



Wednesday, 27 November 2019

## LICENSING COMMITTEE

A meeting of **Licensing Committee** will be held on

**Thursday, 5 December 2019**

commencing at **9.30 am**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

### Members of the Committee

Councillor Ellery (Chairman)

Councillor Amil	Councillor Foster
Councillor Atiya-Alla	Councillor Kavanagh
Councillor Brown	Councillor Barbara Lewis
Councillor Cowell	Councillor Mills
Councillor Mandy Darling	Councillor Pentney
Councillor Dart	Councillor Sykes
Councillor Doggett	Councillor John Thomas

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**A prosperous and healthy Torbay**

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**Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# LICENSING COMMITTEE AGENDA

## 1. **Apologies**

To receive any apologies for absence, including notifications of any changes to the membership of the Committee.

## 2. **Declarations of interest**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

## 3. **Urgent items**

To consider any other items that the Chairman decides are urgent

## 4. **Unmet Demand Study and cleaner vehicles**

(Pages 3 - 11)



Public Agenda Item: **Yes**

Title: **Unmet Demand Study and cleaner vehicles**

Wards Affected: **All**

To: **Licensing Committee**

On: **05 December 2019**

Key Decision: **Yes**

Change to Budget: **No**

Change to Policy Framework: **No**

Contact Officer: **Gary O'Shea**  
Telephone: **01803 208025**  
E.mail: **Gary.oshea@torbay.gov.uk**

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## 1. What we are trying to achieve

- 1.1 This report is seeking to provide Members with an update further to the Licensing Committee recommendations dated 1<sup>st</sup> November 2018. This was regard to the 2018 Unmet Demand Study's finding regarding the potential for significant unmet demand within three years and the provision of less polluting vehicles.

## 2. Recommendation(s) for decision

- 2.1 That the Licensing Committee agrees to;

- a) Conduct the necessary procurement exercise in order to engage the services of an appropriate provider for the purpose of conducting a Survey of Unmet Demand to be conducted in October 2020 and reported to this Committee in early 2021.
- b) Bring a report to Licensing Committee by the end of July 2020, providing a range of options and considerations to move towards a requirement for 'green' fleet of licensed vehicles at a future date.
- c) Agree that the current single vacant seasonal and single full Hackney Carriage plates remain unfilled pending the outcome of the Survey of Unmet Demand, as outlined in recommendation a) above.

## 3. Key points and reasons for recommendations

- 3.1 On the 1<sup>st</sup> November 2018, Members considered a report reviewing the results of the 2018 Unmet Demand Study agreeing to the recommendations of that report,

which were:

- i) that the current quantitative limit of Hackney Carriage licences at 162 full time licences, with 7 additional summer (seasonal) only licences be maintained;
- ii) that a further report be presented to the Licensing Committee in 6 to 12 months following full consideration of the impacts of the study relating to future unmet demand and pollutant vehicles, in order to present proposals relating to increasing or deregulating the quantitative limit in the future; and
- iii) that the current vacant summer licence should remain unallocated pending the outcome of the report requested in ii) above.

3.2 These agreed recommendations follow the 2018 Unmet Demand Study own conclusions which in Section 9 states:

*“At the present time, there is no evidence that unmet demand for hackney carriages either patent (at ranks) or latent is significant. People needing licensed vehicles in the area, both able-bodied and disabled – get a good service from the fleet that exists. However, despite many improved elements of the index of significance of unmet demand, there is a trend towards the unmet demand becoming significant which almost certainly needs action before the next survey in three years’ time”.*

3.3 Professional and legal advice have been sought and a range of options considered with respect meeting the 1<sup>st</sup> November 2018 Licensing Committee recommendation (ii). The preferred option, which ensures transparency, provides due process and complies with both the professional and legal advice, is to undertake a full unmet demand study in October 2020. This allows direct comparison with a previous study, places no additional financial burden on either the Hackney Carriage licence holders or the Council, and brings forward the date of the next study by 7 months so assuring we address the key finding of the 2018 Unmet Demand Study Report.

