

Report to Regulatory Panel

Meeting Date: 27th October 2021
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and
Budget Framework YES
Public / Private Public

Title: Request to limit the number of Hackney Carriage Vehicle licences
Report of: Corporate Director of Governance and Regulatory Services
Report Number: GD 74/21

Purpose / Summary:

A request has been made from a member of the Taxi Trade for Carlisle City Council to limit the number of Hackney Carriage Vehicle licences. The report addresses the request and informs members of the requirement to commission an independent Unmet Demand Survey if they are considering the request.

Details are also provided of a survey undertaken with Hackney Carriage proprietors to gauge their support for the request and the willingness to fund the Demand Survey.

Recommendation: -

To consider whether to commission a survey of unmet demand for hackney carriages within the district.

1. Background

- 1.1. A request has been made from the local Taxi Trade, via Mr Chris Bray, to consider adopting a Limitation Policy (**Appendix 1**). Mr Bray provided a document of 31 signatures from licensed drivers supporting his request.
- 1.2. The Council are duty bound to accept applications for Hackney Carriage licences.
- 1.3. The Council can refuse a licence on the grounds of a Limitation Policy. Carlisle City Council does not currently have a Limitation Policy.
- 1.4. It is a legal requirement that the Council commission an Unmet Demand Survey if there is an intention of limiting the numbers of Hackney Carriage vehicles. The cost of a survey is to be covered by the Hackney Carriage proprietors.
- 1.5. A survey of proprietors has been undertaken by the Licensing Authority to evaluate backing for the request in the knowledge that the costs will be cascaded to the licence fee (**Appendix 2**).
- 1.6. Members are requested to consider the contents of this report and decide as to whether an Unmet Demand Survey should be commissioned.
- 1.7. It should be noted that the Council has no legal power to limit the numbers of Private Hire Vehicles, Private Hire Drivers or Hackney Carriage Drivers.

2. Legislation and Guidance

- 2.1. As detailed above, the Council are duty bound to accept applications for Hackney Carriage licences and to refuse a licence on the grounds of a Limitation Policy is permitted.
- 2.2. Section 16 of the Transport Act 1985 (**Appendix 3**) allows the power to restrict the number of hackney carriages only if the licensing authority is satisfied that there is no significant demand for the services of hackney carriages in the area which is unmet. This is referred to as the unmet demand test.
- 2.3. The 1985 Act has itself been amended by section 161 Equality Act 2010. The 2010 amendments apply to applications for hackney carriage vehicle licenses in respect of fully wheelchair compliant vehicles. In such cases the application must be granted if the proportion of fully wheelchair accessible taxis licensed in the area is less than the proportion that is prescribed by the

Secretary of State. The Secretary of State has not prescribed a percentage, so the 2010 Act has no effect. (see also Section 4 below).

- 2.4. The Department for Transport's "Best Practice Guidance" **does not** recommend quantity restrictions. If a local authority does take the view that a quantity restriction can be justified in principle, there remains the question of the level at which this should be set, bearing in mind the need to demonstrate that there is no significant unmet demand; it will be necessary for the local licensing authority to carry out a survey 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.
- 2.5. The Office of Fair Trading published a market study into the regulation of taxis and private hire vehicles in November 2003. The OFT recommended that local authorities should not retain the power to restrict the number of hackney carriage vehicle licences because it considered that such restrictions can:
 - a Reduce the availability of taxis
 - b Increase waiting times for consumers
 - c Reduce choice and safety for consumers
 - d Restrict those wanting to set up a taxi business
- 2.6. In order to be satisfied that there is no unmet demand, good practice (and case law) requires that a local demand survey is conducted, and the findings considered by the licensing authority. Such demand surveys need to be conducted by competent, specialist companies; the cost of such a survey in Carlisle would be approximately £10,000. The results of such a survey are valid for approximately 2-3 years, after which the survey would need to be repeated.
- 2.7. A licensing authority that has de-restricted vehicle numbers (like Carlisle) is under no obligation to carry out a demand survey. However, where restrictions are being considered, government guidance suggests that the principal consideration should be the travelling public (taxi users) and the impact upon taxi service provision.
- 2.8. If a licensing authority restricted licence numbers without the results of a demand survey, an aggrieved applicant would have a strong case against the

authority on appeal, and the authority may be subject to a claim for damages due to potential loss of income.

