

Licensing Committee Report

Ward(s) affected: All

Report of the Licensing Team Leader

Author: Mike Smith

Tel: 01483 444387

Email: mike.smith@guildford.gov.uk

Lead Councillor responsible: Graham Ellwood

Tel: 07899 846626

Email: graham.ellwood@guildford.gov.uk

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Equality Act 2010 – Designation of List of Wheelchair Accessible Vehicles

Executive Summary

The report informs the Committee of the plans to designate a list of Wheelchair Accessible Vehicles following the commencement of sections 165 to 167 of the Equality Act 2010.

By publishing a list of designated wheelchair accessible vehicles, the Council will be ensuring it complies with best practice in order to offer enhanced protection to wheelchair users.

Recommendation to Licensing Committee

The Licensing Committee is requested to note the work undertaken and proposal to introduce a list of designated vehicles.

Reason for Recommendation:

To improve access to the licensed hackney carriage and private hire vehicle service.

1. Purpose of Report

- 1.1 The report informs the Committee of the plans to designate a list of Wheelchair Accessible Vehicles following the commencement of sections 165 to 167 of the Equality Act 2010 (the Act).
- 1.2 It seeks to inform the Committee that a decision under delegated authority will be made by the Director of Community Services, to maintain a list of accessible vehicles, and to determine the accessibility requirements for vehicles appearing on the list.

2. Strategic Priorities

2.1 Designating a list of Wheelchair Accessible Vehicles will contribute to our fundamental themes as follows:

- **Our Society** - believing that every person matters and concentrating on the needs of the less advantaged
- **Our Economy** – supporting business, growth and employment

3. Background

3.1 The current Taxi and Private Hire Policy 2015-2020 adopted on the 9 December 2015 and subsequent revision on 8 February 2018 introduced positive changes to protect public safety by introducing livery for taxis, door signs for private hire vehicles and the requirement for drivers to complete the BTEC Level 2 Certificate in the Introduction to the Role of the Professional Taxi and Private Hire Driver (QCF).

3.2 On 6 April 2017 the Government commenced sections 165 to 167 of the Equality Act 2010 increasing the protection from discrimination afforded to wheelchair users who wish to travel in taxi or private hire vehicles.

3.3 This legislation allows licensing authorities may maintain a list of designated wheelchair accessible hackney carriage and private hire vehicles, although as a list is discretionary, there is no requirement to. For these purposes, wheelchair accessible means that it would be possible for a wheelchair user to enter, leave and travel in the passenger compartment in safety and reasonable comfort either staying in their wheelchair or not, depending on their preference.

3.4 When a list of designated wheelchair accessible vehicles is kept, the drivers of any designated vehicles must:

- carry the passenger while in the wheelchair where requested to do so and provide reasonable assistance to enable the passenger to get into or out of the vehicle;
- carry the wheelchair if the passenger chooses to sit in a passenger seat and provide reasonable assistance to load the wheelchair into or out of the vehicle;
- provide reasonable assistance to load the passenger's luggage into or out of the vehicle;
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- not make any additional charge.

The Act makes it a criminal offence for the driver not to discharge these duties.

3.5 The provisions relating to the use of wheelchair accessible vehicles will have no effect unless the authority maintains such a list. According to Home Office Guidance (attached), licensing authorities were expected to implement the new provisions by October 2017, although this has only been possible until now with the current work plan.

4. Designation of Accessible Vehicles

- 4.1 Following the commencement of the relevant provisions of the Act, licensing authorities may maintain a list of designated wheelchair accessible hackney carriage and private hire vehicles.
- 4.2 Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry out those duties listed in paragraph 3.4.
- 4.3 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act. This allows licensing authorities to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.

Vehicles that can be designated

- 4.4 The Home Office Guidance recommends that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area. They should be confident of receiving the assistance they need to travel safely, and must not be charged more than a non-wheelchair user for the same journey.
- 4.5 The Act states that 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. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 4.6 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 guidance therefore recommends that a vehicle should only be included in the authority’s list if it would be possible for the user of a “reference wheelchair”, (as defined in Schedule 1 of the Public Service Vehicle Accessibility Regulations 2000) to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 4.7 Taking this approach allows the provisions of section 165 of the Act to apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 4.8 The guidance recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the Council’s list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle.

