

Report of	Meeting	Date
Director Customer and Digital	Licensing and Public Safety Committee	19 February 2020

IMPLEMENTATION OF THE EQUALITY ACT 2010 (WHEELCHAIR ACCESSIBLE VEHICLES)

PURPOSE OF REPORT

1. To gain approval for formal consultation on the following proposals.
 - i. The implementation of a designated list of Wheelchair Accessible Vehicles (WAVs) under the provisions of the Equality Act 2020.
 - ii. An amendment to the conditions on vehicle types to enable rear wheelchair access for private hire vehicles.
 - iii. Minor policy changes to improve the application process for taxi licensing.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee agree:
 - i. The approach to consultation
 - ii. The decision to report responses to consultation back to Committee for approval, and/ or authorisation by a delegated officer, is made by the Chair of the Committee in consultation with a delegated officer.
 - iii. A delegated officer may grant and/ or refuse applications for an Exemption from the duties under the Act.
 - iv. To update the Hackney Carriage and Private Hire Licensing Policy once changes are approved.

EXECUTIVE SUMMARY OF REPORT

3. The Equality Act 2010, Sections 165-167 allows the council to maintain a designated list of wheelchair accessible vehicles. Having such a list will allow the council to take direct action against drivers who fail to comply with additional duties in respect of designated wheelchair accessible taxis.
4. The purpose of the policy change is to provide a clear framework to applicants as to how the Council will process and administer vehicles being placed on the designated list and how individuals might apply for exemptions under the Act.
5. Minor amendments to the application process for Hackney Carriage and Private Hire Licensing are also proposed which will reduce confusion and enable the Council to react more effectively to change.
6. The proposed changes to the policy need to be consulted upon.

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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Reason Please bold as appropriate	1, a change in service provision that impacts upon the service revenue budget by £100,000 or more	2, a contract worth £100,000 or more
	3, a new or unprogrammed capital scheme of £100,000 or more	4, Significant impact in environmental, social or physical terms in two or more wards

CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

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

BACKGROUND

- 8. On 6 April 2017 the Government introduced sections 165-167 of the Equality Act 2010 in relation to the assistance of passengers in wheelchairs using designated taxi and private hire vehicles (PHVs). Statutory guidance has been issued by the Department of Transport in support of this which local authorities must have regard to.
- 9. These provisions allow a licensing authority to create a list of “designated vehicles” vehicles which are capable of carrying passengers in wheelchairs and then require drivers of those vehicles to provide mobility assistance. The local authority may also grant exemptions to drivers.
- 10. The Department for Transport also published statutory guidance setting out the process which a Council should follow when implementing the relevant provisions of the Act and making its determinations.
- 11. On 13 November 2019 the Licensing and Public Safety Committee resolved that Sections 165-167 of the Equality Act 2010 be implemented and that a policy document be prepared.

IMPLEMENTATION OF A DESIGNATED WAV LIST

- 12. Section 167 of the Act states that a local authority “may maintain a list of vehicles” designated as capable of carrying passengers in wheelchairs. This is seen as a power rather than a duty but the guidance issued by the Department for Transport “recommends strongly” that licensing authorities maintain such a list.
- 13. The guidance states “Whilst Licensing Authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.
- 14. A vehicle can be included on a licensing authority’s list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. Vehicles should also be able to carry passengers in their wheelchairs should they prefer.
- 15. This means that to be placed on a licensing authority’s list a vehicle must be capable of carrying some, but not necessarily all, types of occupied wheelchairs.
- 16. The Government therefore recommends that a vehicle should only be included on the authority’s 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.

17. It is proposed that the council implements and maintains a list of vehicles designated as capable of carrying passengers in wheelchairs.

DUTIES PLACED ON DRIVERS

18. Section 165 sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs. The duties are:

- 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 the 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

“Mobility assistance” is defined as assistance:

- vi. to enable the passenger to get into or out of the vehicle
- vii. 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
- viii. if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle

19. It will be an offence for a licensed driver on the designated list to fail to comply with these duties unless exempt as outlined below.

