

Meeting: Regulatory Committee **Date:** 24 October 2024

Wards affected: All

Report Title: Results of the Unmet Demand Study of Taxis in Torbay 2023 and the second public consultation in 2024

Cabinet Member Contact Details: Councillor Tranter, Cabinet Member for Adult and Community Services, Public Health and Inequalities.

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1. Purpose of Report

- 1.1 At the Regulatory Committee Hearing on 18 July 2024, Members adjourned the meeting and requested that the Divisional Director of Community and Customer Services be asked to arrange a further consultation upon the option of an additional 17 Hackney Carriage vehicle licences, with a further test of level of service to be undertaken within 6 months of all these additional licences being issued.
- 1.2 This report details the outcome of the second public consultation for Members further consideration and determination of the issue of unmet demand. As the Licensed Survey Vehicle & Assessment (LVSA) report recommended 20 additional plates, and this option was not considered as part of the first public consultation, this option was also included as part of the second consultation.
- 1.3 An additional clarification report was also requested from the LVSA consultant to include:
 - answers to Members questions that were raised during the Committee meeting on 18 July 2024.
 - a reasoned clarification of the estimation and impact of the 20 extra plates as recommended in the 2023 Unmet Demand Study report.
 - a more detailed modelling exercise, as subsequently recommended by the LVSA consultant in August 2024, to demonstrate the quantification of impacts and confidence in the estimate of the impact of the 20 plates.

This report can be found in Appendix 2. The report author will be attending the Regulatory Committee Hearing on 24 October 2024 to present his report and answer any questions.

- 1.4 Members are to consider the options outlined in section 2 of this report, and following their determination, instruct Officers to amend the Hackney Carriage and Private Hire Licensing Policy (the Policy) accordingly.

2. Reason for Proposal and its benefits

- 2.1 Section 16 of the Transport Act 1985 updated the provisions of the Town Police Clauses Act 1847 with respect to Hackney Carriages and advised that ‘**..the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences 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**’.

This places the decision maker under a clear duty to grant new applications for Hackney Carriage vehicle licences unless they are satisfied, on the evidence, that there is no significant unmet demand.

- 2.2 Unmet demand is considered to be significant when the index of significance of unmet demand (ISUD) is calculated, its resulting value is 80 or greater. The results of the 2023 survey (Appendix 1) found that the ISUD level is currently at 1801.26, well above the cut-off figure of 80. This is an 806% increase on the ISUD figure from the 2020 survey, which was 198.89, and an increase of 3755% from the 2018 survey when there was no significant unmet demand (ISUD of 46.72). The conversion of the 7 seasonal Hackney Carriage licences to full time licences following the 2020 survey was an attempt to bring the ISUD figure down to the cut-off figure of 80. This has not succeeded, and unmet demand has risen significantly further.
- 2.3 The additional report provided by the LVSA (October 2024; Appendix 2) outlines the difficulty in estimating the extra numbers of vehicles required to reduce the significant unmet demand to under the ISUD figure of 80, due to a range of factors including that we cannot require drivers to work at ranks or on specific days and times.

Appendices

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| Appendix 1 | LVSA unmet taxi demand survey November 2023 |
| Appendix 2 | LVSA unmet taxi demand survey Additional Clarification Report October 2024 |
| Appendix 3 | Second Public Consultation results and comments |
| Appendix 4 | Regulatory Committee Report regarding unmet demand held on 18 July 2024 |

Background Documents

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

Torbay Council's Hackney Carriage & Private Hire Licensing Policy 2022

DFT: Statutory Taxi and Private Hire vehicle standards 2020

DFT: Taxi and Private Hire Vehicle Licensing: Best Practice Guidance

James Button on Taxis; Licensing Law and Practice Book; 4th Edition

DFT: FS13 Future of Transport – Equalities and access to opportunity September 2020

Supporting Information

1. Introduction and Background

- 1.1 At the Regulatory Committee Hearing on 18 July 2024, Members adjourned the meeting and requested that the Divisional Director of Community and Customer Services be asked to arrange a further consultation upon the option of an additional 17 Hackney Carriage vehicle licences with a further test of level of service to be undertaken within 6 months of all these additional licences being issued.
- 1.2 An additional clarification report was also requested from the LVSA consultant to include:
- answers to Members questions that were raised during the meeting on 18 July 2024.
 - a reasoned clarification of the estimation and impact of the 20 extra plates as recommended in the 2023 Unmet Demand Study report.
 - a more detailed modelling exercise, as subsequently recommended by the LVSA consultant in August 2024, was undertaken to demonstrate the quantification of impacts and confidence in the estimate of the impact of the 20 plates.

This report can be found in Appendix 2. The report author will be attending the Regulatory Committee Meeting on 24 October 2024 to present his report and answer any questions.