- 2.9. The hackney carriage trade could choose to commission a demand survey themselves, but it would need to be conducted in accordance with approved methodology for its results to be considered valid. However, because of the fragmented nature of the hackney trade (i.e., composed mainly of self-employed owner-drivers) it is unlikely that they would be able to organise and fund such a survey. Even if this was to happen and the results suggested there was 'no unmet demand' the licensing authority is under no obligation to restrict licence numbers although it would need to have regard to the results.
- 2.10. In local authority areas where restrictions on hackney carriage numbers have been introduced the following impacts have been noted:
 - Although vehicle numbers do not increase, there is very little reduction through natural wastage. This is because the vehicle licences command a premium, often of tens of thousands of pounds; licenses are therefore never surrendered but 'transferred'.
 - There is normally a rapid and substantial growth in the private hire trade. There are no powers to restrict the numbers of licensed private hire vehicles within a licensing authority area.
 - There is still a demand for new hackney carriage vehicle licenses and the licensing authority has to establish a 'waiting list'.

3. Current Request and survey of Hackney Carriage Proprietors

- 3.1. Hackney carriage trade representatives have requested the Council consider restricting the number of hackney carriage licenses issued within the City for the reason that the demand for Hackney Carriages has reduced. According to the request this has resulted in drivers earning less than the minimum wage.
- 3.2. The request also details several consequences of this, and it should be noted that drivers and vehicle proprietors do have a responsibility to ensure that they do not work too many hours, keep up their vehicle maintenance and do not "cherry pick" at the Taxi Rank.
- 3.3. In order to provide more information to Members on whether there was support for the request Hackney Carriage Proprietors (total 132) were invited to complete a questionnaire. 28 responses were received (21%). Members will note that on the letter to the proprietors, that they were encouraged to

participate in the survey as if not, Members may form the view that they are in agreement with the Council's current policy on the licensing of Hackney Carriage vehicles. (**Appendix 2**) 79% of vehicle proprietors did not respond.

- 3.4. Full details of all responses are attached at **Appendix 4** and can be summarised as follows:

Question	Yes	No
Do you consider that a Taxi Demand Survey should be carried out in Carlisle?	19	9
Are you willing to pay an additional fee to cover this survey, estimated to be in the region of £20 per year per vehicle which will rise with inflation each year?	19	9
If the Regulatory Panel indicate that they would be unlikely to limit Hackney Carriage licences whatever the result of the Demand Survey, would you still want a Demand Survey carried out?	12	16

4. Wheelchair Accessible Vehicles (WAV)

- 4.1. In 2007 the Council implemented a policy to no longer issue Hackney Carriage licences to non-wheelchair accessible taxis. The Council were able to do this without the requirement for a survey as the issuing of licences was not stopped all together.
- 4.2. A limiting of numbers could therefore prevent the increase of WAV vehicles within the local taxi fleet unless an additional policy was considered alongside to phase out saloon Hackney Carriages and replace with WAVs. However, this would obviously have cost implications for existing proprietors.
- 4.3. The provisions of the Equality Act 2010 in relation to hackney carriages would go some way to resolve this matter. Section 161 of the Act qualifies the law in relation to quantity restrictions, to ensure licensing authorities that have relatively few wheelchair accessible taxis operating in their area, do not refuse licences to such vehicles for the purposes of controlling taxi numbers.

For section 161 to have effect, the Secretary of State must make regulations specifying:

- a) the proportion of wheelchair accessible taxis that must operate in an area before the respective licensing authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers; and
- b) the dimensions of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within this provision.

4.4. The DfT planned to consult on the content of regulations before section 161 comes in to force. Unfortunately, this has not happened and does not look likely to happen any time in the near future

5. Recommendation

Following consideration of this report consider the following options

- To instruct the Licensing Manager to commission an Unmet Demand Survey and report the findings back to the Panel.
- To note the request, take no further action and continue to have no limit on the numbers of Hackney Carriage Vehicles.