EXEMPTIONS

20. Under section 166 the local authority may grant exemptions from the duties to individual drivers. Some drivers may have a medical or physical condition or disability which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. Drivers who are granted exemptions will be issued with an exemption certificate and a notice to display in the vehicle. The purpose of the notice is to clearly communicate to passengers in wheelchairs whether the driver has been exempted from the duties to provide assistance. The format of the notice is prescribed in regulations.
21. Licensed drivers on the designated list are expected to comply with the section 165 duties regardless of where the journey starts or ends. If a driver is convicted of breaching their duties it would be appropriate for the licensing authority to review whether or not they remained a fit and proper person to hold a licence.
22. A draft policy for exempting drivers on medical and physical grounds from the duties under section 165 of the Equality Act is at Appendix 1.
23. This requires that, where a driver wishes to apply for an exemption, they provide medical evidence as to the reasons why they are unfit or temporarily unfit.
24. If it is determined to exempt a driver, they shall be issued with a Notice of Exemption, as prescribed. A copy of the Notice is Appendix 2.

VEHICLE TYPE CONDITIONS AMENDMENT

25. In order to encourage the provision of WAVs in the district, it is proposed that there is a relaxation in relation to the vehicle type condition 4.c.v which currently states:
All vehicles will have 2 side passenger doors to access the rear compartment of the vehicle.
26. This condition restricts WAVs to side-loading vehicles only.
27. This is reasonable for Hackney Carriages which take bookings directly from the kerbside on a rank or stand where there is likely to be another hackney carriage parked close behind.

28. Due to the nature of private hire work, it may be considered appropriate to amend this condition as follows:

Vehicles licensed as Hackney Carriages will 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.

ADDITIONAL POLICY AMENDMENTS

29. The Hackney Carriage and Private Hire Policy Licensing Policy currently requires that licensees are provided with documentation to be used to renew a licence at the time of the application. This renewal may only be due in 6 months, 3 years or 5 years.
30. Due to the period of time between the grant and renewal of licences, there are often changes. This causes confusion for applicants and can result in delays to processing.
31. Also, the Council's fee structure for granting or renewing a licence does not take account of producing application forms and renewal documentation.
32. It is proposed to change the Council's policy as follows:
- i. The invitation to renew any licence will be made at the point of granting the licence.
 - ii. Licensees will be provided with a covering letter, setting out the dates by which they must provide updated documents.
 - iii. This letter must be retained and brought by the applicant to their renewal appointment.
 - iv. An applicant who does not have this letter will need to pay the replacement document fee.
 - v. It is the applicant's responsibility to ensure that the documents they have are the most current prior to having them completed. Any document which is not the most current version will not be accepted. The cost of replacing any document shall be borne by the applicant.
 - vi. The applicant is responsible for downloading and printing any forms they require to apply for or renew a licence. The forms will be available on the council's website.

CONSULTATION

33. Consultation proposals were discussed with the Licensing Liaison Panel on 29th January 2020. There was widespread approval by the trade in relation to the WAV condition relaxation and implementation of the list.
34. The Panel also agreed there were issues with the way documents are produced at the time of renewal and that this practice was causing confusion. The trade suggested that renewal documents should be posted out to licence holders 3 months prior to expiry date.
35. It is proposed that:
- i. Options for consultation are agreed including implementation
 - ii. Formal consultation be carried out throughout March 2020
 - iii. Whether the consultation responses are major or minor be determined by a designated officer in consultation with the Chair of the Committee
 - iv. Major responses are brought before the July Committee for consideration
 - v. Members are asked to determine an appropriate date for implementation

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE STATUTORY FINANCE OFFICER

37. None

COMMENTS OF THE MONITORING OFFICER

38. The duty of a Council which maintains a list to have regard to statutory guidance is referred to in the body of the report.

39. 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.

40. 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.

ASIM KHAN
DIRECTOR CUSTOMER AND DIGITAL

Background Papers			
Document	Date	File	Place of Inspection
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	22.01.19	N/A