



Complete Agenda

Democratic Services
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

GENERAL LICENSING COMMITTEE

Date and Time

10.00 am, MONDAY, 11TH DECEMBER, 2017

Location

**Siambr Hywel Dda, Council Offices,
Caernarfon, Gwynedd, LL55 1SH**

Contact Point

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(DISTRIBUTED 1 December 2017)

GENERAL LICENSING COMMITTEE

MEMBERSHIP (15)

Plaid Cymru (8)

Councillors

Steve Collings
Dafydd Owen
Rheinallt Puw
Elfed Williams

Annwen Hughes
Edgar Wyn Owen
Peter Read
Annwen Daniels

Independent (5)

Councillors

John Brynmor Hughes
Jason Wayne Parry

Eryl Jones-Williams
Dewi Wyn Roberts

Vacant seat

Llais Gwynedd (1)

Councillor
Gareth Williams

Lib / Lab (1)

Councillor Sion W. Jones

Ex-officio Members

Chair and Vice-Chair of the Council

A G E N D A

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

4 - 5

The Chairman shall propose that the minutes of the meeting of this Committee, held on 11.9.17 be signed as a true record.

5. GENERAL LICENSING SUB-COMMITTEE MINUTES

6 - 13

To submit, for information, minutes of the General Licensing Sub-committee meeting held on the following date –

- a) 22.08.17
- b) 13.11.17

6. IMPLEMENTATION OF EQUALITY ACT 2010 - WHEELCHAIR ACCESSIBLE TAXIS

14 - 29

To consider the report of the Head of Environment

7. REVIEW OF GWYNEDD COUNCIL TAXI POLICY

To receive verbal update on recent developments

Agenda Item 4

GENERAL LICENSING COMMITTEE, 11.09.17

Present: Councillors, Steve Collings, Annwen Daniels, Annwen Hughes, Eryl Jones-Williams, Dafydd Owen, Edgar Wyn Owen, Jason W Parry, Rheinallt Puw, Peter Read, Elfed W. Williams and Gareth Williams

Also in Attendance: Gareth Jones (Senior Planning and Environment Manager), Gwenan Mai Roberts (Licensing Manager), Geraint B. Edwards (Solicitor) and Lowri Haf Evans (Member Support Officer)

1. APOLOGIES

Apologies were received from Councillors John Brynmor Jones and Dewi Wyn Roberts.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

Councillor Eryl Jones-Williams referred to a confidential letter he had received which included complaints about the Licensing Department from an applicant who had been late submitting an application. The letter was presented to the Licensing Department so they could respond to the letter officially through the complaints procedure. The Licensing Manager noted that the Department had already spoken with the applicant and had explained the reasons for refusing his application.

4. MINUTES OF THE PREVIOUS MEETING

The Chair signed the minutes of the previous meeting of this committee that took place on 19 June 2017, as a true record.

5. MINUTES OF THE GENERAL LICENSING SUB-COMMITTEES

Submitted - for information, the minutes of a meeting of the Central Licensing Sub-committee held on 11.7.17.

6. REVIEW OF GWYNEDD COUNCIL TAXI POLICIES

Submitted – the report of the Head of Environment Department asking the Committee for its support to accept the general direction of the review prior to holding a public consultation. The proposal was to create a unified Gwynedd Council Taxi Policy rather than three separate policy documents. The policy would include: 'Suitability Criteria for Drivers and Operators', guidelines on deciding whether a person was 'suitable and appropriate' to be a driver or operator and licence and vehicle standard conditions.

Attention was drawn to the high-level proposed changes to the policies and driver and vehicle conditions along with the five high-level offers driving the new policy, in the report.

It was reiterated that the changes to the current Licensing Policy would provide a consistent and fair service across the County and would meet the needs of the industry and users and reflect the Ffordd Gwynedd principles.

Members were given an opportunity to consider whether or not any other matters needed to be addressed before the formal consultation was commenced.

During the ensuing discussion, the following points were made by individual Members:

- A suggestion to consider the need for every taxi driver to have a standard First Aid qualification.
- Need to ensure a sufficient supply of vehicles that were wheelchair-accessible - consider the long-term vision so that every vehicle had space for a wheelchair.
- Set a higher target for Gwynedd for the percentage of wheelchair-accessible vehicles.

In the context of conditions relevant to stretch limousines, attention was drawn to the need to re-phrase the conditions to ensure that they complied with the Road Traffic Act.

In response to the comments, the Licensing Manager noted that there was an opportunity to consider including basic First Aid in the qualification pack. It was noted that this would be good practice, despite the need to ensure that excessive expectations were not placed on the drivers.

