

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 29

Brighton & Hove City Council

Subject:	Equality Act 2010 - List of Designated Wheelchair Accessible Vehicles		
Date of Meeting:	10 February 2011		
Report of:	<i>Strategic Director of Place</i>		
Contact Officer:	Name:	<i>Martin Seymour</i>	Tel: 29-6659
	E-mail:	Martin.seymour@brighton-hove.gov.uk	
Wards Affected:	All		

1. SUMMARY AND POLICY CONTEXT:

To seek the Committee's approval that the Council should maintain a list of designated vehicles for the purpose of the Equality Act 2010.

- 1.2 A potential sensitivity is that some hackney carriage proprietors have vehicle licences that have a condition requiring wheelchair accessibility and some have provided wheelchair accessible vehicles by choice. If there are issues with an approach of an inclusive list, officers may need to report back if there are any unforeseen difficulties.

2. RECOMMENDATIONS:

- 2.1 That Committee recommends the introduction of a designated list of wheelchair accessible vehicles.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination - including disability discrimination. The new Act includes many of the taxi and private hire vehicle provisions, which were in the Disability Discrimination Act 1995, but also includes some important changes. Sections 160 to 173 relate specifically to taxis and private hire vehicles. Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs.

The duties which have been contained in the Disability Discrimination Act 1995 have never been brought into force so when the duties are actually brought into force at a later date, it will constitute a substantive change in the law.

- 3.2 Section 167 allows licensing authorities to maintain a list of 'designated vehicles'; this is a list of wheelchair accessible vehicles licensed in their area. The consequence of being on this is that the driver must undertake the following duties as required by section 165:
- To carry the passenger while in a wheelchair
 - Not to make an additional charge for doing so
 - If the passenger chooses to sit in a passenger seat, to carry the wheelchair
 - To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort: and
 - To give the passenger such mobility assistance as is reasonably required
- 3.3 Section 166 allows licensing authorities to exempt drivers from duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical conditions makes it unreasonably difficult for him or her to comply with the duties.
- 3.4 From the 1st October 2010 taxi and private hire vehicle drivers who drive designated wheelchair accessible vehicles are able to apply for exemptions. These exemptions can be on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. The council has a system for assessing drivers and granting exemption certificates for those drivers considered should be exempt.
- 3.5 The Department for Transport will be making regulations early in 2011 specifying the exact format for the Exemption Notices that licensing authorities will issue and exempt drivers will be required to display in their vehicles. They will also be making regulations concerning the definition of accessibility.
- 3.6 Although the list of designated vehicles will have no actual effect in law until the duties are commenced, licensing authorities are being advised to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates.
- 3.7 Also from October 2010 it has become possible for drivers to appeal against a decision by the licensing authority not to grant an exemption; the appeal will go to the magistrates' court.
- 3.8 When section 167 comes into force, and the list of designated vehicles has a statutory effect, it will be possible for the owner of the vehicle to appeal against a licensing authority's decision to include his/her vehicle on the list. This appeal will also go to magistrates' court. There may be some considerable cost to the council in defending multiple appeals.
- 3.9 Since the Transport Act 1985 it has been possible for licensing authorities in England and Wales (outside London) to refuse a licence application if they

are satisfied that there is no significant unmet demand for taxis in their licensing area.

- 3.10 Section 161 of the Equality Act 2010 qualifies the law in this area, to ensure licensing authorities that have relatively few wheelchair accessible taxis operating in their area, do not refuse licences to such vehicles for the purposes of controlling numbers.
- 3.11 For section 161 to have effect, the Secretary of State must make regulations specifying:
- The proportion of wheelchair accessible taxis that must operate in an area before the respective licensing authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers: and
 - The dimension of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within the provision.

This may lead to many more vehicles being licensed as hackney carriage vehicles than currently permitted under the current restricted numbers policy and some existing vehicles no longer being suitable as licensed wheelchair accessible vehicles.

- 3.12 Section 168 to 171 of the Equality Act 2010 deals with the carriage of guide dogs and other assistance dogs in England and Wales.

These sections have simply been lifted from the Disability Discrimination Act 1995 which imposed a duty on taxi and private hire vehicle drivers (and PHV operators) to accept guide dogs and other assistance dogs.

When these sections came into force on the 1st October 2010, the existing sections in the Disability Discrimination Act 1995 were repealed, so the change is largely a technical one rather than one with any practical implications. The existing obligations to carry guide dogs and assistance dogs will carry on but simply under different legislation.

4. CONSULTATION

- 4.1 The subject of designated vehicles has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions.
- 4.2 After extensive consultations (October - December 2009) in relation to the council's Equality Scheme, disabled people identified improved access to taxis/private hire vehicles as a priority. The Get Involved Group based at the Federation of Disabled People have been consulted regularly throughout 2010 and the Federation's Chief Officer has been involved in ongoing conversations around the implications and implementation of the Equality Act.

4.3 It is clear that disabled people, in particular wheelchair users, support the introduction of a list of all designated wheelchair accessible vehicles as a matter of urgency, before the full introduction of the taxi provisions in the new legislation.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 There are no direct financial implications associated with this report.

Finance Officer Consulted: Karen Brookshaw Date: 10/01/2011

5.2 LEGAL

Legal implications are contained within the report.

Lawyer: Liz Woodley Date: 10/01/11

5.3 Equalities Implications:

The council's Equality Scheme 2010/11 (and the previous Disability Equality Scheme) includes a commitment to improve travel options for disabled people, specifically taxis. Having a list of designated wheelchair accessible vehicles means that the Hackney Carriage Office could enforce the new provisions in the Equality Act 2010. This, in turn, should drive up access to taxis/private hire vehicles providing greater certainty for disabled people.

5.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

5.5 Crime & Disorder Implications:

New duties are imposed on drivers of vehicles on the list.

5.6 Risk and Opportunity Management Implications:

None.

5.7 Corporate / Citywide Implications:

Tourism development requires a flexible transport service and a city that is accessible to disabled visitors.

