



## Public Session

Report Reference Number: L/17/18

Agenda Item No: 7

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**To:** Licensing Committee  
**Date:** 15<sup>th</sup> January 2017  
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**Lead Officer:** Gillian Marshall, Solicitor to the Council

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### **Title: Wheelchair Accessible Vehicles Policy Review**

#### **Summary:**

In March 2017 the Committee was asked to note the coming into force of provisions within the Equalities Act 2010, which make it illegal for taxi drivers of designated wheelchair accessible vehicles to discriminate against wheelchair users unless they are certified as exempt from the requirements to assist.

The Licensing Authority now needs to take active steps to review our practices and procedures and work with the trade to ensure that they are aware of their obligations.

We are still awaiting a confirmed date for the consultation on the Department for Transport's statutory/best practice guidance. Given that the consultation is not likely to be for the foreseeable future, it is recommended that the Licensing Authority proceed to review the legislation and existing guidance in line with the Council's Taxi Licensing Policy, considering the Council's approach to what a wheelchair accessible vehicle is and the policy for exempting drivers on medical or physical grounds.

#### **Recommendations:**

**It is recommended that a joint Licensing Policy Workshop is held, to include Members from both the Licensing Committee and Policy Review Committee to consider the following:**

- What a Wheelchair accessible vehicle is;
- If a list should be created under Section 167 of the Equalities Act 2010, which would identify taxis or private hire vehicles which conform to such accessibility requirements as the licensing authority thinks fit.
- The policy for exempting drivers on medical and/or physical grounds.

## **1 Introduction and background**

- 1.1** The Licensing Authority needs to review the Taxi Licensing Policy and the requirements on wheelchair accessible vehicles to ensure the Authority's fleet complies with the required standard.

## **2 The Report**

### **Definition of Wheelchair Accessible Vehicle**

- 2.1** The Council's Taxi Licensing Policy defines wheelchair accessible vehicles at Section 6.4 (appendix 1); however, the Policy does not provide any details of specification or minimum standards.
- 2.2** The Council has a contract with Watsons MOT & Service Centre, Selby, for carrying out vehicle inspections on all new and renewal vehicle licence applications. Watsons have raised concerns about what is, and what should be accepted as a wheelchair accessible vehicle.
- 2.3** During the current compliance test, if it is stated that the vehicle is wheelchair accessible, a Watson's mechanic, pushes an empty wheelchair up the ramp provided with the vehicle, to see if it will go in.

Watsons have raised concerns over the modification of some vehicles. If a vehicle has been modified correctly and to a specified standard, the floor should be lowered, enabling more space for passenger's access into the vehicle, whereas currently if the floor is not lowered the passenger in the wheelchair would struggle to get in some vehicles whilst sitting in the wheelchair, sometimes making it impossible.

Watsons also have concerns about the way in which some of our current wheelchair accessible vehicles are securing the wheelchairs when passengers are in them.

We state nothing in our current policy about what is expected as a minimum standard for anchorages. In some instances where the modification of the vehicle has not been carried out correctly, the anchorage used has been luggage straps, which are not meant for any kind of weight on them. In correctly modified vehicles these straps would be reinforced, but Watsons have stated that in some vehicles are not, which would lead to big implications for both the passenger and the Authority if a passenger was being transported in the wheelchair at the time of an accident or sharp braking.

- 2.4** There is no requirement for Watson's to carry out this part of the test during the vehicles compliance test.
- 2.5** Following on from the concerns that Watson's garage has brought to officers attention, officers approached The Automotive Group, who is a manufacture that is involved with the design and adaptation of wheelchair accessible vehicles. They are here today to speak to you on this subject; however they

have informed officers previously that to confirm if a vehicle has been modified to the right standard it can be as simple as asking for the V5 of the vehicle or the certificate of conformance, such as the European Community Whole Vehicle Type Approval (ECWVTA). This ensures that the vehicles are produced to high and vigorous standards, giving comfort to the Authority that the taxi has been built correctly and that the Authority is not licensing “homemade” conversions, as the dangers to the disabled passengers and implications to Selby Council are all too clear.

