

BIRMINGHAM CITY COUNCIL

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

14 DECEMBER 2016
ALL WARDS

TEST PURCHASE EXERCISE UNDER THE EQUALITIES ACT 2010

1. Summary

- 1.1 The Licensing Enforcement team has seen a rise in complaints over the last 12 months relating to the refusal of guide/assistance dogs and the carrying of wheelchair passengers by private hire and hackney carriage drivers.
- 1.2 As a result of this increase the Licensing Enforcement Team carried out a number of test purchases as part of the Local Government Association's Our Day.
- 1.3 This report informs the Committee of the results of that survey.

2. Recommendation

- 2.1 That the report be noted.

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3. Background

- 3.1 As a Licensing Authority, Birmingham City Council must ensure that all licensed Hackney Carriage and Private Hire drivers comply with the Equalities Act 2010.
- 3.2 It is an offence under section 165 of the Equalities Act 2010 for a hackney carriage or private hire driver to fail to carry a wheelchair passenger without reasonable cause.
- 3.3 It is an offence under section 168 of the Equalities Act 2010 for hackney carriage drivers to fail to carry an assistance dog unless the driver has a medical exemption certificate on the basis of the driver being allergic to dogs.
- 3.4 It is an offence under section 170 of the Equalities Act 2010 for a Private Hire driver to refuse to carry out a booking accepted by the operator if the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog unless the driver has a medical exemption certificate.
- 3.5 Birmingham's Licensing team investigate all complaints of this nature. In the last two years, it has investigated 8 cases of drivers refusing to carry assistance dogs. Seven of these have proceeded to or are proceeding to trial.

4. Test Purchase Findings

- 4.1 On the afternoon of Tuesday 15 November 2016 a Licensing Enforcement Officer, accompanied by a wheelchair user (who is a serving Police Constable), approached 8 different ranks across Birmingham to request a journey.
- 4.2 100% compliance was found, in that every driver approached was willing to provide assistance and take the passenger in a wheelchair. The ranks that they visited were:
 - New Street - City centre.
 - Mailbox – City Centre.
 - Albany Road – Harborne.
 - Edgbaston Street – City Centre.
 - Broad Street – City Centre.
 - Navigation Street – City Centre.
 - St Marys Row – Moseley.
- 4.3 On the evening of Tuesday 15 November 2016 two Enforcement Officers accompanied a Birmingham City Council employee and his guide dog "Vince". Bookings were made with 8 different private hire operators in locations across Birmingham. The operators were not made aware of the presence of the guide dog to ensure a driver would respond to the booking. Bookings were made from public places such as supermarkets.

- 4.4 All 8 drivers who responded to the bookings were willing to carry the guide dog. However, 2 of them tried to charge extra for carrying a dog even though it was pointed out to them that it was a guide dog (see the attached appendix for further details).

5. Implications for Resources

- 5.1 This work was undertaken within the resources available to your Committee and is funded through drivers' licence fees.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the protection, safety and welfare of residents and visitors to the City by ensuring that licensed private hire vehicles are compliant with the Equalities Act 2010.

- 6.2 It is intended to repeat this exercise in 6 months.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with approved enforcement policies and were undertaken specifically to ensure that equalities issues are being addressed. The public sector Equality Duty requires public bodies to have due regard to the need to advance equality of opportunity and eliminate discrimination. This survey contributes towards these duties.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

APPENDIX

Private Hire Operator	Time booking made	Pick up location	Destination requested	Matters Identified
1	18:10	Premier Inn Richard Street	HMV Institute Digbeth	No matters identified, driver happy for guide dog to accompany passenger in the front passenger seat.
2	18:47	Odeon Cinema Broadway Plaza	New John Street West	No matters identified, driver happy for guide dog to accompany passenger in the front passenger seat.
3	19:30	Sainsburys Northfield	Long Nuke Road	No matters identified, driver happy for guide dog to accompany passenger in the front passenger seat.
4	19:40	Sainsburys Northfield	Long Nuke Road	No matters identified, driver happy for guide dog to accompany passenger in the front passenger seat. Wolverhampton City Council licensed driver.
5	20:30	Aldi Stratford Road	Spooner Croft	No matters identified, driver arrived in Mercedes Vito but was still happy for the guide dog to travel in the front with the passenger.
6	21:14	Wylde Green Pub	Charlie Hall Pub Erdington	Driver stated the dog would be better in the back, as we moved away on the car park of the pub the driver said it's extra for the dog and passenger replied its extra for the guide dog? And he replied yes. Driver was stopped, he was made aware of the test purchase and became very aggressive, he was also not wearing his badge and unable to find it for some time. Formal action to be taken.

7	21:53	Wylde Green Pub	Charlie Hall Pub Erdington	<p>Driver was smoking as passenger and the guide dog got into the front of the vehicle. When asked how much it would be to the Charlie Hall the driver stated it would be £5 -£6 and £2 extra for the dog, he was asked why he was charging extra for the dog as it was a guide dog and he replied its extra for the dog you'll have to ask the office.</p> <p>Driver was not wearing his badge and produced it from his door pocket.</p> <p>Formal action to be taken.</p>
8	22:10	Wylde Green Pub	Charlie Hall Pub Erdington	<p>Driver arrived in Mercedes Vito and stated that the guide dog would be better in the back because there was more room but he could travel in the front if he wanted.</p> <p>No matters identified.</p>