

21 June 2017

Dear Councillor,

A meeting of the **SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING** will be held in the **Council Chamber** at these offices on **Thursday 29 June 2017 at 7.00 p.m.**, when your attendance is requested.

Yours sincerely,

KATHRYN HALL

Chief Executive

A G E N D A

	Pages
1. To note Substitutes in Accordance with Council Procedure Rule 4 - Substitutes at Meetings of Committees etc.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To confirm the Minutes of the meeting of the Scrutiny Committee for Community, Housing and Planning held on 7 March 2017 and 10 May 2017.	3 - 11
5. To consider any items that the Chairman agrees to take as urgent business.	
6. Application by the Mid Sussex Taxi Association to amend the Taxi Licensing Policy.	12 - 15
7. Implementation of Sections 165 and 167 of the Equality Act 2010.	16 - 18
8. Scrutiny Committee for Community, Housing and Planning Work Programme 2017/18	
9. Questions pursuant to Council Procedure Rule 10 due notice of which has been given.	

Working together for a better Mid Sussex



To: **Members of Scrutiny Committee for Community, Housing and Planning** – Councillors Barrett-Miles, E. Belsey, Cherry, Coote, de Mierre, Forbes, C. Hersey, M. Hersey (Vice-Chairman), A Jones, Matthews, Walker (Chairman), Watts Williams, Wilkinson, Wyan.

Requesting Members – Councillors Bradbury, Holden, MacNaughton, Marsh, Sweatman, Wall and Webster.

**Minutes of the Meeting of the Scrutiny Committee for
Community, Housing and Planning held on 7 March 2017
from 7:00 p.m. to 9:05 p.m.**

Present: Councillors: Neville Walker (Chairman)
Anthony Watts Williams (Vice-Chairman)

Andrew Barrett-Miles*
Edward Belsey*
Richard Cherry
Phillip Coote
Ruth de Mierre

Bruce Forbes*
Chris Hersey
Margaret Hersey
Edward Matthews
Robert Salisbury

Linda Stockwell
John Wilkinson
Peter Wyan

*Absent

Also Present (Cabinet Members): Councillor Colin Holden, Councillor Andrew Macnaughton and Councillor Norman Webster

1. SUBSTITUTES AT MEETINGS OF COMMITTEE - COUNCIL PROCEDURE RULE 4

Councillor Colin Holden was substituting for Councillor Forbes.

2. APOLOGIES

Apologies had been received from Councillor Andrew Barrett-Miles, Councillor Edward Belsey and Councillor Bruce Forbes.

3. DECLARATIONS OF INTEREST

None.

4. MINUTES

The Minutes of the meeting of the Committee held on 15th November were agreed as a correct record and signed by the Chairman.

The Chairman took the opportunity to update the committee on discussions that had taken place with the management at the request of the Scrutiny Committee.

5. AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Yvonne Leddy, Business Unit Leader, introduced the Report and confirmed that these changes would be consulted on from 13th March 2017. If there were substantial changes as a result of the consultation then those amendments would come before this committee in June 2017.

A Member noted the suggested amendments to the policy and queried if there were sufficient electric charging points in relation to the policy change on Electric Vehicles. She enquired if it would be worthwhile exploring the installation of charging points at taxi ranks for example at Haywards Heath Station.

The Business Unit Leader confirmed that there are currently electric charging points in some locations for example in public car parks. Policy at the current time does not encourage electric vehicle use; however, there is a growing movement towards the use of electric vehicles more generally. The Business Unit Leader explained that the forecourt of the station is not in the ownership of the District Council; however, encouraging the installation of electric charging points is something that could be explored.

Another Member stated that he had difficulty in accepting the wording in relation to the Knowledge Test. He felt that the wording appeared to condone cheating which he strongly opposed. He wished to see this wording tighten up to be explicit that cheating is not allowed and will not be tolerated.

The Business Unit Leader accepted the Members concern and was agreeable to a tightening up of the wording. She further informed Members that during the test 2 officers were present to invigilate.

