

LICENSING COMMITTEE

Date: Tuesday 22 July 2014
Time: 5.30 pm
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Howard Bassett, Democratic Services Officer (Committees) on 01392 265107 or email howard.bassett@exeter.gov.uk

Entry to the Civic Centre can be gained through the Customer Services Centre, Paris Street.

Membership -

Councillors Dawson (Chair), Laws (Deputy Chair), Brimble, Choules, Clark, Crew, George, Fullam, D J Henson, Holland, Newby, Pearson, Shiel and Tippins

Agenda

Part I: Items suggested for discussion with the press and public present

1 Apologies

To receive apologies from Committee members.

2 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

3 Local Government (Access to Information) Act 1985 - Exclusion of Press and Public

To pass the following resolution:

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for items 7 to 13 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part I of Schedule 12A of the Act.

4 **Taxi Forum**

Members are invited to put their names forward to serve on the Taxi Forum which meets about two or three times a year. The next meeting is scheduled for either 5, 12 or 19 September 2014.

5 **Reforming the Law of Taxi and Private Hire Services - Law Commission Report**

To consider the report of the Assistant Director Environment.

(Pages 5 -
14)

(Report circulated)

6 **Taxi Quantity Controls**

To consider the report of the Assistant Director Environment.

(Pages 15
- 32)

(Report circulated)

Part II: Items suggested for discussion with the press and public excluded

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

TOWN POLICE CLAUSES ACT 1847

7 **Application for a Hackney Carriage Vehicle Licence (Mr SA)**

To consider the report of the Assistant Director Environment.

(Pages 33
- 36)

(Report circulated to Members)

8 **Application for a Hackney Carriage Vehicle Licence (Mr AB)**

To consider the report of the Assistant Director Environment.

(Pages 37
- 92)

(Report circulated to Members)

9 **Application for a Hackney Carriage Vehicle Licence (Mr DD)**

To consider the report of the Assistant Director Environment.

(Pages 93
- 98)

(Report circulated to Members)

10 **Application for a Hackney Carriage Vehicle Licence (Mr DP)**

To consider the report of the Assistant Director Environment.

(Pages 99
- 102)

(Report circulated to Members)

11 Application for a Hackney Carriage Vehicle Licence (Mr SR)

To consider the report of the Assistant Director Environment.

(Pages
103 - 106)

(Report circulated to Members)

12 Application for a Hackney Carriage Vehicle Licence (Mr MS)

To consider the report of the Assistant Director Environment.

(Pages
107 - 110)

(Report circulated to Members)

13 Application for a Hackney Carriage Vehicle Licence (Mr NS)

To consider the report of the Assistant Director Environment.

(Pages
111 - 118)

(Report circulated to Members)

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265107.

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REPORT TO LICENSING COMMITTEE

Time and Date of Hearing: 17:30 22 JULY 2014 PART 1 Matter

Report of: Principal Licensing Officer

Type of Application: report on the outcome of the Law Commission review of Taxi and Private Hire Services

Legislation: PROPOSALS FOR NEW LEGISLATION

Ward Application Refers to:

Not Applicable

Applicant: Not applicable.

Premises Address: Not Applicable

1. What is the report about?

- 1.1 To advise the Licensing Committee of the outcome of the Law Commission findings in relation to modernising the taxi and private hire services. The Commission started the review with a consultation in 2011 and submitted the final report to the Lord Chancellors Office on the 23 May 2014.

2. Are there any representations?

- 2.1 There is no provision in the legislation for anyone to submit representations relating to this kind of application.

3. Report details:

- 3.1 A large number of issues needed to be addressed and the major matters affecting the trade locally are set out below. All of the proposals will affect the trade in some way but only the most important and significant are identified in this report. The full findings of the Law Commission are addressed in a 290 page document and can be found [here](#)
- 3.2 The full list of proposals are set out in the appendix to this report but probably the most significant in relation to Exeter taxi licensing are as follows;
- The interchange of wording between taxis, hackney carriages and private hire is to be removed. Instead vehicles that can be flagged down will be taxis and those that must be pre-booked will be Private Hire Services (PH), the commonly used term of PH Operator is to go and the term dispatcher used to replace it.
 - A common National standard for all PH vehicles, drivers and dispatchers will be introduced. Secondary legislation will be put in place to set the minimum standards for all councils.
 - The standards set for taxis services will also be set on a mandatory basis but additional conditions may be added by the Licensing Authority.
 - PH companies will not be permitted to use the word taxi or any other word resembling taxi on any vehicle; on any dispatching office or in any advertisement for the PH services on offer.

- Quantity restrictions will be permitted but on a different footing to that currently in place. The old “unmet demand” test is to go as it is considered inappropriate and it is likely to be replaced with public interest test combined with a requirement to review three yearly and to consult widely on the proposal to maintain limits. Additionally a proposal is contained in the recommendations which will allow for the premiums attached to plates in restricted authority areas to be retained **except** in authorities where de-limiting occurs even if restriction is re-introduced at a later date.
- Among the most radical of proposed changes is the introduction of a new tier of appeal. The proposal is to have a standardised appeal process for all forms of licence and irrespective of whether the decision being challenged is a refusal of an application for a licence a suspension or revocation. In simple terms all initial decisions should be at officer level with the 1st appeal to the committee to reconsider the decisions and a second appeal to the magistrates Courts and a further right to appeal to the Crown Court after that.
- The term “plying for hire” in relation to PH services is to be removed as it has become almost impossible to establish if a person who is in the car has pre-booked or has used modern technology to show the vehicle had been booked there and then (perfectly lawful at present). Instead ALL bookings for PH services must be made through a dispatcher who will be required to keep records in a prescribed form.

4. What are the legal aspects?

- 4.1 The proposals contained in the report are those put out by the Law Commission as proposals for the regulators to consider and eventually approve. They have no legal status at present but may be considered as a very useful tool to use to develop future policy and begin consultations with the relevant trade organisations in order to prepare for the future.
- 4.2 No consideration as to resource implications have been given as it is not possible to determine what, if any extra resources are necessary until the primary and indeed secondary legislation is made available.
- 4.3 The proposals contained in the report are unlikely to have any financial impact on the Licensing Authority as the procedures for full cost recovery are to be retained in the final legislation..

5. Recommendations:

- 5.1 The Licensing are asked to note the content of the report and supporting documents.

