

## **COUNCIL**

DECISION DATE: FRIDAY, 4TH SEPTEMBER 2020,

DECISION TO BE TAKEN BY THE CHIEF EXECUTIVE UNDER EMERGENCY POWERS (RESPONSIBILITY FOR FUNCTIONS (APPENDIX 2 OF THE COUNCIL CONSTITUTION))

### **PROCEDURE FOR DECISIONS TO BE TAKEN IN EMERGENCY SITUATIONS**

#### **1 IMPLEMENTATION OF THE EQUALITY ACT 2010 IN RELATION TO WHEELCHAIR ACCESSIBLE VEHICLES**

(Pages 5 - 18)

To receive and consider the report of the Director of Customer and Digital.

GARY HALL  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Council.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or [chorley.gov.uk](http://chorley.gov.uk)

This page is intentionally left blank

**DELEGATED COUNCIL DECISIONS****PROCEDURE NOTE**

## Background

Pursuant to the Council's Responsibility for Functions (Appendix 2 of the Council Constitution) in the event of urgency or emergency the Chief Executive may take decisions usually the responsibility of Full Council following consultation with the Leader and Deputy Leader of the Council.

This note will explain how this procedure will be followed.

## Timing of Decisions

The Council will provide a list of decision dates. Where possible these dates will be on existing Full Council Meeting dates.

Decisions taken by the Chief Executive will be on these dates, other than in cases of urgency. (see provisions below).

## Decision Making Agendas

Agendas for these decision-making dates will be prepared in the usual way and published on Modern.Gov.

Agendas will be supported by reports relating to the agenda items.

Agendas and reports will be published 5 working days prior to the decision-making date.

## Member Representations

Members may make written representations in relation to each proposed decision.

Such decisions should be received by Democratic Services no later than 12 noon on the working day prior to the decision-making date.

## Consultation with the Leader and Deputy Leader

The Chief Executive will consult with the Leader and Deputy Leader on the decision-making date.

Such Consultation can be either in writing or by telephone or teleconferencing.

## Making the Decision

Following the Consultation the Chief Executive will make a decision to

1. Approve the recommendation(s); or

2. Refuse the recommendation(s); or
3. Approve an amended recommendation.

When making this decision the Chief Executive must consider both the representations received from members and any consultation response received from the Leader and Deputy Leader and document this consideration.

#### The Decision Note

The Decision Note will include:-

1. The Decision
2. Reasons for the decision
3. The Leader and Deputy Leaders Consultation Responses; and
4. The Chief Executives response to Member Representations.

#### Publication of the Decision

The Decision Note will be published as quickly as possible and no later than 12 noon on the day after the decision-making date.

#### Operation of the Decision

Generally, the decision will only become operative on publication. However, the Chief Executive may decide that the decision will have immediate effect. Where this applies the Chief Executive will state this in the written decision.

#### Urgency Provision

In accordance with the Constitution, where in the opinion of the Chief Executive the Decision should be taken urgently, they may disapply this procedure, either wholly or in part, and make the Decision without notice to Members or Consultation with the Leader and Deputy Leader.



Report of	Meeting	Date
Director (Customer and Digital)	Council	4 September 2020

## **IMPLEMENTATION OF THE EQUALITY ACT 2010 IN RELATION TO DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES**

### **PURPOSE OF REPORT**

1. To advise members of the responses to the consultation and request members approve the policy amendments and appropriate implementation date.

### **RECOMMENDATION(S)**

2. That members note the consultation responses, adopt the policy with amendments effective from 2nd September 2020.

### **EXECUTIVE SUMMARY OF REPORT**

3. At the Licensing and Public Safety Committee on 19<sup>th</sup> February 2020, members agreed to consult with the trade on a number of policy changes, namely, the implementation of a list of designated wheelchair accessible vehicles, an amendment to the vehicle type conditions and an amendment to the Council's "invitation to renew" relating to hackney carriage and private hire licensing.
4. Consultation was carried out with the whole of the licensed taxi/private hire trade and several key stakeholders. A list of all those consulted upon is appended at [Appendix 1](#). The consultation document was also published on the Council's website.

