

## ABERDEEN CITY COUNCIL

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COMMITTEE: Licensing

DATE: 17 April 2012

DIRECTOR: Stewart Carruth

TITLE OF REPORT: Review of Policy on Taxi Licences

REPORT NUMBER: CG-12-009

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### 1. PURPOSE OF REPORT

The purpose of this report is to consider the Committee's policy on Taxi Licences in Aberdeen City.

### 2. RECOMMENDATION(S)

It is recommended that the Committee instructs a report back:

- i. recommending that a limit be imposed on the number of taxi licences subject to recommendation (ii) being approved;
- ii. subject to (i) above being approved, recommending that an amendment be made to the wheelchair accessible vehicle policy, requiring that all taxi licence holders provide a wheelchair accessible vehicle by 17th April, 2017 and that consultation be undertaken with the Taxi Consultation Group, the Disability Advisory Group and the Older People's Advisory Group in this regard;
- iii. takes no further action in relation to the proposal that Unight Aberdeen's members operate a scheme to arrange taxi transport for their patrons.

### 3. FINANCIAL IMPLICATIONS

In terms of Paragraph 15 of Schedule 1 to the Civic Government (Scotland) Act 1982 (the "1982 Act"), the Licensing Authority must recover the costs of administering the taxi licensing regime through its licence fees.

If a limit is introduced it can only be maintained by regular demand surveys, which has considerable cost and resource implications which would require to be factored in when assessing the application fees for taxi licences.

#### 4. OTHER IMPLICATIONS

If the limit on taxi licences is reintroduced it would have a consequential effect on the continuing compliance with the public sector equality duty, which is in part addressed by the current wheelchair accessible vehicle policy. The effect is that the gradual increase towards a 100% accessible taxi fleet would slow almost to a standstill or reverse. This would not be compliant with the terms of the public sector equality duty.

#### 5. BACKGROUND/MAIN ISSUES

##### General Background

At its meeting on 23 November 2011 the Licensing Committee considered a presentation and a Taxi Demand Survey (“the Survey”) by the Transport Research Institute, Taxi Studies Group, Edinburgh Napier University (“the consultants”).

##### **The report recommended:-**

that the Committee –

- (a) note the results of the Survey and only consider imposing a limit on the number of taxi licences as part of a package of measures as recommended in the Survey;
- (b) instruct officers to consult with Transportation Strategy & Programmes officers, Community Safety officers and Grampian Police for their respective interests on the rank specific recommendations in the Survey and report back to Committee; and
- (c) instruct officers, when the report at 2(b) is available, to report back to Committee on the desirability and consequences of imposing a limit on the number of taxi licences as part of a package of measures to enhance the supply of taxis in Aberdeen.

##### **The Committee resolved:-**

- (i) to approve the recommendations contained within the report as outlined above;
- (ii) to instruct officers, when the report at 2(b) is available, to report back to Committee on the desirability and consequences of changing the policy for wheelchair accessible vehicles;
- (iii) to instruct officers to request Unight Aberdeen’s views on the proposal that their members operate a scheme to arrange taxi transport for their patrons; and
- (iv) to instruct officers to consult the taxi trade on the four unused taxi ranks identified in the survey.

Members should be aware that due to the interlinking nature of policy decisions on taxi licence matters, it is necessary for this report to have a broad scope. The rank specific measures are dealt with in the report

“Taxi Demand Survey- Rank Specific Recommendations (Rank Review)” (No. CG-12-023). The link between a limit on taxi licence numbers and the wheelchair accessible vehicle policy is such that they should be considered together as a joint Taxi Licence Policy.

## **A. Consideration of a Limit on Number of Taxi Licences**

### **Background**

In terms of Section 10(3) of the 1982 Act, the Committee has the power to refuse to grant a taxi licence if, but only if, they are satisfied that there is no significant unmet demand for taxi licences in Aberdeen. There is no obligation on the Committee to set a limit.

Since the introduction of these powers under the 1982 Act there have been periods when the Committee has had a policy of limiting taxi numbers and others where the market has been left to determine numbers.

In 2006 the Committee removed the limit on taxi licence numbers. All new applicants for a taxi licence were still required to provide a wheelchair accessible vehicle. This has remained as the status quo since then.