Contact Officer: Nicola.edwards@carlisle.gov.uk

Appendices attached to report:

1. Request to consider limitation (email from C Bray dated 25/07/21)
2. Letter to HC Vehicle proprietors with survey details
3. Section 16 of the Transport Act 1985
4. HC Proprietor Survey responses

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

CORPORATE IMPLICATIONS:

LEGAL – Government considers that consumers should enjoy the benefits of competition in the taxi and private hire markets and that it is detrimental to

potential taxi licence holders if entry to the market is restricted without justification that is apparent to all. Although Government acknowledges that local authorities are best placed to consider local needs and circumstances, a decision to limit the number of licences must be supported by reasons that are sound, clear cut, specific, convincing and which can be publicly justified.

FINANCE - The report highlights that to undertake an Unmet Demand Survey and that the cost of this could be in the region of £10,000. This cost would need to be met from existing budgets in the first instance, but the report outlines whether this could be recovered from current taxi operators through an additional fee levied on them. This charge would need to form part of the licensing fees and charges agreed by the Licencing Panel and included in the overall fees and charges of the Council.

EQUALITY

INFORMATION GOVERNANCE - Any survey undertaken which involves the collection of personal data must be supported by the required data protection documentation such as a privacy notice. Any publishing of survey results requires a governance check to ensure personal data is not inadvertently disclosed.

APPENDIX 1

Chris Bray
16 Beaver Road
Belle Vue
Carlisle
CA2 7PS

08/10/2020

Ref Hackney Carriage Licensing

To The Regulatory Licensing Panel

I the above have been asked by many drivers to approach the licensing panel to ask for a complete cap on all hackney carriage licenses and plates and also the reduction of current plates of 30 through retirement. The reasons highlighted for this are:

1. Prior to lockdown business was at an all time low.
2. After lockdown business is very scarce.
3. The taxi trade over the years has changed and people don't use taxis as much.

There are several issues with the lack of trade:

1. Too many drivers chasing less work.
2. Drivers working too many hours therefore putting the public at risk by driving when tired.
3. Drivers are in the main earning below the minimum wage for the long hours they are working.
4. Unless this matter is addressed by licensing the concerns above will make the trade dangerous.
5. I have noticed drivers driving in excess of the speed limit and racing other taxi's back to the town (Extremely dangerous).
6. During spot checks on Taxi's/drivers at the Lower Viaduct car park, many defects were identified including 1 car with 3 Bald tyres! I can see drivers are cutting corners and putting lives in danger.

Attached is a list of drivers who wish to have these issues brought to the attention of the licensing panel. We as a collective look forward to your response.

Yours Sincerely



From: Christopher Bray [REDACTED] >
Sent: 25 July 2021 22:28
To: Nicola Edwards; Michael
Subject: Hackney carriage and private hire ref hcpa2021

Hi Nichola.

prior to the pandemic, Oct 2019 drivers from most operators in Carlisle Hackney and Private hire asked me to approach the licensing regulatory panel to ask for a blanket Cap all Hackney carriage licenses, private hire licenses, and a reduction of 50 plates through retirement or misdemeanor.

the reason for these requests is as follows.

1 Trade in the last 10 years has halved as people use taxis less because people's habits have changed and nightlife is nowhere near what it used to be.

2 many taxi drivers and private hire drivers are now earning less than minimum wage as a result of Carlisle city council issuing licenses to anyone that fits the criterium which makes the situation no longer tenable.

3 Too many drivers are doing too many hours to make ends meet which in turn creates dangerous driving habits, Fatigue, and tiredness.

4 Cherry picking on the Taxi ranks is commonplace now as some drivers will not move off the rank if the job is short.

5 too many hours in the saddle so to speak is dangerous and not earning enough leads to a lack of maintenance on the vehicles.

6 I have spoken to the majority of the drivers with only one objection. I also have a lot of signatures from said drivers.