<b>Confidential report</b> Please bold as appropriate	Yes	No

### **CORPORATE PRIORITIES**

5. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	
Clean, safe and healthy homes and communities		An ambitious council that does more to meet the needs of residents and the local area	

**CONSULTATION RESPONSES**

6. During the consultation period, only one response, from Lancashire County Council Integrated Transport Services, was received which is summarised below:

<b>Policy Amendment</b>	<b>Consultation Response</b>	<b>Officer's Response</b>
1. Implementation of Designated WAV List	Suggested measures which would denote what "steps are necessary to ensure that the passenger is carried in safety and reasonable comfort"	Unnecessary to add- if a driver failed to take such steps, he would commit a criminal offence and may be prosecuted. It would depend on the facts whether it was determined they had provided sufficient assistance.
2. Policy for Exempting Drivers from the Responsibilities under the Act	No response	
3. Vehicle Type Condition Amendment	Proposes having direct unrestricted access to an exit door	Council's policy already sets minimum limits which are permitted for access to rear seats.
4. Amendment to Renewal Process	No response	

7. The full response is appended at Appendix 2 of this report.

**IMPLEMENTATION**

8. In relation to points 1. and 2. above and in the absence of opposition from the trade, it is recommended that implementation take place on formal approval of the policy. Following this, officers shall inform vehicle proprietors of their intention to place a vehicle on the list and invite applications for exemptions within two weeks. On expiry of this two-week period, the list of designated vehicles shall be published and the new duties shall take effect. The policy for approval is appended to Appendix 3 of the report.

9. There is a statutory right of appeal to the Magistrates' Court within 28 days of such refusal, available to drivers who are refused an exemption from these additional duties.

10. In relation to points 3. and 4. of the points above, it is recommended implementation take immediate effect.

11. Consultation with the Chair of the Licensing and Public Safety Committee on 7<sup>th</sup> August 2020, who agreed that the approach detailed above was appropriate.

**IMPLICATIONS OF REPORT**

12. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

- 13. Failure to implement the list means that the Authority does not have any power to act against proprietors who fail to carry wheelchair users. This risks reputational damage to the Council and offers no level of recourse for disabled customers.
- 14. The Council can review a private hire/ hackney carriage driver’s licence if they demonstrate behaviour which could call into question whether they remain a fit and proper person to hold such a licence.

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

- 15. No comment

**COMMENTS OF THE MONITORING OFFICER**

- 16. The duty of a Council which maintains a list is to have regard to statutory guidance is referred to in the body of the report.
- 17. Section 172 of the Equality Act 2010 confers the right on a vehicle owner to appeal against the inclusion of their vehicle on a designated list, as well as the right for an aggrieved person to appeal against refusal to issue an exemption certificate. An appeal must be made to the local Magistrates’ Court within 28 days beginning with the date of either the inclusion or refusal.
- 18. Breach of the duties contained in section 165 of the Equality Act 2010 is an offence punishable by a fine in the Magistrates’ Court of up to £1,000.
- 19. Under normal circumstances Members would undertake the decision-making process on whether to implement the new changes. However, if an urgent decision is required to be made then there is an urgency provision where the Chief Executive can substitute for the Members. Chair and Vice Chair of the committee should be advised if this is the intention to take this step and their agreement to any proposed implementation date.

ASIM KHAN  
DIRECTOR (CUSTOMER AND DIGITAL)

Report Author	Ext	Date
Nathan Howson	5665	10 <sup>th</sup> August 2020

This page is intentionally left blank

**Appendix 1 – List of Consultees**

All licensed drivers/ WAV proprietors/ Private Hire Operators- spreadsheet

Hackney Carriage Trade Rep- also a driver

Hackney Drivers Association Ltd- [bbha@btinternet.com](mailto:bbha@btinternet.com)

Police- [southernlicensing@lancashire.pnn.police.uk](mailto:southernlicensing@lancashire.pnn.police.uk)

LLC Integrated Transport- [Brian.Derbyshire@lancashire.gov.uk](mailto:Brian.Derbyshire@lancashire.gov.uk)

Shop Mobility- [chorleyshopmobility@yahoo.co.uk](mailto:chorleyshopmobility@yahoo.co.uk)

Pubwatch Chair- [valetinguk@hotmail.co.uk](mailto:valetinguk@hotmail.co.uk)

Lancashire Safeguarding Children Board- [children.cypsafeguarding@lancashire.gov.uk](mailto:children.cypsafeguarding@lancashire.gov.uk)

SRBC- [licensing@southribble.gov.uk](mailto:licensing@southribble.gov.uk)

**Disability Groups etc:**

Linkability- [office@linkability.org.uk](mailto:office@linkability.org.uk)

Lifeways- [head.office@lifeways.co.uk](mailto:head.office@lifeways.co.uk)

Disability Equality NW- [steven@disability-equality.org.uk](mailto:steven@disability-equality.org.uk)

Pukar Disability Resource Centre- [enquiries@pukar.org.uk](mailto:enquiries@pukar.org.uk)