Environmental Health and Licensing Manager

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

LAW COMMISSION RECOMMENDATIONS

- 1 We recommend retaining the two-tier system. Regulation should continue to distinguish between taxis, which can be hailed or use ranks, and private hire vehicles, which can only be pre-booked.
- 2 We recommend that the offences relating to plying for hire should be abolished. We propose replacing the concept of plying for hire with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other than a local taxi driver to accept a journey starting “there and then”.
- 3 We recommend a statutory definition of pre-booking in order to create a clear distinction between the work of a taxi in its licensing area and the work of a private hire vehicle.
- 4 We recommend that the term “hackney carriage” should be replaced in legislation with the word “taxi”. The term “private hire vehicle” should remain unchanged.
- 5 We recommend that only the providers of licensed taxi services should be allowed to describe themselves using the term “taxi” on vehicles or in advertising materials.
- 6 Operators across England and Wales (dispatchers) should be under a duty to provide a price or an estimate of the fare on request.
- 7 We recommend that taxis picking up passengers outside their licensing area should be subject to a pre-booking requirement, which would be statutorily defined for the first time. This would require provision of an estimate of the price for the journey in advance, if requested, and record-keeping obligations. These requirements could be further refined through national standards in secondary legislation.
- 8 We do not recommend the introduction of record-keeping requirements in respect of taxis except where they are picking up passengers outside their licensing area.
- 9 We recommend that local authority stopping officers should have a new enforcement power to require licensed vehicles to move on where the officer considers that:
 - (1) there is a reasonable likelihood that the public may believe the vehicle is available for immediate hire;
 - (2) the vehicle is causing an obstruction to traffic flow; or
 - (3) the driver is attempting to take work away from ranked taxis.
- 10 We recommend introducing a new offence which makes it unlawful for anyone other than a locally licensed taxi driver to accept a booking for a journey starting there and then.
- 11 We recommend that compellability should be retained in its current form. It should be open to licensing authorities to express compellability as a time or distance from the point of hire, or as extending to the boundaries of a licensing zone. Licensing authorities should also be able to extend the

- compellable distance up to seven miles beyond the boundary of the licensing area.
- 12 Licensing authorities should have the power to make a determination that in their areas, taxis should be under a duty to stop when hailed. In such areas, it would be an offence for a taxi driver in a vehicle displaying a “for hire” sign to fail to stop in response to a hail, without reasonable excuse.
 - 13 Licensing authorities should be under a duty to consult on the need to alter rank provision; and to consider whether new ranks should be appointed, or current ones moved or removed, on a periodic basis not exceeding every three years.
 - 14 We recommend that those acting in the course of a business who pass taxi or private hire bookings to providers who they know or suspect to be unlicensed should be guilty of an offence.
 - 15 We do not propose to require intermediaries working solely with licensed taxis (“radio circuits”) to be licensed.
 - 16 We recommend that licensed dispatchers should be retained as a necessary element of the regulation of private hire services.
 - 17 We recommend that operator licensing should only cover dispatch functions, and no longer apply to the invitation or acceptance of bookings as such. However, if it is shown that an individual or company accepted a hire vehicle booking, a presumption should arise that that person also “dispatched” the driver. This ensures the continued accountability of those who, in the course of business, accept hire vehicle bookings from the public.
 - 18 It should also be an offence, in the course of business, to dispatch an unlicensed vehicle or driver. It would also be an offence for a person to dispatch a private hire vehicle and driver unless that person holds a dispatcher’s licence. It would be a defence if the driver and vehicle were reasonably believed to hold appropriate taxi licences.
 - 19 Persons accepting a hire vehicle booking in the course of business should be under a duty to provide information to the hirer in respect of any person on to whom they passed the booking.
 - 20 Proposed reforms should extend to all of England and Wales, including London and Plymouth.
 - 21 Taxi and private hire licensing should cover vehicles regardless of their form or construction, including non-motorised vehicles.
 - 22 Taxi and private hire licensing requirements should only cover services provided for commercial gain.
 - 23 Taxi and private hire licensing should not cover the carriage of a passenger as an ancillary or incidental part of another service.
 - 24 For the purposes of taxi, private hire and public service vehicle legislation, all passenger seats and spaces capable of carrying a standing passenger should be included when assessing vehicle carrying capacity.

- 25 Consideration be given to revising the criteria for licensing a vehicle as a “small public service vehicle” , making them more clearly centred on local bus services.
- 26 We recommend extending the reach of taxi and private hire licensing to larger vehicles in two circumstances:
 - (a) on a mandatory basis, in respect of stretch limousines and novelty vehicles; and
 - (b) on an optional basis, where providers want to use larger vehicles in a taxi or private hire business. (*Page 70*)
- 27 We recommend that the Secretary of State should have the power to exempt certain categories of vehicle or services used to carry passengers for hire from the requirement to hold a taxi or private hire licence. Licensing authorities would, however, retain the power to impose licensing requirements on vehicles used as taxis within their local licensing area.
- 28 Wedding and funeral cars should continue to be exempt from taxi and private hire licensing while the vehicle is being used in connection with a wedding or a funeral.
- 29 Non-professional use of licensed taxi and private hire vehicles, including by nonprofessional drivers, should be permitted, subject to a rebuttable presumption that such vehicles are being used professionally when they are carrying passengers.
- 30 Introduction of national standards for taxi and private hire services.
- 31 National standards should promote enforcement, protection of the environment and accessibility, in addition to safety.
- 32 National standards for taxi services should be comparable but not necessarily identical to national standards for private hire services.
- 33 Driver and vehicle standards should be set in secondary legislation by the Secretary of State.
- 34 The standard setting power of the Secretary of State should be subject to a statutory consultation requirement.
- 35 Applying for a vehicle licence should no longer be restricted to vehicle owners.
- 36 Applicants for vehicle licences should not be subject to a fit and proper person test.
- 37 Licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences.
- 38 The Secretary of State should exercise the standard setting power to provide that a conviction for specified offences is a breach of a licensing condition, or incompatible with eligibility to hold a licence.
- 39 The Secretary of State should have the power to designate specific licence conditions, breach of which will amount to a criminal offence.

- 40 Private hire services should only be subject to national standards. Licensing authorities should no longer have the power to impose local conditions.
- 41 Dispatchers should continue to be subject to fit and proper person requirements as part of national standards.
- 42 Dispatchers should be subject to a statutory duty to maintain records in such form as may be prescribed by the Secretary of State.
- 43 Signage requirements for private hire vehicles should form part of the national standards determined by the Secretary of State. The Secretary of State should impose requirements that aim to ensure that the public are able to distinguish easily between taxis and private hire vehicles.
- 44 Dispatchers should no longer be restricted to working only with drivers and vehicles whose licences are issued by the same licensing authority as the dispatcher.
- 45 Dispatchers should have the ability to sub-contract bookings to any dispatcher in England and Wales.
- 46 Licensing authorities should retain the power to set local taxi standards over and above national standards.
- 47 Licensing authorities should be required to consult on additional licensing conditions for taxi drivers and vehicles.
- 48 Licensing authorities should retain the ability to regulate taxi fares, in respect of any journey within the compellable distance.
- 49 A taxi driver should be allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the compellable distance only if this is agreed in advance. In the case of pre-booked journeys starting outside the compellable distance the price or an estimate should be given on request and, if so, recorded.
- 50 Licensing authorities should retain the power to regulate fares charged for pre-booked taxi journeys. However, there should be no power to regulate third party booking fees, provided these are agreed in advance.
- 51 The principle of cost recovery should continue to apply in respect of taxi and private hire licensing fees.
- 52 Licensing authorities should be able to collect and use licensing fees from taxi and private hire licensing only for the following purposes:
(1) administration of the licensing system (including but not limited to processing applications for granting or renewing licences and carrying out inspections and tests);
(2) statutorily required reviews of fare levels, rank provision, accessibility and existing quantity restrictions at least every three years;
(3) enforcement of the licensing system including but not limited to the control and supervision of taxi and private hire services (whether licensed or unlicensed) and activities associated with suspending or revoking licences;
and:
(4) providing taxi ranks.

