



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **LICENSING COMMITTEE**
- Date & Time** - WEDNESDAY, 22ND NOVEMBER, 2017 AT 10.00 AM
- Venue** - NORFOLK ROOM, THE CONFERENCE SUITE, ELIZABETH HOUSE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Persons attending the meeting are requested to turn off mobile telephones

Members:

Councillor M. Chapman-Allen (Chairman)
Mr K. Martin (Vice-Chairman)
Mr S. Askew
Councillor C. Bowes
Mr M. P. Brindle
Mr P. R. W. Darby
Mr R.W. Duffield
Mr K.S. Gilbert

Mrs J. Hollis
Mrs S.M. Matthews
Mrs K. Millbank
Mrs L.H. Monument
Mr T. F. C. Monument
Mr W. R. J. Richmond
Mr F.J. Sharpe

Democratic Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Monday, 13 November 2017

PART A- ITEMS OPEN TO THE PUBLIC

	<u>Page(s)</u> <u>herewith</u>
1. <u>MINUTES</u> To confirm the Minutes of the meetings held on 22 March 2017.	5 - 7
2. <u>APOLOGIES</u> To receive apologies for absence.	
3. <u>URGENT BUSINESS</u> To note whether the Chairman proposes to accept any item as urgent business, pursuant to Section 100(B)(4)(b) of the Local Government Act, 1972.	
4. <u>DECLARATION OF INTERESTS</u> The duties to register, disclose and not to participate for the entire consideration of the matter, in respect of any matter in which a Member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011. Members are also required to withdraw from the meeting room as stated in the Standing Orders of this Council.	
5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u> To note the names of any non-members who wish to address the meeting.	
6. <u>TAXI LICENSING AND THE EQUALITY ACT 2010</u> Report of Donna Hall, Licensing & Business Support Manager.	8 - 11
7. <u>LICENSING ACTIVITIES AND NEWS UPDATE</u> Verbal report by Donna Hall, Licensing & Business Support Manager.	

BRECKLAND COUNCIL

At a Meeting of the

LICENSING COMMITTEE

**Held on Wednesday, 22 March 2017 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Councillor M. Chapman-Allen (Chairman)	Mrs J. Hollis
Mr K. Martin (Vice-Chairman)	Mrs K. Millbank
Mrs E. J. Bishop	Mr T. F. C Monument
Mr R. F. W. Brame	Mr W. R. J. Richmond
Mr P. R. W. Darby	Mr F.J. Sharpe
Mr K.S. Gilbert	

In Attendance

Tiffany Bentley	- Licensing Officer
Donna Hall	- Licensing & Business Support Manager
Sarah Wolstenholme-Smy	- Interim Legal Services Manager
Julie Britton	- Democratic Services Officer

Action By

10/17 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 11 January 2017 were agreed as a correct record and signed by the Chairman.

11/17 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from Councillors Bowes, Askew and L Monument.

12/17 URGENT BUSINESS (AGENDA ITEM 3)

None.

13/17 DECLARATION OF INTERESTS (AGENDA ITEM 4)

None.

**14/17 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA
ITEM 5)**

None.

**15/17 FEEDBACK AND DISCUSSION ON RECENT PANEL MEETINGS
(AGENDA ITEM 6)**

This matter had already been discussed at the Committee of the Licensing

Authority held immediately before this meeting.

16/17 TAXI LICENSING AND THE EQUALITY ACT 2010 (AGENDA ITEM 7)

The Licensing Officer presented the report which asked Members to consider the information within the report and make a decision as to whether to implement the provisions of Section 165, 166 and 167 of the Equality Act 2010.

The Government was now introducing Sections 165 and 167 of the Equality Act 2010 in relation to the assistance of passengers in wheelchairs using designated taxi and private hire vehicles and these requirements were expected to come into effect on 6 April 2017.

These provisions allowed a Licensing Authority to create a list of 'designated vehicles', vehicles which were capable of carrying passengers in wheelchairs (Section 167) and then required drivers of those vehicles to provide mobility assistance (Section 165).

Some drivers may have a medical or physical condition or disability which would make it impossible or unreasonably difficult to provide the sort of physical assistance required. The Local Authority could therefore grant exemptions from those duties under the provision of Section 166 of the Act.

The Chairman wanted to clarify whether taxi drivers would be fined if they refused to transport a wheelchair and she asked if those drivers that were classed as exempt would have to produce a letter from their GP and undertake a medical assessment. Members were informed that this would have to be done on a case by case basis, the definition of heavy lifting would have to be constituted and a list would have to be created. Breckland currently had nine wheelchair accessible vehicles and the Licensing Team could already direct the public to those vehicles if required.

The Interim Legal Services Manager explained that if Breckland decided to go ahead and implement these provisions, the list could be published on the Council's website.

Many questions were asked and a number of concerns were raised and Councillor Brame saw the logic in the bigger cities implementing these provisions but not for Breckland Council and suggested the second option. Councillor Bishop agreed with the aforementioned suggestion.

Councillor Darby mentioned the Dial a Bus in Swaffham that was used for this purpose; this was a door to door transport service using mini-buses with low steps and wheelchair lifts.

Councillor Sharpe felt that there should be a list but the owners of those vehicles should be able to make a choice. He did not agree with them having to have a medical. Councillor Gilbert agreed that vehicles should be registered.

The Chairman asked the Officers if they had any idea of costs. Members were informed that the majority of the costs would be Officer/legal time but

Action By

once set up the costs would be fairly low.

Councillor Brame felt that these provisions had not been well thought out.

