilst the Best Practice Guidance has a wide scope in terms of the regulation of the taxi and private trade, given the aim of this report to increase accessibility to taxis and private hire vehicles by persons with disabilities, it is important to identify that Chapter 4 of this guidance deals with Accessibility issues including:

- Accessibility barriers
- Communication barriers
- Barriers relating to the carriage of assistance dogs
- Confidence barriers
- Supporting an inclusive service
- Inclusive service plans
- Assistance for all passengers
- Assistance dogs

- 3.20 Disability is a protected characteristic under the Equality Act 2010 and the Guidance acknowledges that:

"Disabled people may face particular barriers accessing taxi and private hire vehicle services if authorities fail to regulate services inclusively and to uphold the rights of affected passengers. In our view, an inclusive service accessible to disabled people is one where:

- *There are sufficient vehicles meeting disabled people's access needs, to allow them to travel as easily, between the same locations and at the same times, as non-disabled people;*
- *Policy decisions are informed by an accurate and up-to-date understanding of the experience and needs of disabled people with a range of visible and less visible impairments;*
- *Action is taken proactively to improve the accessibility of the services supported;*
- *Disabled people have confidence that services will meet their needs and that, if things go wrong, their concerns will be understood and investigated thoroughly;*
- *If operators and drivers fail in their responsibilities, that appropriate enforcement action is taken to prevent its recurrence and protect other disabled passengers".*



- 3.21 As mentioned in paragraph 3.18, by requiring a review of the current statement of licensing policy having regard to the Best Practice Guidance, this will ensure that the needs of persons with disabilities can be fully considered and measures put in place, if appropriate to do so, to protect persons under the Equality Act 2010.
- 3.22 Following approval of the Council Budget for 2024/25 on 13 February 2024, an allocation of borrowing (£600k) was included in the budget within the Transport Portfolio to investigate the potential for a Lease Rental Scheme for Wheelchair Accessible Vehicles subject to a full business case demonstrating the affordability of borrowing, for a scheme to provide wheelchair accessible vehicle to the taxi/private hire trade. This work on the preparation of the business case is ongoing and further updates will be available as the project develops.
- 3.23 The current statement of licensing policy provides delegation to the Head of Service to require hackney carriage and private hire drivers to undertake disability awareness training. There would be a cost implication upon drivers to undertake this requirement prior to granting a licence. Members may wish to consider and determine whether they wish to require all drivers to undergo this training when they undertake the review of the current policy in accordance with the Best Practice Guidance.

4. Reasons for recommendations

- To ensure that the licensing authority explores opportunities for increasing the availability of licensed wheelchair accessible vehicles in Portsmouth;
- To ensure that the Licensing Committee has due regard to the Best Practice Guidance published by the DfT in November 2023 and to make any amendments, if appropriate, to its statement of licensing policy for the taxi and private hire trade;
- As part of the above review, to recognise the provisions within the Equality Act 2010 for persons with protected characteristics and to ensure that that regulation of the taxi and private hire trade promotes inclusivity and upholds the rights of affected passengers to access to taxi and private hire services.

5. Integrated impact assessment

No Integrated Impact Assessment is required at this stage as there are no amendments to the current policy arising from the recommendations contained within this report. Integrated Impact Assessments will be undertaken should the Committee require further reports for amendments to the current policy.

6. Legal implications

The legal implications are embodied within the report.

7. Director of Finance's comments

None applicable directly to this report and proposed recommendations but guidance principles for fees and charges are contained within Chapter 16 of the adopted PCC policy document.



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Signed by:

Appendices:

Appendix A - Department for Transport Best Practice Guidance

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Minutes of Council Meeting - 18 July 2024	Council Minutes - 18 July 2023 (portsmouth.gov.uk)
Part II Local Government (Miscellaneous Provisions) Act 1976	Local Government (Miscellaneous Provisions) Act 1976 (legislation.gov.uk)
Town Police Clauses Act 1847	Town Police Clauses Act 1847 (legislation.gov.uk)
Transport Act 1985	Transport Act 1985 (legislation.gov.uk)
Licensing Committee Report - Friday 6 October 2017- Survey for unmet demand for hackney carriage vehicles	Portsmouth Hackney Carriage Unmet Demand - Report.pdf
Minutes of Licensing Committee - Friday 6 October 2017 - Survey for unmet demand for hackney carriage vehicles	LC 6 Oct 17 mins.pdf (portsmouth.gov.uk)
DfT Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England	Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England - GOV.UK (www.gov.uk)

Full Council - Tuesday 13 February 2024

[Agenda for Full Council on Tuesday, 13th February, 2024, 2.00 pm Portsmouth City Council](#)

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: