

## LICENSING COMMITTEE

**Wednesday, 22 November  
2017**

**5.30 pm**

**Committee Room 4, City Hall**

Membership: Councillors Kathleen Brothwell (Chair), Loraine Woolley (Vice-Chair), Biff Bean, Ronald Hills, Adrianna McNulty, Fay Smith, Ralph Toofany, Paul Gowen, Pat Vaughan, Keith Weaver, Andy Kerry and Gill Clayton-Hewson

Substitute member(s): Councillors Jackie Kirk, Tony Speakman and Peter West

Officers attending: Kevin Barron, Tom Charlesworth, Will Allen and John Cunliffe

### AGENDA

<b>SECTION A</b>	<b>Page(s)</b>
<b>SITTING AS THE LICENSING COMMITTEE OF THE LICENSING AUTHORITY UNDER THE LICENSING ACT 2003 / GAMBLING ACT 2005</b>	
<b>Substitute Members are not appointed as Members of of the Licensing Authority under the provisions of the Licensing Act 2003 and Gambling Act 2005. Licensing Committee members must have attended training on 17 May 2017 in order take part in item number 2 of this agenda.</b>	
1. Declarations of Interest	
Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
2. Licensing Act 2003 and Gambling Act 2015 Hearings Procedure	<b>3 - 6</b>
<b>LICENSING COMMITTEE</b>	
3. Confirmation of Minutes - 14 June 2017	<b>7 - 10</b>
4. Hackney Carriage and Private Hire minutes of previous meeting	<b>11 - 30</b>
<ul style="list-style-type: none"> <li>• 1 June 2017</li> <li>• 6 July 2017</li> <li>• 3 August 2017</li> <li>• 2 November 2017</li> </ul>	
5. Proposal to Introduce a List of Designated Wheelchair Accessible Hackney Carriage and Private Hackney Vehicle in Accordance with the Equality Act 2010	<b>31 - 86</b>

6. Exclusion of Press and Public

**87 - 88**

You are asked to resolve that the press and public be excluded from the meeting during the consideration of the following item(s) because it is likely to that if members of the press and public were present, there would be a disclosure of 'exempt information.'

7. Medical Exemption Certificate for an Existing Hackney Carriage Driver

**89 - 104**

**SUBJECT: LICENSING ACT 2003 AND GAMBLING ACT 2015 HEARINGS PROCEDURE**

**DIRECTORATE: COMMUNITIES AND ENVIRONMENT**

**REPORT AUTHOR: KEVIN BARRON, LICENSING MANAGER**

## **1. Purpose of Report**

- 1.1 The Licensing Committee to consider a review of its existing Hearing Procedures for hearings held under the Licensing Act 2003 and the Gambling Act 2005 and make recommendations to Council regarding amendment to its Constitution.

## **2. Executive Summary**

- 2.1 The Licensing Act 2003 (the 2003 Act) and the Gambling Act 2005 (the 2005 Act) share the same Licensing Committee which is distinct from Licensing Committee set up under the Local Government Act 1972 (LGA).
- 2.2 The 2003 Act and the 2005 Act have similar Hearing and Procedures Regulations made under their own respective Acts.
- 2.3 These regulations and procedures are separate and distinct for the rules and procedures governing LGA hearings.
- 2.4 The Constitution does not specifically cater for the distinctions.
- 2.5 The 2003 and 2005 Acts require that “a record is to be taken of the hearings in a permanent and intelligible form...”
- 2.6 It is suggested that this requirement does not require the minutes to be typed up, only that the record be made in a permanent and intelligible form. It merely requires that the notes can be easily read and kept on a permanent basis i.e. in ink, on paper and as a back-up, scanned and in a digital form.
- 2.7 The report seeks to clarify the procedures.

## **3. Background**

- 3.1 The Licensing Act 2003 (Hearings) Regulations 2005 and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007, must be complied with when arranging and carrying out the relevant hearings.
- 3.2 The respective Regulations define the time limits, to whom notice of a hearing should be given and the information supplied with that notice, the procedures for the hearings and those to be notified on the decisions made.
- 3.3 The Constitution states in Article 8.2(iii), “*The Licensing Committee and Licensing*

*-Sub Committee when acting in accordance with the Licensing Act 2003 shall conduct the proceedings in accordance with their own hearing procedure."*