- 53 The Secretary of State should set a private hire licensing fee which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee.
- 54 The Secretary of State should have the power to set up a system of pooling private hire licence fees nationally, for the purposes of redistributing these to reflect enforcement needs, in accordance with such a scheme as may be prescribed.
- 55 Licensing authorities should have the power to combine their taxi and private hire licensing areas.
- 56 Licensing authorities should be under a duty to publish their driver, vehicle and dispatcher licensing data in such form as the Secretary of State may require.
- 57 Licensing authorities should have a more flexible power to introduce and remove taxi licensing zones. This power would permit removal or introduction of zones within a licensing district. The power should be subject to consultation and a statutory public interest test.
- 58 Licensing authorities should continue to have the power to limit the number of taxi vehicles licensed in their area.
- 59 The power of licensing authorities to impose quantity restrictions should be subject to a statutory public interest test. Further, the Secretary of State should have regulation-making powers prescribing how the statutory test should be applied.
- 60 Decisions to restrict taxi numbers should be reviewed at least every three years and be subject to local consultation in accordance with such procedures as may be prescribed in regulations made by the Secretary of State.
- 61 In licensing areas where quantity restrictions already exist at the time of the introduction of our reforms, but not in other areas, vehicle licence holders should continue to be able to transfer their taxi licences at a premium.
- 62 Taxi and private hire drivers be required to undergo disability awareness training of a standard set by the Secretary of State.
- 63 The Secretary of State require information on how to complain about taxi and private hire vehicle services to be displayed in taxi and private hire vehicles.
- 64 Licensing authorities should display complaint information in offices, libraries and on websites.
- 65 Licensing authorities conduct an accessibility review at three year intervals.
- 66 The Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to comply with the Equality Act 2010 as a condition of the licence.

- 67 Licensing authorities should reconsider rank design to ensure compliance with the Equality Act 2010.
- 68 Licensing conditions should provide that information about the licensing authority and local operators should be provided in alternative formats, as well as information about the types of vehicle available in their area.
- 69 The Secretary of State should have the power to impose accessibility requirements on large dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.
- 70 Licensing officers who have been suitably trained and accredited should be given the power to stop licensed taxi and private hire vehicles in a public place for the purpose of checking compliance with licensing requirements.
- 71 The offence of touting should be retained. It should continue to be an offence of broad application which extends to all persons, whether licensed or unlicensed.
- 72 There should be a new defence to touting, where the solicitation is in respect of a licensed taxi or private hire vehicle, if the soliciting occurs in a place which has been designated by that licensing authority for that purpose, and that conditions as may be specified by the licensing authority have been complied with.
- 73 The Sentencing Council consider amending the Magistrate's Court Sentencing Guidelines in respect of taxi touting to take into account the vulnerability of the persons solicited as a relevant factor in sentencing.
- 74 Licensing authorities should have the power to impound vehicles used in connection with touting.
- 75 Fixed penalties should be among the sanctions available in respect of minor criminal offences under taxi and private hire legislation.
- 76 Extending the power to suspend licences immediately on grounds of public safety to all licence types.
- 77 Licensing officers should be able to take non-criminal enforcement action against vehicles, drivers and operators, licensed outside their licensing area.
- 78 Powers to revoke a licence should be available only to the licensing authority which issued that licence. However, enforcement officers in another area should have the power to:
- (a) suspend a licence when they consider this to be necessary in the interests of public safety; and
 - (b) make recommendations to the home licensing authority as to appropriate sanctions, to which the home authority must have regard.
- 79 The right to appeal against refusals to grant or renew taxi and private hire licences or to suspend or revoke them should be limited to the applicant or licence holder.

- 80 The first stage in the appeal process in respect of refusals, suspensions or revocations of licences should be the right to require licensing authorities to reconsider the original decision. Appellants should have the right to bypass this stage and proceed direct to the magistrates' court.
- 81 All taxi and private hire licensing appeals should be heard in the magistrates' court.
- 82 Retention of an onward right of appeal to the Crown Court.
- 83 Applicants for a vehicle licence for an opt-in vehicle should have a right of appeal to the Upper Tribunal if their application is refused on the basis of an objection by the Senior Traffic Commissioner.
- 84 A County Court judicial review procedure along the lines provided under the Housing Act 1996 should be available to challenge taxi conditions set by licensing authorities.

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REPORT TO LICENSING COMMITTEE

Date of Meeting: 22 July 2014

Report of: Assistant Director Environment

Title: Policy Tool of Restricting the Number of Taxi Licences

Is this a Key Decision?

No

Is this an Executive or Council Function?

Licensing is a Council function delegated to the Licensing Committee.

1. What is the report about?

This report reviews the justification for the continuation of the policy of quantity restriction of taxis in Exeter in terms of the benefit to the public, and proposes options for consideration.

2. Recommendations:

That Licensing Committee determine one of the following options, either:

2.1 To maintain the current policy of taxi restriction, and agree the commissioning of a survey report to:

- a. ascertain the level of any unmet demand for taxis;
- b. determine whether any unmet demand is significant;
- c. determine what would be an optimum quantity level to robustly meet that unmet demand over the next 3 years; and
- d. quantify the public benefit and dis-benefit deriving from the operation of a policy of quantity restriction at that optimum level

or

2.2 To enter into consultation with the public, trade and other stakeholders with a view to removing the policy of taxi restriction in a managed way, and enhancing the quality controls for taxis to improve standards further and prevent any potential negative impact from de-restriction.

3. Reasons for the recommendation:

Section 16 of the Road Transport Act 1985 precludes a Local Authority from refusing an application for a hackney carriage licence in order to limit the number of licences unless the authority is satisfied that there is no significant unmet demand. If the authority is so satisfied, it has the discretion to refuse a licence. If it is not satisfied, it is under an obligation to grant a licence.

The Council's defence of its policy of restricting taxi numbers relies upon its ability to demonstrate that there is no significant demand for taxis that is unmet; to demonstrate this it requires an appropriate survey affirming such, which is no older than 3 years old. The results of the last survey (a top-up survey) affirming such was reported to this committee in September 2011, and therefore with the passage of time, the committee's decisions in respect of taxi licence plate applications are more open to successful challenge.