Physical disability Partnership- [chair\\_south@lpdpb.org.uk](mailto:chair_south@lpdpb.org.uk)

Brothers of charity- [daniel.hall@brothersofcharity.org.uk](mailto:daniel.hall@brothersofcharity.org.uk)

MS Society group for Chorley - [chorley@mssociety.org.uk](mailto:chorley@mssociety.org.uk)

Parkinsons UK Chorley Group - [johnjean2@talktalk.net](mailto:johnjean2@talktalk.net)

High Five - [highfivelancashire@gmail.com](mailto:highfivelancashire@gmail.com)

Mayfield Special School – [office@chorleymayfield.lancs.sch.uk](mailto:office@chorleymayfield.lancs.sch.uk)

Oliver House School – [oliverhouse@priorygroup.com](mailto:oliverhouse@priorygroup.com)

Chorley Adult Disability Day services- [Susanne.carmichael@lancashire.gov.uk](mailto:Susanne.carmichael@lancashire.gov.uk)

**Care Homes:**

Aarondale Care Homes- [aarondale@fshc.co.uk](mailto:aarondale@fshc.co.uk)

Westwood Residential Care Home- [enquiries@westcliffehomes.co.uk](mailto:enquiries@westcliffehomes.co.uk)

Marley Court Care Home- [marley@millennium-care.co.uk](mailto:marley@millennium-care.co.uk)

The Beeches Care Home- [beeches@m-a.co.uk](mailto:beeches@m-a.co.uk)

Springfield Nursing Home- [admin@springfieldnh.co.uk](mailto:admin@springfieldnh.co.uk)

Rivington Park- [rivington.staff@venturihealthcare.co.uk](mailto:rivington.staff@venturihealthcare.co.uk)

Highgrove House- [admin.highgrove@unityhomes.co.uk](mailto:admin.highgrove@unityhomes.co.uk)

This page is intentionally left blank

**Nathan Howson**

---

**From:** Derbyshire, Brian <Brian.Derbyshire@lancashire.gov.uk>  
**Sent:** 02 March 2020 16:31  
**To:** Carl Gore  
**Cc:** Thomas Dore; Wilkin, Ian  
**Subject:** RE: Chorley Council Taxi-Private Hire Licensing Policy Consultation

Hi Carl,

Thank you for sharing your consultation document with me. I would certainly welcome allowing Private Hire vehicles to have rear loading capacity as I find that side loading vehicles tend to have very limited space, especially for larger wheelchairs and their occupants. As an Authority we are finding an increasing number of very heavy electric wheelchairs where it would be unsafe to load through a side door using a ramp. It would be unsafe to expect the driver to push the wheelchair and occupant up the ramp due to the steep incline they tend to be at and the danger of allowing the occupant to drive themselves up the ramp is that they could lose traction and start to slide back or drive off the side and injure themselves. For these heavier chairs the most practical method of loading is via a passenger lift but that brings with it certain other legislation that needs to be considered. See my comments below with regard to LOLER.

The policy says that drivers are *"To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort"*, but there is nothing to describe what that is. It may be that you state that elsewhere in your original policy.

**Implementation of Designated WAV List**

It is proposed to implement a list of Wheelchair Accessible Vehicles under Section 167 of the Equality Act 2010. The drivers of vehicles designated on this list will have the following additional duties:

- To carry the passenger whilst in a wheelchair
- Not make 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,* and
- To give the passenger such mobility assistance as is reasonably required.

I would recommend that in order to meet legal obligations *"To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort"* drivers carrying passengers in wheelchairs should comply with the following guidance;

- A wheelchair must be positioned in the designated space allotted by the vehicle manufacturer.
- A wheelchair must not be secured facing sideways or at an angle.
- A wheelchair must be secured as specified and using the equipment supplied by the vehicle manufacturer.
- A wheelchair must have the brakes applied or electric wheelchairs must have the power off and the brakes on.
- The driver must offer assistance to load the wheelchair and use the ramps or equipment supplied by the vehicle manufacturer.
- All wheelchair ramps, straps, etc. supplied by the manufacturer must be carried on the vehicle and be in good working order

- Where a passenger lift is used to load a wheelchair and passenger, a Lifting Operations, Lifting Equipment (LOLER) 1998 Regulations certificate should be produced when the vehicle is presented for its six monthly inspection. **Can this be added to your MOT/Taxi tests? It is something that is required by law. It doesn't apply to ramps but even they should still comply with the Provision and Use of Work Equipment Regulations (PUWER) and therefore fit for purpose. Perhaps an inspection of ramps could be also added to your tests.**