7 I have waited until the pandemic eases before contacting you and wait for your response,

8 The only people that can right this problem and put people back on an even keel minimum wage plus are the regulatory panel.

kind regards

Chris Bray

Name

HC Badge Number

Sign

HD 159

HD 240

HD 176

H 280

H 124

H 260

HD 276

HD 105

HD 144

HD 143

HD 729

HD 285

HD 197

H 139

HD 565

HD 171

HD 235

HD 371

HD 329

HD 187

HD 148

HD 100

Name



HC Badge Number

H0663

HD 322

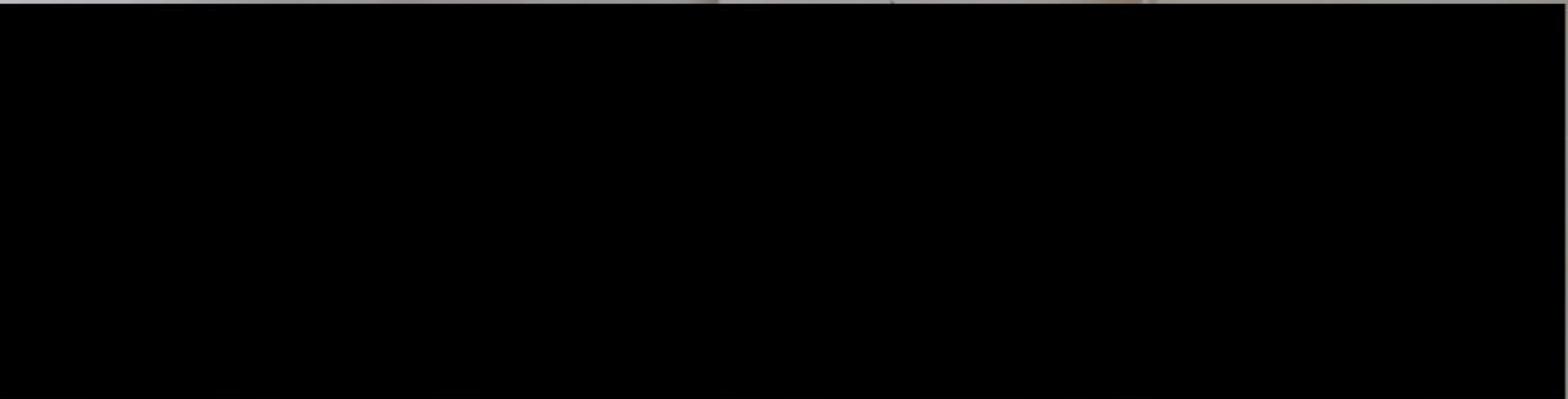
HD 061

HD

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H128

Sign



NAME

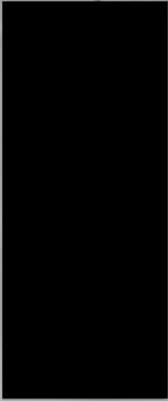


BADGE NO

HD437

HD 005

NAME



BADGE

HD NUMBER

HD 269



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We have received a request from Mr Chris Bray, for the Council to consider limiting the number of Hackney Carriage licences. He has carried out his own poll amongst proprietors which indicates that he has the support of a large proportion of vehicle owners. In order to consider the request the Council would be required to commission a demand survey with the intention of refusing any further applications for Hackney Carriage licences if the survey indicates that there is no significant unmet demand

This survey is a legal requirement if the Council intend to limit the number of Hackney Carriages they license and must be repeated every 3 years. The cost of this survey, should it go ahead, will be borne by the Hackney Carriage proprietors through an increase in their vehicle licence fees.

The cost of such a survey would be approximately £10,000.

Spreading this cost over the 3 years would result in an increase of approximately £20 each year for Hackney Carriage owners (not drivers) and would increase with inflation.

In 2007, after consultations with The Taxi Association, the Council stopped issuing licences to non-wheelchair accessible taxis. The Council were able to do this without the requirement for a survey as they did not stop issuing licences all together. The number of Hackney Carriages licensed at that time was 212 and now, some 14 years later, this figure has reduced to 198.

Both the Office of Fair Trading (OFT) and the Department for Transport (DFT) have issued guidance to Councils regarding quantity restrictions. Most Councils do not impose quantity restrictions and the advice from the OFT and DFT is that it is "*Best Practice*" not to have a limit.

In considering the request, the Members of the Regulatory Panel will take into consideration the OFT and DFT guidance, as well as the result of the Demand Survey. I must point out however, that even if a survey is commissioned and indicates that there is no significant unmet demand, Members may still decide to follow the 'Best Practice' guidance outlined above and not limit the number of Hackney Carriage licences issued.

