

	<b>Executive Committee</b> <b>1<sup>st</sup> November 2017</b>	<b>Agenda Item No.</b>
		<b>12</b>
<b>Title</b>	Implementation of the Equality Act 2010	
<b>For further information about this report please contact</b>	Kathleen Rose	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Licensing & Regulatory Committee – 25 <sup>th</sup> September 2017	
<b>Background Papers</b>	Access for Wheelchair users to Taxis and Private Hire Vehicles – Statutory Guidance	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes: 905
<b>Equality Impact Assessment Undertaken</b>	Yes

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Deputy Chief Executive	18/09/17	Andy Jones
Head of Service	18/09/17	Marianne Rolfe
CMT	05/10/17	
Section 151 Officer	28/09/17	
Monitoring Officer	28/09/17	
Finance	18/09/17	Mike Snow
Portfolio Holder(s)	05/10/2017	Cllr Thompson
<b>Consultation &amp; Community Engagement</b>		
If the proposal is adopted, all licence holders impacted will be contacted and informed of the decision taken. The implications for their licences will be fully explained.		
All additions/amendments to the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures will be agreed with the Legal Team prior to publication.		
<b>Final Decision?</b>	Yes	

## 1. **Summary**

1.1 The purpose of this report is to:

- Inform members of the introduction of and implications of Part 12 of The Equality Act 2010 (The Act).
- Outline the advantages and disadvantages of adopting the powers introduced under the Act.
- Seek Executive Committee adoption of the appropriate sections of the legislation in the Warwick District.

## 2. **Recommendation**

2.1 The establishment of a list of designated wheelchair accessible Private Hire and Hackney Carriage vehicles is approved.

2.2 Authority is delegated to the Regulatory Manager to maintain the list of designated licensed vehicles, including the removal of and addition of vehicles.

2.3 Authority is delegated to the Head of Health and Community Protection to determine applications from drivers for a medical exemption from their duties under the Act.

2.4 The Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures be amended accordingly

## 3. **Reasons for the Recommendation**

3.1 To ensure that wheelchair users are afforded every protection when travelling in licensed vehicles within the District, and to provide a legal basis for the Council to take enforcement action against any driver who fails to carry out their required duties. (Recommendations 2.1 and 2.2)

3.2 Delegated authority is sought to enable the Licensing Team to approve any further vehicles to be added onto the designated list, and to consider requests from drivers for a medical exemption. This will provide for an efficient and speedy mechanism to approve. (Recommendation 2.3)

3.3 Policy and Procedure documents will require updating to include this legislation and the individual application and appeal processes for Vehicles and Drivers. (Recommendation 2.4)

## 4. **Policy Framework**

### 4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

<b>FFF Strands</b>		
<b>People</b>	<b>Services</b>	<b>Money</b>
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels
<b>Impacts of Proposal</b>		
The adoption of these provisions not only ensures that wheelchair users are protected when using licensed vehicles, but it also sends out, in the strongest terms, the message that the Council is committed to the principles of equality and diversity and ensuring that licensed drivers may not discriminate on grounds of disability.	The adoption of these provisions ensures that wheelchair users can have better access to the open/public spaces and the services provided within the District.	The adoption of these provisions ensures that wheelchair users are provided with adequate transport options to allow them to fully participate in the local economy and take full advantage of employment opportunities.
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
<b>Impacts of Proposal</b>		
To provide a legal basis for the Council to take enforcement action	To provide a more robust policy for the Council to deal with	There may be some additional application processing as a result of

against any driver who fails to carry out their required duties.	customer complaints against any driver who fails to carry out their required duties.	this proposal, however, as the Taxi Licensing regime must remain cost neutral, all additional expenses would need to be met by the fees of the individual applicants.
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## 4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies and the relevant one for this proposal is the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures, which would require changes to the sections for Drivers, Vehicles and Private Hire Operators. Statements would have to be included to ensure adequate procedures were put in place to support the legislative change.

## 4.3 Changes to Existing Policies

There will be a requirement to incorporate The Equality Act 2010 (Part 12) in to the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures. This will involve consultation with Legal.

The Council's Scheme of Delegation will require updating to include The Equality Act 2010 processes and procedures.

## 4.4 Impact Assessments

The adoption of these provisions will ensure that wheelchair users are protected when using licensed vehicles and also ensure that licensed drivers may not discriminate on grounds of disability.

## 5. Budgetary Framework

- 5.1 There may be some additional application processing as a result of this proposal, however, as the Taxi Licensing regime must remain cost neutral, all additional expenses would need to be met by the fees of the individual applicants. When the fees are next reviewed, any additional cost will be reflected so as to seek to ensure that the service operates to break even.

## 6. Risks

- 6.1 Any vehicle owner whose vehicle is included on the 'designated licensed vehicle' list has the right of appeal to the Magistrates Court within 28 days of their vehicle being included on the published list. All Wheelchair Access Vehicles (WAV) are currently identified as such by the Licensing Authority. The likelihood of any vehicle owner challenging the listing is very limited.
- 6.2 Any driver of a 'designated licensed vehicle' may apply for a medical exemption certificate and notice to exempt them from carrying out the duties imposed by the Act. All drivers will be made aware of the duties and of the medical exemption process. Drivers can appeal against the decision of the Council not to issue an exemption certificate to the Magistrate's Court within 28 days of the

refusal. The likelihood of any driver requesting an exemption is limited; therefore the risk of appeal is very limited.

