

BIRMINGHAM CITY COUNCIL

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

12 JULY 2017
ALL WARDS

ACCESS FOR WHEELCHAIR USERS TO TAXIS AND PRIVATE HIRE VEHICLES

1. Summary

- 1.1 The Equalities Act 2010 replaced the Disability Discrimination Act 1995, in defining the duty of hackney carriage and private hire drivers not to discriminate against people with disabilities.
- 1.2 In April 2017, certain elements of the Act which had not hitherto been enacted came into law. One of these relates directly to the role of Birmingham City Council as a Licensing Authority in formulating and maintaining a list of wheelchair accessible vehicles. Another makes it illegal for a driver of a wheelchair accessible vehicle included on the list to refuse to carry a wheelchair, unless he has been issued with a medical exemption.
- 1.3 This report seeks to inform members of the current arrangements for wheelchair accessible vehicles and to detail transitional arrangements to bring Birmingham's Licensing Service into line with the national requirement as outlined in the Statutory Guidance document attached as an appendix to this report.

2. Recommendation

- 2.1 That the report be noted.

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3. Background

- 3.1 The Disability Discrimination Act 1995 introduced protections for people living with disabilities, including anti-discrimination legislation aimed at protecting those using licensed hackney carriage and private hire vehicles. Unfortunately much of the legislation referred to specifications for vehicles and future amendments which did not materialise before the Act was superseded by the Equalities Act 2010.
- 3.2 When the Equalities Act 2010 came into effect much of the older Act was transferred into the new legislation and new elements were introduced. One such element allowed for the creation by a local authority of a list of wheelchair accessible vehicles and legal penalties for the drivers of such vehicles if they were found to have refused a wheelchair passenger or engaged in certain other discriminatory practices. Although included when the Act was passed into law, the relevant parts, Sections 165 which designates the duties and responsibilities of a driver using a vehicle included on the list and the penalties which can be imposed for failure to comply and 167 which allows for the creation of the list by the local licensing authority were not enacted.
- 3.3 Birmingham already had a policy in place requiring all hackney carriage vehicles be wheelchair accessible and whilst the number of wheelchair accessible private hire vehicles was negligible it made sense to use the public register as our list of designated vehicles. However, now the additional elements are in place Birmingham must formally adopt a list of designated wheelchair accessible vehicles in compliance with Section 167 or our drivers will not be subject to the requirements or to the legal penalties applicable under Section 165 for non-compliance.
- 3.4 Section 166 of the Act allows a driver to seek exemption from the requirement to offer the physical help to disabled passengers required by Section 165, on physical or medical grounds. A mechanism to do this is already in place in Birmingham.

4. Ongoing Actions

- 4.1 As there are relatively few licensed private hire vehicles in Birmingham which are wheelchair accessible and many of those which are were licensed for the purpose of serving a specific NHS contract, the starting point for creating a compliant list will be the public register for hackney carriage vehicles. As all Birmingham licensed hackney carriages are required to be wheelchair accessible, this will designate a fleet of slightly more than 1200 wheelchair accessible vehicles.
- 4.2 A new report based on the one currently used to produce the public register for hackney carriages will be created and modified to include the additional information, make, model, passenger capacity etc. required for compliance with Section 167. Vehicle proprietors will be contacted by letter and advised

their vehicle is to be included in the list of designated wheelchair accessible vehicles. The same letter will advise proprietors of their right to appeal to Birmingham Magistrate's Court if they believe they have grounds to have their vehicle removed from the list.

- 4.3 In addition officers will write to all licensed drivers to advise them of the intention to produce a list of designated vehicles. They will be invited to apply for a medical exemption, if they will be driving a vehicle likely to appear on the list when they personally have a physical or medical condition which would prevent them complying with the requirements of Section 165.
- 4.4 Drivers who already hold an exemption will be requested to produce their exemption at the Licensing Service office, so their details can be updated and a new exemption certificate issued compliant with the requirements of the Act. It should be noted that DfT has yet to prescribe the form, or the manner of display for exemptions, but the Statutory Guidance does allow local licensing authorities to produce their own in accordance with the regulations.
- 4.5 Section 166 gives powers to local licensing authorities to make such exemptions, but suggests assessments should be carried out by suitably qualified persons. As our exemption requests are currently assessed by the Occupational Health Service, it makes sense to continue that practice, which would appear to be in line with Government expectations as expressed in the Statutory Guidance.

5. Private Hire Vehicles

- 5.1 At present requests to license wheelchair accessible vehicles for the purpose of private hire are dealt with by Licensing Sub Committees on a case by case basis, however, following an increase in enquiries related to licensing wheelchair accessible vehicles it is proposed a suitable specification should be developed and presented to your Committee for approval under a separate report. If a standard can be agreed, only non-compliant vehicles would then need to be considered by Committee.
- 5.2 New private hire vehicles licensed as wheelchair accessible vehicles will be added to the list of wheelchair accessible vehicles as and when they become licensed. The status of existing vehicles can be checked on renewal and where appropriate action taken to add vehicles to the list, subject to the consent of the proprietor, or finalisation of an appeal.

6. Implications for Resources

- 6.1 The cost of producing and publishing a compliant list of wheelchair accessible vehicles and the additional cost of writing to drivers and proprietors as outlined above will be met from funds already allocated to hackney carriage and private hire budgets.

7. Implications for Policy Priorities

- 7.1 The contents of this report contribute to the protection, safety and welfare of disabled residents and visitors to the City by ensuring the drivers of licensed vehicles who choose to discriminate against passengers in wheelchairs can face prosecution where appropriate.
- 7.2 It also assists in promoting improvements in the standards of services provided by licence holders across the City and contributes to the Council's strategic outcome of staying safe in a clean, green city.

8. Public Sector Equality Duty

- 8.1 Birmingham City Council takes its duty to look after the interests of passengers with disabilities seriously; all applicants for a hackney carriage or private hire driver's licence will continue to be required to attend mandatory disability awareness training and the policy requiring all vehicles licensed as hackney carriages to be wheelchair accessible remains in place. The actions described in this report are taken in order to comply with Statutory Guidance issued by Department for Transport in response to the enactment of certain parts of the Equalities Act 2010. For this reasons officers do not consider it necessary to conduct an Equalities Assessment to accompany this report.

9. Consultation

- 9.1 This report informs the Committee of changes that the Licensing service is required to make by virtue of national legislation. As part of the process of compiling a list of wheelchair accessible vehicles, all those drivers affected will receive a letter to tell them that their vehicle is being placed on the list and they will have the opportunity of explaining why they should not be on the list (on medical grounds) and of appealing to the Magistrates Court.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: None