We have decided to put the facts to the Regulatory Panel, to determine if they would be likely to limit numbers should a Demand Survey show there is no significant unmet demand. This

would give an indication of the Panel's view on this matter. If they are unlikely to limit numbers whatever the result, proprietors may consider that a Demand Survey is not necessary.

Please could you complete the online questionnaire by **31st August 2021**, you will need to type the following into your web browser or scan the QR code on your mobile device.

<https://forms.office.com/r/YqZ9e6svHU>

APPENDIX 2

← Back

Computer

Mobile

Carlisle City Council Hackney Carriage Proprietor Survey August 2021

...

* Required

1. Name of Proprietor *

Enter your answer

2. Licence Plate number - if you hold more than one HC vehicle licence, please list all those you hold *

Enter your answer

3. Do you consider that a Taxi Demand Survey should be carried out in Carlisle? *

Yes

No

4. Are you willing to pay an additional fee to cover this survey, estimated to be in the region of £20 per year per vehicle which will rise with inflation each year. *

Yes

No

5. If the Regulatory Panel indicate that they would be unlikely to limit Hackney Carriage licences whatever the result of the Demand Survey, would you still want a Demand Survey carried out? *

Yes

No

6. Any further comments?

Enter your answer

Submit

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Transport Act 1985

1985 CHAPTER 67

PART I

GENERAL PROVISIONS RELATING TO ROAD PASSENGER TRANSPORT

Taxis and hire cars

16 Taxi licensing: control of numbers.

The provisions of the Town Police Clauses Act 1847 with respect to hackney carriages, as incorporated in any enactment (whenever passed), shall [^{F1}(subject to section 161 of the Equality Act 2010)] have effect—

- (a) as if in section 37, the words “such number of” and “as they think fit” were omitted; and
- (b) as if they provided 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.

Textual Amendments

- F1** Words in s. 16 inserted (1.10.2010 for specified purposes) by [Equality Act 2010 \(c. 15\)](#), ss. **161(3)**, **216(3)** (with ss. **6(4)**, **205**); S.I. 2010/2317, art. 2(12)(a) (with art. 15)

Modifications etc. (not altering text)

- C1** S. 16 excluded (1.10.2010 for specified purposes) by [Equality Act 2010 \(c. 15\)](#), ss. **161(2)**, **216(3)** (with ss. **6(4)**, **205**); S.I. 2010/2317, art. 2(12)(a) (with art. 15)

Changes to legislation:

Transport Act 1985, Section 16 is up to date with all changes known to be in force on or before 26 July 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(2ZA) inserted by 2019 asp 17 s. 37(2)(a)
- s. 6(7ZA) inserted by 2019 asp 17 s. 37(2)(b)
- s. 6K-6N inserted by 2019 asp 17 s. 37(3)
- s. 6ZA-6ZC and cross-heading inserted by 2019 asp 17 s. 39(1)
- s. 63(5)(aa)(ii) words substituted by 2019 asp 17 sch. para. 2(2)
- s. 135(1A) inserted by 2019 asp 17 sch. para. 2(3)(a)
- s. 135(4A) inserted by 2019 asp 17 sch. para. 2(3)(c)

APPENDIX 4

ID	Do you consider that a Taxi Demand Survey should be carried out in Carlisle?	Are you willing to pay an additional fee to cover this survey, estimated to be in the region of £20 per year per vehicle which will rise with inflation each year.	If the Regulatory Panel indicate that they would be unlikely to limit Hackney Carriage licences whatever the result of the Demand Survey, would you still want a Demand Survey carried out?	Any further comments?
1	Yes	Yes	No	Not willing to pay if there is no guarantee the panel will abide by the findings
2	Yes	Yes	Yes	Totally agree there's too many taxis in Carlisle, it's hard to make a living and I too may consider another occupation, we also need a significant increase on the tariff each year, we can't keep waiting to see if motoring costs rise to get an increase, we haven't had a rise since 2017! Everything keeps going up MOT rises plates rise badges rise, insurance rises, fuel highest for 4 years, yet the taxi driver gets no extra, the tariff should increase each time the Carlisle Council increase the cost of MOT badges etc etc,,
3	No	No	No	There is no need to limit the number of Hackney carriages in Carlisle because there are currently not enough of them on a Busy Weekend.
4	No	Yes	No	Recently there has been a shortage of taxis especially during the evenings. I would review this request later when we know if the number of taxis has increased again. The reasons for shortage are: drivers giving up and finding other jobs due to covid. Drivers now have enough day work and are not working nights. Drivers have found contracts with organisations and do not not work ranks.
5	No	No	No	This company was obviously not one included in the "poll". This is reminiscent of the previous application made by the Taxi association when they claimed they represented most of the HC drivers in Carlisle after giving them all free membership (not that they wanted it nor were they interested in the taxi association - true membership less than 10) The one and only reason any taxi proprietor would want to restrict the issue of HC vehicle licences would be to increase the value of their vehicle when they want to sell it. Currently a HC plate has no value but because saloon cars are restricted the "plate" sells for in excess of £ 6,000 on top of the value of the car. In the days when all HC vehicles were restricted the plates in Carlisle changed hands for £ 10,000 + - in Oxford it was £ 80,000 + Restricting the issue of vehicle licences means a potential owner driver can only enter the business by buying an existing vehicle and plate so the vastly increased cost of the plates restricts the number of people who can afford to become owner drivers - their only option then is to work for one of the proprietors rather than themselves
6	Yes	Yes	Yes	