### **Current Considerations**

If the Committee wishes to refuse an application for the grant of a taxi licence on the grounds that there is no significant unmet demand for taxi services, it must be able to base this decision on evidence of the level of demand. The Survey conducted by consultants and considered at the Committee meeting on 23 November 2011 made recommendations that Committee set a limit on the current number of taxis in the City. The Committee is not obliged to set a limit even if the Survey results show there is no unmet demand.

Setting a limit on taxi licences may increase the number of private hire vehicles and may also increase the unofficial value of saloon plate taxi licences. Medical exemptions also impact.

The wheelchair accessible vehicle policy would also be impacted by setting a limit because the steady increase in wheelchair accessible vehicles as a percentage of the fleet would be halted.

The Survey advised that the taxi trade will not receive the financial benefit it expects if a cap is introduced, as demand for taxis will not increase without amendments to specific areas of taxi services. The main way in which repressed demand could be unlocked is by carrying out a comprehensive review of the fare structure and implementation of the rank recommendations.

## Taxi Licence Cap/Survey Outcomes

The consultants undertook a systematic analysis and determined that imposing a limit at the current number of licences would not result in a significant detrimental effect on the quality of service available to the public. However, a limit on its own would be unlikely to result in the positive impact anticipated by the trade, which forms the basis of their request.

The Survey advises that the main benefit of introducing a limit is that regular reviews would provide the Committee with detailed and accurate evidence regarding the City's taxi services. Such evidence would assist the Committee when dealing with taxi services for the benefit of the City, public and taxi trade.

Linking the fare and demand reviews is appropriate as there is a strong connection between the size of a taxi fleet and the appropriate level of taxi fares. Ensuring that taxi fares and fleet size are set at an appropriate level will ensure the most efficient operation of taxi services. It may also 'unlock' the latent demand for services, which is repressed by the public perception that taxi fares in Aberdeen are too high.

The Survey therefore recommends that the Committee may wish to instruct that taxi tariff and surcharges are reviewed in conjunction with the next demand review.

## **Conclusion on Taxi Licence Limits**

The Committee can place a limit on taxi licences if it wishes as there is no significant unmet demand.

Officers recommend the introduction of a limit in conjunction with an amended wheelchair accessible vehicle policy (see discussion below at B). If the Committee wishes to introduce a licence limit it should also be aware of the consequential effects of such a policy.

The above would require regular surveys, at least once every 3 years with additional mini surveys in between. Surveys are required to maintain the policy in the face of court challenges and to assist the Committee in deciding if a limit requires to be maintained.

There will be practical effects of implementing a limit and they will require to be addressed if a limit is set.

## **B. Review of Wheelchair Accessible Taxi Policy**

The Survey recommends (at p.147) that new Taxi Licences remain restricted to Wheelchair Accessible Vehicles (WAVs), and that the Committee reviews its definition of WAVs to ensure they are fully accessible and appropriate for use.

The Committee already uses the current specification of WAV available and encouraged by Department for Transport. This permits a broad range of wheelchair accessible vehicles to be used in the taxi fleet.

The Committee's main consideration on its WAV policy is how it requires to be implemented as an integral part of its Taxi Licence Policy.

### Background

The Committee introduced its WAV policy in 1994 at the same time as it introduced a limit on taxi licences. The WAV and taxi limit policies operated together as a general taxi licence policy.

In 2006 the Committee removed the limit. All new applicants for a taxi licence were still required to provide a wheelchair accessible vehicle. The policy remains unchanged since then and withstood court challenge.

The Committee's aim was to gradually increase the number of wheelchair accessible vehicles to a 100% WAV fleet. Over the period between 1994 and 2012 the Committee's policy has led to an increase in the number of WAV taxis to around 45% of the fleet.

### WAV Policy Options

The Committee has two main options in relation to its WAV policy review, which are set out below. Option 1 is recommended as compliant with the Public Sector Equality Duty ("PSED").

Introducing a limit on licences without addressing the current WAV policy would stop the current WAV policy from being compliant with the PSED.