Preparing and Publishing a List of Designated Vehicles

- 4.9 The guidance recommends that licensing authorities should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of the operator.
- 4.10 [November 2017's taxi and private hire newsletter](#) sent to all licence holders notified the trade that the Council intended to start work on producing a list.
- 4.11 On 1 August 2018, we wrote to all proprietors of wheelchair accessible vehicles advising them that the Council intended to publish their vehicle on the designated list. We invited any representations about this decision to be communicated to us by 3 September. No representations were received.
- 4.12 The newsletter and letter invited any licensed driver to apply for an exemption certificate on medical grounds (with supporting evidence from a medical professional). No exemptions have been sought to date.
- 4.13 The Council occasionally receives requests from the public about availability of accessible vehicles, however due to data protection reasons we cannot pass on proprietors' contact details. In order to promote the provision of accessible vehicles to the travelling public, as part of the designated list we would like to publish taxi proprietors' and private hire operators' contact details so that prospective customers can easily make a booking to travel in an accessible vehicle. We hope that by publishing these details with proprietors' consent will also increase trade. The letter also requested that proprietors consent to this information being published. Only one proprietor contacted us consenting for their contact details to be published on the list.
- 4.14 As maintaining a list is discretionary, a decision will need to be taken to maintain the list. The decision is either an Executive decision or can be taken by officers under delegated powers. The Director of Community Services has delegated powers to exercise all functions in relation to licences, certificates or consents under which the Council has regulatory powers including taxi and private hire licences.
- 4.15 As such, a decision to maintain a list and the accessibility requirements for inclusion on the list will be made by the Director of Community Services.

5. Consultation

- 5.1 Consultation is critical to ensure any changes to the requirements expected of the licensed Taxi and Private Hire trade are clear and transparent for licence holders and the travelling public.
- 5.2 The trade has been informed about the Council's intention to publish a list of designated vehicles as per section 167 of the Act through its newsletter and letters to affected individual proprietors.

6. Equality and Diversity Implications

- 6.1 By publishing a list of designated wheelchair accessible vehicles, the Council will be complying with Home Office Guidance with a view to offering enhanced protection to wheelchair users.

7. Financial Implications

- 7.1 The designation of a list of accessible vehicles can be managed through the existing licensing budget.

8. Legal Implications

- 8.1 Section 167 of the Equality Act 2010 permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 8.2 Section 165 of the Act then imposes the duties set out in paragraph 3.4 on the driver of vehicles on the list.
- 8.3 Whilst Local Authorities are under no specific legal obligation to maintain a list under section 167, the Statutory Guidance recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and it will not be a criminal offence for drivers to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.
- 8.4 Any driver of a taxi or private hire vehicle which is not on the published list is not specifically bound by the duties of Section 165. However if any driver is found to be unjustifiably discriminating against a customer, for any reason, the Council would be likely to consider whether they remained a 'fit and proper person' to hold a driver's licence.
- 8.5 Section 172 of the Act enables vehicle proprietors to appeal against the decision of the Council to include their vehicle on the designated list. That appeal should be made to the Magistrate's Court, and must be made within 28 days of the vehicle in question being included on the published list.
- 8.6 Section 172 of the Act also enables drivers to appeal against the decision of a LA not to issue an exemption certificate under Section 166 of the Act. That appeal should be made to the Magistrate's Court, and must be made within 28 days beginning with the date of the refusal.

9. Human Resource Implications

- 9.1 There are no human resource implications arising from these proposals.

10. Summary of Options

- 10.1 The Licensing Committee is requested to note the work undertaken and proposal to introduce a list of designated vehicles.

11. Conclusion

- 11.1 By publishing a list of designated wheelchair accessible vehicles, the Council will be ensuring it complies with best practice in order to offer enhanced protection to wheelchair users.

12. Background Papers

- 12.1 [Taxi and Private Hire Licensing Policy 2015-2020](#)
- 12.2 [Access for wheelchair users to taxis and private hire vehicles – Statutory Guidance, Department for Transport](#)

13. Appendices

14. Consultation

Service	Sign off date
Regulatory Services Manager	7 August 2018
Finance / 151 Officer	
Legal / Governance	16 August 2018
HR	6 August 2018
Equalities	6 August 2018
Lead Councillor	23 August 2018
CMT	28 August 2018
Committee Services	7 September 2018