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**THE IMPLICATIONS OF THE EQUALITY ACT 2010 ON LICENSED HACKNEY  
CARRIAGES AND PRIVATE HIRE VEHICLES AND THEIR DRIVERS**

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**Responsible Cabinet Member - Councillor David Lyonette, Transport Portfolio**

**Responsible Director - Richard Alty, Director of Place**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To advise Members of new powers for Local Authorities under the Equality Act 2010 (“The 2010 Act”) in respect of the licensing of hackney carriages (“taxis”) and private hire vehicles and their drivers and invite Members’ to approve the creation of a designated list of wheelchair accessible hackney carriages and private hire vehicles.

**Summary**

2. The Equality Act 2010 makes specific provision for Councils to create designated lists of wheelchair accessible vehicles which are or will be licensed as hackney carriages and private hire vehicles. The implication of creating such a list is that it will place a legal duty on drivers of such vehicles to offer the disabled traveller the assistance they need to ensure the journey is safe and comfortable.

**Recommendation**

3. It is recommended that Members:-
  - (a) Note the contents of this report
  - (b) Approve the introduction of a designated list of wheelchair accessible vehicles covering both hackney carriages and private hire vehicles
  - (c) Confirm that all current wheelchair accessible vehicles licensed by this Council be included in the designated list of vehicles.
  - (d) Confirm that applications for exemption from the requirement to assist passengers as detailed at paragraphs 21 to 25 below should be delegated to the Licensing Committee.
  - (e) Confirm that the addition of suitable wheelchair accessible vehicle types to the designated list be delegated to the Licensing Manager.

## Reasons

4. The recommendations are supported by the following reason:-
  - (a) To meet the requirements of the Equality Act 2010 and thus ensure that wheelchair users may travel with dignity and in comfort.

**Richard Alty**  
**Director of Place**

## Background Papers

- (i) The Equality Act 2010
- (ii) The DfT Guidance for Local Authorities
- (iii) The DfT Guidance for the Taxi and Private Hire Trade

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S17 Crime and Disorder	There are no issues which this report needs to address
Health and Well Being	There are no issues which this report needs to address
Carbon Impact	Although this may increase the number of vehicles in the fleet this will be mitigated by the provision of wheelchair accessible vehicles for disabled person.
Diversity	The proposals will increase equality of opportunity for the disabled travelling public
Wards Affected	The proposals affects all Wards
Groups Affected	The proposal affects all disabled travellers
Budget and Policy Framework	This report represents a change to Policy
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	N/A
Efficiency	There are no issues which this report needs to address

## MAIN REPORT

### Information and Analysis

#### Background

5. The Equality Act 2010 ("The 2010 Act") brings together a number of different pieces of legislation dealing with various forms of discrimination, including disability discrimination. Part 12 of the 2010 Act relates to Disabled Persons Transport and Chapter 1 of Part 12 (sections 160 to 173) relates specifically to taxi and private hire vehicle (PHV) provisions, many of which were included in the Disability Discrimination Act 1995, but with some important changes. The contents of the relevant sections are detailed from paragraph 8 to 15 of this report.
6. Some of the provisions came into force on 1<sup>st</sup> October 2010 while others are still awaiting Regulations to be made to introduce the requirements.

7. The Department of Transport has issued guidance documents on the new provisions, one for local authorities and one for the trade.

### **Information and Analysis**

8. Section 160 of the 2010 Act relates to vehicle specifications and the carriage of equipment to aid and/or secure wheelchairs in such vehicles. The regulations in respect of this section have not yet been introduced.
9. Section 161 of the 2010 Act is concerned with Section 16 of the Transport Act 1985 which provides for the control on the numbers of taxis licensed. This section removes the ability to refuse to licence wheelchair accessible vehicles for the purpose of controlling numbers.
10. Section 162 of the 2010 Act deals with franchise agreements; Section 163 deals with a requirement to make taxi licences conditional on compliance with the requirements of Section 160 and Section 164 provides for an exemption from the taxi accessibility regulations. These will take effect when Regulations prescribe the vehicle specification etc.
11. Section 165 of the 2010 Act specifically deals with passengers in wheelchairs and the duties placed on drivers of designated taxis or private hire vehicles (see paragraph 14 below) to assist such passengers. 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; and
  - (e) To give the passenger such mobility assistance as is reasonably required.
12. A driver of a designated taxi or designated private hire vehicle who fails to comply with the above duties commits an offence. When the 2010 Act came into being it was anticipated that the duties on drivers would take effect some time after 01 April 2011. At the time of writing this report no further update had been received. Should the Council decide not to maintain a list of “designated vehicles” (see paragraph 14 below) then the above duties will not apply to the driver.
13. Section 166 of the 2010 Act provides for drivers of designated vehicles who suffer from a disability or medical condition which would make it impossible or unreasonably difficult to provide physical assistance to apply for an exemption from the duties to offer assistance.
14. Section 167 of the 2010 Act provides for Licensing Authorities to maintain a list of “designated vehicles”, that is, a list of wheelchair accessible taxis and PHVs licensed in their area. The consequence of being on this list is that the driver must undertake the duties detailed in paragraph 11 above to assist passengers who use wheelchairs.
15. Sections 168 to 171 of the 2010 Act deal with the carriage of assistance dogs in taxis and PHVs and also exemptions from the requirement to carry such animals. Section 172 deals with rights of appeal and Section 173 deals with interpretations within this section of the Act.

