

## 7. IMPLEMENTATION OF SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010

REPORT OF: Tom Clark, Head of Regulatory Services

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Wards Affected: ALL

Key Decision No

Report to: Scrutiny Committee for Community, Housing and Planning  
on the 29 June 2017

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### Purpose of Report

- 1 To advise the Committee on the new powers under the Equality Act 2010( the Act) relating to access for wheelchair users to taxis and private hire vehicles and seek their support on their implementation in our Taxi Licensing Policy.

### Summary

2. Section 165 of the Act places a legal requirement on drivers of all licensed taxi and private vehicles which are wheelchair accessible to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra for the fare.
- 3 Section 167 of the Act provides Local Authorities with powers to publish a list of taxi and private hire licensed vehicles that are wheelchair accessible but this is discretionary. The responsibility imposed on drivers does not take effect until the Council publishes the list and it will not apply to drivers who have a valid medical exemption certificate issued by us.
4. The Department of Transport has produced a Statutory Guidance document in relation to wheelchair accessible vehicles which we must have regard to.

### Recommendations

- 4 **The Committee recommended the Cabinet Member for Community:**
  - a) **To approve the necessary transitional steps to publish a list under Section 167 of the Act of wheelchair accessible vehicles.**
  - b) **To approve and commence the application process for drivers who need to apply for an exemption certificate under the Act.**
  - c) **To approve the process for medical exemption applications in relation to the Act.**

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### Background

5. Mid Sussex District Council has responsibility for licensing Hackney Carriage and Private Hire vehicles, drivers and operators within the District of Mid Sussex. As the Licensing Authority the District Council has a duty to enforce the conditions, policies and byelaws that may be associated with the licensing of such Private Hire and Hackney Carriage vehicles and drivers as applicable.

6. Section 165 of the Equality Act 2010 places specific 'duties' on the driver of a designated licensed Hackney Carriage or Private Hire Vehicle (Wheelchair accessible vehicle). These duties are:
  - a. to carry the passenger while in the wheelchair;
  - b. not to make any additional charge for doing so;
  - c. if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
  - d. to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
  - e. to give the passenger such mobility assistance as is reasonably required: 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.
7. Section 167 of the Act provides the Council with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"). Whilst Local Authorities are under no specific legal obligation to maintain a list under the Act, the Government recommends strongly that they do so. Without such a list, the requirements of Section 165 of the Act would not apply.
9. 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 the Council to grant exemptions from the duties to individual drivers.
10. The following process is proposed for dealing with applications for a medical exemption relating to the Act and it is proposed that this is incorporated into our Taxi Licensing Policy;
  - a) If a driver wishes to apply for an exemption they supply a letter from a relevant Consultant detailing the extent of the duties that they are unable to perform together with the anticipated timescale for recovery to full duties.
  - b) If the application is successful the Council will issue an exemption certificate and provide an exemption notice for the driver to display in their vehicle. The exemption certificate will be initially issued for 3 months and then reviewed. If necessary the driver will be requested to provide further medical evidence of their continuing inability to perform the above duties.
  - c) After six months of medical exemption, the matter may be referred to a Licensing Committee for determination as to whether the exemption should be continued.
  - d) If the initial exemption application is unsuccessful or if a Licensing Committee withdraws the exemption the applicant will be informed in writing within a reasonable timescale and with a clear explanation of the reasons for the decision.
  - e) Section 172 of the Act enables vehicle owners to appeal against the decision of the Council to include their vehicles on the designated list and also enables drivers to appeal against the decision of the Council not to issue an exemption certificate. The appeal should be made to the Magistrate's Court, and must be made within 28 days of the vehicle in question being included on the Council's published list or refusal to issue an exemption certificate.
11. When the Council approves requirements under the Act, a list of wheelchair accessible vehicles will be circulated to drivers of the vehicles on it. Where necessary, drivers can apply for exemptions.

12. Once exemptions have been considered, the list will be published on the Council web site. It will detail the name of the operator/owner, whether it is a hackney or private hire vehicle and make and model of the vehicle.
13. Once the list is published, it will be an offence for the driver (unless exempt) of a taxi or private hire vehicle which is on the our designated list to fail to comply with the duties listed in paragraph 6 above.

### **Financial**

14. Under Section 172 a vehicle owners can appeal to the Magistrates Court against:
  - I. the decision of the Council to include their vehicles on the designated list,
  - II. the decision not to issue a medical exemption certificate or to suspend or revoke a vehicle licence.

If the Court find in the Owners favour they could potentially award costs against the Council.

### **Equality and customer service implications**

15. The Taxi Licensing Policy is intended to protect the public, including those who are vulnerable owing to their age or disability. The implementation and adoption of the new powers will further enhance transportation network for disabled peopled within our community.

### **Background Papers**

Statutory Guidance – Access for wheelchair users to Taxis and Private Hire Vehicles