The recent Law Commission Report published in May 2014 (and subject to another report to this committee today), has not recommended the removal of a council's ability to operate a policy of restriction, but it has recommended that any such policy should be subject to a statutory public interest test (this would accompany a presumption in favour of granting taxi licences unless a council is able to show that this is against the public interest). Furthermore,

a decision to restrict taxi numbers should be reviewed at least every 3 years, and be subject to local consultation. In effect, the public interest test would replace the survey of taxi demand. This is not law at the moment but is in line with the concerns and recommendations about taxi restriction expressed by the Office of Fair Trading and Department of Transport. A review of quantity restrictions for taxis is contained in Appendix 1.

A pragmatic alternative to maintaining a policy of restriction, (which still remains open to challenge despite an affirmative survey of demand), is to remove the policy and at the same time enhance quality controls (see Appendix 1, Section 13).

4. What are the resource implications including non-financial resources.

The resource implications of the recommendations are as follows.

Commissioning a survey as outlined in option 2.1 above will involve officer time (met within current resources) in preparing and procuring a consultant, together with a cost of approximately £27,000 for a comprehensive survey and £8,000 for an additional interim top-up survey – this will be funded from the licensing regime. There may be an impact on the medium and long-term funding of taxi marshals in meeting the costs of the surveys.

Consulting on removing the policy of restriction and enhancing quality controls in option 2.2 above, will involve officer time (met within current resources).

5. Section 151 Officer comments:

Vehicle Licensing is a self contained budget, with any surplus or deficit carried to an earmarked reserve to be used only for vehicle licensing purposes; there are sufficient funds within the reserve to fund the survey if required. Alternatively, should the need for the survey be removed, then this reserve could either be redirected to support improved compliance with quality conditions through increased inspections and subsidising the cost of compliance, or used to reduce licence fees in the short to medium term.

6. What are the legal aspects?

Exeter's last survey into demand was carried out in March 2010, with an interim top-up survey in March 2011, and reported to Licensing Committee in September that year.

The Council is now vulnerable to challenge by way of appeal to the Crown Court against a refusal to grant a licence since the survey is elderly.

Defending a challenge in the Crown Court to a decision to refuse an application is costly, with the courts finding against the Council in the last two cases; there is an indication that the courts do not always hold a sympathetic view on the Council's policy of restriction.

7. Monitoring Officer's comments:

The Council is obliged to grant any application for a hackney carriage licences unless it can show there is significant unmet demand in its area.

Given that the demand survey is elderly, the Council is unlikely to be able to successfully defend an appeal against a refusal to issue a hackney carriage licence based on the current survey. Clearly this puts the council at risk both reputationally and financially. Given that, Members need now to decide whether to commission a new survey into unmet demand and public benefit, or consider whether the Council should move to consult on whether to de-restrict the number of licences issued.

8. Report details:

The policy of taxi restriction is reviewed in Appendix 1. In England and Wales, outside London, taxis (hackney carriages) are licensed by district councils under the Town Police Clauses Act 1847 as amended. The purpose of local authority licensing of the taxi and Private Hire Vehicle (PHV) trades is fundamentally to protect the public. Licensing authorities also have the power to limit the number of taxis they licence in their area, for reasons of managing the supply.

The grant of a taxi licence may be refused, for the purpose of limiting the number of taxis if, but only if, the local 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.

Most local licensing authorities do not impose quantity restrictions; the Department of Transport regards that as best practice. Currently 86 out of 343 (25.5%) maintain quantity controls. Both the Department of Transport and Office of Fair Trading are critical of taxi restriction, and feel that it strikes against the benefit of the travelling public.

In order to satisfy itself that there is no significant demand that is unmet, a licensing authority needs to commission a survey of unmet demand, at least every 3 years as a general rule; Exeter's last survey was carried out in March 2010, with an interim top-up survey in March 2011, and reported to Licensing Committee in September that year; therefore the Council is increasingly vulnerable to challenge with regard to any reliance on this last survey to demonstrate that there is no significant unmet demand.

Since 1987, when the Council's limit was set at 38 taxis, there has been an average growth of taxi plates of around 1 per year, to the current 66 plates now. This growth has resulted from successful challenges made by applicants to the courts, and by the Licensing Committee determining an exception to policy. This illustrates that the policy tool of restriction is not particularly effective at limiting numbers.

From a systems thinking approach (Appendix 1, Section 12), there is a great deal of failure demand and wasted work associated with dealing with and hearing applications for taxi plates, their refusal, and defending challenges. There is also a financial cost to defending cases and in commissioning surveys of unmet demand.

The May 2014 Law Commission report on 'Taxi and Private Hire Services', recommended that the justification for a policy of restriction should not rest on demonstrating no significant unmet demand, but instead should rest on a test of public benefit. The conclusions of the accompanying review in Appendix 1 find that it is difficult to point to any tangible public benefit brought about by the policy of restriction – fares are amongst the highest in the country, standards are generally below that of the private hire vehicle (PHV) fleet, and there are specific times when supply does not satisfy demand (e.g. at city centre taxi ranks, late at night). This calls the sustainability of any policy of restriction into question.

The key concerns expressed about de-restriction revolve around opening the floodgates to applications, being swamped by taxis, destabilising the taxi fleet provision, and causing a drop in standards. These are justifiable concerns if appropriate counter-balances are not in place, but experience elsewhere has demonstrated that these concerns can be adequately addressed when appropriate quality controls are applied.

Recent examples of de-restriction (e.g. Bristol, Cardiff, Cambridge and Sheffield) have seen only very small increases in the overall taxi and PHV combined fleet, with a re-balancing between taxis and PHV's taking place (Appendix 1, Section 7).

Higher quality controls have acted as a proxy restriction elsewhere (e.g. London and Ipswich), but can act to visibly enhance the quality of the taxi fleet, e.g. by introducing requirements for a distinctive colour scheme and livery, wheelchair accessibility, low emission vehicles, and in-cab CCTV. They can act as a more pragmatic, beneficial and sustainable alternative to restriction (Appendix 1, Section 13).

9. How does the decision contribute to the Council's Corporate Plan?

The taxi and PHV fleet form an important transportation service within the city. Decisions in this report contribute to keeping my city safe and looking good, running a successful business and providing great things for me to see, do and visit.

10. What risks are there and how can they be reduced?

There is a risk in maintaining a policy of taxi restriction, in that it will become increasingly difficult to justify and defend; this poses a risk of incurring significant costs in defending appeals to decisions to refuse the granting of taxi plates. This risk can be removed by introducing higher quality controls to replace the policy of restriction.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

There are two options recommended, the first one maintains the status quo, and there are no specific impacts on equality groups, however, it can be argued that taxi restriction can have an impact of community safety in terms of encouraging the need to use unlicensed taxis.

