

22 June 2017

LICENSING AND SAFETY COMMITTEE – 4 JULY 2017

A meeting of the Licensing and Safety Committee will be held at 5.30pm on Tuesday 4 July 2017 in the Council Chamber, Town Hall, Rugby.

Adam Norburn
Executive Director

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Minutes.
To confirm the minutes of the meetings held on 11 May and 18 May 2017.
2. Apologies.
To receive apologies for absence from the meeting.
3. Declarations of Interest.
To receive declarations of –
 - (a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;
 - (b) pecuniary interests as defined by the Council's Code of Conduct for Councillors; and
 - (c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

Note: Members are reminded that they should declare the existence and nature of their non-pecuniary interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

4. Implementation of the Equality Act 2010 (sections 165 and 167).

PART 2 – EXEMPT INFORMATION

There is no business involving exempt information to be considered.

Any additional papers for this meeting can be accessed here via the website.

The Reports of Officers are attached.

Membership of the Committee: Councillors Cade (Chairman), Allen, Mrs Avis, Brader, Mrs Bragg, Miss Dumbleton, Lowe, Mrs Nash, Mrs Roberts, Mrs Roodhouse, Ms Watson-Merret and Dr Williams.

If you have any general queries with regard to this agenda please contact Linn Ashmore, Democratic Services Officer (01788 533522 or e-mail Linn.Ashmore@rugby.gov.uk). Any specific queries concerning reports should be directed to the listed contact officer.

If you wish to attend the meeting and have any special requirements for access please contact the Democratic Services Officer named above.

Agenda No 4

Name of Meeting	Licensing and Safety Committee
Date of Meeting	4 July 2017
Report Title	Implementation of the Equality Act 2010 (sections 165 and 167)
Portfolio	Environment and Public Realm
Ward Relevance	N/A
Prior Consultation	N/A
Contact Officer	Ian Rushton, x3855
Report Subject to Call-in	No
Report En-Bloc	No
Forward Plan	No
Corporate Priorities	Protect the public
Statutory/Policy Background	<p>Sections 165 and 167 of the Equality Act 2010 (the Act) came into force on 6 April 2017. They provide local authorities with the power to establish a list of wheelchair accessible vehicles ('designated vehicles'), and to require the drivers of such designated vehicles (unless they have a valid medical exemption) to transport wheelchair users, provide assistance and to ensure that wheelchair users are charged the same fares as non-wheelchair users.</p> <p>The Council's Taxi Licensing Policy refers to the use of wheelchair accessible vehicles and require updating to reflect the inclusion of these provisions if the Committee decides to approve the recommendations.</p>

Summary

Sections 165 and 167 of the Act came into effect on 6 April 2007 and the purpose of this report is to update the Committee on its implementation.

This includes seeking approval to establish and maintain a list of designated licensed vehicles to enable wheelchair users to be protected from discrimination when using the services of licensed wheelchair accessible vehicles in the borough.

Financial Implications

There are no financial implications arising from this report.

Environmental Implications

There are no environmental implications arising from this report.

Legal Implications

The Council is under no legal obligation to establish a list of 'designated licensed vehicles', however, it is considered essential and in the best interests of the public to have such a list.

Any vehicle owner whose vehicle is included on the list has the right of appeal to the Magistrates Court within 28 days of their vehicle being included on the published list.

Risk Management Implications

The establishment of a list of designated licensed vehicles will provide greater protection for wheelchair users in Rugby as the failure to comply with these duties to transport a wheelchair user and provide assistance is now a criminal offence.

The risk of not approving to establish a list of designated vehicles is that drivers would be able to refuse to take a wheelchair user, and not be legally bound to providing assistance.

Whilst the vast majority of drivers of wheelchair accessible are committed to providing an excellent service to wheelchair users, it is important that the Council takes every opportunity to formally adopt and incorporate provisions wherever possible.

The adoption of these provisions not only ensures that wheelchair users are protected when using licensed vehicles, but it also sends out, in the strongest terms, the message that the Council is committed to the principles of equality and diversity and ensuring that licensed drivers may not discriminate on grounds of disability.

Recommendations

1. That the Committee approves the establishment of a list of designated wheelchair accessible licensed vehicles and;
2. That the Committee delegates authority to the Head of Environment and Public Realm to approve any further vehicles to be added to the list of designated licensed vehicles and to determine applications from drivers for a medical exemption from their duties.
3. Recommend that Cabinet considers the recommendation of the Licensing and Safety Committee and approves the amendment to the scheme of delegation in respect of recommendation 2, above.