Attention was drawn to the fact that the Licensing Unit had recently held training for drivers on safeguarding children and vulnerable adults. It was noted that every driver had to attend the training in order to comply with policy.

In response to an observation regarding having a sufficient supply of wheelchair-accessible vehicles, attention was drawn to the need to consult with the industry as

this would place high expectations on them. The cooperation and compliance of the industry would need to be ensured in order to move on. Any substantial long-term changes would need to be phased-in.

RESOLVED to accept the report, and for the Licensing Department to consider and act upon the observations before holding a public consultation.

The meeting commenced at 10:45am and concluded at 11:20am.

GENERAL LICENSING SUB-COMMITTEE 22.08.2017

Present: Councillor Eryl J Williams (Chair), Councillors Edgar Owen and Steve Collings

Officers: Geraint B. Edwards (Solicitor), Gwenan M Roberts (Licensing Manager), Cheryl Morgan (Licensing Officer) and Lowri Haf Evans (Member Support Officer).

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE- MR A

The Licensing Manager presented the written report on the application received from Mr A for a hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on the application and provide information about the background of the offences. It was highlighted that the applicant had received a hackney licence from Anglesey Council (15.8.17) through an interview process - a copy of the licence was circulated for information. It was reiterated that the applicant had not offended since 2008. He was now a reformed character, was a family man and was the father of four children.

In response to an observation, the Licensing Manager noted that the delegation of rights plan in the Isle of Anglesey Council was different to the arrangements in Gwynedd, as Gwynedd officers did not have the right to make a decision if offences were recorded on the DBS report. It was highlighted that the Licensing Unit was unaware that the application for a hackney licence had been approved by the Isle of Anglesey Council.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'
- the applicant's application form
- verbal observations presented by the applicant and his representative during the hearing
- the Licensing Department's report along with the DBS statement that disclosed the convictions

Specific consideration was given to the following matters.

A series of convictions had been disclosed on the applicant's DBS which included offences of using an insurance document with the intention to defraud in March 2003 and failing to stop following an accident in September 2003 having driven without sufficient care and attention. The Sub-committee was of the opinion that these convictions equated to serious traffic crimes and were in accordance with paragraph 12.2 of the Council's policy. However, as these offences had occurred over 5 years ago, and having considered paragraph 12.4 of the policy, the Sub-committee was satisfied that these offences were not a reason for refusing the application.

Attention was drawn to the DBS record to his conviction of drinking and driving in 2004. Similarly, the offence was historical and in accordance with paragraph 11.1 of the policy, it was not a reason for refusing the application. Similarly, when discussing the offence of battery that occurred in 2007, the offence was historical and having considered paragraph 6.5 of the policy, it was not a reason for refusing the application.

The latest conviction was for an act of disruption (July 2008) appeared to the applicant's representative as one that had been listed under paragraph 6.4 of the policy and that 10 years needed to have elapsed since the most recent conviction. Nevertheless, the Solicitor highlighted that paragraph 6.5 was relevant to the conviction of causing disruption and therefore, in accordance with paragraph 6.5 and as more than three years had elapsed, the Sub-committee was satisfied that this record should not be a reason for refusing the application.

Having considered that the applicant had a hackney driving licence and a private driving licence with the Isle of Anglesey Council, that no convictions / warnings had been received for 9 years and that the applicant had attended training on Safeguarding Children and Vulnerable Adults, it was decided that the applicant was fit and proper to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B

The Licensing Manager submitted the written report on the application received from Mr B for a new hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the DBS record, and in accordance with the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on his application and provide information about the background of the offences. He noted that he apologised for his behaviour in the past when he was young and that he realised that he had behaved foolishly. He was now the father of four children and was eager to see them follow the right path. He explained that the theft offence related to working with people betting on machines. He had developed a gambling habit and had stolen money in order to gamble. He confirmed that he had tried to seek support for his gambling problem and he had apologised to his former employer and returned the money.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'
- the applicant's application form
- verbal observations presented by the applicant and his prospective employer during the hearing
- a positive reference that is strongly in favour of the applicant was submitted to the hearing
- the Licensing Department's report along with the DBS statement that disclosed the convictions

Specific consideration was given to the following matters.

A lengthy series of convictions had been disclosed on the applicant's DBS between 2001 and 2009 which included offences with elements of violence, of being drunk and disorderly and in 2002 for driving without insurance during a driving ban. The most recent conviction was for theft (January 2009) in connection with an offence that was committed in November 2008. In accordance with paragraph 16.1 of the Council's policy which related to re-offending, there would be a need, first of all, to ensure that the convictions satisfied the policy guidelines individually, but together, create a history of re-offending which showed a lack of respect towards the welfare of others and property. The policy stated that 10 years must elapse since the most recent conviction. The most recent conviction was eight and a half years ago and the Sub-committee felt that the offences were pertinent to their decision.

