

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
8th SEPTEMBER 2017

Equality Act 2010

1.0 Purpose of the Report

- 1.1 To provide information to Members in relation to Section 165 and 167 of the Equality Act 2010.
- 1.2 To determine whether to maintain a list of designated vehicles in accordance with the Equality Act 2010.

2.0 Background

- 2.1 This report is to provide information to Members in respect of Sections 165 and 167 of the Equality Act 2010 which have recently been commenced.
- 2.2 Section 165 of the Act places a legal requirement on drivers of all licensed hackney carriage and private vehicles, which are wheelchair accessible, to carry passengers in wheelchairs, provide assistance to those passengers, and prohibits them from charging extra for the fare.
- 2.3 Section 167 of the Act provides Local Authorities with powers to publish a list of "designated vehicles" i.e. hackney carriage and private hire vehicles that are wheelchair accessible. The Council does not have to publish a list, however the Government strongly suggest that they do so and the responsibility imposed on drivers (outlined above) does not take effect until the Licensing Authority publishes such a list. The Council currently has in place conditions and byelaws which require drivers to assist passengers with reasonable amounts of luggage, to give reasonable assistance and also to take a disabled person with a guide, hearing or other assistance dog unless they have a medical exemption.
- 2.4 Members are being asked to determine whether the Council should publish and maintain a list of designated vehicles in accordance with the requirements of the Equality Act 2010.

3.0 Requirements of the Equality Act 2010

- 3.1 On the 6th April 2017, Section 165 and 167 of the Equality Act 2010 were commenced.
- 3.2 Section 165 of the Equality Act 2010 places specific 'duties' on the driver of a "designated vehicle" i.e. hackney carriage and private hire

vehicles that are wheelchair accessible. These duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- to give the passenger such mobility assistance as is reasonably required: to enable the passenger to get into or out of the vehicle; if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair; to load the passenger's luggage into or out of the vehicle; if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

3.3 Section 167 of the Act provides the Council with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"). Whilst Local Authorities are under no specific legal obligation to maintain a list under the Act, the Government recommends strongly that they do so. Without such a list, the requirements of Section 165 of the Act would not apply. The Council currently has in place conditions and byelaws which require drivers to assist passengers with reasonable amounts of luggage, to give reasonable assistance and to take a disabled person with a guide, hearing or other assistance dog unless they have a medical exemption.

3.4 Some drivers may have a medical condition or a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. That is why the Act allows the Council to grant exemptions from the duties to individual drivers.

3.5 Drivers who have been granted an exemption will be issued with a notice, which must be displayed in the vehicle.

4.0 Officer Observations

4.1 A draft list of "designated vehicles" has been produced and it is proposed that any hackney carriage or private hire vehicle that is capable of carrying a wheelchair (with the user in situ), be included on the list. There are currently 293 hackney carriage vehicles out of a possible 401 hackney carriage vehicles that have this ability (numbers

correct at time of writing report). There are currently no licensed private hire vehicles with wheelchair access capability.

- 4.2 The designated vehicles list will need to be maintained and it is proposed that an updated list be published on the Council's website on a monthly basis.
- 4.3 Should Members agree that the Council publish and maintain a list of designated vehicles, then information in respect of the driver responsibilities, medical exemptions and appeals will be circulated to all licensed drivers and where appropriate drivers can then apply for an exemption.
- 4.4 It is proposed that the first list of designated vehicles be published on the 30th November 2017. This will allow sufficient time for drivers who need to apply for an exemption to arrange for a medical assessment to be undertaken with their own G.P and for any applications to be determined by the General Licensing Committee.
- 4.5 The published list will detail whether the vehicle is hackney carriage or for private hire use only and the make and model of the vehicle.
- 4.6 Once the list is published, it will be an offence for the driver (unless exempt) of a taxi or private hire vehicle which is on the designated list to fail to comply with the duties listed above.

5.0 Equality Impact Assessment

- 5.1 A Screening Assessment has been undertaken to assist the Council in implementing an administrative process for taxi/private hire operators/drivers in line with the Equality Act 2010 and it is not anticipated that this will have any effect on their service users.

6.0 Legal Impacts

- 6.1 There is a right of appeal against a decision to include a vehicle on the designated list to the Magistrates' Court.
- 6.2 There is a right of appeal against a decision to refuse to grant an exemption certificate to the Magistrates' Court.

7.0 Recommendation

It is recommended that :

Members approve the proposal to publish and maintain a list of designated vehicles in accordance with the Equality Act 2010.

The Licensing Committee's instructions are requested.

Background Papers: None
Contact Officer: Yvonne Lewis
Extension: 5600
Legal Contact: Aled Gruffydd