2. The Law and Best Practice

- 2.1 There are 314 Local Authorities in England. The Taxi and Private Hire Statistics England 2023, advised that 72 licensing authorities (25% of licensing authorities with taxi's) applied a limit on the numbers of licensed hackney carriages with a further 8 setting limits either for some of the areas they covered or some vehicle types ([Taxi and private hire vehicle statistics, England: 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2023)).
- Torridge District Council is the only one of the eight district authorities in Devon that has retained a limit (49 HCVs). The unitary Authorities in Cornwall and Plymouth have removed their limits in the last two years.
- 2.2 In June 2004, the Department for Transport (DfT) wrote to all Local Authorities who had a quantitative limit on the number of hackney carriage taxi licences it issued, to require them to review their restriction and publish an outcome by 31 March 2005. Torbay Council conducted a thorough review, and it retained a numerical limit of 162 hackney carriage licences (plus 7 seasonal licences).
- 2.3 Torbay Council has carried out unmet demand surveys every three years as suggested by the DfT best practice guidance, in order to comply with section 16 of the Transport Act 1985. Surveys were carried out in 2011, 2014, a delayed survey in 2018 and its last survey being carried out in 2020. All the surveys up to and including 2018 found no evidence of significant unmet demand, however, in the 2020 survey significant unmet demand was

found. The numerical limit was retained, but the 7 seasonal hackney carriage licences were extended to full time licences meaning the limit went from 162 full time licences and 7 seasonal (1 May – 30 September) to 169 full time licences, this was done in an attempt to reduce the significant unmet demand.

- 2.4 The findings of the 2023 unmet demand survey that was undertaken by the LVSA was outlined in the Regulatory Committee report of the 18 July 2024 which can be found in Appendix 4. The survey found that Torbay has a significant unmet demand.
- 2.5 Section 16 of the Transport Act 1985 updated the provisions of the Town Police Clauses Act 1847 with respect to Hackney Carriages and advised that ***‘..the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences 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’.***

This places the decision maker under a clear duty to grant unless they are satisfied, on the evidence, that there is no significant unmet demand.

- 2.6 The DfT reinforces this position on quantity restrictions within section 9 of the Best Practice Guidance and advises that ***‘Most licensing authorities do not impose quantity restrictions. The department regards that as best practice’.***
- 2.7 The Department for Transport outlines in section 9.2 of the guidance, that where restrictions are imposed, the department would urge that the matter should be regularly reviewed and should be approached in terms of the interests of the travelling public.
- 2.8 The Competition and Markets Authority (CMA) became the UK’s lead competition and consumer body. The CMA brought together the competition and consumer protection functions of the Office of Fair Trading and the Competition Commission in April 2014. In April 2017, the CMA was clear in their guidance on the Regulation of Taxis and Private Hire vehicles: ***‘Understanding the impact of competition that quantity restrictions are not necessary to ensure the safety of passengers, or to ensure that fares are reasonable and that they can harm passengers by reducing availability, increasing waiting times and reducing the scope for downward competitive pressure on fares.’***

A delimitation would allow free entry to the market and may reduce the rental costs of vehicles, thereby reducing overheads and assist in obtaining a sustainable income for drivers. CMA and DfT have claimed that increased competition would reduce fares for passengers, improve availability, and reduce waiting times.

- 2.9 The Department of Transport Circular 4/87 stated:
- ‘A Council which believes that there is significant unmet demand and is able to quantify the extent of that demand must grant at least such number of taxi licences***

as it considers necessary to ensure that no significant unmet demand remains' (page 369, James Button on Taxis; Licensing Law and Practice Book; 4th Edition).

- 2.10 In the event of a challenge to a decision to refuse a licence, the local authority would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

3. LVSA Report– Unmet Taxi Demand Survey Additional Clarifications October 2024

- 3.1 As outlined in 1.2 above, following the Committee Hearing on 18 July 2024, an additional clarification report was requested from the LVSA to further explore the impact on the suggested tranche of 20 extra plates and whether this is likely to remove the significant unmet demand. The report is attached in Appendix 2.
- 3.2 The author has advised in the additional report that there is widespread unmet demand and outlines the difficulty in estimating the extra numbers of vehicles required to reduce the significant unmet demand to under the ISUD figure of 80, due to a range of factors including that we cannot require drivers to work at ranks or on specific days and times.

4. Options under consideration

- 4.1 The five options for consideration are:
- (i) To do nothing and retain the now 171 hackney carriage vehicle licences, if satisfied the numerical limits are correct and public demand is being met.
 - (ii) To remove the numerical limit of hackney carriage vehicles
 - (iii) To increase the limit to 186 hackney carriage vehicles (an addition of 17 licences) as proposed by the trade, with a further survey within 6 months thereafter to determine whether the unmet demand is now met.
 - iv) to increase the limit to 189 hackney carriage vehicles (an addition of 20 licences) as suggested by the LVSA, with a further survey within 6 months thereafter to determine whether the unmet demand is now met.
 - v) to make any other determination.