Councillor Chris Hersey moved that the wording be revised to “will be” as opposed to “is likely”.

A further Member asked for the Cabinet Member to comment.

Councillor Webster explained that the wording was not intended as a get out and anyone doing so will be regarded as having cheated. In relation to electric vehicles, technology was changing with a move to a more standardised battery. The onus to provide electric charging points would be for the private hire operators at their public offices.

A Member asked for the legal position to be confirmed in relation to the wording of the policy on the Knowledge Test.

Tom Clark, Solicitor to the Council confirmed that it was always prudent to allow for a bit of flexibility in the wording but an appeal was possible.

Councillor Wyan seconded the motion by Councillor Chris Hersey with 9 Members voting for with 2 against. The motion was carried.

A Member sought clarification in relation to the medical and enquired if this included weight considerations.

The Business Unit Leader confirmed that when an applicant applies they have to declare any existing medical condition. Weight is not one of them.

The Cabinet Member confirmed that the Council was able to request a further medical and this is undertaken by a qualified medical practitioner.

A Member enquired as to what happens should an applicant’s weight change.

The Solicitor to the Council stated that it must be an evidence led process and the question was whether a person was fit to drive and not whether their weight had increase by a particular percent.

A Member sought assurances that any amendments resulting from the consultation will come back to the committee.

The discussion then moved on to driving ability and if photo identity is available for inspection by passengers.

The Business Unit Leader confirmed that a Photo Identity Badge must be worn and this must correspond to the badge displayed on the dashboard of the vehicle.

A Member stated that he was concerned that medical checks are as stringent as they can be. He further noted that no reference to eye tests is made. He sought reassurances that a licence is issued based on evidence and not reliant on trust.

The Business Unit Leader confirmed that what is required is the same as a standard driver and checks as we age are undertaken. It would be difficult to be more onerous than what is required nationally.

A further Member enquired as to how and by whom the checking of public offices was conducted in addition to how frequent these checks are.

The Business Unit Leader confirmed that officers undertake checks 6 – 7 times a year.

A Member asked if it would be possible for the Council to have a designated doctor to recommend. He further noted that it had been known that some drivers had swapped licensing plates.

The Business Unit Leader confirmed that she would be happy to look into having a designated doctor. In relation to licensing plates she confirmed that the plates are definitely secure.

A Member asked when the penalty points system will be considered.

The Business Unit Leader confirmed the penalty points system will be taken to Council at the end of March with the intended adoption date of 1st May 2017.

A Member sought clarification in relation to the declaring of convictions.

The Business Unit Leader confirmed that any convictions must be recorded.

The Solicitor to the Council confirmed that all convictions need to be declared, however, declaring a conviction would not automatically result in a rejection of a licence application.

A Member advised that he was aware that only under certain circumstances can a medical examiner be recommended.

The Cabinet Member confirmed that officers visited the taxi offices unannounced. GPs are bound by what is on file and would be subject to professional disciplinary action if they were remiss in their duties.

The Chairman then moved to the recommendations which were agreed subject to the rewording of item 9.

RESOLVED

To endorse the changes to the Hackney Carriage and Private Hire Licensing Policy at Appendix 1 before it is issued for public consultation subject to the rewording in relation to the Knowledge Test and cheating.

6. REVIEW OF THE HOUSING ALLOCATION SCHEME

The Chairman reminded Members that the last revision of the Council's Housing Allocation Scheme came into force in April 2016. Today's Report is seeking minor amendments to that scheme.

Julian Till, Housing Needs Manager, introduced the Report confirming that only minor amendments are being sought. The scheme is reviewed on an annual basis to ensure it remains fit for purpose, meets legislative changes and fairly targets those most in housing need. The proposed changes will come into force from the 1st April 2017.

A Member asked if someone wished to downsize and was on a low 'social' rent would they automatically be placed onto the higher affordable rent? This was a disincentive to move.

The Business Unit Leader confirmed that unfortunately this would be the case in such a scenario when the tenant was moving to a property where rent was set at the higher 'affordable' rent.