Reasons for Recommendations

To ensure that wheelchair users are afforded every protection when travelling in licensed vehicles in Rugby, and to provide a legal basis for the Council to take enforcement action against any driver who fails to carry out their required duties.

Licensing and Safety Committee - 4 July 2017

Public report of the Head of Environment and Public Realm

Implementation of the Equality Act 2010

Recommendations:

1. That the Committee approves the establishment of a list of designated wheelchair accessible licensed vehicles and;
2. That the Committee delegate authority to the Head of Environment and Public Realm to approve any further vehicles to be added to the list of designated licensed vehicles and to determine applications from drivers for a medical exemption from their duties.
3. That Cabinet considers the recommendation of the Licensing and Safety Committee and approves the amendment to the scheme of delegation in respect of recommendation 2, above.

1. BACKGROUND

Sections 165 and 167 of the Equality Act 2010 (the Act) came into force on 6 April 2017. Section 167 of the Act provides local authorities with the powers to establish and maintain a list of wheelchair accessible vehicles ('designated licensed vehicles'), and section 165 then requires the drivers of the 'designated licensed vehicles', unless they have a valid medical exemption issued by the Council, to transport wheelchair users, provide passengers in wheelchairs with appropriate assistance, and to ensure that wheelchair users are charged the same fares as non-wheelchair users.

While the Council is under no legal obligation to establish a list of 'designated licensed vehicles' under section 167 of the Act, it is essential and in the best interests of the public to establish and maintain such a list. Without it, the requirements of section 165 do not apply meaning that drivers may refuse to take wheelchair users, do not have to provide assistance and could charge wheelchair users.

The Department for Transport has issued statutory guidance to local authorities on this matter and this is referred to below.

2. DESIGNATED LICENSED VEHICLES

The Act states that a vehicle can be included on the list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit, but recommends that vehicles on the list should be those able to carry passengers seated in their wheelchairs.

The statutory guidance, provided as **Appendix 1** to this report, states that to be placed on the list a vehicle must be capable of carrying some - but not all - types of occupied wheelchairs. The guidance recommends that a vehicle should only be included on the list if it would be possible for the user of a 'reference wheelchair' to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst travelling in their wheelchair. A diagram showing the type and dimensions of a 'reference wheelchair' is provided attached to this report as **Appendix 2**.

A 'reference wheelchair' could be described as an 'average' size manual wheelchair. However, there are a variety of different size and type wheelchairs available on the market, many of which will be larger than the 'reference wheelchair' including the powered wheelchairs.

Due to the wide range of sizes and types of wheelchairs, not all vehicles on the designated licensed vehicle list will be able to safely accommodate all types of wheelchair. The Act recognises this and provides a defence for the driver if the driver has reasonable grounds to believe that it would not have been possible for the particular wheelchair to be carried safely in the vehicle.

The Committee will be aware that the Council already has a list of approved types of wheelchair accessible vehicles (makes and models) that may be licensed as hackney carriages in the borough.

The list upon which this report is focussed, to be introduced under section 165 of the Act, goes further, specifying individual licensed vehicles, together with, among other information, details of their registration numbers, hackney carriage licence numbers and details of the registered owner/keeper of the vehicle and details of the proprietor or company through which the vehicle may be booked, where applicable. A sample list is provided at **Appendix 3**.

In accordance with the guidance, the owners these vehicles will be advised that, as a fully wheelchair accessible vehicles licensed by Rugby Borough Council, their vehicle is to be included on the list of designated vehicles.

Accordingly, the owner/registered keeper of a listed vehicle will be expected to ensure that any person driving their vehicle has received appropriate training, and is aware of their duty/responsibility under the Act. If an individual driver is unable to fulfil that duty/responsibility then, in accordance with the Act, the driver will be made aware of the procedure for applying for a medical exemption (see below).

The guidance recommends that the implementation of sections 165 and 167 of the Act should take no longer than 6 months. It is therefore proposed that the list of designated vehicles will come into effect on 1 October 2017. This will allow for full and proper notification to the trade, discussions with interested parties and groups, consideration of any exemptions, and so on.

The Act enables vehicle owners to appeal against the Council's decision to include their vehicles on the designated list. Any such appeal should be made to the Magistrate's Court within 28 days of the vehicle in question being included on the published list.

3. DRIVER RESPONSIBILITIES

Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and private hire vehicles. The duties are;

- to carry a passenger while in a wheelchair;
- not to make any additional charge for doing so;
- if the passenger decides to sit in a passenger seat, to carry the wheelchair;
- to take steps to ensure passengers are carried in safety and comfort and;
- to give the passenger such mobility assistance as is reasonably required.