- 3.4 This should be amended to include reference to the Gambling Act 2005.
- 3.5 In section A Part 1: Summary and Explanation of the Constitution, Access to Information, the Constitution states, *"Except where confidential matters are to be discussed, citizens will be able to inspect agendas and reports five days before meetings of the Council, its Committees, and the Executive, and to attend those meetings if they wish.*  
*Full details of all meetings are available from Democratic Services, City of Lincoln Council, Beaumont Fee, Lincoln. Telephone 01522 873387.*  
*Democratic Services will also help you if you wish to inspect agendas and reports, or if you wish to inspect or obtain a copy of the Constitution.*  
*Copies of all agendas, reports and minutes are also available on:*  
[www.lincoln.gov.uk](http://www.lincoln.gov.uk)".
- 3.6 It has been noted that neither the 2003 nor the 2005 Act requires the Council to publish agendas or reports either within a timeframe or make them available and therefore this requires amending.
- 3.7 The respective Regulations made under both Acts specify what and to whom information is to be given and both Acts are silent on providing material to members of the public not being parties to the proceedings under the Acts.
- 3.8 However, Regulation 14 of the 2003 Act states,
- "(1) Subject to paragraph (2), the hearing shall take place in public.*
- (2) The licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.*
- (3) For the purposes of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public."*
- and Regulation 8 of the 2005 Act states,
- "(1) Subject to paragraph (2), the hearing must take place in public.*
- (2) A relevant committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to—*
- (a) any unfairness to a party that is likely to result from a hearing in public; and*
- (b) the need to protect as far as possible, the commercial or other legitimate interests of a party."*
- 3.9 Currently the hearings agenda and officer's report are published as though covered by the LGA Regulations and in accordance with the Constitution. This



causes many issues including Data Protection and unnecessary work and expense in publishing and printing.

- 3.10 It is therefore suggested that the Licensing Committee recommend that the Council's Constitution be amended to make it clear in the 'Access to Information' section that the 2003 and 2005 Act hearings are exempt from any requirements under that section save for publishing the Agenda. And to be clear, agenda means a list of items to be discussed at the hearing and not the officer's report etc.
- 3.11 It is further suggested that the 2003 and 2005 Procedure for Hearings that it includes the fact that officer reports and accompanying documents will not be provided to members of the public attending that are not party to the proceedings, but they will be provided with the Agenda and the Procedure of Hearings document if they request it in order to assist them in understanding the nature of the hearing and the process.
- 3.12 the Committee is also asked to agree an amendment that the minutes of the meeting do not need to be typed up as this .

#### **4. Organisational Impacts**

- 4.1 Legal Implications
- 4.2 As outlined in the report.
- 4.3 Financial Implications
- 4.4 The time taken to produce a record of the hearings shall be reduced and hence less resources are required.

#### **5. Recommendation**

- 5.1 The Licensing Committee is asked to consider the following paragraphs:
- 3.4 – include the Gambling Act in Article 8.2(iii) of the Constitution;
- 3.10 – Recommend to Council to change the Constitution;
- 3.11 – Amend the Constitution to make it clear that in the 2003 and 2005 hearings that officers reports will not be available or published on line, only the agenda and procedure notes; and
- 3.12 - And agree that minutes need not be typed provided they are in a legible form and kept on a permanent medium.

**How many appendices does the report contain?** None

**List of Background Papers:** None

**Lead Officer:** Kevin Barron, Licensing Manager  
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**Present:** Councillor Kathleen Brothwell (*in the Chair*),  
Councillor Loraine Woolley, Councillor Biff Bean,  
Councillor Fay Smith, Councillor Ralph Toofany,  
Councillor Paul Gowen and Councillor Pat Vaughan and  
Councillor Jackie Kirk (substituted for Councillor Adrianna McNulty)

**Apologies for Absence:** Councillor Ronald Hills, Councillor Adrianna McNulty,  
Councillor Keith Weaver, Councillor Andy Kerry and  
Councillor Gill Clayton-Hewson

**24. Confirmation of Minutes - 25 January 2017**

RESOLVED that the minutes of the meeting held on 25 January 2017 be confirmed.

**25. Declarations of Interest**

No declarations of interest were received.

**26. Hackney Carriage and Private Hire minutes of previous meetings - 9 February 2017 and 6 April 2017**

RESOLVED that the minutes of the Hackney Carriage and Private Hire Sub-Committee held on 9 February 2017 and 6 April 2017 be confirmed.