In terms of removing taxi restriction and replacing it with higher quality conditions in a managed way, there could be a positive impact in increasing the number of wheelchair accessible taxis. However, amongst existing taxi plate owners, there are a disproportionate number from the BME community, who may see the value of their plate premium be reduced (Appendix 1, Section 4). Otherwise there are beneficial gains to be made in terms of community safety and air quality, with higher quality conditions.

12. Are there any other options?

Another option would be to adopt a policy of managed growth in taxi numbers, incrementally increasing numbers year by year, but this would still require an affirming survey to be commissioned, and would not by itself, achieve an increase in quality of the taxi fleet.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

- The regulation of licensed taxi and PHV services in the UK, Office of Fair Trading, November 2003
- Taxi and private hire vehicle licensing: best practice guidance, Department of Transport, March 2010,
- SN601 Transport: access for disabled people, 23 October 2012
- SN2005 Taxis and private hire vehicles, 29 May 2014
- SN2772 Taxis: quantity restrictions, 29 May 2014

- Law Commission Consultation Paper No 203
- Law Com No. 347 Taxi and Private Hire Services, May 2014

Contact for enquires:
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APPENDIX 1: REVIEW OF QUANTITY RESTRICTION FOR TAXIS

1. INTRODUCTION

This paper reviews the origins and purpose of taxi restriction, examines more comprehensive national reviews and guidance, and seeks to understand the application of this to the situation in Exeter compared with other local authorities.

2. LEGAL SITUATION APPLICABLE TO TAXI RESTRICTION

In England and Wales, outside London, taxis (hackney carriages) are licensed by district councils under the Town Police Clauses Act 1847 or that Act as amended by the Local Government (Miscellaneous Provisions) Act 1976. All taxis and their drivers must be licensed. The licensing conditions that are applied to taxi drivers and the local conditions of vehicle fitness are for each council to decide, so can vary considerably from area to area. In London, the taxi legislation dates back to the nineteenth century, but the main licence conditions are made under the London Cab Order 1934.

Licensing authorities have the power to limit the number of taxis they licence in their area, for reasons of managing the supply. Successive governments have looked at whether it would be right to remove the ability of licensing authorities to impose such restrictions. Following a report by the Office of Fair Trading (OFT) in 2003, which questioned quantity restrictions, the Labour Government opted not to abolish quantity restrictions. The Law Commission published a consultation in May 2012 asking for views on proposals to reform and deregulate taxi licensing across England and Wales, including removing these restrictions. It announced in May 2014 that it would not recommend abolishing restrictions but that licences in areas where new restrictions were imposed should not be tradable (i.e. should not be capable of selling on).

Taxi restriction is not operated in London, although high quality/knowledge conditions for entrants may act in a way to constrain applications and as a consequence indirectly restrict numbers by self-selection.

3. THE PURPOSE OF TAXI LICENCE REGULATION

The purpose of local authority licensing of the taxi and Private Hire Vehicle (PHV) trades is fundamentally to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. Licensing requirements that are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. It should be recognised that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.

For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

4. QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

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 taxi licence may be refused, for the purpose of limiting the number of licensed taxis:

'if, but only if, the local licensing authority 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'.

The Council is aware that, in the event of a challenge to a decision to refuse a licence, it would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

Most local licensing authorities do not impose quantity restrictions; the Department of Transport regards that as best practice. Currently 86 out of 343 (25.5%) maintain quantity controls. Where restrictions are imposed, the Department urges that the matter should be regularly reconsidered, and further urges that the issue to be addressed first, in each reconsideration, is whether the restrictions should continue at all.

It is suggested by the Department that the matter should be approached in terms of the interests of the traveling 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;
- what benefits or disadvantages would result for the public if the controls were removed; and
- is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

Plate premiums

In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds (in Exeter this is said to be £60,000 and above). 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. It is more difficult to justify restriction where such a premium exists.

The effect of this premium on the taxi trade in Exeter has not been investigated, but it is likely that where a plate has been traded, then the new owner has to service a large debt and/or seek to recover the out-lay. Whether in turn, this is likely to drive up the rental cost of his car to any driver he rents the vehicle to, and also put upward pressure on the tariff, is not known. Higher rental costs (in the region of £350 p.w. in Exeter) may also tend to push tariffs higher in order for the driver to service the weekly rental and make a living wage.

Of the 66 taxi plates issued in Exeter, 41 have been traded on. Of the 5 most recent plates issued by the Council between November 2009 and December 2011, 4 have been traded on (one of these twice).

5. FAIR TRADING - BENEFITS OF REMOVAL OF QUANTITY RESTRICTIONS

The Office of Fair Trading (OFT) report on the licensed taxi service market was

published in November 2003. It concluded that that the overall quality of taxi services could be enhanced by reforming elements of the regulatory framework, including lifting quantity restrictions as they reduced availability and lowered the quality of service to the public. The OFT stated that this would benefit customers by improving quality and choice for customers, as it would mean:

- putting more taxis on the road – increasing opportunity to access;
- making journeys safer – by reducing the need to use unlicensed taxis
- reducing passenger waiting times – by increasing supply;
- creating more choice – more supply making taxis a more viable transport option;
- promoting best practice in LAs' application of quality and safety controls;
- protecting people from overcharging.

In February 2004 the House of Commons Transport Committee published a report on taxi licensing and the OFT report, but questioned the robustness of the evidence base, feeling that stronger evidence could have been garnered to strengthen the OFT's conclusions.

6. RESTRICTION LEVELS & SURVEY

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. Exeter's last survey was carried out in March 2010, with an interim top-up survey in March 2011, and reported to Licensing Committee in September that year; therefore the Council is increasingly vulnerable to challenge with regard to any reliance on this last survey to demonstrate that there is no significant unmet demand.

As to the conduct of the survey, the Department of Transport's letter of 16 June 2004 set out a range of considerations. But key points are:

- ***the length of time that would-be customers have to wait at ranks*** -however, this alone is an inadequate indicator of demand; also taken into account should be
- ***waiting times for street hailings and for telephone bookings*** - but waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand, additionally there is no provision in Exeter for providing access to a telephone booking system for hackney carriages; it is also desirable to address
- ***latent demand*** - for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people

who do not use taxis, by using stated preference survey techniques.

- **peaked demand** - it is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department of Transport does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Consideration should be given to when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **consultation** - as well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication** - all the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.

Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expected the justification for any policy of quantity restrictions to be included in the Local Transport Plan process.

The Law Commission in its consultation paper No.203, identifies the weaknesses in trying to properly measure latent demand (ie. hidden demand that typifies users' decisions to not use ranks because of lengthy waiting times), and in commissioning periodic unmet demand surveys – their cost, the way they are funded, the small range of consultants capable of carrying this out (2 or possibly three throughout the Country) and the objectivity of the survey which is nearly always commissioned to support the status quo of quantity restriction.