Where there is a change to Policy, the Policy will need to be updated accordingly.

5. Financial Opportunities and Implications

- 5.1 If any limit remains, then there will be financial implications for the hackney carriage vehicle proprietors as further unmet demand surveys will be required every five years thereafter. Where there is a determination of an unmet demand survey be carried out within 6 months of the last plate being issued, this will be an additional cost to those proprietors. This will

cost a minimum of £15,000 per survey and will result in an increase in the hackney carriage vehicle licence fees to cover this cost.

6. Legal Implications

- 6.1 The current unmet demand survey shows that there is a significant unmet demand. Where a numerical limit remains, this is open to challenge if the Council refuse to grant a hackney carriage vehicle licence. Any subsequent appeal may be costly to defend.

7. Engagement and Consultation

- 7.1 On 9 August 2024, Torbay Council launched a second consultation for 6 weeks until 20 September 2024. This was sent out to the taxi and private hire trade, businesses in Torbay, stakeholders, disability groups, groups that represent passengers with special needs, school transport, resident associations, street pastors, faith groups, the Police, and the general public.
- 7.2 The consultation received a total of 275 responses. The results of this consultation can be found in Appendix 3. The majority of respondents (41.5%) selected the option to increase the number of hackney carriages by 17 vehicles; followed by 21% to keep the current limit, 20% to remove the limit and 17.5% to increase by 20 vehicles.
- 7.3 As part of the consultation, wider matters were raised by the public and the trade which fall outside the remit of this report. The Licensing Department are dealing with these separately.

8. Procurement Implications

- 8.1 There are no procurement implications, however, if a further unmet demand survey was decided to be required, the procurement process will be followed by the Authority as required for all surveys.

9. Protecting our naturally inspiring Bay and tackling Climate Change

- 9.1 The current Taxi Policy is working towards a cleaner emissions policy and is due to be reviewed to ensure it is in line with government recommendations.

If the limit is removed, there is the potential to have an impact on the climate due to an increase in hackney carriage vehicles across Torbay. However, there is no limit to the

number of private hire vehicles, nor restrictions of any other public vehicles. Any new vehicles would have to meet our vehicle specifications and be no more than 4 years old and have a maximum mileage of 50,000 miles. Our current Policy requires that from 1 May 2030 all new licensed vehicles must be electric. We currently do not have a suitable infrastructure of electric chargers to support the taxi and private hire trade and therefore it would not be appropriate to restrict any new licences to be electric vehicles if the limit was removed. A number of vehicle proprietors have purchased hybrid vehicles and those less than 4 years old will be much cleaner and more efficient to run than existing older vehicles.

10. Associated Risks

- 10.1 Approval to remove the numerical limit of hackney carriage vehicles and amend the Policy accordingly, is a Licensing Committee decision. Any challenge to the Policy would have to take place within three months of it being adopted. Such challenge would be by way of Judicial Review.

The findings of the unmet demand survey have been calculated using a tool developed by Leeds University in 1985 and has been added to over time, following specific court cases. In 2019 there were three challenges with respect to surveys of unmet demand. All three found in favour of the current methodology being undertaken, the same methodology which was used in producing the outcome of this latest survey.

11. Equality Impact Assessment

| Protected characteristics under the Equality Act and groups with increased vulnerability | Data and insight | Equality considerations (including any adverse impacts) | Mitigation activities | Responsible department and timeframe for implementing mitigation activities |
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| Age | <p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p> | <p>Public transport, including taxis play a crucial role in helping people to stay connected and maintain independence when they are unable to drive, and are therefore of particular significance to older residents aged over 65 and to younger people who may not have access to a car. Aging is linked with reduction in personal car use and people being more reliant on taxis especially as it is a door-to-door service. The availability of public transport is also very important to all adults and parents who do not have a car for work and social activities.</p> | None | N/A |
| Carers | <p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p> | <p>These proposals are not intended to impact on this client group, however those caring for others with protected characteristics may be affected with this proposal as outlined in this table. Increasing the number hackney carriages will mean there are more taxis available and are likely to assist carers.</p> | None | N/A |