A brief synopsis of the points raised was:

- Our cars are produced with European Community Whole Vehicle Type Approval (ECWVTA)
- The vehicles once built to ECWVTA standard can then be supplied with a Certificate of Conformity. (COC)
- This ensures the cars are produced to very high and vigorous standards.
- ECWVTA Taxis with COC give comfort to local authorities that the Taxi will have been built properly. There are some vehicles on the road with “homemade” conversions. The dangers to the disabled passenger in these cars and the implications to the Borough licensing them are all too clear.
- The vast majority of boroughs will not license Taxi’s without a COC. Please note there is a difference in COC and the car must have been built for the right amount of passengers. For instance we supply a vehicle with an extended lowered floor. These converted vehicles are only ECWVTA approved for two passengers in the back and driver and passenger in the front. Clearly a 3 passenger car cannot be a Taxi. Therefore the correct amount of passengers must always be on the COC.
- Rear entry wheelchair accessible vehicles are vastly superior to side entry in terms of safety, ramp height and disabled passenger comfort.
- Side entry cabs are a roll over from the original Hackney Carriage Act of 1879. This regulated horse drawn Taxis. In reality London Black cabs are protected by a very strong lobby in London. Some of the reasoning being the knowledge test and that they are an iconic feature of London like the red bus. However we do have rear entry WAV approved by Transport for London as private hire.
- From 6 April 2017 drivers of taxis and private hire vehicles (PHVs) designated by the local licensing authority as being wheelchair accessible must comply with the requirements of Section 165 of the Equality Act 2010, unless they have been issued with an exemption certificate (Appendix 2).
- Going forward as technology advances lots of our clients are in electric wheelchairs. This market will only expand exponentially.
- Electric wheelchairs lead to other issues for wheelchair passengers. They are wider and heavier than a standard NHS chair used for hospital transport. This has led us to develop a 400kg tested entry ramp. The ramp and entry width of the floor also exceeds 800mm ensuring most large wheelchairs fit.

- 2.6** From the guidance that is currently available it refers to the 'reference wheelchair', which according to Public Services Vehicles Accessibility Regulations 2000 an occupied wheelchair is having the dimensions shown in Appendix 3, the guidance states:

"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" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair".

### **List of Wheelchair Accessible Vehicles**

- 2.7** Section 165-167 of the Equalities Act 2010 came into force 7<sup>th</sup> April 2017, which allows Local Authorities to create a list of designated wheelchair accessible vehicles, Whilst Licensing Authorities may decide not to create the list, the Government strongly recommends that they do, as without such a list the requirements of section 165 of the Act does not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance or to charge them extra.(see Appendix 2 for list of duties).
- 2.8** Section 165 also makes sure that passengers in wheelchairs are better informed about the accessibility of the taxi and private hire vehicle in their area, confident of receiving the assistance they need to travel safely, and not be charged more than a non-wheelchair user for the same journey.

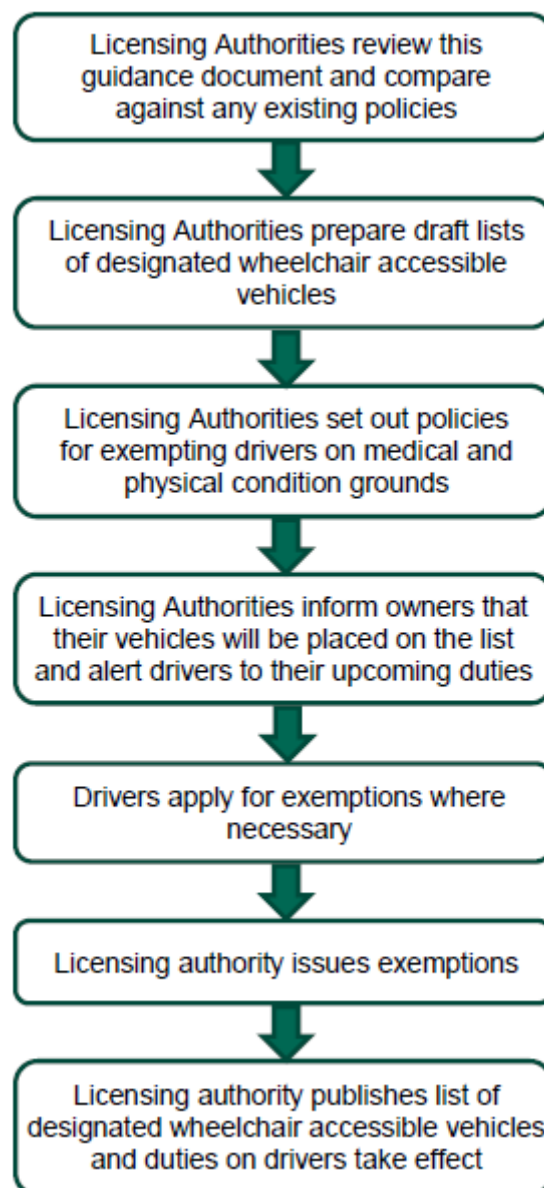
### **Exemption on Medical / Physical Grounds**