The Sub-committee appreciated that the applicant had been open and honest about his criminal record and the problems he had experienced in the past. They also acknowledged the genuine attempt made to improve his behaviour and lifestyle, and there was no evidence of any problems in the last eight and a half years. The Sub-committee was satisfied that the applicant could be issued with a licence, but as the history of offences was a serious matter it was resolved to approve the licence for a year only in the first instance.

In response to a question by the Public Protection Manager, the Sub-committee confirmed that they would be happy for the subsequent licence to be for the standard period of three years provided nothing had changed at that point.

Under the circumstances, the Sub-committee was satisfied that the above-mentioned reasons justified that the applicant was a fit and proper person to be issued with a hackney and private hire vehicle driving licence from Gwynedd Council.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

The meeting commenced at 1:00pm and concluded at 3:30pm.

GENERAL LICENSING SUB-COMMITTEE 13.11.2017

Present : Councillor Peter Read (Chairman), Councillors Jason W Parry and Elfed Williams

Officers: Geraint B. Edwards (Solicitor), Gwenan M Roberts (Licensing Manager), Rhian Jones (Licensing Officer) and Lowri Haf Evans (Member Support Officer).

1. APOLOGIES

None to note.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

3. URGENT ITEMS

None to note.

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items due to the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12 A, of the Local Government Act 1972. These paragraphs applied as the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY / PRIVATE HIRE DRIVER'S LICENCE- Mr A

The Chairman welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application and the aim was to protect the public by ensuring that:

- A person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- That the public have confidence in their use of licensed vehicles.

The Licensing Manager presented a written report on the application received from Mr A. for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant was invited to expand on the application and provide information about the background of the offences. He highlighted that they were historical offences and that he had now established a successful business employing two people. He noted that he was

a responsible person now compared to his early years and that he had not committed any offence for over 12 years. He added that he volunteered as a Rally Wales Marshall and had completed a safety accreditation.

The applicant withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- the applicant's application form
- verbal observations presented by the applicant during the hearing
- the Licensing Department's report along with the DBS statement disclosing the convictions

Specific consideration was given to the following matters.

That a series of convictions (April 1990) had been disclosed on the applicant's DBS record including driving offences, such as drink driving, careless driving, driving whilst disqualified, driving without insurance and two traffic offences. As a result, he was sentenced to six months in custody for the drink drive offence, a sentence of 6 months for careless driving (consecutively) and four months in custody for the disqualification (also consecutively). He was banned from driving for five years.

The Sub-committee was of the opinion that these convictions were tantamount to Drink Drive offences and Serious Traffic Offences and were in accordance with paragraph 11 and 12 of the Council's policy. In accordance with paragraph 11.2 of the Licensing Policy, it was noted that it was unlikely that a licence would be granted to applicants with more than one conviction for driving or being in charge of a vehicle under the influence of alcohol, unless a period of 10 years had elapsed. The sub-committee was satisfied that the offences did not cause any grounds to refuse the application as a period of 22 years had elapsed since his driving licence had been restored.

The opinion was the same with the convictions for careless driving, driving whilst disqualified, driving without insurance and two traffic offences that were considered under paragraph 12.2. As more than three years had elapsed since these offences, the ban under paragraph 12.4 was not relevant in this case.

Attention was drawn to the DBS record of being guilty for offences for the possession of cannabis with the intention to supply in 1992, contrary to the Drug Abuse Act 1971. In the same manner, this offence was also historical and in accordance with paragraph 9.3 of the policy there were no grounds to refuse the application.

The Sub-committee took into consideration that the applicant had not received any convictions or warnings for 12 years and they were satisfied that he was a fit and proper person to be issued with a hackney vehicle/private hire driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant and the Licensing Unit would confirm the licence's arrangement.

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B

The Chairman welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Gwynedd Council's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application and the aim was to protect the public by ensuring that:

- A person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children and young people
- The safeguarding of vulnerable persons
- That the public have confidence in their use of licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr B for a new hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the DBS record, and the guidelines on relevant criminal offences and convictions.

The applicant's representative was invited to expand on the application and provide information about the background of the offences. He noted that some of the offences were historical, except for one assault in June 2017. The circumstances of the assault were expanded upon and it was noted that the applicant had admitted that he had made a mistake. Although he was aware of the offence he had been open and honest when submitting the application. It was noted that there was no likelihood that he would re-offend and that having a job would be his opportunity to improve his quality of life and provide for his children. The Panel was asked to give full consideration to the situation and it was suggested that the policy was merely a guide and therefore it was possible to depart from it to reach the right decision.

