

 <b>Licensing &amp; Regulatory Committee</b> <b>25 September 2017</b>		<b>Agenda Item No. 5</b>
<b>Title</b>	Consideration of a Warwick District Council Hackney Carriage Vehicle (HCV) Limitation Policy	
<b>For further information about this report please contact</b>	Lorna Hudson	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	20 February 2017 Minute number:31	
<b>Background Papers</b>	a) WDC consultation results and discussion paper (August 2017) – appendix 1 b) CTS WDC Hackney Carriage Unmet Demand Survey (April 2017) – <a href="#">appendix 2</a> (Hyperlink) c) Councillor Handbook: Taxi and PHV Licensing (August 2017) – <a href="#">appendix 3</a> (Hyperlink) d) Hackney Limitation Equality Impact Assessment 2017 – appendix 4	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan?</b>	Yes Ref: 851
<b>Equality Impact Assessment Undertaken</b>	Yes

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	08.09.17	Chris Elliot/Andrew Jones (CE Approval)
Head of Service	08.09.17	Marianne Rolfe
CMT	08.09.17	Chris Elliot/ Andrew Jones
Section 151 Officer	11.09.17	Mike Snow
Monitoring Officer	12.09.17	Andrew Jones

Finance	11.09.17	Mike Snow
Portfolio Holder(s)	-	Cllr Andrew Thompson
<b>Consultation &amp; Community Engagement</b>		
<p>WDC carried out a six week consultation from 15 May-25 June 2017 on the proposed options in the CTS Unmet Demand Survey Final Report (April 2017).</p> <p>The CTS survey also included a public, stakeholder and trade consultation between September 2015 and February 2016.</p>		
<b>Final Decision?</b>		No
<p>The results of the WDC consultation along with discussion on the advantages and disadvantages are included in the attached discussion paper (appendix 1) and should now be considered along with the CTS WDC Hackney Carriage Unmet Demand Survey Final Report (appendix 2) and other supporting background papers.</p> <p>The final policy decision will be made at Executive Committee on 29 November 2017.</p>		

## 1. **Summary**

### 1.1 The purpose of this report is to:

- Inform members of the outcome of the WDC six week consultation regarding the proposed options outlined in the CTS Unmet Demand Survey.
- Expand on the CTS Unmet Demand Survey and outline the advantages and disadvantages of introducing a limitations policy.
- Seek Licensing and Regulatory Committee views on a future approach to restricting the number of hackney carriages licensed in the Warwick District.

## 2. **Recommendation**

### 2.1 Licensing and Regulatory Committee are asked for its views on the future approach to restricting the number of hackney carriages licensed in the Warwick District and make any additional comments for later consideration by Executive Committee.

## 3. **Reasons for the Recommendation**

### 3.1 Licensing and Regulatory Committee comments will assist Executive Committee, which will decide the future policy.

Under Section 16 of the Transport Act 1985 a District Council may refuse an application for a Hackney Carriage Vehicle Licence in order to limit numbers only if they are satisfied that there is no significant unmet demand for taxi services within the area to which the licence will apply. This doesn't mean that District Councils must limit taxi numbers if they are satisfied that demand in the area is totally met but acts to forbid district Councils from restricting numbers for any other reason.

Executive will be asked, firstly, to decide it is satisfied that there is no significant demand for the services of hackney carriage taxis which is unmet. (In plain language, this means there is no shortage of taxis for users in the district).

If Executive is satisfied it will then be asked to determine either:

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

It will also be recommended that Executive give full reasons for the decisions reached.

- 3.2 If Executive is not satisfied, under 3.1, that there is no significant demand which is unmet, there is no power to limit the number of HCV licences.

#### 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
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<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
<b>Impacts of Proposal</b>		
<i>Ensuring there is sufficient access to taxis to the community.</i>	<i>Impacts potentially on public protection and safety issues.</i>	<i>Could positively support existing small business in the district but restrict enterprise.</i>
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<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 earning opportunities Seek best value for money
<b>Impacts of Proposal</b>		
<i>None</i>	<i>None</i>	<i>None</i>

##### 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**

Currently Warwick District Council policy does not limit the number of HCVs it issues. Anybody can apply for a HCV licence, subject to applicants meeting our quality standards and complying with vehicle and driver conditions.

Adopting a limitation policy would not require any change to the constitution. The power to implement such a change in policy is contained within HCP (50) in the Council's Scheme of Delegation.

The Committee is at liberty to remove a limit at any point that it becomes clear such a change is necessary, such as if there is significant growth in the area, or if passenger complaints are received in terms of availability in the area. However as with many local authority decisions this would not necessarily be a speedy process and is likely to take many months to action.