- 2.9** Drivers currently wishing to apply for an exemption on medical grounds from assisting passengers in wheelchairs up ramps etc. are required to provide a letter from their own GP or medical professional explaining the reasons why they are unable to carry out the duties stated on the conditions of their licence.
- 2.10** The applicant then appears before the Licensing Committee for a decision on their application.
- 2.11** At times the information that has been provided has not been sufficient for the Committee to make a decision, and in some cases the GP has used wording such as 'they have told me' rather than being specific about what the medical condition is and why they would not be able to carry out the duties expected of them in their role of being a driver of a wheelchair accessible vehicle.
- 2.12** To resolve this issue, it is proposed that a standard form is to be given to the applicant's GP, which asks specific questions ensuring the Licensing Authority has all the information required to determine an application (Appendix 4).

**2.13** Officers ask the Committee to consider if these questions are appropriate or require amendments and then those become a requisite of the application process for medical exemptions if a list under S.167 is created.

### Next Steps

**2.14** The guidance suggests that authorities will need to follow a series of steps to ensure that the new requirements are applied appropriately in their area. In essence, the authority will need to review their requirements on wheelchair accessible vehicle's to ensure that their fleet complies with the required standards, publish a draft list of wheelchair accessible vehicles to which S.165-167 applies, inform the trade of which vehicle's will appear on the list and therefore which drivers will be required to comply with the duties, inform drivers of how to apply for exemptions and then deal with such applications. The process is summarised as follows:



### **3.0 Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

Section 165 imposes duties on the driver of a designated taxi and the driver of a designated private hire vehicle (“a designated vehicle”), who are either wheelchair users or wheelchair users accompanying passengers, so as to enable wheelchair users to access and exit designated vehicles.

Section 165 also creates a new criminal offence if the driver of a designated vehicle fails to comply with the duties specified in Section 165.

Section 166 provides that the driver of a designated vehicle is exempted from the duties imposed by Section 165 if a Licensing Authority issues the driver with an exemption certificate which is in force and the prescribed notice of the exemption is exhibited in the designated vehicle in the prescribed manner.

Section 166 also provides that a taxi or private hire vehicle is “designated” if it appears on a list maintained under S167.

Section 167 provides that for the purposes of Section 165, a Licensing Authority may maintain a list of vehicles which are either taxis or private hire vehicles and confirm to such accessibility requirements as the Licensing Authority thinks fit.

### **4 Financial Issues**

There are no financial implications.

### **5 Conclusion**

- 5.1** Committee to consider if Section 6.4, Definition of wheelchair accessible vehicles, of Selby’s Taxi licensing policy is sufficient or if the officer’s recommendation to state and specify what is required to show that the vehicle has been modified to the correct safety standard and what can be produced to satisfy the council of this.
- 5.2** As Selby’s current wheelchair accessible list was not created for S167, for the committee to consider if the Government’s recommendation of creating and publishing a list, which would allow S. 165 of the Act, to place duties on the drivers of designated wheelchair accessible taxi’s and private hire vehicles and once the duties have been commenced, making it an offence for the driver (unless exempt) of the taxi or private hire vehicle which is on the designated list to fail to comply with them.
- 5.3** To consider creating a policy for S.166 which would allow the Licensing Authority to exempt drivers from the duties to assist passengers in wheelchairs, if they are satisfied that is appropriate to do so on medical or physical grounds.

- 5.4** Officers recommend that a joint Licensing Policy Workshop is held, to include Members of Licensing Committee and Policy Review Committee to discuss the issues and concerns.

## **6 Background Documents**

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### **Appendices:**

Appendix 1 – Section 6.4 of Selby District Council, Taxi Licensing Policy  
Appendix 2 – Section 165 of the Equalities Act 2010  
Appendix 3 – Dimensions of wheelchair accessible vehicles  
Appendix 4 – Application form for exemption of duties under S165