A Member asked about the local connection exemption and additional preference given to widows of Armed Forces personnel whose partner's death was attributable to their service. If the individual passed away owing to natural causes, would this disqualify them?

The Business Unit Leader advised that the wording of the paragraphs the Member was referring to were derived from a statutory instrument. He confirmed that in such a scenario the widow would not qualify under this paragraph but hoped that some understanding would be given to a widow in such a situation.

The Chairman thanked Julian Till for his long service and then moved to the recommendation which was agreed unanimously.

RESOLVED

To endorse to Full Council the revised Housing Allocation Scheme at Appendix 1 to take effect from April 2017.

8. MID SUSSEX PARTNERSHIP ANNUAL REPORT

Natasha Allen, Partnerships Manager introduced the Report.

A Member enquired if there was a connection between anti-social behaviour increasing and the reduction in neighbourhood policing.

The Partnerships Manager explained that anti-social behaviour against a person rather than anti-social behaviour towards a wider community can be a perception and this may have led to an increase in reporting.

The Member stated that he remained concerned and that he thought it would be useful to be able to compare reporting from the three towns in Mid Sussex.

A Member noted that the Haywards Heath Community Warden only patrol in the town centre and not out in the neighbourhoods.

A Member noted the recommendation at 3 (ii) and sought clarification as to how unmet needs are established.

The Partnerships Manager explained that the annual Strategic Intelligence Assessment which will go to the meeting of the Mid Sussex Partnership in April, will be used as a basis for allocating resources and/or commissioning going forward. Work continues in relation to the collection of data and value for money on projects.

A Member wished to thank the team for their work in Bentswood.

A further Member asked if the Intelligence data will be shared with this committee.

The Partnerships Manager confirmed that the Strategic Intelligence Assessment will be shared.

The Cabinet Member informed Members that he attended the Mid Sussex Partnership Meetings and that he is aware of the work that is being done. He confirmed that the focus on data has increased over the past year. The Partnership responds where data indicates need for example in Bentswood and East Quarry. Joint working across the Council has led to results.

A Member asked about the Government's Troubled Family Scheme and how the Council makes contact.

The Partnerships Manager confirmed that all families are referred to the scheme through her officers.

The Member asked where the starting point is for a referral for example is it the school, GP etc. and what further work needs to be done in relation to this scheme.

The Partnerships Manager confirmed that referrals came from a variety of organisations and was co-ordinated by West Sussex County Council.

The Cabinet Member stated that the Troubled Families Scheme was monitored by a weekly forum of a collection of professionals. The intention of the scheme is to improve early intervention and spend resources in the best way possible.

The Chairman took Members to the recommendations which were agreed unanimously.

RESOLVED

The committee noted the Report and endorsed the use of Mid Sussex Partnership funding for projects that provide best value for money, meet unmet needs and have clear outcomes.

9. MID SUSSEX WELLBEING SERVICE

Paul Turner, Wellbeing Manager, introduced the Report.

A Member praised the work of Heat for Health, however, queried the Weight Off Workshops as well as the Wellbeing Coaches – Albion in the Community and the cost of these.

The Wellbeing Manager explained over 200 people had been booked on to the programme since April that there are currently 24 people on the waiting list for this service. Whilst the intervention may seem expensive it is actually more cost effective to offer this service than to deal with the consequences of doing nothing. In relation to the Albion this is a much more tailored and intensive service.

A Member asked what impact would a reduction in funding have on the service and what could be done to bridge any gap.

The Wellbeing Manager stated that the team had prepared for a 25% reduction in funding with the alcohol project stopped and the weight management service brought in house. Difficult decisions would need to be made for 2018/19.

The Member stated that it was important that this service did not diminish.

A Member asked what the service offered in relation to Mental Health and were there ambitions to expand on this element of the service.

The Wellbeing Manager stated that service users were referred and that the team could only work with lifestyle changes. The team do signpost to other services that are more specialist where relevant.

A Member asked if the Fall Prevention Service was by referral.

The Wellbeing Manager confirmed that it is and that most referrals are from GPs.

