

**LICENSING AND SAFETY COMMITTEE
13 JANUARY 2011**

**EQUALITY ACT 2010
(Chief Officer: Environment and Public Protection)**

1 INTRODUCTION

- 1.1 The Equality Act 2010 provides for a consolidation of legislation and new provisions in relation to Taxis etc. This report is intended to highlight the main provisions in relation to designated vehicles, exemption certificates and duties for drivers. The main provisions are not due to come into effect until at least 1 April 2011 and will be subject to Government guidance to Local Authorities which was due to be released in the autumn but has not yet arrived

2 SUPPORTING INFORMATION

- 2.1 The Equality Act 2010 is an Act which consolidates legislative requirements from a range of previous Acts and brings them into a single Act. In addition it also introduces a number of new requirements to the statute book. A new chapter within the Disabled Persons: Transport Section is Chapter 1 – Taxis etc. This consolidation includes previous legislation requirements on matters such as Taxi accessibility regulations and the carriage of assistance dogs. An area that has been radically re-worked and which brings in new provisions is in relation to passengers in wheelchairs.

- 2.2. The Act brings in the concept of a “designated vehicle” and the attachment to the driver of such a vehicle a duty to do the following:

- a) to carry the passenger while in a wheelchair,
- b) not to make an 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 necessary to ensure that the passenger is carried in safe and reasonable comfort,
- e) to give the passenger such mobility assistance as is reasonably required.

Mobility assistance is defined as:

- i) to enable the passenger to get into and out of the vehicle,
- ii) if the passenger wishes to remain in the wheelchair, to enable the passenger to get in and out of the vehicle while in the wheelchair,
- iii) to load the passenger’s luggage into or out of the vehicle,
- iv) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into and out of the vehicle.

These duties apply to the driver of a designated vehicle when that vehicle has been hired

- a) by or for a disabled person who is in a wheelchair or
- b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

The driver of a designated vehicle commits a criminal offence if they fail to comply with a duty imposed. There are provisions within the Act to allow for an exemption for drivers on medical or physical grounds.

- 2.3 The Licensing Authority may maintain a list of vehicles that are either a Hackney Carriage or private hire vehicle which conform to agreed accessibility requirements. This provision will not be enacted prior to 1 April 2011. The accessibility requirements relate to disabled persons within wheelchairs being able to get in or out of a vehicle and travel safely and in reasonable comfort. The Council has been licensing wheelchair accessible vehicles for a number of years and requires that those vehicles must have either a national or single type approval certificate from the Vehicle Type Approval Authority (VCA) incorporating the aspects of the modification for the carriage of wheelchairs. The type approval ensures the vehicle meets standards for the safe transportation of passengers.
- 2.4 The Act provides for the Secretary of State to issue guidance on matters such as accessibility requirements and the Council must have regard to that guidance. The Government has announced that they will shortly issue guidance and this guidance will have to be taken into account as part of our consultation and decision making process. It was proposed that the guidance would be released in autumn 2010 and at time of writing nothing has been issued.
- 2.5 Duties for drivers under the Act are not imposed and therefore enforceable unless the driver is driving a designated vehicle. At present Bracknell Forest has at least 84 Council approved wheelchair accessible vehicles that could be included upon such a list. There are also a much smaller number of private hire vehicles that might be included.
- 2.6 The Act allows for the Licensing Authority to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. This requirement was enabled from 1 October 2010 so that drivers within Authorities that intend to maintain a list of designated vehicles will be able to apply for exemptions. Officers will liaise with the taxi trade and representatives from the medical profession to consider how evidence to support a medical exemption should be provided and the decision process to be undertaken. Drivers refused an exemption certificate will have a right of appeal to the Magistrate's Court, as will owners of vehicles that have been included on the list.
- 2.7 To improve customer experience and educate licensed drivers on the issue of those within wheelchairs the Council have already introduced a requirement for new Hackney Carriage drivers to pass the Driver Standards Agency wheelchair loading test. Additionally officers have also been working to develop a Disability Awareness training programme for all drivers and it was hoped to have this in a format for discussion at the committee today. The primary aim of this programme is to improve driver awareness of all disabilities allowing them to feel more comfortable and knowledgeable when dealing with people who have a disability. With the introduction of a duty for drivers of designated vehicles this type of training will greatly assist those drivers to meet that duty.

Background Papers
Equality Act 2010

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