

 Executive Committee 5th April 2018		Agenda Item No. 4
Title	Consideration of a Warwick District Council Hackney Carriage Vehicle (HCV) Limitation Policy	
For further information about this report please contact	Lorna Hudson Lonra.hudson@warwickdc.gov.uk 01926 456320	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	L&R 20 February 2017 minute number:31 L&R 25 September 2017 minute number:5	
Background Papers	I. CTS WDC Hackney Carriage Unmet Demand Survey (April 2017) II. WDC consultation results and discussion paper (August 2017)	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes Ref:851
Equality Impact Assessment Undertaken	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	13/03/2018	Chris Elliot/Andrew Jones
Head of Service	07/03/2018	Marianne Rolfe
CMT	13/03/2018	Andrew Jones
Section 151 Officer	13/03/2018	Mike Snow
Monitoring Officer	20/03/2018	Andrew Jones
Finance	20/03/2018	Mike Snow
Portfolio Holder(s)	20/03/2018	CLlr Andrew Thompson
Consultation & Community Engagement		
WDC carried out a six week consultation with the trade from 15 May-25 June 2017 on the proposed options in the CTS Unmet Demand Survey Final Report (April 2017). The CTS survey also included a public, stakeholder and trade consultation between September 2015 and February 2016.		
Final Decision?	Yes	

1. **Summary**

- 1.1 Representations were received from the trade that there are too many hackney carriage vehicles (HCV) in the district and the hackney carriage (HC) trade requested a cap on the number of licences issued by Warwick District Council (WDC).
- 1.2 The purpose of this report is for the Executive to consider the Council's current policy and decide if WDC should continue not to restrict the number of HCV or if it should, in principal, introduce a quantity standard.

2. **Recommendation**

That Executive agrees with Option 1. (Retain the status quo – no change to existing policy (do not implement a limit or restriction)).

3. **Reasons for the Recommendation**

- 3.1 Most local licensing authorities do not impose quantity restrictions; the Department of Transport (DfT) regards this as best practice.
- 3.2 In April 2017 the Competition and Markets Authority (CMA) issued guidance to local authorities that concluded restricting HCV numbers harms consumer choice. Furthermore, CMA released guidance that advises quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares. In addition it may increase the risk to passenger safety if a restriction encourages the use of illegal, unlicensed drivers and vehicles.
- 3.3 In areas where limits are imposed, vehicle licence plates often command a premium. Advice from legal is if a limit was set the value of licensed vehicles could become inflated and there are no obvious legal interventions that can be put in place to prevent this.
- 3.4 In order to justify a restriction the licensing authority would need to be able to demonstrate there was no unmet demand. This issue is normally addressed by means of a survey. An interval of three years is commonly regarded as the maximum reasonable period between surveys. This Council undertook a survey via CTS Traffic & Information with a recommendation that a cap is brought in.
- 3.5 There has been a significant change of circumstance in the overall taxi and private hire market since the CTS survey was commissioned.
 - a) Over the past two years there has been a natural downturn in the number of HC vehicles and drivers licensed by WDC. If this trend was to continue a restriction would have little effect.
 - b) The number of private hire vehicles (PHV) coming into the district has increased considerably. For example private hire drivers legitimately working for companies such as Uber. WDC controls on vehicles and drivers licensed by other authorities are limited.
 - c) The demand from the traveling public for app-based public transport solutions is only likely to increase over the coming years.

- 3.6 Given the above, a restriction on the number of HCVs is not necessarily going to benefit the HC trade. It is also possible a limit could cause additional financial strain on them. This is because the costs associated with running and maintaining a limitation policy, including the commissioning and project management of surveys every three years should not be borne by the general tax payer and would need to be recovered from the trade via licence fees.
- 3.7 Setting a limit could mean there is an increases in litigation as the number of appeals could increase, the local authority would also be open to a Judicial Review. This is because regardless WDC would still be required to process applications and if refused on the grounds of a limitation or restriction policy the applicant retains the legal right to appeal the decision.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Impacts of Proposal		
Ensuring there is sufficient access to taxis to the community.		Allows entrepreneurs Ready entry if they see an opportunity.
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income

supported The right people are in the right job with the right skills and right behaviours		earning opportunities Seek best value for money
Impacts of Proposal		
None	None	None

4.2 **Supporting Strategies**

Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are contained within the WDC Risk Management Policy & Guidelines.

4.3 **Changes to Existing Policies**

None - Currently WDC policy does not limit the number of HCV licences it issues. Anybody can apply for a HCV licence, subject to the vehicles and the driver meeting our quality and safety standards.