A Member asked that in relation to Heat for Health and similar that the rural parts of the District can be given a bit more notice. She also asked if the Heat for Health Service was going to continue.

The Wellbeing Manager stated that it was one off funding and run by the Mid Sussex Older peoples Service. Some funds had yet to be allocated to those with children under 5 and to the over 65's. Referrals could be made through Matthew Bird the Sustainability Officer.

A Member noted that in relation to the Weight Off programme the measure in the Report referred to those that had been successful in reducing their body weight by 3%. He felt it would be better to reflect those that have achieved their weight target.

The Wellbeing Manager stated this measure is the figure given by Public Health England Clinical Guidance; however the Council would like to report differently.

A member asked if the Weight off Workshop programme was run by the Wellbeing Service and also enquired if the weight loss interventions were taken up by staff and Members.

The Wellbeing Manager stated that WOW was run through the Wellbeing Team. Staff and Members do make use of the weight loss service which is advertised through the Wire noticeboard and they can see an advisor.

A Member enquired about Dementia Services and asked if a connection had been made with Town/Parish Councils who were becoming Dementia Friendly.

The Wellbeing Manager confirmed that the Council was aware of the towns becoming Dementia Friendly and confirmed that a trained advisor has been forming alliances and provided some training where capacity allowed.

A Member endorsed the weight loss service and wished to see the service financed on an ongoing basis. He asked if someone was not sufficiently large enough to be referred was there an option to charge these individuals and provide for some services to help with funding costs.

The Wellbeing Manager confirmed that charging for workplace interventions was being explored, however, West Sussex County Council do not encourage charging.

The Cabinet Member advised that this was a signposting and demand limitation service. It is not easy to place a value on the outcome. In relation to Mental Health it was important to note that this was a lifestyle change service not a medical service. There have been Dementia Sessions held at the Council and there will be a Child Sexual Exploitation Day held on 18th March. Heat for Health has requested a meeting to explore how best to move forward and Members may wish to note that Elizabeth Willets the founder had recently passed away. In relation to charging, any charges would need to be realistic and the Council should be aware that this is a price sensitive service.

A Member asked if it was the same GPs that were making referrals to the service and is this recorded.

The Wellbeing Manager confirmed those GPs and practices which made referrals are being recorded.

The Cabinet Member confirmed that Wellbeing Posters were prevalent whenever he visited medical facilities; however, it was important that everyone played an active role in publicising the service.

The Chairman then took Members to the recommendations which were agreed unanimously.

RESOLVED

Committee resolved to endorse the proposed approach for the continued delivery of the Wellbeing Service for 2017/18.

10. EQUALITY AND DIVERSITY PROGRESS REPORT 2016

Neal Barton, Policy and Performance Manager, introduced the Report.

A Member informed the committee that in relation to Dementia Champions training two members turned up and as such he asked for the training to be repeated in the forthcoming year.

Another Member noted that measurements being used in relation to hate crime seemed rather narrow, he further pointed out that in relation to homelessness it is not just religious groups that were undertaking work in this area.

A further Member noted that some members had received Dementia Friendly training from elsewhere for example because they were members of a Town Council. She further asked what is being done to support NEETS.

Natasha Allen, Partnerships Manager, confirmed that Mid Sussex Partnerships funds the YMCA to deliver the NEETS project, currently there are 30+ NEETS on the list for Mid Sussex. Work is being done to reduce the number NEETS.

Tom Clark, Solicitor to the Council, stated that the Leisure Centres provide classes for all people and this makes good business sense.

A Member asked what the gender split percentage was between full time and part time staff.

The Policy and Performance Manager informed Members that these figures could be sought and will be distributed separately.

The Cabinet Member welcomed the Report and stated that there would be a Dementia Friendly Day during May. An additional Dementia Course could be arranged in the forthcoming year, but he was confident that more than two Members attended the previous sessions.

A Member noted that the Council maintained one Gypsy and Traveller site, but she was aware of more than one site in the District. As such she sought clarification.

