

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
EQUALITIES LEGISLATION (2) – DRAFT POLICY FOR MEDICAL EXEMPTION FROM REQUIREMENT TO CARRY ASSISTANCE DOGS	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 2) and (ii) the outcome of the consultation exercise undertaken during the month of August 2017 (summarised in section 9 below), this report invites members to recommend the adoption of provisions of the Equalities Act 2010 relating to the transportation of visually-impaired passengers and assistance dogs, along with documentation relating to the enforcement of this legislation (as set out in appendices 1 and 3-5).

2. RECOMMENDATIONS

Members are requested to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of:

2.1 sections 168-173 of the Equalities Act 2010;

2.2 the draft Medical Exemptions Policy (attached as Appendix 1); and

2.4 the draft application form (attached as Appendix 3), draft letter confirming the granting of exemption (Appendix 4) and draft certificate / notice to be displayed by exempted drivers (Appendix 5).

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 At their meeting on 13 June 2017, members of the General Licensing Committee received a report that sought adoption of formal documentation relating to the enforcement of equalities legislation regarding the transporting of visually-impaired passengers and assistance dogs. The report also outlined the current licence conditions relating to the transportation of assistance dogs and set out the findings of a test purchasing exercise held on 5 April 2017. The Committee agreed that there should be a consultation exercise with relevant stakeholders on the draft Medical Exemptions Policy and associated documentation with a view to bringing a report back to a future Committee meeting for a formal decision to recommend the formal adoption of Sections 168-173 of the Equalities Act 2010 by full Council.
- 4.2 This report seeks to update members on the outcome of the consultation exercise 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. LEGISLATIVE FRAMEWORK

- 5.1 Disabled people (including guide dog owners and other blind or partially sighted people) have important rights under the Equality Act 2010, which consolidates and replaces previous discrimination legislation. The Act places a duty on Hackney Carriage and Private Hire drivers to carry guide dogs and other assistance dogs at no extra cost. The legislation allows for drivers that cannot carry assistance dogs to carry a certificate of exemption confirming they have permission to refuse on medical grounds. (It is not appropriate to decline to transport an assistance dog on grounds of religion).
- 5.2 Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs and England and Wales. In summary:
- a) Hackney Carriage drivers must (unless they have a medical exemption):
 - carry the assistance dog and allow it to remain with their owner; and
 - not charge extra for carrying an assistance dog.
 - b) Private Hire vehicle drivers (unless they have a medical exemption):
 - must carry the assistance dog and allow it to remain with their owner;
 - cannot refuse a booking, or to carry out a booking, due to someone having an assistance dog with them; and
 - cannot charge extra for carrying an assistance dog.
- 5.3 As well as the duty to carry assistance dogs, taxi and minicab drivers must also ensure that they do not discriminate against a person because of their disability including vision loss. They must not treat a disabled person less favourably or fail to make a “reasonable adjustment” to their service. Such reasonable adjustments may include:
- the driver guiding a blind or partially sighted customer to the vehicle, and assisting with entry into the vehicle; and
 - at the customer’s destination, assisting the customer to exit from the car and guiding them to a safe location/destination point before departing.

6. EXEMPTION CERTIFICATES

- 6.1 A driver is entitled to obtain an exemption certificate if they have a medical condition that is made worse by contact with dogs, such as severe asthma. Exemption certificates are issued by the licensing authority, and having an exemption certificate means that the driver does not have to carry an assistance dog.
- 6.2 A driver who has been given an exemption must display a yellow 'Notice of Exemption' notice on the windscreen of their vehicle. The front of the notice will have the letters 'ED' (Exemption Dogs) and will show the driver's licence number. The form of the exemption notice must comply with the Disability Discrimination Act 1995 (Private Hire Vehicles) (Carriage of Guide Dogs etc.) (England and Wales) Regulations 2003, although it is anticipated that these regulations will be updated at some stage to reflect the passing of the Equalities Act 2010.
- 6.3 There are no exemptions from the carriage of guide dogs for taxi or minicab operators. An exemption certificate is specific to a named driver of a specified vehicle. The certificate should not be left in a vehicle when the named driver is not using it. It is recommended that operators ensure they have drivers available who are not exempt from carrying assistance dogs.
- 6.4 It is proposed that, on receipt of an application for medical exemption from the obligation to carry assistance dogs, the initial decision as to whether to grant the application should be made by officers, with a driver who so wishes having the right to refer the matter to the General Licensing Committee for a final decision. In the event of a refusal by the Committee, there would then be a right of appeal to the Magistrates Court.

