

Report of	Meeting	Date
Director of Customer and Digital	Licensing and Public Safety Committee	13 th November 2019

Confidential report	Yes	No
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PURPOSE OF THE REPORT

- To advise members of the commencement of sections of the Equality Act 2010 relating to licensed wheelchair accessible vehicles (WAVs) and to ask members to determine whether to implement the relevant sections of the Act.

SUMMARY

- The Equality Act 2010 sets out sections in respect of WAVs which commenced on the 6th April 2017. The effect of these sections allows the Council to determine whether it wishes to maintain a list of WAVs. Where the Council maintains a list of WAVs, additional duties are placed on the drivers of such vehicles, as set out in the report.

CORPORATE PRIORITIES

- 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	X	An ambitious council that does more to meet the needs of residents and the local area	X

THE REPORT

- Section 165, 166 and 167 of the Equality Act 2010 commenced on 6th April 2017; these sections can have a direct effect on drivers of WAVs. It is intended by these sections that wheelchair users will be better informed about the accessibility of WAVs in the district and can be confident of receiving the assistance necessary to travel safely.
- Section 167 allows the Council to maintain a list of WAVs. There is no legal obligation to implement this Section however, the Government strongly recommends that Local Authorities do. Where a designated list is not maintained, the provisions of Section 165 do not apply and so the drivers of wheelchair accessible vehicles can continue to refuse to carry wheelchair users, refuse to provide reasonable assistance and charge them extra.
- The Department for Transport (DfT) has issued statutory guidance regarding this implementation of these sections. The Council must have regard to this guidance when deciding whether to implement the sections. The guidance gives further information about the process which a Council must take to ensure the requirements of the Act are implemented effectively in the district.
- The DfT guidance recommends the following:
 - To review the guidance and compare it with existing local policies
 - Prepare a draft list of designated wheelchair accessible vehicles
 - Set out its policy for exempting drivers from the duties required by the Act on medical and physical condition grounds
 - Inform vehicle proprietors that vehicles will be placed on the list and the duties that will be placed on drivers

- Drivers apply for exemptions where necessary
- Licensing Authority issue exemptions where appropriate
- A list of designated wheelchair accessible vehicles is published and the duties on drivers take effect.

8. Section 165 sets out the duties placed on drivers of designated wheelchair accessible hackney carriages and private hire vehicles. These duties are:

- To carry the passenger whilst in the wheelchair
- Not 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 reasonably 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.

9. Mobility assistance is defined in the Act as assistance:

- 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 or out of the vehicle while in the wheelchair,
- To load the passenger's luggage into or out of the vehicle,
- If the passenger doesn't wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

10. Where a Local Authority determine that they will provide a designated list of wheelchair accessible vehicles they must implement a policy and necessary procedures to exempt those drivers with certain medical or physical conditions that would prevent them from complying with the duties associated with them driving a designated vehicle. Section 166 of the Act prescribes the form of exemption notice that an exempted driver must display when driving a designated vehicle.

11. The authority currently has approximately 10 licensed vehicles that would be classified as wheelchair accessible. The publication of a list of such vehicles may encourage an increase in applications for such vehicles to be licensed.

12. Members are asked to determine whether or not this Council should implement section 167 of the Equality Act 2010 to make and publish lists of licensed designated wheelchair accessible vehicles. Where Members determine that this Council should adopt these requirements, officers shall report back to this committee with proposals for an exemption policy and procedural documentation for consideration.

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE STATUTORY FINANCE OFFICER

14. No comments

COMMENTS OF THE MONITORING OFFICER

15. If the Council implements section 167 of the Equality Act 2010 then breach of the duties contained in section 165 outlined in the body of the report is an offence punishable by a fine in the magistrates' court of up to £1,000. Exemption certificates may be obtained from the Council on medical grounds and must be displayed in the taxi.

The duty of any Council which maintains a list to have regard to statutory guidance is referred to in the body of the report. Guidance was issued in February 2017.

Section 172 of the Equality Act confers the right on a vehicle owner to appeal against the inclusion of their vehicle on a designated list. The appeal must be made to the local magistrates' court within 28 days of the vehicle being included in the published list.

RECOMMENDATIONS

16. That members decide:
- a) whether to implement Sections 165, 166 and 167 of the Equality Act 2010, and if a decision to implement is made
 - b) that officers prepare a policy for the Committee's consideration, in respect of the specification of wheelchair accessible vehicles, and the exemption criteria and procedure for those drivers who could not comply with the duties set out in the Act on medical or physical condition grounds.

Asim Khan
DIRECTOR OF CUSTOMER AND DIGITAL

Description of Paper	Link to Papers
Access for wheelchair users to Taxis and Private Hire Vehicles- Statutory Guidance	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf

Report Author	Ext	Date	Doc ID
Nathan Howson	5665	31.10.19	N/A