#### **Option 1- Licence Limit & 100% Wheelchair Accessible Fleet**

Option 1 is recommended as the best option for the following reasons:

1. it is the best option to comply with the Council's public sector equality duty;
2. the case *Wilson v Aberdeen City Council*, recommended that the Council would best meet the equality aim of its wheelchair accessible vehicle policy by setting a date by which all vehicles required to be accessible;

3. it eliminates the unfairness of only some drivers being required to provide a wheelchair accessible vehicle, which can be more expensive to purchase;
4. it would eliminate the unofficial market in the hiring of saloon taxis; and
5. 50% of members of the public questioned in the Survey advised that having a wheelchair accessible fleet would positively encourage them to use taxis more often (whether or not they themselves had a disability).

As its main consideration in relation to its wheelchair accessible vehicle policy the Committee must have due regard to the public sector equality duty under Section 149 of the Equality Act 2010. Members are referred to the relevant sections of the Equality Act 2010 in Appendix 1, which include Sections 6 (Disability), 149 (Public Sector Equality Duty) and 158 (Positive Action: General).

There are now a broad range of WAVs available in the taxi fleet. Some of these share the characteristics of saloon vehicles in terms of being lower at entry point. There is no barrier to entering these vehicles for people with reduced mobility.

### **Option 2 - No Licence Limit, & Current Wheelchair Accessible Vehicle Policy**

This option is compatible only with no limit. Therefore, if the Committee introduces a limit this option is not recommended.

**The Committee has operated its WAV policy since 1994 and in its current format it appears to be relatively consistent with the public sector equality duty. The policy was also subject to a court challenge *Wilson v ACC*, which was appealed to the Court of Session.**

**There are a number of problems which have occurred as this version of the wheelchair accessible vehicle policy required a gradual increase towards the policy aim of a 100% wheelchair accessible fleet. The result is that for almost 20 years the Committee has had only a percentage of its fleet as wheelchair accessible and this will continue for a number of years if this version of the policy remains in place.**

Members will have to be very careful when assessing requests for exemptions and ensure that they are compliant with the public sector equality duty.

## Hiring of Taxi Licences

The market for hiring of taxi licences is partly created by the Committee's current policy. It appears from anecdotal evidence that many taxi drivers would prefer a saloon car and therefore saloon car taxi licences have a value to be hired out by taxi companies or individuals. The current policy has an in built exemption, which permits the substitution and re-substitution of saloon cars for licences which were in existence in 1994 or before. Drivers who may otherwise surrender their taxi licence are encouraged to continue to renew it as they can hire out a saloon taxi licence or otherwise convey it to a taxi company or individual.

### **C. Proposal for Late Opening Liquor Premises to Facilitate Taxi Services for their Patrons**

At its meeting on 23 November 2011 the Committee resolved to "instruct officers to request Unight Aberdeen's views on the proposal that their members operate a scheme to arrange taxi transport for their patrons".

Officers contacted the Unight representatives who advised that many late opening premises already call taxis for their regular customers. However, it is very difficult for them to get taxis at busy times, i.e. Wednesday, Friday and Saturday nights.

Unight Members explained that they were often unable to book taxis for their staff. Therefore, it would be problematic to raise an expectation that they could arrange taxi services for their customers, which they could not fulfil. It would not be possible to arrange taxis for more than a handful of their customers and it would be particularly difficult at busy venues.

Unight also anticipated that there would be access problems for taxis outside nightclubs. Some premises are located in pedestrian, or no waiting areas. We are told that there are already problems with taxis waiting at inappropriate places outside nightclubs.

It appears that for these reasons Unight could not operate a taxi booking system.

## 6. IMPACT

Corporate – The Council's Single Equality Scheme would be negatively impacted by any decision to remove the wheelchair accessible vehicle policy.

The Council's duties in terms of public services and functions would also be negatively impacted.

The Council's Single Equality Scheme and the public sector equality duty could be supported by an improvement of the Committee's wheelchair accessible vehicle policy.

Public - Members of the public who use taxi services in the city may have an interest.

Equality and Human Rights Impact Assessment- In the circumstances, because the Committee's policy decisions could impact on the protected characteristics of age and disability an Equality and Human Rights Impact Assessment (EHRIA) is required. An EHRIA is provided in Members' papers for consideration alongside this report.