The Policy and Performance Manager confirmed there are several sites across Mid Sussex but only one is directly managed by the Council.

A Member asked if people are made aware of the Disability Facilities Grant.

The Solicitor to the Council confirmed that referrals for the Grant were made by West Sussex County Council.

The Cabinet Member confirmed that referrals were through the County Council and the health service promotes the Grants too.

The Chairman took Members to the recommendations which were agreed.

RESOLVED

Committee agreed to endorse the Council's approach to meeting its duties under the Equality Act, as evidenced by the Equality and Diversity Progress Report 2016 included at Appendix 1.

Chairman

**Minutes of the Annual meeting of the Scrutiny Committee for
Community, Housing and Planning held on 10 May 2017 from
7:23 p.m. to 7:24 p.m.**

Present:

Andrew Barrett-Miles
Edward Belsey
Richard Cherry
Phillip Coote
Ruth de Mierre

Bruce Forbes
Christopher Hersey
Margaret Hersey
Anne Jones
Edward Matthews

Neville Walker
Anthony Watts Williams
John Wilkinson*
Peter Wyan

* Absent

1. ELECTION OF CHAIRMAN

Councillor Margaret Hersey nominated Councillor Neville Walker as Chairman of the Committee for the 2017/18 Council year. This was seconded by Councillor Edward Matthews and agreed.

RESOLVED

That Councillor Neville Walker be elected Chairman of the Committee for the 2017/18 Council year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Neville Walker nominated Councillor Margaret Hersey as Vice-Chairman of the Committee for the 2017/18 Council year, which was agreed.

RESOLVED

That Councillor Margaret Hersey be appointed Vice-Chairman of the Committee for the 2017/18 Council year.

3. URGENT BUSINESS

None.

Chairman.

6. Application by the Mid Sussex Taxi Association to amend the Taxi Licensing Policy

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Yvonne Leddy Business Unit Leader Environmental Health
Email: yvonneleddy@midsussex.gov.uk Tel: 01444 477300

Wards Affected: ALL

Key Decision No

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

Purpose Of Report

1. To provide information in order that the Committee can assess an application by the Licensed Hackney and Private Hire trade to amend Mid Sussex District Council's Taxi Licensing Policy.

Summary

2. On 1st October 2012 Mid Sussex District Council introduced a Taxi Licensing Policy. It was revised and re adopted in 2015. Section 4 of the policy introduces, with effect from 1st October 2017, a restriction on the age of a vehicle (10 years old) being licensed as a hackney carriage or private hire vehicle and from 1st October 2022 the introduction of 'White only' licensed hackney carriage vehicles. The Policy in 2012 and in 2015 was adopted following extensive consultation.
 3. The Taxi Association for the Mid Sussex area has formally written to the Chair of the Licensing Committee requesting amendments to these provisions and will address the Committee in person along with two colleagues at the discretion on the Committee Chairman.
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Background

4. The Taxi Licensing Policy sought to ensure that members of the public have access to an effective, professional and safe hackney carriage and private hire service in Mid Sussex. In formulating the draft policy we compiled the existing conditions attaching to licences and reviewed a number of national and local policies and conditions.
5. In drafting the Policy the Licensing Team undertook some initial consultation with the trade on the main changes proposed these included the introduction of a livery, an age restriction on vehicles and additional testing of vehicles over a certain age.
5. At the consultation phase we wrote to all of the Mid Sussex licensed Hackney Carriage drivers, Private Hire drivers and Private Hire Operators informing them of the draft policy and inviting them to comment.
6. In March 2012, following the consultation of the policy, the Licensing Committee considered the policy again and the trade were invited to attend

and present. The outcome of the meeting was a full endorsement of the policy and a recommendation that it was presented to the Better Services Advisory Group.

