
TITLE: EQUALITY ACT 2010 – WHEELCHAIR ACCESSIBILITY LIST

Committee: **LICENSING COMMITTEE**

Date: 21 JUNE 2017

Author: STEWART BROOME, SENIOR LICENSING OFFICER

[S24]

1.0 PURPOSE/SUMMARY OF REPORT

1.1 To seek Members approval that the Council should maintain a list of designated licensed vehicles for the purpose of the Equality Act 2010.

2.0 RECOMMENDATION(S)

2.1 Members are recommended:

- i) to introduce a list of designated licensed vehicles
- ii) to approve officers to insert the information contained in paragraph 4.3 into the existing taxi policy to provide guidance on obtaining exemptions from the requirement to comply with sections 165 and/or 168 and/or 170 of the 2010 Act.

3.0 BACKGROUND

3.1 The Equality Act 2010 (“2010 Act”) brought together a number of different pieces of legislation about discrimination. Some sections came into effect straightaway, such as sections 168 and 170 which widened the scope of section 37 of the Disability Discrimination Act 1995 to make it an offence to refuse to carry all types of assistance dogs at no extra expense. However, sections 165 and 167 only came into effect on 6 April 2017.

3.2 Section 167 allows licensing authorities to maintain a list of designated licensed vehicles; this is a list of wheelchair accessible vehicles licensed in their area. The consequence of being on this is that the driver of a designated vehicle (unless exempted – see paragraph 3.3) must undertake the following duties as required by section 165:

- to carry the passenger while in a wheelchair;
- not to make an 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.

The 2010 Act defines mobility assistance 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 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 166 allows licensing authorities to exempt drivers from 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 conditions makes it unreasonably difficult for him or her to comply with the duties.
- 3.4 Although it is not compulsory for licensing authorities to maintain a list in accordance with section 167, the Secretary of State's "Access for wheelchair users to Taxis and Private Hire Vehicles" Statutory Guidance strongly recommends that they do, as without a maintained list, the requirements of section 165 do not apply, and therefore, unless other controls are available such as local bylaws or policy conditions, wheelchair users could be disadvantaged.
- 3.5 Back in 2011, Licensing Authorities were encouraged to implement the Equality Act 2010 provisions even though some of the provisions were not yet legally enforceable. As a result of this encouragement the Council's policy was updated, and currently has extensive disability provisions contained within it (appendix 1). For this reason the implementation of a maintained list of designated vehicles will have zero impact on the existing trade, providing they are complying with the current policy requirements. However, if the recommendation is approved and a licensed driver failed to comply they would be guilty of an offence (level 3 - £1000), and not just a breach of policy (civil remedy – warning/suspension/revocation).
- 4.0 CONCLUSION
- 4.1 As stated in paragraph 3.5 above, approving the recommendation in this report will have no impact on drivers who are complying with the current policy, but it will provide greater powers should a driver fail to comply, as the failure will be elevated from a breach of policy (where the maximum sanction is the revocation of a licence holder's licence), to a statutory offence punishable on summary conviction to a level 3 fine, currently £1000.
- 4.2 Officers have spoken to the proprietors of the vehicles that will be placed on the list, and they have indicated that they have no issues with the recommendation.
- 4.3 Although the current policy is very clear on certain points about carrying wheelchair bound passengers and/or assistance dogs, and mentions that exemptions are available, it is not very clear on how a licence holder may

apply for such an exemption, and what the implications of sections 165 and 167 commencing will mean for them. For this reason, Officers consider that the current policy should be amended by inserting the following paragraphs to provide clear instruction to all licence holders, and applicants:

2C Medical Examination

After the fifth paragraph on page 12 insert:

Licence holders wishing to obtain exemption from the requirements of sections 165, 168 and/or 170 must provide written evidence from their registered GP where the request for an exemption will be for a period of less than six months. In cases where the request for an exemption will be for a period greater than six months, licence holders will need to provide evidence from a specialist consultant/ assessor that the exemption is required, or is still required.

Where a section 166, 169 and/or 171 medical exemption request is refused, there is a right of appeal to the Magistrates' Court.

2D Customer Care Standards and General Information

After "Exemption Certificate" in the first bullet point under the sub-heading "Wheelchair user as a passenger at the beginning of the journey" on page 14 insert:

"see section 2C for information on how to obtain an exemption certificate."

2E Carriage of Assistance Dogs

At the end of the first paragraph of this section insert:

See section 2C for information on how to obtain an exemption certificate.

7 CONDITIONS RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

After condition 6 insert the following:

6A PASSENGERS IN WHEELCHAIRS

The driver shall not refuse to convey in a Private Hire / Hackney Carriage Vehicle a person in a wheelchair. The driver must not refuse to carry a wheelchair if the passenger wishes to sit in a normal seat during the journey. The driver must not make any additional charge for the carrying of a passenger in a wheelchair, and must take steps to ensure the comfort and safety of the passenger during the journey. The driver must also provide mobility assistance as is reasonably required. Mobility assistance is defined as:

- enabling the passenger to get into or out of the vehicle;
- where 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.

The driver can refuse to carry a passenger in a wheelchair if he/she is in possession of a medical certificate which exempts him/her on medical grounds, or at the time of the booking it would have been unsafe to carry the wheelchair in the vehicle. The notice of medical exemption, if granted by this Council must be displayed in the Private Hire or Hackney Carriage Vehicle.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There will be no financial impact on the licensed trade or members of the public if Members approve the recommendation in this report

5.2 Equality Impact Assessment not required.

6.0 APPENDICES

6.1 Appendix 1 – Existing policy extract

Background Documents

Local Government
(Miscellaneous Provisions)
Act 1976

Access for wheelchair
users to Taxis and Private
Hire Vehicles – Statutory
Guidance.

Location

Room SF208,
The Grange,
Ely

Contact Officer

Stewart Broome
Senior Licensing Officer
(01353) 616287

E-mail:

stewart.broome@eastcambs.gov.uk