

**Name of meeting and date: LICENSING AND SAFETY 18 March 2011**

**Title of report: Equality Act 2010 – Taxis and Private Hire Vehicles**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not Applicable</b>
<b>Is it in the Council's Forward Plan?</b>	<b>Not Applicable</b>
<b>Is it eligible for "call in" by Scrutiny?</b>	<b>Not Applicable</b>
<b>Cabinet member portfolio</b>	<b>Not Applicable</b>

**Electoral wards affected and ward councillors consulted: ALL**

**Public or private: PUBLIC**

## **1. Introduction**

The purpose of this report is to inform Members of the provisions of the Equality Act 2010 in relation to Hackney Carriages and Private Hire Vehicles and to seek Members views' on whether a list of designated vehicles for the purposes of the Act is to be maintained by the Authority.

## **2. Information**

The Equality Act 2010 includes many of the taxi and private hire vehicle provisions which were in the Disability Discrimination Act 1995 but it also includes some important changes. Sections 160 to 173 relate specifically to taxis and private hire vehicles.

### **Duties to assist passengers in wheelchairs**

Sections 165,166 and 167 of the Equality Act 201 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs.

The duties which have been contained in the Disability Discrimination Act 1995 have never been brought into force. When the duties come into effect (no later than April 2011) it will constitute a substantive change in the law. Section 167 allows Licensing Authorities to maintain a list of 'designated vehicles'. This is a list of wheelchair accessible vehicles licensed in their area. The consequence of being on this list is that the driver must undertake the following duties in pursuance of 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

Section 166 allows the Licensing Authority 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 a driver's physical conditions make it unreasonably difficult for him or her to comply with the duties.

From 1 October 2010, hackney carriages and private hire vehicle drivers who drive designated wheelchair accessible vehicles are able to apply for exemptions. Therefore, the Licensing Authority must put into place a system for assessing drivers and a system for granting exemption certificates for those drivers which they consider should be exempt.

The Department for Transport will be making regulations early in 2011 specifying the exact format for the Exemption Notices that a Licensing Authority will issue and exempt drivers will be required to display in their vehicles.

The list of designated vehicles will have no actual effect in law until the duties are commenced. However, Licensing Authorities are being advised to start maintaining a list as soon as possible for the purposes of liaising with the trade and issuing exemption certificates.

From 1 October 2010 drivers may appeal to the magistrates' court against a decision by the Licensing Authority not to grant an exemption. When section 167 comes into force, and the list of designated vehicles has a statutory effect, it will be possible for the owner of the vehicle to appeal to the magistrate's court against a Licensing Authority's decision to include their vehicle on the list.

### **3. Guide Dogs and Assistance Dogs**

Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs in England and Wales. These sections have been lifted from the Disability Discrimination Act 1995 which imposed a duty on hackney carriage and private hire vehicle drivers, as well as private hire operators, to accept guide dogs.

When these sections came into force on 1 October 2010, the existing sections in the Disability Discrimination Act 1995 were repealed which means the change is largely technical. The existing obligations to carry guide dogs and assistance dogs will carry on but simply under different legislation.

### **4. The Control of Licensed Vehicle Numbers**

Since the Transport Act 1985 it has been possible for a Licensing Authority in England and Wales (outside London) to refuse a hackney vehicle carriage licence application if they are satisfied that there is no significant unmet demand for licensed vehicles in their controlled district.

Section 161 of the Equality Act 2010 qualifies the law in this area to ensure that a Licensing Authority that has relatively few wheelchair accessible vehicles operating in their area does not refuse licences to such vehicles for the purposes of controlling numbers.

For section 161 to have effect, the Secretary of State must make regulations specifying:

- The proportion of wheelchair accessible taxis that must operate in an area before the respective Licensing Authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers; and
- The dimension of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within the provision

## **5. Implications**

Financial

No significant impact

Human Rights Provisions that protect from discrimination, victimisation and harassment on the basis of being a wheelchair user.

Equalities

Improved accessibility for wheelchair users.

## **6. Officer Recommendations**

Members are requested to determine whether this Authority should maintain a list of designated vehicles for the purposes of the Equality Act 2010. In the event of it being determined that the Authority will keep a list, Members are requested to delegate authority to the Licensing Manager to determine exemption on medical grounds from duties imposed by the Equality Act 2010.

## **7. Contact officer and relevant papers**

Catherine Walter, Licensing Manager (01484 456868)