- 7 Included in Section 4 of the draft Policy was a proposal to limit the age of vehicles to be licensed. It proposed that from the 1st October 2017 we would not licence any vehicle over the age of ten years from its initial DVLA registration. It also proposed, with effect from 1st October 2022, that all hackney carriage vehicles will be white in colour.
- 8 We received one hundred and eight responses during the consultation period regarding this section of the policy of which forty seven were against the proposal.
- 9 The policy was adopted by Council in July 2012 with effect from the 1st October 2012
- 10 The final wording of Section 4.2 in the Policy is as follows;

Livery

From 1st October 2022 the Council will require all licensed Hackney Carriage vehicles to be the colour white.

This would require that all Hackney carriage vehicles would be white and marked with the Mid Sussex District Council logo, and that, to distinguish them from private hire vehicles, the latter could not be white. The purpose of this proposal is to help protect the public. At present it is difficult for the public to distinguish between the two types of vehicles. If a member of the public inadvertently uses a private hire vehicle that has not been pre-booked the vehicle is not insured. The distinction would also help the Council in its role of enforcing licence conditions and identifying out of area licensed hackney vehicles operating in our district, an issue that the Hackney Carriage trade has often raised.

Vehicle age restrictions

From 1st October 2017 the Council will not license any vehicle over 10 years of age from the date of initial DVLA registration.

Whilst it is recognised that all licensed vehicles require regular maintenance it is accepted that the older a vehicle the more wear and tear it will have and the frequency of maintenance needs to be increased. It is also recognised that newer cars have improved safety features. Restricting the licensable age allows for a more modern fleet with greater safety features and reduces the likelihood of badly maintained vehicles.

- 11 The policy was reviewed and re adopted after full consultation in November 2015.
- 12 The Mid Sussex Taxi Association (MSTA) contacted the Council in February 2017 about the forthcoming policy implementation for age related vehicles. As a result of discussion and consultation with their members they have presented two petitions to the Chair of the Licensing Committee to request amendments to Section 4.2 of the Policy.

- 13 The first petition relates to the age limit for licensed vehicles. The second petition concerns vehicle livery.
- 14 Their member's consultation document is appended. It gives reasons to amend the Policy and makes a number of suggestions going forward. Paragraphs 4.8 - 4.9 of this report are a precis of the concerns raised as an addendum to the petitions and relate to both petitions.
- 15 They cite the following reasons for a change in financial circumstances:
- a) Uncertainty following the EU referendum vote in 2017.
 - b) Likelihood of restrictions on diesel cars
 - c) Ongoing Rail dispute
 - d) Taxi Deregulation Act 2015 which has lawfully allowed a number of out of town private hire vehicles into the MSDC area,
 - e) The twice annual vehicle fitness test was originally brought in to ensure no need for an upper age limit.
 - f) Rail Station Permits have increased in price by 34% during the last two years.
- 16 They propose the following:
- a) MSDC proposals are deferred for two years in line with negotiations for the withdrawal of the UK from the EU.
 - b) Age limit increased to Fifteen years, with an extra fitness test between years 10-15
 - c) No vehicle newly licensed within the two year deferment should have been registered before 1st January 2006.
 - d) Proposal of a thirty day window for drivers to repair small dents and scratches.
 - e) Remove the need for Hackney Carriages to be White (this is due to take effect from 1st October 2022). Hackney Vehicles to be identified by use of the MSDC logo on magnetic signs.
- 17 The council licences 154 Hackney and 227 Private Hire vehicles. A total of 381 vehicles.
- 18 Petition One has 90 signatories against the proposal for age restricted vehicles (this affects all 381 vehicles). 73 of these are vehicle licence holders whilst 17 hold driver licences only.
- 19 Petition Two (only affecting the 154 hackney carriages) has a total of 80 signatories against the proposal for 'white vehicles only'. 65 of these are vehicle licence holders and 15 hold driver licences only.
- 20 All the signatories are MSDC licence holders.

Policy Context

- 21 This report directly relates to the Mid Sussex District Council Taxi Licensing Policy

Background Papers

Mid Sussex Taxi Association Members Consultation
Taxi Licensing Policy

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

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Yvonne Leddy Business Unit Leader Environmental Health
Email: yvonneleddy@midsussex.gov.uk Tel: 01444 477300

Wards Affected: ALL

Key Decision No

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

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.**

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