#### **4.3 Impact Assessments** – Please refer to appendix 4 (EIA).

#### **5. Budgetary Framework**

- 5.1 Restricting the number of licences issued could have some impact on income; however, the local authority is able to recoup costs for the services against the trade.
- 5.2 Members to note subject to a decision to apply a new HCV Limitation Policy, the position will need to be continually evidenced and further independent surveys will need to be undertaken by a competent surveyor. There is no statutory time frame for reviews but good practice is to carry out a needs survey every three years, sooner if there are concerns about availability in the area. In the Warwick District 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 hackney carriage trade by way of the licence fees, which may need to be increased if necessary. Currently the best guess estimate for all the associated staffing and resource costs for commissioning, implementing and then maintaining a HCV limitation policy are between £15,000 to £20,000 triennially.

#### **6. Risks**

- 6.1 An applicant can appeal to the Court if the Council refuse to grant or fail to make a determination of the application. If there is an appeal based on a refusal due to a limitation policy it will be for the Council to convince the Court that they had reasonable grounds for being satisfied there is no significant unmet demand.

Carrying out regular unmet needs surveys helps to mitigate the risk of such an appeal.

As with any change in Council Policy it could be challenged by way of Judicial Review.

- 6.3 It should also be noted that Government policy discourages too much interference with “market forces” and tends to prefer quality controls over quantity ones.

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

- 7.1 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.
- 7.2 At the present time, the quality controls applied to a new hackney carriage license 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.
- 8.3 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.
- 8.4 PHVs may only accept pre-booked fares from an operator. There is also no power for the Council to limit their numbers.
- 8.5 In 1974, Warwick District Council agreed to restrict the number of HCV licenced in its area. The main driving factor at the time was to ensure, as far as possible, that an adequate service was provided during off-peak hours.
- 8.6 The Transport Act 1985 allows the Council to limit the number of HCVs it licenses, but only if it is satisfied that there is no significant demand for HCVs which is unmet.
- 8.7 In 1999, when it was reported there appeared to be an unmet demand for wheelchair accessible vehicles. The sub-committee decided to rescind the cap on numbers and agreed new licences would only be granted which had facilities for carrying disabled persons in a wheelchair.

8.8 In 2003, following representation from the trade, Members were asked to consider whether to agree in principle to re-introduce the limit on the number of HCV licenses and officers were requested to obtain quotes for a survey. However, no record can be found of any such survey having been carried out at this time.

8.9 In March 2010 the Department for Transport issued Best Practice Guidance to Councils.

Paragraph 47 of the Guidance says "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 reconsidered". The Guidance suggests that the matter should be approached in terms of the interests of the travelling public – that is to say, the people who use the taxi services. The Guidance suggests that authorities consider what benefits or disadvantages arise for the travelling public as a result of imposing controls and what benefits or disadvantages arise as a result of applying no limitation on numbers.

Paragraph 48 of the Guidance says that in most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. The Guidance comments that 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. The view expressed in the Guidance is that this seems very hard to justify.

Paragraph 49 the Guidance says: "If a local authority does nonetheless 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. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys"

The Department for Transport expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. More details can be found from page 9 of the CTS Warwick District Council Hackney carriage unmet demand survey.

8.10 The Law Commission has been considering and consulting on a wide range of potential reforms of the taxi trade as a whole, on behalf of the Government. Its final document was issued on 23rd May 2014. It had 84 recommendations in relation to the changes in taxi licensing law. However at the point of writing this report there has been no indication given as to when and if a change will happen, despite many local authorities lobbying for national standards and set fees.

8.11 Following further representations from the HCV trade, in August 2015 the Council appointed CTS Traffic and Transportation to undertake a survey of demand for hackney carriages in the Warwick district. The review was carried out between September 2015 and February 2016.

- 8.12 At Licensing and Regulatory Committee on 20 February 2017 members were advised of the findings of the report and asked to approve a 6 week consultation with stakeholders on the options for HCV.
- 8.13 The final CTS study report was received and submitted to the Head of Health & Community Protection in April 2017.

The study found that there is no evidence of any unmet demand for hackney Carriages in the district. The conclusion is based on 252 hours of rank observations, 250 street interviews and widespread consultation. Based on this conclusion, the Council could return a limit on the number of hackney carriage licences.

The study recommends that option 3 be taken – returning a fixed limit set at the time it is considered by the Council which would need to include all successful applications underway at that time, and that the issues of rank needs and student issues be resolved as promptly as possible using the stability of the limit to encourage trade co-operation.

- 8.14 Warwick District Council consulted with the trade and other interested parties on the proposals of the Warwick District Council, Hackney Carriage Unmet Demand study by carrying out a 6 week consultation from 15 May which ended 25 June 2017 - 118 individual reponses were received in total.

The preferred option of the WDC consultation is option 4 - Return a limit but on the basis of no issuing of any new plates (therefore number of plates reduces over time). Suggesting the trade want a limit to be put in place but are not in favour of any fleet development.