

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
EQUALITIES LEGISLATION (1) - ACTIVATION OF ELEMENTS OF SECTION 165 AND 167 OF THE EQUALITIES ACT 2010 RELATING TO WHEELCHAIR USERS, ALONG WITH ASSOCIATED DOCUMENTATION	DENISE JOHNSON

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

- 1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 3) and (ii) the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of the relevant sections of the Equalities Act 2010 and the formal documentation relating to the enforcement of the above (as set out in appendices 1, 2 and 4-6).

2. RECOMMENDATIONS

Members are requested to:

- 2.1 forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of (a) sections 165 and 167 of the Equalities Act 2010; (b) the draft Medical Exemptions Policy (attached as Appendix 2); and (c) associated documentation consisting of the draft application form (attached as Appendix 4), draft letter confirming the granting of exemption (Appendix 5) and draft certificate / notice to be displayed by exempted drivers (Appendix 6);
- 2.2 agree to provide drivers of vehicles on the list of “designated vehicles” (attached as Appendix 1) with an opportunity to apply for a medical exemption in accordance with the Medical Exemptions Policy (Appendix 2); and
- 2.3 then publish the final version of the list of designated vehicles (Appendix 1).

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 noted the government's imminent activation of the legislation and requested that a further report be submitted to a future meeting of the committee. This report was presented to members at their meeting on 13 June 2017, and set out a provisional designated list, a proposed exemptions policy, and a proposed communication plan for drivers. Members agreed that this documentation should be subject to a consultation exercise, before the outcome of this consultation be presented in a further report.
- 4.3 This report confirms the outcomes of the consultation exercise carried out throughout the month of August 2017, and invites members to consider the proposed adoption of the relevant sections of the Equalities Act 2010 (and associated documentation) in light of the feedback received.

5. LIST OF "DESIGNATED VEHICLES"

- 5.1 Members are reminded that 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 of designated vehicles (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.
- 5.3 Section 172 of the Equality Act 2010 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 Medical 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. NEXT STEPS

- 7.1 If members are willing to recommend adoption of the legislation and Medical Exemptions Policy, it will be necessary to give drivers of vehicles on the designated list an opportunity to apply for an exemption should they require one. Officers will receive any applications and assess / process them accordingly. At that point, the final version of the designated list can be placed in the public domain.

8. CONSULTATION / COMMUNICATION PLAN

- 8.1 The report presented to members on 13 June 2017 set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

8.2 Publicising the consultation exercise:

- 8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the start of the consultation process a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

8.3 The consultation exercise itself:

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions, each of 90 minutes, at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

9. OUTCOME OF THE CONSULTATION

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

Date of drop in session	Persons attending
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

Source:	Date:	Issue:	Council response
Driver 1	17.8.17	<ul style="list-style-type: none">• concern that scooters are not wheelchairs (but members of the public can perceive them to be such;• some wheelchairs are not easy to transport due to their size;• worried that may have to go out of his way to collect a wheelchair user / fare not economical;• concern that insurance policy will be invalidated for actions more than 1.5m away from vehicle	<p>Noted</p> <p>Noted</p> <p>Aim is to provide equal access to public transport for wheelchair users</p> <p>No need to go outside 1.5m area in meeting legal obligations</p>
Petition signed by 12 licensed drivers	31.8.17	Due consideration to be given to suitability of vehicles to be licensed as Wheelchair Accessible Vehicles (PH and HC). As wheelchairs vary in type, size and weight, consideration to be given to the maximum combined weight of the chair / passenger capable of being transported in any	

		vehicle, and the correct torque values for straps / webbing / clamp sizes, as these will vary dependant on type, size and style of wheelchair carried.	
Operator	31.8.17	Broadly agrees with the proposal	

9.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

10.2 Comments of the Monitoring Officer

In accordance with government guidelines, drivers should be allowed to apply for an exemption before the designated list is officially published. Any licences which have expired will need to be removed from the designated list.

Other implications:	
► Risk	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.
► Equality & Diversity	This report supports the Equalities agenda through the introduction of a list of “designated vehicles” and the criminal sanctions which underpin this.
► HR & Organisational Development	None
► Property & Asset Management	None
► ICT / Technology	None

11. 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

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