7. CURRENT POSITION IN SOUTH RIBBLE BOROUGH COUNCIL

- 7.1 The Council has not previously adopted sections 168-173 of the Equalities Act 2010. As a result, members are requested to agree to recommend to full Council that formal adoption of this legislation should take place. However, the current Licensing Policy and conditions contain a number of references which impact upon the transporting of guide / assistance dogs:

i) Hackney Carriage Vehicle conditions

Paragraph 19 - "A blind or otherwise disabled passenger shall be entitled as of right to be accompanied by a guide/ assistance dog in the vehicle unless the driver has been granted an exemption from the Disability Discrimination Act 1995. No additional cost can be levied for the carriage of an assistance / guide dog."

[Please note – it is proposed to update the reference to the Disability Discrimination Act with a reference to the Equalities Act 2010].

ii) Private Hire vehicle conditions

Paragraph 20 – as above

iii) Private Hire operator conditions

Paragraph 15 – "Every proprietor, driver and operator of a licensed private hire vehicle shall ensure that guide dogs are carried within the passenger compartment of the vehicle on request.

Operators are reminded of their responsibilities under the Equalities Act 2010, and are advised that discrimination could seriously and adversely impact upon their operating licence."

7.2 However, this Council has not previously had a formal medical exemption policy in place, under which the medical fitness of drivers who claim that they cannot transport an assistance dog (eg due to an allergy) or provide reasonable adjustments (such as help with access to the vehicle) can be assessed.

7.3 Accordingly, a draft policy to implement this is attached to this report as Appendix 1. Members of the Committee are requested to consider this draft with a view to its formal adoption, following consultation. An accompanying Equalities Impact Assessment is attached as Appendix 2.

7.4 Also attached for members' consideration following consultation are:

- Appendix 3 – a draft application form which drivers seeking a medical exemption will be required to submit;
- Appendix 4 sets out a draft letter which will be sent to those applicants whose medical condition is recognised and who are consequently exempted;
- Appendix 5 sets out a draft certificate which – if adopted – exempted drivers will be required to carry at all times when acting as a licensed driver.

8. CONSULTATION / COMMUNICATION PLAN

8.1 The report presented to members on 13 June 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;
- Around the start of August 2017 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	Need separate insurance for this. Also would put driver in dangerous position if entering people's homes	Enquiries have not confirmed that insurance is invalidated above 1.5m from the vehicle, as suggested at the Taxi Trade Forum. In any event, the driver can stay within this distance from his vehicle and still meet his legal obligations
Petition of 12 drivers	31.8.17	Implementation of refusal (unless accompanied by a valid medical certificate) is a good thing, but many assistance dogs are poorly groomed. Therefore the levy for cleaning (eg excess dog hair, odors, fouling etc) should be extended in the fare table to include all passenger groups, with the hirer / carer made aware of this before the journey commences.	
Operator	31.8.17	Broadly supportive of 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

The legal implications have been identified within the body of the report. The adoption of the relevant legislation, along with draft policies and procedures, would ensure the Council's compliance with obligations under the Equalities Act 2010.

Other implications:	
► Risk	See the Legal comments above.

► Equality & Diversity	This report supports the Council's contribution to the Equalities agenda through the formal adoption of legislative provisions (including criminal sanctions) and the introduction of formal documentation which underpins 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 – draft policy for medical exemption (carriers of assistance dogs)
- Appendix 2 – EIA
- Appendix 3 - draft application form
- Appendix 4 – draft letter to be sent to all applicants whose application for exemption is successful
- Appendix 5 – draft notice / certificate

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