Mobility assistance is defined as assistance;

- to enable the passenger to get in and out of the vehicle;
- if the passenger wishes to remain in the wheelchair, to enable the passenger to get in and out of the vehicle while in the wheelchair;
- to load the passengers luggage into or out of the vehicle and;
- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

It will be a criminal offence (unless granted an exemption on medical grounds) for the driver of a vehicle included on the designated licensed vehicle list to fail to comply with the above duties.

Where a driver has a medical condition, disability, or physical condition that makes it impossible, or unreasonably difficult, for them to provide the sort of physical assistance required, the Act makes provision for the Council to grant exemptions to individual drivers from carrying out these duties upon production of satisfactory medical evidence.

If an exemption is granted, then the driver will be issued with an exemption certificate and a notice, which must be displayed in the vehicle to make passengers aware.

The length of the exemption period is at the Council's discretion and will be based on the medical evidence provided.

All drivers will be made aware of the duties and of the medical exemption process. Drivers can appeal against the decision of the Council not to issue an exemption certificate to the Magistrate's Court within 28 days of the refusal.

4. CONCLUSION

Whilst the Council is not legally obliged to establish a list of 'designated vehicles', it

is considered absolutely essential and in the best interests of the public to have such a list. Without it, the requirements of section 165 do not apply meaning that drivers may refuse to take wheelchair users, do not have to provide assistance and could charge wheelchair users more.

Delegated authority is sought to enable the Head of Environment and Public Realm to approve any further vehicles to be added onto the designated list, and to consider requests from drivers for a medical exemption. This will provide for an efficient and speedy mechanism to approve.

Further discussions are to be held with representatives of the taxi trade on this matter, and Rugby Disability Forum will also be consulted.

Name of Meeting: Licensing and Safety Committee
Date of Meeting: 4 July 2017
Subject Matter: Implementation of the Equality Act 2010
Originating Department: Environment and Public Realm

1. LIST OF BACKGROUND PAPERS

Document No.	Date	Description of Document	Officer's Reference	File Reference
1		Council Taxi Licensing Policy		
2		Department for Transport Statutory Guidance 2017		

(*Delete if not applicable)



Department
for Transport

Access for wheelchair users to Taxis and Private Hire Vehicles

Statutory Guidance

Moving Britain Ahead

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR
Telephone 0300 330 3000
Website www.gov.uk/dft
General enquiries: <https://forms.dft.gov.uk>



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Ministerial Foreword



This Government is committed to ensuring that transport works for everyone, including disabled people. Since joining the Department for Transport in 2015, and taking on Ministerial responsibility for transport accessibility, I have made it my mission to challenge the status quo and encourage innovative thinking to improve access to transport across the modes.

I know however, that despite the real improvements which have taken place in recent years, some disabled passengers still face discrimination when attempting to travel. I am clear that this is unacceptable.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. I want similar protections to apply to wheelchair users, which is why I am delighted that we have commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of designated taxi and private hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra. I hope that in so doing we will send a clear signal to the minority of drivers who think it acceptable to discriminate on grounds of disability that such behaviour will not be tolerated – and, more importantly, to enable wheelchair users to travel with confidence.

A handwritten signature in black ink that reads "Andrew Jones". The signature is written in a cursive, flowing style.

**Andrew Jones MP,
Parliamentary Under Secretary of State, Department for Transport**

1. Introduction

Status of guidance

- 1.1 This guidance document has been issued in order to assist local licensing authorities (LAs) in the implementation of legal provisions intended to assist passengers in wheelchairs in their use of designated taxi and private hire vehicle (PHV) services. It provides advice on designating vehicles as being wheelchair accessible so that the new protections can apply, communicating with drivers regarding their new responsibilities and handling requests from drivers for exemptions from the requirements.
- 1.2 This is a statutory guidance document, issued under section 167(6) of the Equality Act 2010 and constitutes the Secretary of State's formal guidance to LAs in England, Wales and Scotland on the application of sections 165 to 167 of the Equality Act 2010. LAs must have regard to this guidance document.

