

REPORT TO	ON
GENERAL LICENSING COMMITTEE	13 JUNE 2017

Jan 2017



TITLE	AUTHOR	Agenda item No.
EQUALITIES LEGISLATION (1) - ACTIVATION OF ELEMENTS OF SECTION 165 AND 167 OF THE EQUALITIES ACT 2010 RELATING TO WHEELCHAIR USERS, AND IMPLICATIONS FOR LICENSING AUTHORITIES	PETER HAYWOOD	

### 1. PURPOSE OF THE REPORT

- 1.1 This report invites members to adopt formal documentation relating to the enforcement of equalities legislation regarding the transporting of passengers in wheelchairs.

### 2. RECOMMENDATIONS

Members are requested to:

“Designated vehicles”

- 2.1 agree to consider the list of “designated vehicles” (attached as Appendix 1) for the purposes of section 167 of the Equalities Act 2010;

Medical Exemptions Policy

- 2.2 consider the attached draft Exemptions Policy (Appendix 2) and associated Equality Impact Assessment (Appendix 3), and agree for the Licensing Department to consult with stakeholders, on the proposed Policy as set out in section 7 of this report; and

Other associated documentation:

- 2.3 consider with a view to formal adoption the attached draft application form (Appendix 4), draft letter confirming the granting of exemption (Appendix 5) and draft certificate / notice to be displayed by exempted drivers (Appendix 6).

### 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	x

#### **4. BACKGROUND TO THE REPORT**

- 4.1 On 21 March 2017, members of the General Licensing Committee received a report advising them of the government's intention to activate from 6 April 2017 certain provisions of the Equalities Act 2010. 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 passengers in wheelchairs; to provide assistance to those passengers; and prohibits them from charging extra for their services.
- 4.2 The minutes of the meeting record that members requested a further report be submitted to a future meeting of the committee. This report should outline a provisional designated list, a proposed exemptions policy, and a proposed communication plan for drivers. The purpose of this report is to provide the information sought by members on 21 March.

#### **5. LIST OF "DESIGNATED VEHICLES"**

- 5.1 Authorities who choose to implement the relevant sections of the Equalities Act 2010 in relation to wheelchair users are obliged to produce a list of "designated vehicles". The list should be clearly marked as 'designated for the purposes of section 165 of the Act', and should set out:
- i) the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle;
  - ii) the name of the operator; and
  - iii) information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 5.2 The Council has produced a draft list for members to consider – this document is attached as Appendix 1. All wheelchair-accessible vehicles which are licensed with the authority are included on it. With regard to paragraph 5.1(iii) above, it is proposed to adopt the stance that all vehicles adapted to carry any wheelchair are included on the list. This is to ensure that maximum support is provided to the widest number of customers who require a wheelchair accessible vehicle, and is felt to be in accordance with the Council's approach to licensing vehicles as indicated in the Licensing Policy:
- Paragraph 6.10 of the Licensing Policy confirms that "The Council will only accept applications for a New Hackney Carriage Vehicle Licence for vehicles which meet the age criteria and are wheelchair accessible. There is no restriction on whether accessibility is via rear or side loading doors"; and
  - Paragraph 7.9 of the Licensing Policy confirms that "The Council invites applications for a Private Hire Vehicle Licence for vehicles which are wheelchair accessible. There is no restriction on whether accessibility is via rear or side loading doors".
- 5.3 S172 of the Equality Act enables vehicle owners who do not agree with their vehicles being on the designated list to appeal to the Magistrates Court.

#### **6. PROPOSED EXEMPTIONS POLICY AND ASSOCIATED DOCUMENTATION**

- 6.1 The Council acknowledges that some drivers may have a medical condition, a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. The Act therefore allows licensing authorities to grant exemptions from the duties to individual drivers, requiring a local system to be put in place for assessing drivers and granting exemption certificates for those drivers who they consider should be exempt.