The findings of the recent Law Commission Review 2012-14 on the subject of taxi licensing, whilst steering away from the removing the discretion to limit taxi numbers, has proposed that a policy of quantity restriction should not rest upon the current statutory criterion of "unmet demand", and instead suggested a test based on the public interest, combined with procedural requirements such as a review every three years and a duty to consult.

Department for Trade and Industry, March 2004

The Labour Government announced on 18 March 2004 that, on reflection, it would leave in place the ability of licensing authorities to impose quantity restrictions. They would, however, have to publish their reasons for restricting the number of licences issued. The then Secretary of State for Trade and Industry, Patricia Hewitt, responded to the report in a statement to the House. On quantity restrictions, she said:

The Government agree that consumers should enjoy the benefits of competition in the taxi market and considers that it is detrimental to those seeking entry to a

market if it is restricted. The Government are therefore strongly encouraging all those local authorities who still maintain quantity restrictions to remove restrictions as soon as possible. Restrictions should only be retained if there is a strong justification that removal of the restrictions would lead to significant consumer detriment as a result of local conditions.

Direction of travel on quantity restriction

Nationally, the direction of travel on quantity restriction is one of fewer councils retaining the policy; currently around 25% of councils retain quantity restriction. When a council ends its policy of quantity restriction, there has been criticism that this can affect quality, however, where this has happened the transition has been poorly managed with insufficient quality controls and a lack of consideration of the dynamics of the trade. Therefore, any move to remove quantity restrictions, should be done carefully, with wide-ranging consultation and a good understanding of the trade dynamics.

7. EXAMINING THE BENEFITS AND DISADVANTAGES OF QUANTITY CONTROL

It is useful to refer to the questions posed by the Department of Transport on quantity controls in an Exeter context, as follows.

What benefits or disadvantages arise for them as a result of the continuation of controls?

The main arguments in favour of retaining quantity controls relate to the detrimental impact of negative externalities, such as congestion and environmental pollution, which can result from having an excessive number of taxis on the road. Rank spaces are limited. If all taxis sought to work at ranks at the same time problems of over-ranking could quickly arise. However, these issues can be overcome by adequate rank provision in the right localities, and quality controls. Moreover, studies elsewhere have shown that generally there is some migration of the existing private hire fleet to taxis, so the overall combined fleet increases were relatively small. For example, in Bristol, following de-restriction, the number of taxi licences increased by 150%, whilst the size of the overall fleet only increased by 4%. Similarly, Cambridge and Sheffield saw virtually no change in the number of licensed vehicles following de-restriction.

In Exeter the taxi fleet is restricted to 66, whilst the private hire fleet is 292. An analysis of 20 randomly selected vehicles from each fleet, shows that the average annual mileages are very similar at around 28,100 p.a., whilst the defects identified at annual MOTs are slightly higher in the taxi fleet at 2.5 defects per vehicle on average, compared with 2.05 defects for private hire. In terms of vehicle regulation, checks by officers point towards higher compliance standards in the private hire fleet, which may be reflective of a fleet management approach ($\leq 71\%$ or 206 of 292 vehicles of the private hire fleet falls within three operators) compared with the more individualised approach found with the taxi fleet (four times as many Suspension Notices were issued to taxis than PHV's in the same period since January 2014). In conclusion, higher quality does not correlate with quantity control within Exeter.

The main disadvantages of continuing quantity controls are as follows:

1. Potential benefits to passengers are not realised (these benefits are described in the next section).
2. Potential benefits to increasing the provision and flexibility of transportation at key demands times are lost, which then impact negatively on the economy of the city, the night-time economy and public safety in the night-time economy.
3. Increased use of less suitable alternative modes of transport, with potential safety implications (e.g. unlicensed taxis);
4. The Council would need to continue spending in excess of £35,000 (funded by the licensing regime) every 3 years in unmet demand surveys (or their replacement) and interim top-up surveys.
5. Resources in terms of officer and Member time would continue to be expended on hearing applications and repeat applications, and any resultant appeals.
6. The likelihood of an increasing need to defend appeals, and the risk of losing such appeals in a court environment that has not proved to be particularly supportive of the policy of quantity control.
7. Licensed taxi drivers who do not own a plate, will be excluded from providing a service, and will need to continue renting a licensed taxi to ply their trade, often working long hours to both pay the vehicle rent and make a living wage.
8. Creation of a shortage premium on taxi plate licences, which mean that any new entrant has to be prepared to pay the premium in order to operate their own taxi (currently around £60,000 in Exeter), with a consequential impact on fare tariffs.
9. Fewer taxis per head of population.
10. Longer waiting times for taxis.

What benefits or disadvantages would result for the public if the controls were removed?

The benefits to customers that are often cited in respect of removing quantity restrictions are as follows:

1. ***putting more taxis on the road*** – the OFT estimates this at around a 30% increase, although experience elsewhere shows that much of this will stem from a transfer across from the PHV sector, to give an overall combined fleet increase of 4%;
2. ***making journeys safer*** – removing quantity restrictions and increasing the number of licensed taxis will reduce the need for illegal taxis where neither the driver or vehicle have been subject to appropriate quality and safety checks. In 2002 around 1.8 million people used an illegal taxi in the UK, exposing themselves to potentially serious safety risks
3. ***reducing passenger waiting times*** – having more taxis from the removal of quantity restrictions will reduce length of wait times for ranks and street hailings, which in turn will have the benefit of less dwell time on a street at night for

prospective users (in terms of public safety, swift and safe transport home being beneficial in terms of the late night economy)

4. **creating more choice** – removing quantity restrictions could put an extra 30% taxis on the road (OFT estimation), which would equate to 20 taxis in Exeter. This will substantially increase peoples' choice of transport modes when deciding how to reach their destination and may encourage take-up by 'latent demand' users (i.e. those non-users who would use taxis if availability was increased and waiting times were reduced)
5. **promoting best practice in LAs'** application of quality and safety controls to ensure the needs of local people are met and that individuals and businesses are not deterred from supplying taxi services
6. **protecting people in vulnerable situations from overcharging, while encouraging the benefits of fare competition** – taxis can charge up to the regulated maximum tariff, but when demand from the user is high, and supply low, there is little incentive to lower the fare.

Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

Any removal of quantity controls would need to be carefully managed and should only follow comprehensive consultation with the public and other stakeholders. Because the trade is complex and regulated, it does not necessarily follow normal market economics.

1. **Impact on taxi licence holders** - if de-restriction led to a significant rise in taxi numbers and a large rise in the combined taxi and PHV fleet overall, then the increased competition would mean each driver having a thinner slice of passenger spend. The effect of that could mean longer shifts for drivers, more dwell time between jobs and potentially a negative impact on quality if less money is available to maintain vehicles. The efficiency of the taxi fleet would be decreased in these circumstances.