			I agree to limit the number of taxis and only replace taxis like for like when they need replaced for whatever reason, there seems to be an increase in private hire taxis of which quite a lot of them are just normal cars not purposed built vehicles that come with many safety features which helps with the protection of customers if heaven forbid the taxi is in an accident
7	Yes	No	
8	Yes	Yes	
9	No	No	
10	Yes	Yes	
11	No	No	To limit the number of Hackney taxis at this moment in time seems not a good idea to me. Taxis are short at the the moment in Carlisle. Has MR CHRIS BRAY. Not seen the ques at the taxi ranks on a weekend. I think the money would be better spent paying for security staff on the taxi ranks over the weekend.
12	Yes	No	If it is unlikely that plates will be limited regardless of any survey, then that would indicate that a decision has already been made, albeit it unofficially. If that is the case, then it really is pointless.
13	No	No	
14	Yes	No	
15	Yes	Yes	I currently think that at this moment in time a survey carried out would not give a accurate result. Due to the pandemic and people not going on holiday town is alot busier then normal and due to the fact every one has been more or less locked up for the past 18 month town and the ranks are busier then normal and a survey at this moment in time would not be a true reflection on how much we struggle on a normal year/ month.I think a more appropriate time for the survey would be March/April time next year .
16	Yes	No	There are enough taxis on the road at the moment and this gives the drivers a reasonable living. If the council do not limit the number of licences it means that there is less work for everyone. The council are unlikely to limit the number whatever the outcome as they are only interested in getting more money. They do not seem to care about the welfare of the drivers and ensuring there is enough work for everyone.
17	Yes	Yes	
18	No	No	
19	No	No	It is very unlikely that Cris Bray has carried out a proper and thorough survey. Its more likely he asked the AAA drivers and a few select friends from the rank, he certainly hasn't asked me, and when I've checked with a few of my colleagues from the rank, he hasnt asked them. I would certainly ask for the raw data before proceeding with any action, certainly when Cris seems to be trying to look after number 1 yet again. He does show off about when he took you to court back in 2007 to limit the number of drivers, maybe he is after that power trip again? From my personal point of view, it is totally unnecessary to change the way licences are currently issued, and I would agree with the OFT and the DFT that their best practice is indeed best practice for Carlisle. 198 Licences is not too many for a city the size of Carlisle, and the licencing department are doing a great job in my opinion.
20	Yes	Yes	
21	Yes	Yes	

			My only concern is the amount of rear loading cabs as most are just being used as saloon cabs
22	No	No	
23	Yes	No	
24	Yes	Yes	There are way too many Hackney Carriages in Carlisle. I would definitely support the decision to STOP issuing any more licences to wheelchair accessible taxis.
25	Yes	Yes	There are too many Hackney Carriages in Carlisle. I support the decision to stop issuing any more licences to wheelchair accessible taxis.
26	Yes	Yes	Too many cars, will create problems between the drivers and will force them to work more than they supposed to. A clear example is in London. Thousands of unhappy and dangerously tired drivers. We don't want that..
27	Yes	Yes	It's enough hackney vehicle in the town.
28	No	No	