Councillor Monument felt that without a list, firms could charge what they wanted. He further felt that failing to have a list was failing those people.

The Chairman rounded up the debate and highlighted the following points for and against if Members were mindful to approve:

- the cost to Breckland Council for drawing up the Policy
- suitable vehicles already existed in the Breckland area
- there had been no complaints thus far
- there could be cost implications to the drivers
- it would be helpful for the public to have an on-line list

The Chairman was of the opinion that Breckland Council should hold back and wait to see what other Councils did.

Councillor Brame proposed the second option - to do nothing and not enact the provisions of Sections 165, 166 and 167 of the Equality Act 2010, and to have this subject as an on-going item on future agendas.

The Chairman agreed but felt that a standing item was not necessary and it was agreed that an update could be requested at the November meeting.

RESOLVED that:

1. the provisions of Sections 165, 166 and 167 of the Equality Act 2010 not be enacted; and
2. an update be brought to the Licensing Committee meeting in November 2017.

The meeting closed at 12.00 pm

CHAIRMAN

BRECKLAND DISTRICT COUNCIL

Report of: Executive People and Public Protection Manager

To: Licensing Committee 22nd Nov 2017

(Author: Donna Hall – Licensing and Business Support Manager)

Subject: Taxi Licensing and the Equality Act 2010

Purpose: The purpose of this report is to ask Members of the Licensing Committee to make a decision on the implementation of sections 165, 166 and 167 of the Equality Act 2010

Recommendation:

- 1) That Members of the Committee consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010

1.0 BACKGROUND

- 1.1 The Licensing Committee considered the information in this report on 22nd March 2017. Discussion took place and it was agreed that a report would be brought back to this meeting for further consideration.
- 1.2 The Government introduced sections 165 and 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. These sections came into effect on 6th April 2017
- 1.3 These provisions allow a licensing authority to create a list of “**designated vehicles**” vehicles which are capable of carrying passengers in wheelchairs (section 167) and then require drivers of those vehicles to provide mobility assistance (section 165).
- 1.4 Section 167 states that a local authority “ **may** maintain a list of vehicles” This is seen as a power rather than a duty but the guidance issued by the Department for Transport “**recommends strongly**” that licensing authorities do maintain such a list. Section 1.12 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.
- 1.5 According to the guidance, 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. 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. 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.

1.6 Section 165 sets out the duties placed on drivers of these designated wheelchair accessible taxis and PHVs. The 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

“Mobility assistance” is defined 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

- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle

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

1.8 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. The local authority may therefore grant exemptions from the duties to individual drivers under the provisions of section 166 of the Act. This exemption has been available since 2010. 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 to be prescribed in regulations.

1.9 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.

1.10 The legislation states that a licensing authority “may” maintain a list of vehicles designated as capable of carrying passengers in wheelchairs. The Licensing Authority must therefore make a decision as to whether it will enact this requirement, as recommended by the Department for Transport. The licensing authority does not currently hold such a list.

1.11 If the Committee decide that the licensing authority should maintain such a list, a number of steps will be taken as outlined below:

- a) Prepare draft lists of wheelchair accessible vehicles
- b) Set out policy for exempting drivers on medical and physical condition grounds
- c) Set out policy for determining what is a wheelchair accessible vehicle
- d) Inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties
- e) Drivers apply for exemptions where necessary
- f) Licensing authority issues driver exemptions where necessary
- g) Licensing authority publishes list of designated wheelchair accessible vehicles and duties on drivers then take effect

2.0 **OPTIONS**

- 2.1 Members decide to enact the provisions of sections 165, 166 and 167 of the Equalities Act 2010 by implementing and maintaining a designated list of wheelchair accessible vehicles and the associated duties for drivers.
- 2.2 Members decide to do nothing and not enact the provisions of sections 165, 166 and 167 of the Equality Act 2010.

3.0 **REASONS FOR RECOMMENDATION**

- 3.1 It is recommended that Members consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010. The Licensing Authority is required to have regard to the statutory guidance published by the Department for Transport which states that the Government recommends strongly that they do so.

4.0 **EXPECTED BENEFITS**

- 4.1 By making a decision on whether to enact these requirements, the Licensing Authority will be able to hold a clear policy so that the public and trade are informed on whether these provisions apply, and if so, how they are being implemented.
- 4.2 If the decision is taken to implement the provisions, the Government view is that the provisions are intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicles.

5.0 **IMPLICATIONS**

5.1 **Constitution & Legal**

- 5.1.1 The provisions are considered to be a power or option rather than a legal duty.

5.2 **Corporate Priorities**

- 5.2.1 The changes if implemented could provide more information and choice to the public requiring disabled access to taxis. This directly contributes to the corporate priority of “enabling stronger, more independent communities”.

5.3 **Crime and Disorder**

- 5.3.1 The new requirements if enacted carry a criminal penalty if a licensed driver on the designated list fails to comply. Information will be provided to all affected proprietors and drivers to ensure that the new requirements are understood.

5.4 **Equality and Diversity / Human Rights**

- 5.4.1 These measures within the Equality Act are designed to prevent discrimination and improve equality for people who need wheelchair access in taxis and private hire vehicles

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

7.0 **ACRONYMS**

PHV Private Hire Vehicle

Background papers:- Department for Transport "Access for wheelchair users to Taxis and Private Hire Vehicles" Statutory Guidance 2017

<https://www.gov.uk/government/publications/access-for-wheelchair-users-to-taxis-and-private-hire-vehicles>

Lead Contact Officer

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service