**27. Private Hire Specialist Vehicle - Handsome Cabs (2011) Lincoln Ltd**

The Licensing Officer:

- (a) presented the report, setting out a request received from Handsome Cabs Ltd to seek permission to licence a Lamborghini Huracan as a private hire vehicle for the carriage of one passenger only.
- (b) outlined the policy and vehicle specifications as set out in paragraphs 4.1 to 4.5 of the report.
- (c) highlighted similar applications and requests previously considered by the Licensing Committee.
- (d) set out a number of conditions that were recommended to be applied should the Committee be minded to grant the licence.
- (e) highlighted that there was an exemption contained within the Policy where if an application was made for a vehicle wishing to carry less than four passengers, its suitability to be licensed would be determined on its own merits.
- (f) invited members' questions and comments.

Members asked the following questions, made the following comments and received the relevant response.

Members were interested to know why such a high powered and expensive vehicle was being proposed for use as a private hire vehicle, especially given that it could only carry one passenger. They also queried the business model of using such a vehicle in this way, anticipating any profit margin to be relatively low.

The applicant reported that requests for this type of vehicle had been received by his customers and that a private hire licence had been granted to a similar vehicle elsewhere in the country. He outlined that a premium would be attached to the vehicle, but that the vehicle itself would generate lots of interest both for the company but also for the area. For a person hiring a similar vehicle and driving it themselves would incur an expensive deposit, a rental charge and high insurance premiums, whereas this model would ensure that a driver was provided with the only cost to the customer being the private hire fee.

In enquiring as to whether the vehicle would be used for weddings if the licence was granted, the Licensing Officer confirmed that vehicles being used in connection with a wedding were exempted from private hire provisions by the Local Government (Miscellaneous Provisions) Act 1976.

Members asked whether any fees or charges had been provisionally set for hiring the vehicle. The applicant confirmed that no fees or charges had been set at present. The Licensing Officer explained that the operator could set whatever fees and charges it deemed necessary, but it would be obliged to inform the Licensing Authority of any fees and charges attached to the vehicle when used for the purpose of private hire.

Concerned about what precedent granting this licence may set, Members asked whether a temporary licence could be granted. The Licensing Officer reminded Members of the applicant's right to appeal the Committee's decision to the Magistrate's Court and explained that the licence would be renewed after one year in any case. In addition, if Members had any concerns regarding this or any licence, a district council could suspend, revoke or refuse to renew a vehicle licence on certain grounds as stated in the Local Government (Miscellaneous Provisions) Act 1976.

The meeting was adjourned at this stage of proceedings to enable members to inspect the vehicle.

RESOLVED that:

1. the Licensing Committee departs from its current policy to allow Handsome Cabs permission to licence a Lamborghini Haracan as a private hire vehicle for restricted private hire use.
2. the following conditions be attached to the licence:
  - this vehicle being of a suitable size, type and design as approved by the City of Lincoln Council on 14 June 2017, shall be used only for use as a private hire vehicle for chauffeur services which are connected to special occasions when the hirer has specifically requested this vehicle;
  - the City of Lincoln Council shall provide the vehicle with two plates indicating the private hire vehicle licence number of that vehicle, both of which shall be kept in the vehicle at all times when being

- used as a private hire vehicle and will be shown to the hirer/passenger upon their request;
  - the person to whom a licence is granted shall ensure the notice issued by the City of Lincoln Council stating the private hire vehicle plate number, registration, date vehicle tested and date on which retesting of vehicle is due shall be kept in the vehicle at all times when being used as a private hire vehicle and will be shown to the hirer/passenger upon their request;
  - the person to whom a licence is granted shall after the issue of this licence and during its currency communicate in writing to the licensing team of the Licensing Authority a list of the private hire drivers who will be driving this vehicle for private hire use;
  - the person to whom a licence is granted shall ensure that all drivers of this vehicle who will be driving this vehicle for private hire use, have undertaken specific driver training as approved by the Licensing Authority's Licensing Manager and Chair/Vice-Chair of the Licensing Committee.
3. delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 the power to licence additional or replacement vehicles for specialist use by these proprietors and apply the conditions set out above.
  4. delegate to officers authorised under the Local Government (Miscellaneous Provisions) Act 1976 the power to licence specialist vehicles for restricted private hire use and to apply specialist conditions.

#### Reasons to deviate from the Council's Policy

1. The Committee accepted the reasons and motives behind the proposal.
2. The Committee recognised that it had granted similar applications previously.
3. The conditions of the licence satisfied any concerns raised by members of the Committee.
4. The delegations put in place were appropriate to be able to assess any subsequent applications from the proprietor or comparable applications from other vehicle proprietors.