In making its decisions in relation to this report the Committee must have due regard to the public sector equality duty, which is set out in full in Appendix 1 and discussed in the EHRIA.

## 6. BACKGROUND PAPERS

- City of Aberdeen Taxi Demand Survey, by TRI (Transport Research Institute, Taxi Studies Group, Edinburgh Napier University).
- Scottish Government- Taxi and Private Hire Car Licensing, Best Practice for Licensing Authorities, 2<sup>nd</sup> edition, April 2012
- Department for Transport- Improving Access to Taxis, Consultation analysis report , August 2009
- Minister for State for Transport announcement on the way forward on accessibility for taxis and private hire cars, 28 October 2009

## 8. REPORT AUTHOR DETAILS

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**Section 6- Disability**

- 1) A person (P) has a disability if—
  - a. P has a physical or mental impairment, and
  - b. the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.
- 2) A reference to a disabled person is a reference to a person who has a disability.
- 3) In relation to the protected characteristic of disability—
  - a. a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;
  - b. a reference to persons who share a protected characteristic is a reference to persons who have the same disability.
- 4) This Act (except Part 12 and section 190) applies in relation to a person who has had a disability as it applies in relation to a person who has the disability; accordingly (except in that Part and that section)—
  - a. a reference (however expressed) to a person who has a disability includes a reference to a person who has had the disability, and
  - b. a reference (however expressed) to a person who does not have a disability includes a reference to a person who has not had the disability.
- 5) A Minister of the Crown may issue guidance about matters to be taken into account in deciding any question for the purposes of subsection (1).
- 6) Schedule 1 (disability: supplementary provision) has effect.

**Section 149 - Public sector equality duty**

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- 3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
  - a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - b. take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - c. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
  - a. tackle prejudice, and
  - b. promote understanding.
- 6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- 7) The relevant protected characteristics are—
  - age;
  - disability;**
  - gender reassignment;
  - pregnancy and maternity;
  - race;
  - religion or belief;
  - sex;
  - sexual orientation.
- 8) A reference to conduct that is prohibited by or under this Act includes a reference to—
  - a. a breach of an equality clause or rule;
  - b. a breach of a non-discrimination rule.

9) Schedule 18 (exceptions) has effect.

**Section 158 - Positive action: general**

- 1) This section applies if a person (P) reasonably thinks that—
  - a. persons who share a protected characteristic suffer a disadvantage connected to the characteristic,
  - b. persons who share a protected characteristic have needs that are different from the needs of persons who do not share it, or
  - c. participation in an activity by persons who share a protected characteristic is disproportionately low.
- 2) This Act does not prohibit P from taking any action which is a proportionate means of achieving the aim of—
  - a. enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage,
  - b. meeting those needs, or
  - c. enabling or encouraging persons who share the protected characteristic to participate in that activity.
- 3) Regulations may specify action, or descriptions of action, to which subsection (2) does not apply.
- 4) This section does not apply to—
  - a. action within section 159(3), or
  - b. anything that is permitted by virtue of section 104.
- 5) If section 104(7) is repealed by virtue of section 105, this section will not apply to anything that would have been so permitted but for the repeal.
- 6) This section does not enable P to do anything that is prohibited by or under an enactment other than this Act.

## Appendix 2

### Initial Consultation with the Disability Advisory Group

DAG members made a number of comments regarding taxi licence policy in general, which are summarised as follows:

1. DAG was primarily concerned with the number of medical exemptions from the requirement to carry a wheelchair passenger;
2. They were also concerned with the potential reduction in the wheelchair accessible vehicle fleet due to exemptions from the wheelchair accessible vehicle policy. They requested clarification of the difference between these requests and the medical exemptions from the requirement to carry and assist a wheelchair passenger.
3. Another concern was that taxi fares are too high and that the tariff card was too complicated. DAG was of the view that this disproportionately effected disabled persons who are reliant on taxi services.
4. A member of the group was a wheelchair user. She preferred a WAV when using her wheelchair but when her medical condition was less restrictive she found it easier to use a saloon. She advised that her views were not representative of or popular with other wheelchair users she had spoken to.