

# North Lanarkshire Council

## Report

### Finance and Resources Committee



approval



noting

Ref: PG/EH

Date: 13 March 2019

### Potential Refusal to Grant Private Hire Car Licences on Over Provision Grounds

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#### Executive Summary

The purpose of this report is to advise, that, in terms of an amendment to the Civic Government (Scotland) Act 1982, local authorities are now vested with the power to refuse applications for private hire licences on over provision grounds.

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#### Recommendations

It is recommended that North Lanarkshire Council, as licensing authority, agrees to defer considering whether to refuse private hire operator licences on over provision grounds until appropriate government guidance has been issued. The Scottish Government has indicated that it will be providing guidance as to the methodology that local licensing authorities should employ in making any over provision determination/assessment.

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#### 1. Background

- 1.1. At its meeting on 20 December 2018 the Council agreed that a report be submitted to the Finance and Resources Committee providing an evaluation of overprovision of Private Hire Driver's Licences and whether it was grounds for refusal to grant by the Council.
- 1.2. Prior to the amendment to the Civic Government (Scotland) Act 1982 a licensing authority could refuse an application for a taxi licence for the purpose of limiting the number of taxis provided the authority was satisfied that there was no significant unmet demand for taxis in their area. This provision has been used to prevent a situation arising where licensed taxi operators are unable to provide a proper service on economic or other grounds because an excessive number of taxi licences have been granted. It is for licensing authorities to decide whether there is sufficient evidence of no significant unmet demand so that a licence should be refused to limit numbers.
- 1.3. North Lanarkshire is split into three areas (North, Central and South) for the purpose of taxi licensing and the restriction on the number of taxi licences in each is based on the limit on numbers determined by the former District Council authorities.

- 1.4. Traditionally the approach taken by licensing authorities to test demand for taxis has been to instruct an independent survey.
- 1.5. North Lanarkshire Council has instructed that the accuracy of the limits in its separate areas be tested at various intervals by the Fraser of Allander Institute. This is an independent research body under the auspices of the University of Strathclyde.
- 1.6. In assessing whether there is no significant unmet demand for the services of taxis in any of the three areas, the Council considers the findings of the Fraser of Allander Institute and the monthly reports provided by the Council's Civic Licensing Standards Officers detailing observations taken at taxi stances in the North Lanarkshire area.
- 1.7. As matters stand, the officers are satisfied that there is no significant unmet demand for taxis in any of the three areas (North, Central and South).

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## 2. Report

- 2.1. Local authorities are now vested with the power to refuse to grant a private hire car licence if, they are satisfied that there is (or, as a result of granting the licence, would be) over-provision of private hire car services in the locality or localities in their area in which the private hire car is to operate.
- 2.2. The legislation states that it is for the local authority to determine the localities within their area for the purpose of assessing over-provision.
- 2.3. In relation to private hire cars there are similarly three areas, namely the North, Central and South, and in terms of an individual private hire licence an operator is only licensed for one of those areas.
- 2.4. As matters stand, therefore, any determination of over-provision in relation to private hire car licences should be on the basis of the three areas mentioned.
- 2.5. The legislation provides that in satisfying itself as to whether there is or would be over-provision for the purpose of private hire car services in localities in the local authority area the authority must have regard to:-
  - 2.5.1. the number of private hire cars operating in the locality, and
  - 2.5.2. the demand for private hire car services in the locality.
- 2.6. The Scottish Government has indicated that it intends producing guidance as to how a local licensing authority can make over provision findings in relation to private hire car licences.
- 2.7. As matters stand any proposed limits that a local authority would seek to impose could be regarded as arbitrary since it is difficult to see how any limits on numbers could be imposed in any area without background material or surveys having been undertaken.
- 2.8. If a local authority was to embark on an over-provision assessment exercise in relation to private hire cars, and the methodology used in the assessment was at variance with the guidance the Government subsequently produced there is a likelihood that the authority's approach could be successfully challenged on the grounds that they undertook the over-provision exercise in a manner at odds with the guidance.

- 2.9. The Head of Legal and Democratic Solutions will write to the Scottish Government requesting confirmation of the timescale in which guidance will be issued.

The absence of such guidance would restrict, or even prohibit, the Council's ability to undertake an evaluation as there would not be a legislative framework available.

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3. **Equality and Diversity**

3.1. **Fairer Scotland**

Not applicable.

3.2. **Equality Impact Assessment**

Not applicable.

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4. **Implications**

4.1. **Financial Impact**

The issues raised in this report do not significantly impact on the Council's wider policies or positions in relation to financial matters although, if an over provision exercise was undertaken, there would be increased staff costs and costs to bear in relation to the requirement for independent surveys/assessments.

4.2. **HR/Policy/Legislative Impact**

There is no HR/policy or legislative impact.

4.3. **Environmental Impact**

There is no environmental impact.

4.4. **Risk Impact**

There is no risk impact.

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5. **Measures of Success**

Improving availability of transport the public can access.



**Head of Legal and Democratic Solutions**