- 6.2 Consequently, a proposed Exemptions Policy has been drafted and is attached as Appendix 2. This document sets out the procedure to be followed by a licensed driver who wishes to apply for an exemption from the requirements of the Equalities Act (as outlined in this report) on medical grounds.
- 6.3 An Equalities Impact Assessment is attached as Appendix 3.
- 6.4 The proposed policy requires applicants to complete a medical exemption form; a copy of the proposed form is attached as Appendix 4. The form requires input from a medical professional, who will identify the precise medical grounds on which the request for exemption is made. On receipt of the form, officers from South Ribble Borough Council will consider the application and determine whether or not to grant it. If contested, this decision could then be referred to the General Licensing Committee for a final decision to be made.
- 6.4 Should the application for medical exemption be granted, officers will write to the successful applicant and formally confirm that the exemption is in place. A copy of the letter proforma is attached as Appendix 5. The exempt driver will also be issued with a copy of the appropriate certificate / notice to be displayed in the vehicle at all times when the exempt driver is working. A model of the proposed notice of exemption (which complies with the requirements of the Equality Act 2010 (Taxis and Private Hire Vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017) is attached as Appendix 6.

## **7. CONSULTATION / COMMUNICATION PLAN**

- 7.1 Should members wish to proceed with the proposed Exemptions Policy set out in Appendix 2 above, it will be necessary to undergo a process of formal consultation with the local licensed trade. It is proposed that the following process be adopted:
- a) initial discussion at the Taxi Trade Forum which (subject to a separate agenda elsewhere on this agenda) is likely to be held in late June 2017, when drivers present will be advised of the intention to proceed with the proposed Exemptions Policy;
  - b) all licensed drivers will be written to and advised of a formal 28 day consultation period, along with the ways in which any feedback may be submitted; and
  - c) officers will arrange for a “drop in” session to be held at the Council Offices on a specific date during the consultation period. All affected drivers will be invited to call in during the session, where they can sit down with officers on an individual basis. Their views will then be recorded and collated before being reported back to members at a future meeting.
- 7.2 Members will recall that – at their previous meeting – they expressed particular concern about the Safeguarding implications which may arise from the introduction of a requirement for drivers to carry and support wheelchair users (in the form of “mobility assistance”). It is suggested that the above communication plan will enable officers to address these concerns, whether at the Taxi Trade Forum, in the letter to drivers advising them of the consultation exercise or at the “drop in” session. These activities will allow officers to emphasise the importance of respecting personal boundaries and treating vulnerable residents with appropriate care. Any driver considered to have acted outside such boundaries will of course leave themselves open to formal investigation and a possible appearance before the Committee (where sanctions up to and including revocation may be imposed).
- 7.3 On conclusion of the consultation exercise, a further report can then be presented to members updating them of the feedback / responses received. Should members still wish to proceed at that point, the report can be forwarded for consideration for adoption by the committee and confirmation by full Council.

## 8. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 7.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 7.2 Comments of the Monitoring Officer

In order to ensure that the trade can comment on the matter, a period of 28 days is required for consultation. The responses in respect of the consultation will be placed before committee, at which point committee will decide whether to invoke S167 of the Equality Act together with the Exemptions Policy.

<p><b>Other implications:</b></p> <ul style="list-style-type: none"><li>• <b>Risk</b></li><li>• <b>Equality</b></li><li>• <b>HR</b></li></ul>	<p>By seeking to introduce a medical exemptions policy, this report supports licensed drivers who may be at risk of medical injury in providing mobility assistance. Any Safeguarding issues arising from mobility assistance will be addressed during the formal consultation period.</p> <p>This report supports the Equalities agenda through the introduction of a list of “designated vehicles” and the criminal sanctions which underpin this.</p> <p>None</p>
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## 8. BACKGROUND DOCUMENTS (or there are no background papers to this report)

Appendix 1 – list of “designated vehicles”

Appendix 2 - draft policy for medical exemption of licensed drivers in relation to the transportation of passengers in wheelchairs

Appendix 3 – EIA

Appendix 4 - draft application form

Appendix 5 – draft letter to be sent to all applicants whose application for exemption is successful

Appendix 6 – draft notice / certificate