- 6.3 The risk of not approving to establish a list of 'designated licensed vehicles' is that drivers would be able to refuse to take a wheelchair user, and not be legally bound to providing assistance. Whilst the vast majority of drivers of wheelchair accessible vehicles are committed to providing an excellent service to wheelchair users, it is important that the Council takes every opportunity to formally adopt and incorporate provisions wherever possible.

## **7. Alternative Option(s) considered**

- 7.1 Members have the option to do nothing. There is no duty on the Licensing Authority to produce a list of 'designated licensed vehicles'. There are no significant problems with discrimination against wheelchair users in the District.

## **8. Background**

- 8.1 Sections 165 and 167 of the Equality Act 2010 (the Act) came into force on 6 April 2017. Section 167 of the Act provides local authorities with the powers to establish and maintain a list of wheelchair accessible vehicles ('designated licensed vehicles'), and Section 165 then requires the drivers of the 'designated licensed vehicles', unless they have a valid medical exemption issued by the Council, to transport wheelchair users, provide passengers in wheelchairs with appropriate assistance, and to ensure that wheelchair users are charged the same fares as non-wheelchair users.
- 8.2 While the Council is under no legal obligation to establish a list of 'designated licensed vehicles' under Section 167 of the Act, it is in the best interests of the public to establish and maintain such a list. Without it, the requirements of Section 165 do not apply meaning that drivers may refuse to take wheelchair users, do not have to provide assistance and could charge wheelchair users additional fees.
- 8.3 The Act states that a vehicle can be included on the list of designated vehicles if it conforms to such accessibility requirements as the Licensing Authority thinks fit, but recommends that vehicles on the list should be those able to carry passengers seated in their wheelchairs.
- 8.4 The statutory guidance, provided as **Appendix 1** to this report, states that to be placed on the list a vehicle must be capable of carrying some - but not all - types of occupied wheelchairs. The guidance recommends that a vehicle should only be included on the list if it would be possible for the user of a 'reference wheelchair' to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst travelling in their wheelchair.
- 8.5 A 'reference wheelchair' could be described as an 'average' size manual wheelchair. However, there are a variety of different size and type wheelchairs available on the market, many of which will be larger than the 'reference wheelchair' including the powered wheelchairs.
- 8.6 Due to the wide range of sizes and types of wheelchairs, not all vehicles on the designated licensed vehicle list will be able to safely accommodate all types of wheelchair. The Act recognises this and provides a defence for the driver if the driver has reasonable grounds to believe that it would not have been possible for the particular wheelchair to be carried safely in the vehicle.

- 8.7 The Council already has a list of approved types of wheelchair accessible vehicles (makes and models) that may be licensed as hackney carriages in the District.
- 8.8 The list upon which this report is focused, to be introduced under Section 165 of the Act, goes further, specifying individual licensed vehicles, together with, among other information, details of their registration numbers, vehicle licence numbers and details of the registered owner/keeper of the vehicle and details of the proprietor or company through which the vehicle may be booked, where applicable.
- 8.9 In accordance with the guidance, the owners of these vehicles will be advised that, as a fully wheelchair accessible vehicles licensed by Warwick District Council, their vehicle is to be included on the list of designated vehicles.
- 8.10 Accordingly, the owner/registered keeper of a listed vehicle will be expected to ensure that any person driving their vehicle has received appropriate training, and is aware of their duty/responsibility under the Act. If an individual driver is unable to fulfil that duty/responsibility then, in accordance with the Act, the driver will be made aware of the procedure for applying for a medical exemption.
- 8.11 It is proposed that the list of designated vehicles will come into effect on 1<sup>st</sup> January 2018. This will allow for full and proper notification to the trade, discussions with interested parties and groups, consideration of any exemptions, and so on.
- 8.12 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and private hire vehicles. 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.

Mobility assistance is defined 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 passengers 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.
- 8.13 It will be a criminal offence (unless granted an exemption on medical grounds) for the driver of a vehicle included on the designated licensed vehicle list to fail to comply with the above duties.
- 8.14 Where a driver has a medical condition, disability, or physical condition that makes it impossible, or unreasonably difficult, for them to provide the sort of physical assistance required, the Act makes provision for the Council to grant exemptions to individual drivers from carrying out these duties upon production of satisfactory medical evidence.

- 8.15 If an exemption is granted, then the driver will be issued with an exemption certificate and a notice, which must be displayed in the vehicle to make passengers aware.
- 8.16 The length of the exemption period is at the Council's discretion and will be based on the medical evidence provided.
- 8.17 All drivers will be made aware of the duties and of the medical exemption process. Drivers can appeal against the decision of the Council not to issue an exemption certificate to the Magistrate's Court within 28 days of the refusal.
- 8.18 There are currently 158 vehicles that would be included on a 'designated vehicle list'. This represents 40% of the current Hackney Carriage and Private Hire fleet.
- 8.19 All Warwick District Council licensed drivers have completed a disability awareness training course, and all new applicants are required to complete the same course prior to being licensed.
- 8.20 The standards that we expect a Warwick District Council driver to achieve, specifically in relation to disabled passengers, are clearly outlined in Appendix G of the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook: WDC approach, Policies and Procedures, and include advice on ambulant and non-ambulant, visually impaired and hearing impaired passengers.
- 8.21 There are no proposals to alter Appendix G.