4.4 **Impact Assessments**

An impact assessment has been carried out and was assessed as not relevant for the purpose of EIA but will be reviewed subject to the final decision.

5. **Budgetary Framework**

5.1 If the recommendation is accepted there would be no financial implication.

5.2 If a restriction policy was introduced the position would need to be continually evidenced and further independent surveys will need to be undertaken by a competent surveyor. The next survey would be due in 2019 and every 3 years thereafter.

5.3 The additional charges arising from surveys and the on-going staffing costs should not be met by the tax payer. Subject to Executive Committee approval, these charges should be paid for by the HC trade by way of the licence fees. Currently the best guess estimate for all the associated staffing, contractor and resource costs for commissioning, implementing and then maintaining a HCV limitation policy are between £25,000 to £30,000 triennially.

6. **Risks**

6.1 If the recommendation is accepted there would be no additional risk.

7. **Alternative Option(s) considered**

7.1 The CTS Survey recommends option 3 - Return a limit at a fixed level (and determine what that level should be and any other fleet development proposals). The thought of developing the feet, if a limit was returned, is based on the theory that the trade will benefit from the introduction of a limit and that there should be some return to the council and the people using hackney carriages in the area.

Fleet development is a tempting factor, however under existing market conditions and external pressures on the trade (as described in 3.5 above) any benefit to the trade is questionable.

- 7.2 The outcome from the six week consultation with the trade from 15 May-25 June 2017 concluded option 4 was the preferred option. Officers do not consider this to be a reasonable way forward as it delivers no tangible benefits or additional protection to the public.
- 7.3 The authority can attempt to restrict the number of vehicles in a hackney carriage fleet by using quality controls. For example, controls on age or types of vehicles used, which can have a similar effect to increasing the cost of entry to the hackney carriage vehicle market. Other quality controls adopted by other local authorities include mileage limitations on vehicles, restrictions to where proprietors live and exhaust emissions.
- 7.4 At the present time, the quality controls applied to a new hackney carriage licence application are that it must be a brand new vehicle and have side loading wheelchair accessibility. If a licensed vehicle is being replaced, the replacement vehicle must be newer than the vehicle that it replaces but no older than 5 years. If the vehicle being replaced is wheelchair accessible, then the replacement vehicle must also be wheelchair accessible.

8. **Background**

8.1 In respect of HCVs the main statutory function and aim of Warwick District Council is to protect the public but at the same time ensuring there is reasonable access to a safe and well maintained taxi service.

8.2 Warwick District Council licenses both hackney carriages (HCV) and private hire vehicles (PHV) to operate within the district. HCVs operate from ranks and can be hailed in the street and they can also accept pre-booked fares, either direct or from a licensed operator.

PHVs may only accept pre-booked fares from an operator and there is no power for the Council to limit PHV numbers.

8.3 HC and PHV licensing law in England dates back in some instances to the 19th century. This has led to an increasing number of calls in recent years for wholesale reform of the licensing law. In 2014 the Law Commission published a report which included a comprehensive overview of the industry and how it should look going forward. It also published a draft bill for consideration by the Government. Although the Government accepted a small number of the Commission's recommendations and legislated for them in 2015, nothing further has been done.

8.4 The entry of Uber into the PHV market and the way it has transformed it, has given impetus to the calls for reform. There are some who believe that the advent of Uber and other smartphone app-based technologies is a chance to completely rethink what the industry should look like going forward as a consumer-led, deregulated system where the differences between taxis and PHVs disappear. Others, while welcoming some of the benefits from these app-led providers in terms of consumer choice, caution against unleashing a 'free for all' and are calling for better regulation, standardisation across the country and more powers for local licensing authorities to cap PHV numbers and prevent cross-border hiring.

- 8.5 The Government has set up a working group to consider regulatory issues and remedies for the industry, including on cross border working, and the question of country-wide licensing reform raised by the Law Commission. The group is due to report in 2018.
- 8.6 A hackney carriage demand survey was undertaken by CTS Traffic & Information on the Council's behalf between November 2015–March 2016. CTS concluded there is no significant unmet demand in the area. In other words that there are sufficient numbers of HCVs in the district to meet the service demands of the traveling public.
- 8.7 The CTS report determines four potential options, with option 3 being the recommended option.

Options

1. Retain the status quo – no change to existing policy (do not implement a limit on numbers).
2. Return a limit at a fixed level (and determine what the level should be).
3. Return a limit at a fixed level (and determine what that level should be and any other fleet development proposals).
4. Return a limit but on the basis of not issuing any new plates (therefore number of plates reduces over time).