3.4 Recommendation (ii) under 3.1 above, refers to ‘polluting vehicles’, and so the previous consideration of coupling this with any consideration for de-regulation as a way of managing that change and at the same time achieving an increase in less polluting vehicles has been abandoned. This will now form a separate work stream and after some further research, a range of options will be placed in front of Licensing Committee by the end of July 2020, with the aim of undertaking a trade and public consultation to deliver a greener vehicle fleet.

3.5 In addition to the one seasonal plate cover in recommendation (iii) under 3.1 above, one full plate was additionally not renewed in April 2019 and is also currently vacant. This report therefore, also carries recommendation that both plates remain vacant pending the proposed unmet demand study for October 2020.

**For more detailed information on this proposal please refer to Annex A.**

**Steve Cox**

**Environmental Health Manager (Commercial)**

## Annex A – Supporting information to Report

### A1. Introduction and history

A1.1 On the 1<sup>st</sup> November 2018, members considered a report reviewing the results of the 2018 Unmet Demand Study agreeing to the recommendations of that report, which were:

- iv) that the current quantitative limit of Hackney Carriage licences at 162 full time licences, with 7 additional summer (seasonal) only licences be maintained;
- v) that a further report be presented to the Licensing Committee in 6 to 12 months following full consideration of the impacts of the study relating to future unmet demand and pollutant vehicles, in order to present proposals relating to increasing or deregulating the quantitative limit in the future; and
- vi) that the current vacant summer licence should remain unallocated pending the outcome of the report requested in ii) above.

A1.2 These agreed recommendations follow the 2018 Unmet Demand Study own conclusions which in Section 9 states:

*“At the present time, there is no evidence that unmet demand for hackney carriages either patent (at ranks) or latent is significant. People needing licensed vehicles in the area, both able-bodied and disabled – get a good service from the fleet that exists. However, despite many improved elements of the index of significance of unmet demand, there is a trend towards the unmet demand becoming significant which almost certainly needs action before the next survey in three years’ time”.*

A1.3 The 2018 Unmet Demand Study report also considered the impact of licensed vehicles on air quality what would be the best vehicles to ‘authorise’ should a decision be made to relax the limitation on Hackney Carriage numbers.

*“From our experience, the best conclusion from the options available would be to allow any persons wishing to invest in vehicles the Council would like to see more of in the fleet to do so. Given present concerns, nationally and specific to Torbay, this would most likely mean allowing new hackney carriage plates for:*

- *Any electric WAV*
- *Any fully electric or other low emission style vehicle*
- *Any hybrid vehicle as long as this was Euro 6 if diesel”*

A1.4 As you will see from the recommendation (i) in A1.1 above, the current quantitative limit was retained, however it did raise with Committee the importance of reducing the impact of emissions from vehicles.

A1.5 Licensing Officers have given further consideration to the findings of the 2018 Unmet Demand Study and have taken professional and legal advice of the options available to it.

A1.6 Any consideration to de-regulating the quantitative limit would need to be

supported by clear evidence that there is now significant unmet demand. The 2018 report believes this point will be reached within three years. However, there are several factors that could affect this, and the professional advice received from a transportation expert in this field, is that the only way to evaluate this accurately is to undertake a new Unmet Demand Study. Their advice would also be to undertake a direct comparison with a previous survey's rank observations and they would consider the month of October to be a better time to undertake the survey, providing it is away from the half term week. The 2014 survey was undertaken in early October 2014, whilst the 2018 survey was undertaken in the middle of May.