The applicant and his representative withdrew from the room while the Sub-committee members discussed the application.

RESOLVED that the applicant was not a fit and proper person to be issued with a hackney vehicle/private hire driver's licence from Gwynedd Council.

In reaching their decision, the Sub-committee considered the following:

- the requirements of the 'Gwynedd Council's Licensing Policy for Hackney Carriages and Private Hire'
- the applicant's application form
- verbal observations presented by the applicant and his representative during the hearing
- the Licensing Department's report along with the DBS statement that disclosed convictions

Specific consideration was given to the following matters.

A lengthy series of convictions had been disclosed on the applicant's DBS record that included offences (between 1990 and 1998) for criminal damage, driving offences, causing an affray, robbery and common assault. The Sub-committee was of the opinion that a number of these convictions were relevant to robbery offences with most recent in 1996. In considering paragraph 8.2 of the policy and that these offences were historical, there was no grounds to refuse the application.

The opinion was the same with the historical convictions for driving and violence where paragraphs 12 and 6.5 of the policy had been considered.

However, the Sub-committee highlighted concern when considering the offence of assault and harassment (June 2017) where the applicant received, under section 2 of the Protection from Harassment Act 1997, a community order of 12 months, a prevention order and an order to pay damages and costs. Paragraph 6.5 of the policy was considered which states that an application will be refused if the applicant has a conviction that is less than 3 years prior to the date of the application. It was highlighted that the paragraph listed various offences including harassment under the Public Order Act 1986. The Sub-committee considered that harassment under the 1997 Act was similar to harassment under the 1986 Act and therefore continued to be relevant to paragraph 6.5 of the policy.

It was highlighted that these offences had taken place less than 5 months ago - evidently within the three year period and were a likely consideration to refuse the application. The Sub-committee was aware that paragraph 6.5 was only a guide as the applicant's representative pointed out. It was also noted that the Sub-committee acknowledged that they could depart from the policy if there was sufficient justification to do so.

Having considered that the offence had arisen from a domestic incident concerning the applicant's partner, the Sub-committee did not consider this to be a sufficient reason to depart from the guidance. In addition, the Sub-committee was concerned regarding the obvious inconsistencies in the explanation given regarding the circumstances of the assault. The applicant's verbal comments referred to holding his partner's wrist, whilst his representative's verbal comments referred to the applicant pushing his partner.

Consequently, the Sub-committee was not sufficiently convinced that the applicant was a fit and proper person to be issued with a hackney vehicle and private hire driver's licence from Gwynedd Council.

The Solicitor reported that the decision would be confirmed formally by letter sent to the applicant with details of his right to appeal.

The meeting commenced at 2.00pm and concluded at 4.30pm.

Agenda Item 6

COMMITTEE	GENERAL LICENSING COMMITTEE
DATE:	11 DECEMBER 2017
TITLE:	IMPLEMENTATION OF EQUALITY ACT 2010 – WHEELCHAIR ACCESSIBLE TAXIS
PURPOSE:	TO ADVISE MEMBERS AND SEEK APPROVAL TO IMPLEMENT THE RELEVANT SECTIONS OF THE ACT
AUTHOR:	HEAD OF ENVIRONMENT

1.0 BACKGROUND INFORMATION

1.1 The Equality Act 2010 (The Act) sets out sections in respect of wheelchair accessible vehicles which commenced on the 6 April 2017. The effect of these sections is to require the Licensing Authority to determine whether they wish to maintain a list of designated wheelchair accessible vehicles. Where a licensing authority implement such a list duties are placed on the drivers of these vehicles as set out in the report below.

2. RELEVANT STRATEGIES AND POLICES

2.1 The Committee will be aware that the Licensing of Hackney Carriages and Private Hire vehicles and associated conditions are currently under review, and the implementation of the relevant provisions of The Act will be incorporated in the new integrated taxi policy , should this Committee agree to the implementation.

2.2 Implementation of the requirements of the Act in terms of wheelchair accessibility would also contribute to the Well-being Goals within the Well-being of Future Generations Act (Wales) 2015. Public safety is paramount and Gwynedd Council strives to address all aspects of the licensing of drivers to ensure they are fit and proper persons and to promote them as professional individuals.

3. PROVISIONS OF THE ACT

3.1 Sections 165, 166 and 167 of the Equality Act 2010 commenced on the 6 April 2017, these sections can have a direct affect for the licensing authority and the drivers of designated licensed wheelchair accessible vehicles. It is intended that these sections ensure that wheelchair users are better informed about the accessibility of designated hackney carriages and private hire vehicles in their area and can be confident of receiving the assistance they need to travel safely.

