

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: LICENSING COMMITTEE**

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**Date of Meeting: 13<sup>th</sup> September 2010**

**Report of: Licensing Manager**

**Subject/Title: REVIEW OF HACKNEY CARRIAGE SERVICE**

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### **1.0 Report Summary**

- 1.1 The report provides details of a proposal in relation to a comprehensive review of the hackney carriage service across each of the three zones within Cheshire East Borough Councils area.

### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested to set aside its decision of 18<sup>th</sup> January 2010 (minute number 80) and to substitute it with a decision to recommend that a review of the hackney carriage service, as set out within the report, is undertaken.

### **3.0 Reasons for Recommendations**

- 3.1 The report recommends a comprehensive review of the policies and procedures relating to hackney carriages in order to address the disparities across the three zones and to develop a consistent approach within the Borough.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications including - Climate change - Health**

- 6.1 The report suggests a review of a number of issues relating to the Council's existing policy on the licensing of hackney carriages. Full details are set out within the body of the report.

### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None

**8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 There will be costs associated with a consultation exercise which are estimated to be in the region of £25,000. Recent discussions with representatives of the Hackney Carriage Associations have indicated agreement that these costs will be taken into account in reviewing the hackney carriage licence fees, and recovered over three years.

**9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The Council has the power, in accordance with section 37 of the Town Police Clauses Act 1847 to licence hackney carriages.

9.2 Quantity controls - section 16 of the Transport Act 1985 provides that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis "if but only if the person authorised to grant licences [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."

A decision to impose a limit on the number of hackney carriages may be taken at any time subject to the requirement that the decision is not *Wednesday* unreasonable and the authority can properly satisfy itself that there is no significant unmet demand. The evidential basis for a decision to limit the number of hackney carriages is provided by way of a formal 'unmet demand survey.' Case law suggests that a decision to remove a limit on the number of hackney carriages may be taken at any time, subject to the requirements (i) that full and genuine consultation is undertaken (although there is no requirement to provide evidence of demand by an unmet demand survey); and (ii) that the decision is not *Wednesday* unreasonable.

9.3 Setting 'table of fares' - section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the following is required when varying a table of fares:

- (i) publication of a notice setting out the variation to the table of fares (specifying the period within and manner in which objections can be made) in at least one local newspaper circulating in the district; and
- (ii) deposit of the notice for the period of fourteen days at the offices of the Council (for public inspection)

If no objection to the variation is made within the relevant fourteen day period (or if all such objections are withdrawn) the variation comes into operation on the date of the expiration of the period specified in the notice (or the date of withdrawal of the last objection (if any)). If objection is made and not withdrawn, a further date (not later than 2 months after the first specified date)

shall be set on which the table of fares shall come into force with or without modifications as decided after consideration of the objections.

- 9.4 Conditions - section 47 of the 1976 Act provides local authorities with the power to attach to hackney carriage licences such conditions as they may consider 'reasonably necessary.'
- 9.5 Hackney carriage stands - section 63 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal procedure involved in the creation of hackney carriage stands (known as 'ranks'). The procedural steps include: (i) a requirement that the consent of the highway authority is obtained (where the stand is to be on a public highway); (ii) service of a notice on the Police; and (iii) publication of a public notice in a local newspaper making provision for consultation responses within 28 days. Any consultation responses received would need to be taken into consideration before any final determination was made.

The amendment of existing ranks and the creation of new ranks may require amendments to traffic regulation orders made under the Road Traffic Regulation Act 1984.

## **10.0 Risk Management**

- 10.1 Any decision in relation to the policy matters detailed within the report must be carried out in accordance with the statutory requirements detailed within paragraph 9 above. Compliance with the statutory requirements and full consideration of consultation responses will mitigate the risk of challenge to any such decisions.

## **11.0 Background and Options**

- 11.1 Members will recall that on 18<sup>th</sup> January 2010 the Committee considered a report in relation to a proposed consultation on the policy of limiting the number of hackney carriages within the Congleton zone (zone 1). As Members will be aware, the Congleton zone currently has a policy of limiting the number of hackney carriages whilst both the Macclesfield and Crewe zones are 'delimited' in relation to numbers. The report to Members on 18<sup>th</sup> January 2010 suggested that before a decision can be taken as to whether the zones should be retained, the Council needed to determine the position in relation to the limitation of numbers (as it would not be possible to remove the zones if the position in relation to limitation remained different between the three areas). Having considered the report Members resolved as follows (minute number 80):

*That the Licensing Committee authorise the Licensing Manager to carry out a consultation exercise, as set out within the report, relating to the policy of limiting the number of hackney carriages within the Congleton zone of the Council's area.*

- 11.2 Since the date of the Committee's original decision, a number of representations have been received from members of the hackney carriage trade associations and local MP's . Concerns focus on the current policy within the zones of Macclesfield and Crewe of not imposing a numerical limit on hackney carriages; however the following matters have also been highlighted:
- the variety of fares charged to the public across the three zones:
  - the existing licence terms and conditions in relation to hackney carriage vehicles and drivers across the three zones
  - the accessibility and availability of the service for the public including rank provision and location.