- A1.7 It is important to note that in the June 2004 a Department of Transport letter, required that where a Council continues with its Quantity Control Policy there is an additional requirement to review this position approximately every three years and this government position remains unchanged.
- A1.8 There are three options. Option one would be to arrange to undertake an Unmet Demand Study in May 2020, though this doesn't leave sufficient time to procure a provider and would require some additional funding as this would be only two years since the last survey. This funding would either need to be raised from the Hackney Carriage licensed vehicle owners or from Torbay Council finance, neither which are seen as realistic options.
- A1.9 Option two would be to undertake a new study in October 2020, which would coincide with the 2014 survey, so allowing a direct comparison with the results from that survey. It would bring the survey back into a three year pattern as the 2018 survey was undertaken after 3 ½ years and by doing so would require no additional finance and it would meet the concern raised in the 2018 Survey Report, that significant unmet demand would almost certainly be met within three years.
- A1.10 Option three would be to undertake the next survey in May 2021, and although this would again allow direct comparison of the 2018 survey, it doesn't meet that reports concerns. It is therefore recommended that Option two is agreed.
- A1.11 It is also recommended that both the one seasonal plate and now an additional annual plate, which was not renewed in April 2019, remain unfilled until the next survey is completed. To do so would require considerable procurement work at a time when there is no suggestion of any significant unmet demand.
- A1.12 The recommendation from 1<sup>st</sup> November 2018, repeated under item (ii) in A1.1 above refers to 'polluting vehicles', and consideration was given previously to coupling this with any consideration for de-regulation as a way of managing any change. The last report says there is no significant unmet demand and any new survey report is likely to be at least 15 months away, assuming Option Two is supported, so consideration should be given to a range of options to increase the percentage of the cleaner vehicles in the vehicle fleet. This is with climate change and the impacts of air quality on health in mind. Although this requires further research, it is recommended that a new report is provided for Licensing Committee to consider, providing a range of options for the provision of cleaner vehicles which will be presented for trade and public to consider during a 12 week consultation. This additional report will be presented by the end of July 2020.

## **A2. Risk assessment of preferred option**

## **A2.1 Outline of significant key risks**

There are no significant risks if Members agree with the timetable as suggested for undertaking a new Unmet Demand Study, although the Council could at any time be challenged with regard to its position on quantitative limits. The risk would increase should Members choose an alternative timetable, certainly if that was significantly later than May 2021.

There are no risks with regard to reviewing the options for public consultation on less polluting vehicles.

There is a small risk that someone may challenge the decision not to agree to issue a Hackney Carriage licence by way of Judicial Review. More likely however is an application for one of the said licences, which if refused may lead to an appeal in the Magistrates Court against a future committee's decision. Should either of these challenges occur, the Council would defend its reasoned decision.

## **A3. Options**

A3.1 The options are:

- (i) That Members agree to timetable provided for undertaking a future unmet demand study, providing an additional report on the consideration of a range of options for less polluting vehicles and agreeing.
- (ii) That Members agree to an alternative timetable for undertaking a future unmet demand study and providing an additional report on the consideration of a range of options for less polluting vehicles.
- (iii) That Members do not agree to leave the two Hackney Carriage licences unfilled.

## **A4. Summary of resource implications**

A4.1 There are no significant resource implications for the approval of the recommendations.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no perceived equalities or crime and disorder issues stemming from this report.

A5.2 The report does refer to environmental sustainability issues, with respect to cleaner vehicles, however this will be subject to a more detailed future report.

## **A6. Consultation and Customer Focus**

A6.1 There is no consultation with regard to this report.

## **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units.

## **Appendices**

### **Appendix 1**          Minutes from 1<sup>st</sup> November 2018

#### **Documents available in members' rooms**

None

#### **Background Papers:**

The following documents/files were used to compile this report:

None





## Minutes of the Licensing Committee

1 November 2018

-: Present :-

Councillor Thomas (J) (Chairman)

Councillors Brooks, Darling (M), Darling (S), Excell, Manning, Pentney, Stocks, Stubley and Thomas (D)

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### 54. Apologies

Apologies for absence were received from Councillors Mills and Tolchard.

It was reported that, in accordance with the wishes of the Liberal Democrat Group, Councillor Darling (S) had filled the Liberal Democrat Group vacancy.

### 55. Minutes

The Minutes of the meeting of the Licensing Committee held on 19 July 2018 were confirmed as a correct record and signed by the Chairman.

### 56. Hackney Carriage and Private Hire Licensing Policy 2018

Members considered a report that sought approval for the Hackney Carriage and Private Hire Licensing Policy. The Principal Licensing Officer informed Members that on 15 March 2018 the Licensing Committee agreed to consult upon the draft Hackney Carriage and Private Hire Licensing Policy, the consultation concluded on 31 August 2018. In total 213 consultation questionnaires were returned, in addition a separate representation was received from the Torbay Taxi and Private Hire Association (TPHA), a further 23 copies of this representation was submitted in support from individuals who are not part of the TPHA and another 3 individual letters were received from other trade members as well as one additional letter from the Guide Dogs for the Blind Association.