NB: Re LOLER ~ I am now starting to issue operators/drivers who can't provide our inspectors with an in date LOLER Certificate with the following warnings;

*On the xx xxxxx 2020, an inspection was carried out on behalf of Lancashire County Council by one of our Fleet Inspectors, Mr xxxxxx. At the time you were unable to provide an inspection certificate for the passenger lift as required under the Lifting Operations, Lifting Equipment (LOLER) 1998 regulations.*

#### LOLER 1998 regulations

*The law requires that all lifts when in use should be thoroughly examined:*

- *after substantial and significant changes have been made;*
- ***at least every six months if the lift is used at any time to carry people,***
- *and following 'exceptional circumstances' such as damage to, or failure of, the lift,*
- *or after long periods out of use or a major change in operating conditions which is likely to affect the integrity of the equipment.*

*Mr xxxxxxx has still not received the certificate that confirms the passenger lift on this vehicle has been tested by a competent person. This certificate is required by law and failure to have the equipment tested and certified in accordance with the LOLER 1998 regulations will be seen as a serious breach of the terms and conditions of your contract as set out in Service Standards.*

Again, you probably have it elsewhere in your WAV policy but if not I think you should refer to the Standard reference for a wheelchair space.

According to the Disabled Persons Transport Advisory Committee or with the Public Service Vehicle Accessibility Regulations 2000 (SI 2000/1970) (DiPTAC), the standard reference wheelchair is defined as:

- total length of 1200mm, including extra-long footplates
- total width of 700mm
- sitting height (from ground to top of head) of 1350mm
- height of footrest above floor of 150mm

#### **Vehicle Type Condition Amendment**

Vehicle type condition 4.c.v currently states:

***All vehicles will have 2 side passenger doors to access the rear compartment of the vehicle.***

It is proposed to amend this condition to:

*Vehicles licensed as Hackney Carriages shall have 2 side passenger doors to access the rear compartment of the vehicle. Access for wheelchair users shall be by these doors. Vehicles licensed as Private Hire Vehicles are permitted to be accessed from the rear.*

Have you thought about introducing a policy on direct unrestricted access to an exit door? In Lancashire County Council's Call Off Terms and Conditions for Route Instructions we state that;

*Except as otherwise agreed with the Authority, all licensed Hackney Carriage/Private Hire Vehicles with eight (8) seats or less shall have permanent unrestricted access to an exit door. For avoidance of doubt, where a seat has to be folded or moved forward for passengers behind the seat to exit the Vehicle, the Authority will discount those seats reducing the Vehicle capacity.*

Please feel free to come back to me should you wish to discuss any of these points.

Kind regards,

Brian Derbyshire.

Compliance Manager  
Integrated Transport Services



Tel: 01772 538 446

Mob: 07554 111 206

[www.lancashire.gov.uk](http://www.lancashire.gov.uk)

---

**From:** Carl Gore <carl.gore@chorley.gov.uk>  
**Sent:** 28 February 2020 13:21  
**To:** Carl Gore <carl.gore@chorley.gov.uk>  
**Cc:** Thomas Dore <tom.dore@chorley.gov.uk>  
**Subject:** Chorley Council Taxi-Private Hire Licensing Policy Consultation

Dear License Holder or Stakeholder or Customer.

Please see the enclosed letter in regard to Chorley Councils Consultation for proposed changes to the Taxi/Private Hire Licensing Policy.

Relevant information is within the letter, as is instruction of how to submit comments.

All comments must be submitted before the end of March 2020.

Kind regards

Carl Gore  
Enforcement Officer Licensing and Empty Properties  
Chorley Council

☎ 01257 515151 | 🌐 [chorley.gov.uk](http://chorley.gov.uk)

Join Chorley's annual festival of words, What's Your Story, Chorley? on Saturday 28 March 2020. [Find out more.](#)

You can make service requests online at [chorley.gov.uk](http://chorley.gov.uk), and it's even faster if you use '[My Account](#)'