2. Putting the law into practice

Background

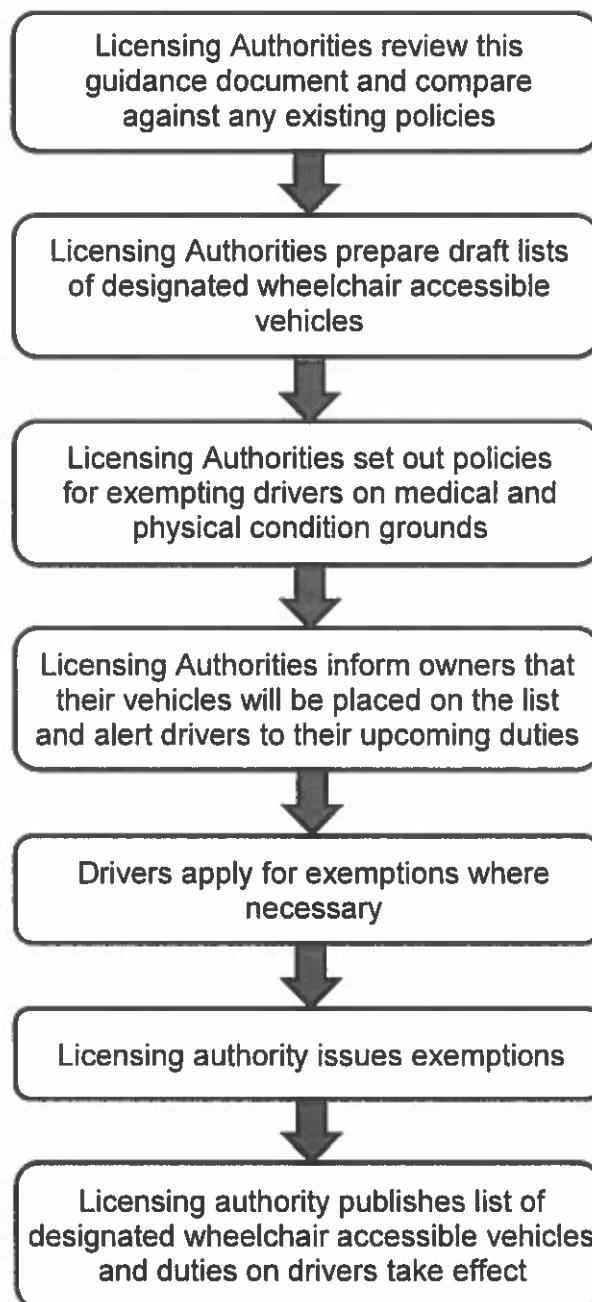
- 2.1 We have commenced sections 165 and 167 of the Equality Act 2010 ("the Act"), in so far as they were not already in force. Section 167 of the Act provides LAs with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.2 The requirements of section 165 do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows LAs to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with those duties.
- 2.3 On 15th September 2010, the Department for Transport issued guidance on the Act which stated, in relation to section 167, *"although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates"*.
- 2.4 We therefore recognise that many LAs have already implemented some of these provisions, including publishing lists of wheelchair accessible vehicles and exempting drivers. Therefore, there are likely to be a range of approaches being used in practice by LAs across England, Wales and Scotland.

Transitional arrangements

- 2.5 We want to ensure that the commencement of sections 165 and 167 of the Act has a positive impact for passengers in wheelchairs, ensures they are better informed about the accessibility of designated taxis and PHVs in their area, and confident of receiving the assistance they need to travel safely.
- 2.6 But we recognise that LAs will need time to put in place the necessary procedures to exempt drivers with certain medical conditions from providing assistance where there is good reason to do so, and to make drivers aware of these new requirements. In addition, LAs will need to ensure that their new procedures comply with this guidance, and that exemption notices are issued in accordance with Government regulations. This will ensure that we get a consistent approach and the best outcomes for passengers in wheelchairs.
- 2.7 As such, we would encourage LAs to put in place sensible and manageable transition procedures to ensure smooth and effective implementation of this new law. LAs should only publish lists of wheelchair accessible vehicles for the purposes of

section 165 of the Act when they are confident that those procedures have been put in place, drivers and owners notified of the new requirements and given time to apply for exemptions where appropriate. We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions, but this will of course be dependent on individual circumstances.

2.8 A flowchart setting out the sorts of processes that a LA could follow is set out below. This is an indicative illustration, and it will be down to each LA to determine the actions they need to take to ensure this new law is implemented effectively in their area.



3. Vehicles

Overview

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair"¹ to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.
- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

¹ As defined in Schedule 1 of the Public Service Vehicle Accessibility Regulations 2000

Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include 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.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.

4. Drivers

Driver responsibilities

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 The duties are:
- to carry the passenger while in the wheelchair;
 - not to make any 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.
- 4.3 The Act then goes on to define mobility assistance as assistance:
- To enable the passenger to get into or out of the vehicle;
 - If the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - To load the passenger's luggage into or out of the vehicle;
 - If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 4.4 Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them. We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication. The Disabled Persons Transport Advisory Committee's Disability Equality and Awareness Training Framework for Transport Staff² may provide a useful resource.
- 4.5 Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

²

<http://webarchive.nationalarchives.gov.uk/20080804135759/http://www.dptac.gov.uk/education/stafftraining/pdf/trainingframework-nontabular.pdf>

light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running.