At the Committee Mr Boyle, Mr Collins and Mr Green submitted oral representations to Members. Members proceeded to debate each recommendation as set out in Appendix 2 to the submitted report and resolved:

That the Hackney Carriage and Private Hire Licensing Policy as set out in appendix 1 to the submitted report be approved subject to the following:

- i) that paragraph 2.6 should remain unaltered;
- ii) that paragraphs 14.12 to 14.14 should remain unaltered;

- iii) that paragraph 14.29 should be amended to read:

Failure to present the vehicle for inspection by the due inspection date, will result in the vehicle licence being immediately suspended until such time as the inspection has been undertaken, a satisfactory pass certificate presented to the Licensing Authority and written confirmation that the suspension has been lifted is received from the Licensing Authority.

- iv) That:

- a) paragraph 5.15 be amended to read:

*5.15 Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on strict medical grounds. Therefore, applicants will need to clearly demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority, such as a blood test, a skin prick test or clinical history and a signed letter from their registered GP and/or relevant medical specialist. All costs in obtaining this exemption shall be borne by the licensed driver.*

- b) all new drivers undertake disability and dementia awareness training prior to being licenced.
- v) that the agreed consultation draft policy to require a driver to appear before Licensing Committee should they receive more than nine penalty points be retained;
- vi) that the timeframes relating to Child Sex Exploitation training remain at 6 months as outlined in the draft policy;
- vii) that DVLA licence checks on all drivers are to be undertaken every six months;
- viii) that the new Code of Conduct at Appendix B to the draft Policy be included as consulted;
- ix) that the maximum age limit of a licensed vehicle be increased to 10 years instead of 8;
- x) that the maximum mileage for all vehicles when first presented for licensing be reduced to 50,000 miles;
- xi) that compliance testing be introduced as outlined in the draft policy, effective from 1 May 2019, following a procurement process and appointment of suitable test provider(s);
- xii) that permanent vinyl door stickers as consulted in the draft policy, **not** be implemented;

- xiii) that exemptions relating to door signs and plate exemptions **not** be implemented;
- xiv) that conditions relating to Wheel Chair Accessible Vehicles be included, as published in the draft policy;
- xv) that the policy be amended to remove the requirement for any Hackney Carriage or Private Hire Vehicle to be wrapped in contrasting colours, that Hackney Carriages be required to be in manufactures black only and that Private Hire Vehicles may be of any colour other than black. This condition comes into force immediately in all cases for newly licensed vehicles and will apply to existing licensed vehicles at point of replacement of the vehicle.
- xvi) that all vehicles be a minimum standard of 100 brake horse power (BHP);
- xvii) that the CCTV information be included, as published in the draft policy.

#### **57. Result of an Unmet Demand Study of Taxis in Torbay**

Members considered a report that detailed the outcome of an Unmet Demand Study commissioned by Torbay Council in response to guidance issued by the Department from Transport. The guidance states that a quantity control study of unmet taxi demand should be undertaken approximately every three years.

Members received a presentation from Ian Millership of CTS Traffic and Transportation Services Ltd who advised that the study commenced in April 2018, the study included 300 hours of rank observations, 212 on street interviews, a questionnaire sent to all Hackney Carriage and Private Hire drivers and vehicle licence holders and separate questionnaires sent to local businesses and stakeholders.

Resolved:

- i) that the current quantitative limit of Hackney Carriage licences of 162 full time licences with 7 additional summer (seasonal) only licences be maintained;
- ii) that a further report be presented to the Licensing Committee in 6 to 12 months following full consideration of the impacts of the study relating to future unmet demand and pollutant vehicles, in order to present proposals relating to increasing or deregulating the quantitative limit in the future; and
- iii) that the current vacant summer licence should remain unallocated pending the outcome of the report requested in ii) above.

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Chairman/woman