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| Disability | <p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.</p> | <p>It is hoped that by increasing the number of hackney carriage licences, there will be more taxis available for the public including those with a disability. The Council have a register of all wheel chair accessible vehicles at Helping disabled passengers - Torbay Council</p> <p>All licensed vehicles must also carry assistance dogs.</p> <p>Taxis are particularly important method of transport for people with a disability because of the door-to-door nature of the service.</p> | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |
| Gender reassignment | <p>In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.</p> | <p>These proposals are not intended to impact on this client group. The DFT FS13 report highlights how discrimination is part of daily life for trans people and generates 'behaviours of avoidance', particularly to using public transport. This can potentially reduce this groups pool of wider employment, educational, health and recreational opportunities. By increasing the number of licences, there will be more taxis available which may improve confidence in travelling safely.</p> | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |
| Marriage and civil partnership | <p>Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.</p> | <p>These proposals are not intended to impact on this client group, however increasing the number of taxis by removing the limit, will make transportation more available and safer for all.</p> | Any discriminatory complaints received are fully investigated. | Licensing Officers and Police Officers |

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| Pregnancy and maternity | Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the Southwest (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas. | These proposals are not intended to impact on this client group, however increasing the number of taxis by removing the limit, will make transportation more available and safer for all. The DFT FS13 report identified that public transport plays a vital role in supporting social inclusion for many parents with young children. | Any discriminatory complaints received are fully investigated. | Licensing Officers and Police Officers |
| Race | In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the Southwest and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England. | These proposals are not intended to impact on this client group, however, the DFT FS13 report identifies that 'people from BAME background are less likely to have access to a private vehicle, be more reliant on public transport to access employment and live in densely populated urban areas – increasing their exposure to air pollution'. Furthermore 'for many people from a BAME background having regular, affordable, clean and efficient transport is essential'. Fear of safety, from racially motivated attacks, is also reported to be a barrier to using public transport networks. It is hoped that by increasing the number of hackney carriage vehicle licences, there will be more availability of taxis. | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |
| Religion and belief | 64.8% of Torbay residents who stated that they have a religion in the 2021 census. | These proposals are not intended to impact on this client group, however the DFT FS13 report identifies that certain groups of people, face an increasing risk of being victims of religious hate crime. | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |

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| | | <p>For people who have a marked religious identity through clothing there is a heightened risk for harassment or discrimination. It is reported that this is particularly true for women who are already more vulnerable regardless of the way they dress. It is hoped that by increasing the number of hackney carriage vehicle licences, there will be more availability of taxis to assist.</p> | | |
| Sex | <p>51.3% of Torbay's population are female and 48.7% are male</p> | <p>These proposals are not intended to impact on this client group.</p> <p>However, the DFT FS13 report identifies that 'as women are more likely than men to live on low incomes, work part time and undertake paid work in the home and in the community, such as being carers for dependent relatives, poor quality unreliable and expensive transport has a far bigger impact on the lives of women'. The report also identified that women may not have access to a car during the day as they 'either cannot afford one or the family car is being used by a partner'. The F13 report also identifies women make greater use of taxi's than men, increasing with age, where women over 70 make double the number of trips than men.</p> <p>Increasing the number of hackney carriage vehicles is particularly important in the evening and nighttime economy and to protect violence against women</p> | <p>Any discriminatory complaints received are fully investigated</p> | <p>Licensing Officers and Police Officers</p> |

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| | | by providing a safe means of transport home, instead of other less safe methods such as walking alone late at night or using unlicensed vehicles. However, the Council cannot stipulate what the hours that the drivers work. | | |
| Sexual orientation | In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation. | These proposals are not intended to impact on this client group. However, the DFT FS13 report identifies that safety and security (and perceptions of them) are key for lesbian, gay and bisexual people and may influence how they choose or prefer to travel. It also says that a 2018 LGBT survey pointed to public transport as the most common place where respondents avoided being open about their sexual orientation and that it may even be avoided altogether. It is hoped that by increasing the number of hackney carriage vehicle licences, there will be more availability of taxis to assist. | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |
| Veterans | In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously serviced in the UK armed forces. | These proposals are not intended to impact on this client group, however increasing the number of taxis by removing the limit, will make transportation more available and safer for all. | Any discriminatory complaints received are fully investigated | Licensing Officers and Police Officers |
| Additional considerations | | | | |
| Socio-economic impacts (Including | N/A | Taxis are one of the more expensive forms of public transport. However, an | N/A | N/A |

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| impacts on child poverty and deprivation) | | increase in taxis may help keep the costs down as currently there is a high demand so private hire vehicles in particular increase their rates on a frequent basis. The taxi tariff (table of fares) is reviewed regularly to ensure it provides a viable income but also a reasonable cost to the public. | | |
| Public Health impacts (Including impacts on the general health of the population of Torbay) | N/A | There is no differential impact. | N/A | N/A |
| Human Rights impacts | There are no human rights impact with regards to the taxi tariff. | No negative impacts on human rights have been identified. | N/A | N/A |
| Child Friendly | Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people. | There is no differential impact. | N/A | N/A |

12. Cumulative Council Impact

None

13. Cumulative Community Impacts

None