Applying for and issuing exemptions

- 4.8 Some drivers may have a medical condition or 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. That is why the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1st October 2010.
- 4.9 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Since October 2010, taxi and PHV drivers who drive wheelchair accessible taxis or PHVs have therefore been able to apply for exemptions. If they do not do so already, LAs should put in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.
- 4.10 We suggest that authorities produce application forms which can be submitted by applicants along with evidence supporting their claim. We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner.
- 4.11 However, the Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant. LAs may already have arrangements with such assessors, for example in relation to the Blue Badge Scheme.
- 4.12 If the exemption application is successful then the LA should issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. As section 166 has been in force since 2010, many LAs will already have processes in place for issuing exemption certificates, and as such we do not intend to prescribe the form that those certificates should take. We are however keen to ensure that passengers in wheelchairs are able to clearly discern whether or not a driver has been exempted from the duties to provide assistance, and as such will prescribe the form of and manner of exhibiting a notice of exemption.
- 4.13 If the exemption application is unsuccessful we recommend that the applicant is informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.

Demonstrating exemptions

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 The Department will soon make regulations which will prescribe the form of and manner of exhibiting a notice of exemption. Where a driver has been exempted from the duties under section 165 of the Act, they must display an exemption notice in the vehicle they are driving in the form and manner prescribed by the regulations. If the notice is not displayed then the driver could be prosecuted if they do not comply with the duties under section 165 of the Act.
- 4.16 The Department aims to distribute copies of the notice of exemption to LAs, but they are of course free to produce their own in accordance with the regulations.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

Appeals

- 4.18 Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal.
- 4.19 LAs may choose to establish their own appeal process in addition to the statutory process but this would need to be undertaken rapidly in order to allow any formal appeal to the Magistrate's Court to be made within the 28 day period.

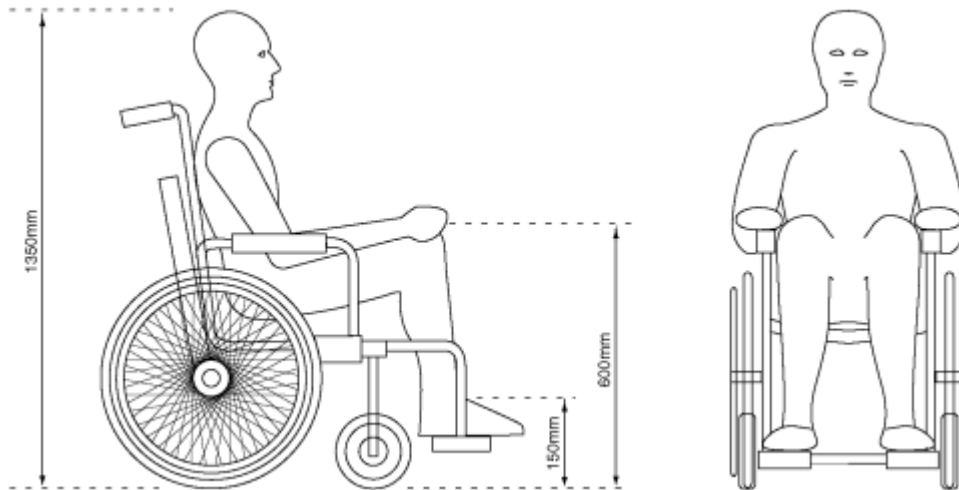
5. Enforcement

Licensing measures and prosecution

- 5.1 It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list of the LA that licensed them, and the LA has not provided them with an exemption certificate, regardless of where the journey starts or ends.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 LAs have wide-ranging powers to determine the rules by which taxis and private hire vehicles within their respective areas may operate. We recommend that they use these powers to ensure that drivers who discriminate against disabled passengers are held accountable.
- 5.4 If a driver receives a conviction for breaching their duties under section 165 of the Act, it would be appropriate for the authority to review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. The Government's presumption is that a driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.

Appendix 2

Reference Wheelchair Type and Dimensions



Appendix 3

List of designated licensed vehicles provided under section 165 of the Equality Act 2010

Make	Model	Colour	Registration Number	Vehicle Licence No	Registered Keeper	Proprietor
Volkswagen	Caddy Max	White	DF59 RED	398	Mr Jo Bloggs	Abbey Cars
Citroen	Berlingo	White	GH78 YHN	016	Mrs Josephine Bloggs	Spelthorne Cars