3.2 Section 167 of the Act permits but does not require Licensing Authorities to maintain a designated list of wheelchair accessible hackney carriages and private hire vehicles. Whilst there is no legal obligation to maintain such a list the Government strongly recommends that Local Authorities do so. Where a designated list is not available the requirements of section 165 do not apply and drivers of wheelchair accessible vehicles may refuse the carriage of wheelchair users, refuse to provide them with assistance and may charge them extra

3.3 The Department for Transport (DfT) has set out statutory guidance regarding the implementation of these sections of the Act (see appendix1) . The guidance also recommends the processes that a Local Authority should consider in order to ensure that the requirements of the Act are implemented effectively in their area.

3.4 The DfT proposal for implementation is as follows:

- To review the guidance and compare it with existing local policies
- Prepare a draft list of designated wheelchair accessible vehicles
- Set out its policy for exempting drivers from the duties required by the Act on medical and physical condition grounds
- Inform vehicle proprietors that vehicles will be placed on the list and the duties that will be placed on drivers
- Drivers apply for exemptions where necessary
- Licensing Authority issue exemptions where appropriate
- A list of designated wheelchair accessible vehicles is published and the duties on drivers take effect.

3.5 Section 165 sets out the duties placed on drivers of designated wheelchair accessible hackney carriages and private hire vehicles. The duties are:

- To carry the passenger whilst in the wheelchair.
- Not 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.

3.6 Mobility assistance is defined in the Act 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 or 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.

3.7 Where a Local Authority determine that they will provide a designated list of wheelchair accessible vehicles they must implement a policy and necessary procedures to exempt those drivers with certain medical or physical conditions that would prevent them from complying with the duties associated with them driving a designated vehicle. Section 166 of the Act prescribes the form of exemption notice that an exempted driver must display when driving a designated vehicle.

- 3.8 The authority currently has about 53 licensed vehicles that would be classified as wheelchair accessible. The publication of a list of such vehicles may encourage an increase in applications for such vehicles to be licensed, and encourage companies to realise the potential economic value of having such vehicles within a taxi company fleet.
- 3.9 Members are asked to determine whether or not this Council should implement section 167 of the Equality Act 2010 to make and publish lists of licensed designated wheelchair accessible vehicles. Where Members determine that this Council should adopt these requirements, officers shall report back to this committee with proposals for an exemption policy and procedural documentation for consideration.
- 3.10 Adoption of the relevant sections of the Equality Act and publication of a list of wheelchair accessible vehicles would improve information available for wheelchair users who wish to use Licenced vehicles and provide clarity for both users and licensed drivers. The Council ensures that it treats all individuals and organisations who are applying for or who hold driving licences, with equal respect both when corresponding with those individuals and organisations during any licensing process.

4. RECOMMENDATIONS

4.1 That Members consider and approve:

- a) the implementation of the requirements of sections 165, 166 and 167 of the Equality Act 2010.
- b) that officers prepare a policy for the committee's consideration, in respect of the exemption criteria and procedures for those drivers who could not comply with the duties set out in the Act on medical or physical condition grounds.
- c) that the policy provisions for the implementation of these procedures are included in the review of the taxi polices that is currently being undertaken; and included in the new unified taxi policy which will be ready for consultation in the near future.



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.

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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 blue 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

- 1.3 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.
- 1.4 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.
- 1.5 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”*.
- 1.6 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

- 1.7 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.
- 1.8 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.
- 1.9 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.

1.10 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

- 1.11 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 1.12 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

- 1.13 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.
- 1.14 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.
- 1.15 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.
- 1.16 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.
- 1.17 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

¹ As defined in Schedule 1 of the [Public Service Vehicle Accessibility Regulations 2000](#)

about the vehicles that will be available to them to make informed choices about their journeys.

Preparing and publishing lists of designated vehicles

- 1.18 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.
- 1.19 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’.
- 1.20 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.
- 1.21 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.
- 1.22 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

- 1.23 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

1.24 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.

1.25 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.

1.26 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.

1.27 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.

1.28 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.

²

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

- 1.29 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.
- 1.30 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

- 1.31 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.
- 1.32 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.
- 1.33 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.
- 1.34 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.
- 1.35 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.

1.36 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

1.37 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.

1.38 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.

1.39 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.

1.40 Only one exemption notice should be displayed in a vehicle at any one time.

Appeals

1.41 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.

1.42 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

- 1.43 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.
- 1.44 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 1.45 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.
- 1.46 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".
- 1.47 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.