The negative effects of de-restriction in Ireland in 2000 are often cited, where many licence holders losing out in terms of licence plate value and fare revenue, with a consequential drop in standard. However, the severe impact deregulation had in Ireland was in many ways due to the unmanaged removal of quantity restrictions, along with inadequate standards. However, a significant increase in vehicle numbers could still have a negative impact on an existing taxi trade.

2. **Impact on general public** - other effects on the public are from congestion, over-ranking, noise and air pollution that a significant increase in taxis could bring. In Wirral, de-restriction in 2002 led to lower standards and the presence of more vehicles on the streets, resulting in a campaign group forming to tackle the issues. Restriction in Wirral was restored in 2012.

Generally, the voice of the general public on the matter of taxi licensing is not heard and is difficult to quantify.

3. **Safety** - too many drivers chasing too few jobs may lead to corners being cut, and safety in terms of vehicle maintenance may be undermined. If drivers have to work over-long hours to make a living wage, then their tiredness may

compromise safety. The Law Commission Report heard concerns from the GMB and Unite to this effect.

More generally, it seems, a key element to securing quality standards is providing sufficient incentives for drivers to maintain them. Ensuring some level of financial security can assist in maintaining standards.

4. **Congestion and over-ranking** - many local authorities, particularly those responsible for urban areas, seem to suffer from limited rank space. Over-ranking is a problem that arises both in restricted and unrestricted areas. It may, however, worsen if quantity restrictions are removed. An increase in the number of vehicles at ranks may even exceed the increase in the number of vehicles; this is because where taxi drivers need to work longer to secure the same level of earnings, it can be a more economical option for taxi drivers to wait at taxi ranks rather than driving around, which uses more fuel. The number, size and location of ranks within a locality are important factors in addressing over-ranking.
5. **Environmental impact** - a significant rise in taxi numbers could result in more congestion and pollution as drivers search for hail work. More taxi circulating could lead to increased traffic levels and more emissions affecting air quality. On the other hand, it could be argued that restricting vehicle numbers may not have the effect of reducing pollution. Reduced taxi availability may encourage greater use of private cars, and thus ultimately do greater harm to environmental goals.
6. **Impact on enforcement** - maintaining restriction can reduce enforcement costs as there is a smaller fleet of taxis to regulate. Conversely, restriction may increase enforcement costs as it may lead to more use of unlicensed vehicles.
7. **Impact on numbers of vehicles** - most concerns about restriction stem from a belief that de-restriction would open the floodgates, bringing numerous problems with it. However, experience elsewhere would indicate that this is not the case. For example, Cardiff de-restricted in 2005, and saw taxi numbers rise from 481 to 702 in 2007 and private hire vehicle numbers drop from 999 to 783. De-restriction thus resulted in only five more licensed vehicles on the road at the end of that period, albeit nearly a 50% increase in taxi numbers. In Bristol, following de-restriction, the number of taxi licences increased by 150%, whilst the size of the overall fleet only increased by 4%. Similarly, Cambridge and Sheffield saw virtually no change in the number of licensed vehicles following de-restriction.

The key factor is the level of supply prior to de-restriction; a good supply of taxi and PHV is more likely to follow the Cardiff and Bristol experience with PHV transferring to taxis. A re-balancing of the ratio between taxis and PHV's may also pose potential problems - congestion from more taxis circulating, cherry-picking of prime hours and areas and a negative impact on the PHV companies that may lose drivers.

In the case of de-restriction, this re-balancing together with new entrants can be managed by setting high quality standards, which in effect may act as a proxy for limiting numbers. Not only does this allow the licensing authority to limit or prevent the floodgates effect, but it is also a means of ensuring a high-quality taxi fleet with appropriately committed licence holders. This is said to have been the case in Ipswich, where de-restriction was accompanied by new standards

requiring all vehicles to be wheelchair-accessible and no more than four years old. In the seven years from de-restriction, Ipswich saw just one additional taxi, but a far greater number of wheelchair accessible vehicles.

8. FARES COMPARISON

The National Fares Table for July 2014 shows Exeter as being the 23rd highest tariff for taxis at £6.60 (Tariff Band 1 daytime on a 2 mile rate), out of 365 local authorities (including Scotland). When compared with comparator local authorities such as Oxford, Ipswich and Cheltenham, only one comparator, Colchester, is higher (£6.80), with Warwick being the lowest at £5.00. For comparison, London is £7.20, whilst the national average is £5.61, and South West average £6.41.

Oxford (£6.40), Cheltenham (£6.20), Ipswich (£5.80) and Warwick (£5.00) do not restrict taxi numbers, having 107, 219, 160, and 216 taxis respectively. Of those comparators with taxi restriction, there is still a range of tariffs with for example Lincoln (£6.20), Worcester (£5.70) and Preston (£5.20), having limits at 30 and 187 taxis respectively. This indicates that a policy of restricting taxi numbers does not correlate with the level set for taxi fares to the traveling public, and this is borne out in the Law Commission Report.

9. TAXI PLATE OWNERSHIP AND TRADING

Of the 66 taxi plates issued, 25 remain with the original plate owners, with 41 having been traded on. Of the 5 plates issued by the Licensing Committee since November 2009, 4 have been traded on. Some plates have traded hands more than once, with one being traded 6 times. The premium for each plate is around £60,000 in Exeter. This illustrates that there is a demand for owning a plate, and that it is a valuable asset to invest in and trade.

46 individuals own one plate, whilst 7 own 2, 2 own 3, and 1 owns 3. In terms of owner/drivers, 60 plates belong to licensed drivers, with 6 being owned by owners who do not operate as drivers. Of these 6, 3 plates are owned by one individual, the rest being in single ownership.

Most owners seek to optimise the potential income from their asset, and will typically operate in two shifts (double-shifting), driving one shift themselves and renting out other shifts. Weekly rents are around £350 per week shift, but vary between owners.

10. PRIVATE HIRE TRADE IN EXETER

Of the 292 private hire vehicles (PHV) operating in Exeter, the majority (71%) fall within 3 large operators – Gemini, Capital and Z-Cars. The fleet profile for the two main operators are as follows:

- Gemini – 104 PHV of which 40 are company cars and 64 are owner/drivers;
- Capital – 84 PHV of which 11 are company cars and 73 are owner/drivers.

Owner/drivers provide their own vehicles and pay a weekly rent for circuit fees and equipment of around £127. Owner/drivers can choose to change to a rival operator if they so wish. The two main PHV operators insist upon their drivers following a code of conduct, which include dress codes, vehicle safety and appearance, customer care and working practices. Gemini taxis operate 22 low emission hybrid vehicles as part of their fleet.