This page is intentionally left blank

#### Appendix 4- Medical Exemption Policy for Hackney Carriage and Private Hire Drivers under the Equality Act 2010

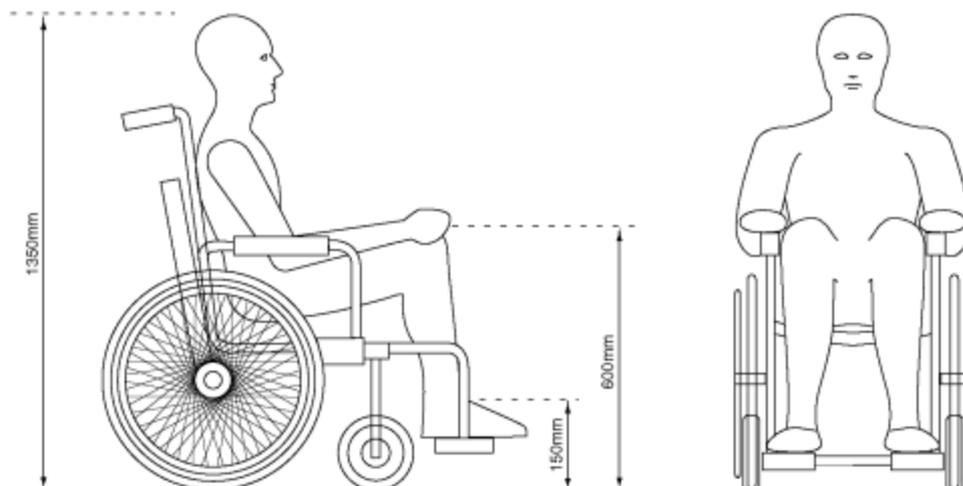


### DRAFT MEDICAL EXEMPTION POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS UNDER THE EQUALITY ACT 2010

The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Chorley Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Hackney Carriages and Private Hire Vehicles are a vital link in the accessible transport chain and it is important that people who use wheelchairs or assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

Section 167 of the Act empowers the Council to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The Department for Transport's Statutory Guidance on Access for wheelchair users recommends that vehicles should only be included in the list if it would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. A reference wheelchair is illustrated below:



Vehicles identified as such shall be included on a list of designated vehicles. Inclusion of a vehicle on the designated list may be appealed under Section 172 to the Magistrates' Court within 28 days of the vehicles in question being published on the Council's list. Proprietors of all vehicles included on the list will receive a letter detailing the new provisions of the Act and their right of appeal.

The Equality Act 2010 (Section 165) places the following duties on drivers of designated wheelchair accessible Hackney Carriages and Private Hire Vehicles;

- i. To carry the passenger while in the wheelchair;
- ii. Not to make any additional charge for doing so;
- iii. If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- iv. To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- v. To give the passenger such mobility assistance as is reasonably required

In addition, Sections 168 and 170 places the following duty on drivers of Hackney Carriages and Private Hire vehicles;

- i. To carry the passenger's dog, allowing it to remain with the passenger and not make any additional charge for doing so.

A driver who fails to comply with any of the above is guilty of an offence and, on conviction, receive a fine.

In some circumstances a driver of a designated Hackney Carriage or Private Hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer term.

Section 166 of the Act allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

Sections 169 and 171 of the Act allows the Council to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

To apply for a Medical Exemption Certificate a driver must submit to the Licensing Team an application form along with a medical report from their GP, dated no more than 28 days prior to submission of the application, detailing exactly what duties cannot be undertaken, why they cannot be undertaken and for how long they cannot be undertaken. This assessment will be at the applicant's expense as part of the application process.

Upon receipt, the Enforcement Team Leader (Licensing) will consider the evidence and may request further independent medical assessment to decide if the driver is:

- (i) Fit for work
- (ii) Temporarily unfit to carry passengers in wheelchairs and/ or assistance dogs
- (iii) Permanently unfit to carry passengers in wheelchairs and/ or assistance dogs

If the driver is declared fit for work, no exemption certificate will be issued and a letter explaining the decision will be given to the driver. If the driver does not agree with the decision to refuse the application for a medical exemption, Section 172 of the Act gives the driver a right to appeal the decision to the Magistrates Court. The driver has 28 days from the date of refusal to appeal.

If the driver is declared temporarily unfit, a temporary exemption certificate of up to three months may be issued. Prior to the expiry of the temporary exemption certificate the driver will contact the Licensing Team to either;

- (i) declare themselves fit, return to normal duties and return the temporary exemption certificate; or
- (ii) arrange a further medical assessment to be submitted for the Licensing Manager to consider extending the exemption certificate.

If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Certificate will be issued. The certificate will include a photograph of the driver who has been granted exemption and must be displayed prominently in the vehicle for public viewing.

The exemption may be reviewed at any time with reference to expert medical evidence, and each case will be reviewed on its own merits. This may result in a further referral to independent medical assessors to determine if the driver remains medically unfit to carry passengers in wheelchairs and/or assistance dogs.

DRAFT

This page is intentionally left blank