

**Name of meeting: Licensing and Safety Committee**

**Date: 23<sup>rd</sup> November 2018**

**Title of report: Designated List of Wheelchair Accessible Vehicles**

**Purpose of report**

To consider the publishing of a designated list of wheelchair accessible hackney carriage, private hire vehicles and commercial vehicles available for hire.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports)?</a>	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name	
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Eamonn Croston 15.11.18
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Julie Muscroft 15.11.18
Cabinet member portfolio	Cllr Naheed Mather

**Electoral wards affected: All**  
**Ward councillors consulted: N/A**

**Public or private: Public**

**1. Summary**

1.1 The Equality Act 2010 introduced new measures on employers, regulators and transport providers in relation to ensuring that there is no discrimination. Sections 165 and 167 of the Act enable the Council to deem particular vehicles as wheelchair accessible. This would place particular duties on the drivers of such vehicles, requiring them to provide the assistance outlined for no extra cost.

**2. Information required to take a decision**

2.1 Sections 165-167 of the Equality Act 2010 came into force in April 2017. Section 167 of the Act provides the Council as a licensing authority with the power to make a list of wheelchair accessible vehicles (designated vehicles). The owner of the vehicle has a right of

appeal to a magistrates' court if he or she believes that they should not be included in the list.

2.2 Once the list is published, this places duties on drivers under section 165 of the Act. Drivers of designated wheelchair accessible cars have a duty to:

- carry the passenger while in the wheelchair;
- not make any additional charge;
- carry the wheelchair if the passenger chooses to sit in a passenger seat;
- take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- give the passenger such mobility assistance as is reasonably required to:
  - enable the passenger to get into or out of the vehicle, including in the wheelchair if they wish to remain in it;
  - load the passenger's luggage into or out of the vehicle;
  - load the wheelchair into or out of the vehicle if the passenger does not wish to remain in the wheelchair.

2.3 The requirements of section 165 of the Act do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. Section 166 of the Act allows the Council to exempt drivers on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties outlined in paragraph 2.2. Unless a driver is exempt, it is a criminal offence not to carry out these duties and the Council will follow up any complaints in relation to this. If justified and the complaint can be proven, the Council will take appropriate action.

2.4 The purpose of the legislation is to ensure that disabled people have equal access to services including public transport provision. Owners of assistance dogs are already protected by the Equality Act 2010 which makes it unlawful to charge extra or refuse to take them. The implementation of sections 165-167 of the Act will offer wheelchair users similar protection.

2.5 A document 'Access for wheelchair users to Taxis and Private Hire Vehicles: Statutory Guidance: Moving Britain Ahead' has been published by the Department for Transport. This constitutes the Secretary of State's formal guidance to licensing authorities and they must have regard to it. This is attached at Appendix A

2.6 The publication of a designated list is discretionary but if introduced ensures that wheelchair passengers, carers and friends and family are better informed about the accessibility of taxis and private hire vehicles in the Kirklees district. It will also mean that they can be confident of receiving the assistance they need to travel in safety and reasonable comfort.

- 2.7 If the Committee agrees to creating and publishing a designated list of wheelchair accessible vehicles, the service will put in place the necessary procedures. It will also make sure that owners of wheelchair accessible vehicles and drivers are aware of these new requirements by writing directly to them.

## **CONCLUSION**

- 2.8 The publication of a designated list of wheelchair accessible taxis and private hire vehicles will provide sufficient information to wheelchair passengers to make informed choices about public transport provision.
- 2.9 If the Council agrees to introduce the list the duties placed on drivers of vehicles on the designated list will ensure that passengers in wheelchairs will get appropriate assistance. This will mean that they can travel in safety and reasonable comfort, giving them confidence to use this mode of public transport provision
- 2.10 Implementation of sections 165-167 of the Equalities Act 2010 promotes equality for disabled people.

### **3. Implications for the Council**

**3.1 Early Intervention and Prevention (EIP)**  
N/A

**3.2 Economic Resilience (ER)**  
N/A

**3.3 Improving Outcomes for Children**  
N/A

**3.4 Reducing demand of services**  
N/A

**3.5 Other Implications (e.g. legal, financial etc )**

- 3.6 The licensing function plays a key role in delivering the corporate outcome of people in Kirklees living in a cohesive community, feel safe and are protected from harm. By implementing sections 165-167 of the Equality Act 2010, the Council will be able to provide information on wheelchair accessible vehicles. The duty this then places on drivers will help ensure that passengers are able to travel safely and remain active by having access to transport provision.
- 3.7 The introduction of the list will assist passengers in wheelchairs who wish to travel by taxi or private hire vehicle and this promotes equality for wheelchair passengers.
- 3.8 There may be some reputational damage by not publishing such a list and promoting equality for disabled passengers. In terms of resources once the scheme is implemented, it will have very little impact on human resources, other than maintaining the list.

#### **4. Consultees and their opinions**

There is no statutory requirement to consult on the proposal to publish a list of wheelchair accessible vehicles.

#### **5. Next steps**

- 5.1 The Council will engage with trade representatives and draft guidance and begin contacting vehicle owners. If a driver indicates their intention to apply for an exemption a reasonable time will be given them to obtain medical certification.
- 5.2 If agreed by the committee, it is proposed the publication of the designated list will take place on or around 31 March 2019. Following this date, it will become an offence for a driver to fail to give reasonable assistance to a wheelchair passenger.

#### **6. Officer recommendations and reasons**

- 6.1 It is recommended that members agree that :
- (i) the Council produces a list of designated wheelchair accessible vehicles pursuant to sections 165-167 of the Equality Act 2010; and
  - (ii) the licensing authority produces guidance in relation to this, including the exemption of drivers from their duties based on medical grounds.

#### **7. Cabinet portfolio holder recommendation**

CLlr Naheed Mather supports the policy review and development of a stronger and more robust policy.

#### **8. Contact officer**

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#### **9. Background Papers and History of Decisions**

Access for Wheelchair users to Taxis and Private Hire Vehicles

(Statutory Guidance)

**10. Service Director responsible**

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