In general terms, the quality standard of the PHV fleet in Exeter appear higher than that of the taxi fleet in terms of appearance and to some degree maintenance (four times as many Suspension Notices were issued to taxis than PHV's in the same time period since January 2014). However, because the Council is unable to require that PHV are wheel-chair accessible, there are fewer wheel-chair accessible vehicles (WAV) in the PHV fleet – 6 compared with 28 in the taxi fleet.

11. EXPERIENCE IN EXETER WITH RESTRICTION

Exeter has maintained a policy of restriction for many years, with regular surveys carried out to justify maintenance of that policy. However, despite this policy tool, there has been incremental growth of on average one taxi per year since 1987, i.e. an increase from 38 in 1987 to 66 in 2014. This growth has brought about by a variety of means; granting by the Licensing Committee when unmet demand or exceptional circumstances was demonstrated, or successful appeals to court challenging the Licensing Committee's decision. This illustrates that the policy tool has not been particularly effective in restricting the quantity of taxis in Exeter, despite being supported by surveys affirming the absence of significant demand that is unmet.

12. SYSTEMS THINKING AND FAILURE DEMAND

In terms of a systems thinking approach to taxi licensing, one should firstly look to the prime purpose of taxi and PHV regulation, which is to protect the traveling public, in terms of personal and vehicle safety, and financial exploitation. A secondary purpose would be to ensure that there is a viable alternative means of transportation operating to meet the needs of citizens and visitors.

Quantity restriction does not directly contribute to the prime purpose of taxi regulation, and its contribution to the secondary purpose is mainly in terms of it being a factor in the dynamics of the taxi and PHV fleet supply; a factor that has to be understood and managed in terms of the dynamics should there be any alteration.

There is much failure demand associated with maintaining a policy of restriction; failure demand being wasted work or work that makes no positive contribution. The key aspects of this failure demand are:

1. **Regular surveys of unmet demand** to justify the policy – entailing officer time in commissioning the survey, reporting to Licensing Committee, together with the cost of commissioning (approximately £11,700 p.a.). [Should the need for a survey be removed, a decision would need to be made whether to redirect these funds, e.g. to support enhanced standards, or to reduce fees.]
2. **Hearings for applications for taxi plates** – the Licensing Committee has regularly heard applications at each sitting, often repeatedly from applicants who have been unsuccessful previously, taking up a large amount of committee business and administration – unsuccessful applications significantly outweigh successful applications.
3. **Appeal challenges in court** – there have been a growing number of challenges to the committee's decision not to grant a licence plate, with the courts being unsympathetic with the Council's position, having judged in favour of the licence plate applicant in the two most recent cases. These cases are costly in terms of officer time, legal representation, and legal costs.

If one sought to examine the benefit derived from this failure demand, it would be difficult to find, and justify

13. HIGHER QUALITY STANDARDS AS AN ALTERNATIVE TO TAXI RESTRICTION

The key concerns expressed about de-restriction revolve around opening the floodgates to applications, being swamped by taxis, destabilising the taxi fleet provision, and causing a drop in standards. These are justifiable concerns if appropriate counter-balances are not in place, but experience elsewhere has demonstrated that these concerns can be adequately addressed when appropriate quality controls are applied.

There is no quantity restriction applied in London, although there is a high quality threshold to satisfy in order to obtain a plate. In the case of the comparator local authority of Ipswich, the use of high quality controls at the time of de-restriction resulted in an increase of only one taxi over time, together with an increase in the provision of 22 wheel-chair accessible vehicles (WAV's); high quality standards can act as a proxy for restriction, without the drawbacks of failure demand that a policy of restriction can bring.

Currently, Exeter has two specific quality standards that seeks to improve the taxi fleet in terms of accessibility for users of wheelchairs, and low emissions (a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test); for every additional plate granted and every replacement taxi, the vehicle must be wheelchair accessible and meet European Standard 5 (Euro 5) for emissions (introduced nationally in 2011).

Examples of enhanced quality standards for Exeter

In order to strengthen the drive for lower emissions, the standard could be increased to Euro 6 (introduced nationally for all new cars in 2014), whilst retaining the requirement to be a WAV. In addition, further steps could be taken to encourage electric vehicles (EV's) to form part of the taxi fleet; this could give two options for lower emission vehicles – either a Euro 6 WAV, or an EV (currently potential for conversions of EV's to be wheelchair accessible are more limited).

Furthermore, the Council could adopt the approach of other cities that have introduced a distinct colour scheme and livery for the public to easily identify regulated taxis in their area (e.g. Bristol are blue, yellow in Derby, and silver in Portsmouth and on the Isle of Wight, while Leeds has a distinctive white with black bonnet). The advantages of a distinctive colour scheme with livery, allow passengers to easily determine between taxis and PHV's, but more importantly would also allow passengers to easily differentiate between Exeter regulated taxis and unlicensed vehicles or taxis from outside of Exeter.

In terms of passenger and driver safety, an additional condition of in-cab CCTV could also be specified, such as is the case for Southampton.

All of the above quality standard improvements would set a high but, not unrealistic bar for any new entrants, and also see a gradual uplift in quality across the taxi fleet over time as vehicles were renewed. Generally, it would also help to promote Exeter's reputation as a good place to visit.

14. CONCLUSIONS

The way that taxi and PHV services operate in Exeter are complex and inter-dependent, and the Council's regulation of these services is an influential factor in how it operates. The arguments for restriction are more focused on the potential negative effects from the upsetting of the market if removed, but these can be counter-balanced by sensible regulation and application of standards; when this is taken into account the rationale for retaining a policy of restriction is weakened. This is particularly so when examining the effectiveness of restriction in Exeter as a policy tool, and the failure demand that is associated with it.

In terms of benefits to the traveling public brought about by restriction, it is difficult to point to any tangible benefit – fare tariffs are amongst the highest in the country, standards are generally slightly lower than that of the PHV fleet, and demand at certain peak times appear to out-strip supply (taxi marshals being employed to manage queues at ranks on a Saturday night).

On the other hand, there are many arguments to suggest that the traveling public would benefit from the removal of restriction in a managed way, where the dynamics of the market are clearly understood and stakeholders properly consulted. Enhancing the quality standards applied to new entrants can help make a valuable contribution to the accessibility of taxis, and/or emission standards and air quality; they can also act as proxy restriction to prevent uncontrolled growth in numbers and avoid any risk of destabilising the market. Existing plate holders can be given time to attain any increase in standards.

DOCUMENTS USED IN PREPARING THIS PAPER:

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- *Taxi and private hire vehicle licensing: best practice guidance, Department of Transport, March 2010,*
- *SN601 Transport: access for disabled people, 23 October 2012*
- *SN2005 Taxis and private hire vehicles, 29 May 2014*
- *SN2772 Taxis: quantity restrictions, 29 May 2014*
- *Law Commission Consultation Paper No 203*
- *Law Com No. 347 Taxi and Private Hire Services, May 2014*

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