## **Designated Lists of Wheelchair Accessible Vehicles**

16. Whilst Section 167 of the 2010 Act is not to be commenced until a later date councils are being urged to start maintaining a list of designated vehicles for the carriage of wheelchairs as soon as possible for the purpose of liaising with the trade and because drivers of designated vehicles can now apply for exemption from having to comply with the requirements set out in paragraph 11 above.
17. When this Section comes into force, and the lists of designated vehicles have a statutory effect, it will be possible for the owner of a vehicle to appeal against a decision to include his/her vehicle on the list. Any such appeal will be dealt with at the magistrates' court. It is anticipated that more detailed guidance will be issued in due course by the Department for transport (DfT) about the accessibility requirements councils should apply in relation to this provision however such a list may be introduced before such guidance is provided.

## **The Current Position**

18. At the time of writing this report there were 14 vehicles properly adapted and licensed by this Council to carry wheelchairs. Of these 2 are licensed for Private Hire and 12 as Hackney Carriages. The types of vehicle licensed are as follows:
  - (a) 6 x Peugeot Expert
  - (b) 3 x Fiat Doblo
  - (c) 2 x Renault Trafic
  - (d) 1 x Fiat Scudo
  - (e) 1 x Citroen Dispatch
  - (f) 1 x VW Transporter
19. It is proposed that each of the vehicle types detailed above be included on the proposed designated vehicle list when that part of the 2010 Act takes effect, subject to future vehicles within this range being properly adapted to carry wheelchairs.
20. It is proposed that the Licensing Manager be given delegated powers to add to the designated list other suitable wheelchair accessible vehicles that comply with the Council's policies and conditions and are properly adapted to carry wheelchairs as and when such vehicles are presented for licensing.

## **Exemptions from the Duties**

21. Subject to the introduction of a designated list, the duties detailed in Section 165 of the 2010 Act would be imposed on all drivers of such vehicles at a date to be determined by the Regulations. Before this occurs drivers of designated vehicles who suffer from a disability or medical condition which would make it impossible or unreasonably difficult to provide physical assistance can apply for an exemption from the duties to offer assistance. The Council will therefore need to have a system in place for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt. Such exemptions could be for a temporary period or indefinite dependent on the medical or physical condition.

22. Drivers who apply for an exemption and are refused by the Council have the right of appeal to the Magistrates courts against such a decision.
23. The DfT has advised that regulations will be made specifying the format for the Exemption Notices that councils will issue and exempt drivers will be required to display in their vehicles. It is the DfT's intention to print and distribute the Exemption Notices.
24. Any driver wishing to apply for an exemption could be required to produce a report either from his own doctor or his consultant, when applicable, confirming that his medical condition or physical condition makes it impossible or unreasonably difficult for him/her to comply with the duties and that each application be determined on its individual merits. Given that all licensed drivers are required to meet the DVLA Group II standard of medical fitness, drivers should also be required to obtain confirmation from their medical practitioner that the Group II standard is still met despite the medical or physical condition.
25. Applications for exemptions are expected to be exceptional and it is proposed that these be delegated to the Licensing Committee for individual determination.

### **Consultation Process**

26. On 08 July 2011 a letter was sent to all vehicle proprietors advising of the requirements of the 2010 Act and inviting comments in respect of the formulation of a designated list of wheelchair accessible vehicles covering both hackney carriages and private hire vehicles. The Trade was asked to make any comments in writing to be received into the Council no later than Friday 05 August 2011. No comments of any kind were received from the Trade.
27. Officers have discussed the implications of the 2010 Act with Darlington Association on Disability (DAD) which wholeheartedly supports the introduction of a designated list of wheelchair accessible vehicles covering both hackney carriages and private hire vehicles.
28. On 09 August 2011 a report for information in respect of the new legislation and the proposals contained within this report was presented to the Council's Licensing Committee and Members gave their support to the recommendations detailed at paragraph 3 of this report.

### **Conclusion**

29. Chapter 1 of Part 12 of the Equality Act provides for wheelchair users to enjoy equal access to suitable taxis and private hire vehicles, to enable them to travel with dignity and in comfort and to be offered every assistance needed by the drivers of such vehicles. The adoption of a designated list of wheelchair accessible hackney carriages and private hire vehicles and subsequent requirement that drivers of these vehicles offer such assistance to disabled users will positively promote this legislation.