

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>

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Key Decision: No

Exempt Decision: No

This report refers to a Mandatory Service