All these issues would eventually need to be resolved in order to finally remove the existing zones and provide a seamless service to the public.

- 11.3 In discussion with the representatives of the three Hackney Carriage Associations, a proposal has been formulated in relation to a wide-ranging review of the hackney carriage licensing function. It is suggested, that in order to address the disparities across the three zones and to develop a consistent approach within the Borough, a comprehensive review of the policies and procedures relating to hackney carriages will be undertaken. The issues which would be addressed as part of this review would include:

#### 11.3.1 **Service Levels**

As set out with paragraph 9 above, the legal position in relation to quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage 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."

As recognised above, as a result of the position inherited from the predecessor district Councils, Cheshire East Borough Council currently consists of two zones in which there is no limit on numbers and one zone which retains a limit. It is proposed that the review would extend the consultation proposed within the report to Licensing Committee on 18<sup>th</sup> January 2010 from a consultation on the principle of quantity control in the Congleton zone to a consultation encompassing the Borough as a whole. It is suggested that this consultation would not take the form of a formal unmet demand survey, but rather a consultation with the trade, public and relevant stakeholders to inform a future decision about Hackney Carriage service levels within the whole of the new Borough area.

#### 11.3.2 **Hackney Carriage Fares**

As the licensing of hackney carriages within Cheshire East remains on a zoned basis, it is not possible to set a 'table of fares' which relates to the Borough as a whole and the tariffs in force therefore remain zoned. The

current tariffs came into force within the areas of the predecessor district Councils during the course of 2008 (Congleton – 1 April 2008; Crewe & Nantwich – 29 September 2008; and Macclesfield – 16 April 2008). The Department of Transport Best Practice Guidance (February 2010) states that the Department “sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week.”

A review in this area could consider the differences between the current fare structures and make proposals in relation to possible variations to the existing tables of fares. As set out within the legal implications at paragraph 9 above, any variation to a table of fares would need to be progressed in accordance with the requirements of section 65 of the Local Government (Miscellaneous Provisions) Act 1976, which involves a public notice in local newspapers and the consideration of any representations which are made within the consultation period.

### **11.3.3 Existing terms and conditions**

As a result of zoning, conditions inherited from the predecessor district authorities still apply to hackney carriage vehicles. The requirements imposed by the conditions currently vary between the three zones, for example new hackney carriages in the Congleton and Crewe zones must be wheelchair accessible, whilst there is no such policy in the Macclesfield zone. There are also further differences relating to the specification of vehicle which will be accepted for licensing as a hackney carriage; for example the size limits (both minimum and maximum) which apply to hackney carriage vehicles in the Macclesfield zone do not apply in either Crewe or Congleton.

The review will consider the differences between the existing conditions and seek views on possible amendments.

### **11.3.4 Provision and location of taxi ranks**

It is suggested that the comprehensive review would encompass detailed consideration of the existing rank provision in each of the three zones together with consultation with the trade and members of the public about possible amendments to rank provision.

The legal procedure in relation to the creation of hackney carriage stands is set out within section 63 of the Local Government (Miscellaneous Provisions) Act 1976 and includes the publication of a notice in local newspapers providing a period of twenty-eight days within which consultation responses may be made. Any consultation responses received would need to be taken into consideration before any final determination was made.

## **11.4 Alternative Options**

The alternatives to this proposal would be as follows:

- 11.4.1 to take no action in relation to consultation at this stage – it is suggested that it is necessary to take action to progress harmonisation across the three zones;
- 11.4.2 to carry out separate consultations in relation to individual zones – the original decision on 18<sup>th</sup> January 2010 was to consult in relation to the Congleton zone, however for the reasons set out within the report, it is suggested that a more comprehensive review is now appropriate;
- 11.4.3 to recommend that a formal unmet demand survey is carried out (either in one or all of the zones). As set out within the legal implications above, an unmet demand survey is required to support a policy of limiting the numbers of hackney carriages, there is no requirement to carry out an unmet demand survey in relation to a policy of 'de-limitation'. It is suggested that a review, as detailed within the report, dealing with all the relevant issues will inform a decision about the Council's policy in relation to hackney carriage licensing. A decision about whether it is appropriate to undertake formal unmet demand surveys may be taken in the light of information obtained as part of the review.
- 11.5 The Council recognises that taxis are an important part of the local transport system and can contribute to an overall reduction in traffic congestion, improving air quality. In addition they play a vital role in getting people home after a night out, reducing the likelihood of alcohol-related disturbance and disorder in our towns. The proposed review will ensure the Councils future policy can take full account of these issues and ensure the taxi trade itself can contribute effectively to the broader well being of our towns and villages.

## **12.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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