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**Present:** Councillor Pat Vaughan (*in the Chair*),  
Councillor Loraine Woolley, Councillor  
Kathleen Brothwell, Councillor Adrianna McNulty and  
Councillor Andy Kerry

**Apologies for Absence:** None.

**9. Confirmation of Minutes - 6 April 2017**

The minutes of the meeting held on 6 April 2017 were confirmed.

**10. Declarations of Interest**

No declarations of interest were received.

**11. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**12. To Interview an Existing Driver Who Has Received a Conviction [04/2017]**

The Sub-Committee interviewed an existing driver who had pleaded guilty to the offence of threatening behaviour. The licensee was sentenced to an absolute discharge with no order for costs. The members of the Sub-Committee questioned the licensee and listened carefully to his explanation of the situation that occurred.

The decision was made as follows:

That the licence be continued.

Reasons for the decision:

The licence holder was able to persuade the Sub-Committee to depart from the Council's Statement of Policy on Relevant Convictions through his detailed account of the circumstances of the incident. The Sub Committee gave the following reasons for their decision.

1. The Sub-Committee believed the licensee's explanation that he had been subjected to a serious assault by his passengers which was beyond his control. His response had been provoked by the assault on him. The licensee had pleaded guilty to the offence at the earliest opportunity and had informed the Licensing Officer on his application.
2. The Sub-Committee took into account the letter from the solicitor which stated that the Judge had made it clear that the licensee had not been separately punished by the Court, which had taken into account the

extreme provocation of him by his assailants and given him the minimum sentence available in response to his guilty plea. The Judge had commented that he hoped that the licensing authority would take this into consideration when considering his case.

3. The Sub-Committee members were unanimous in their decision to take no action as they believed that the licence holder was a fit and proper person to continue to hold a licence.

**13. To Interview an Applicant for a Private Hire Driver's Licence Who Has a Previous Offence [05/2017]**

The Sub-Committee interviewed an applicant for a new Private Hire Driver's Licence who had a conviction that was outside of the Council's guidelines. The applicant disclosed to the Licensing Officer, at the time of the application, his conviction in 2012. The applicant explained that he had been convicted for making false representation to make gain for self or another and had been fined and ordered to pay costs and compensation.

The applicant explained that he had been working at a holiday park and had been working more hours than he had been paid for. He had obtained the company cash and carry card and bought goods for himself on the card which he realised was very stupid. He had ended up paying more in fines and compensation than he had bought in goods.

The decision was made as follows:

That the licence be granted.

Reasons for the decision:

1. The applicant had informed the Licensing Officer of the conviction on his initial application.
2. The Sub-Committee agreed that should the applicant have waited one month it would have been five years since the conviction. This meant that the minimum of a 5 year period, as stated in the policy, had elapsed and he would have been eligible for a licence without appearing before the Sub-Committee.
3. The Sub-Committee believed that the applicant had answered all their questions honestly and he genuinely regretted his actions in 2012. The applicant was working currently, moving caravans, and Direct Cars were willing to take him on as a driver should his application be successful.
4. The Sub-Committee had no reason to doubt that the applicant was a fit and proper person to hold a Private Hire Driver's Licence.

**14. To Interview an Applicant for a Private Hire Driver's Licence who is unable to Provide a Certificate of Good Conduct [06/2017]**

The Sub-Committee interviewed an applicant for a Private Hire Vehicle Driver's Licence who could not supply a certificate of good conduct from his previous country of residence.



The decision was made as follows:

That the licence be granted.

Reasons for the decision:

1. The Sub-Committee felt that the applicant presented himself well, was polite and well-mannered and answered all questions openly and honestly.
2. The Sub-Committee was sympathetic to the difficulties faced by the applicant in obtaining a certificate of good conduct from his country of origin, Iraq.
3. The applicant had not been convicted of any offences since arriving in the United Kingdom in 2000 and being granted indefinite leave to remain in 2014, therefore there was no reason to doubt that he was a fit and proper person to hold a licence.

**15. To Interview an Existing Driver who has been Convicted of Relevant Offences [07/2017]**

The Sub-Committee interviewed a Hackney Carriage/Private Hire driver who, on 12 May 2017, had informed the Licensing Office that he had been convicted of 3 counts of assault that had happened around December. He stated that he had been found guilty and received a fine and 50 hours of community service.

The Licensing Team had contacted Lincoln Magistrates Court who revealed that the licensee had been found guilty of three offences of domestic violence, two in the presence of a child. The offences were of common assault and battery and were brought under section 39 of the Criminal Justice Act 1988. Documents from the Court revealed that the offences had taken place on three separate occasions separated by days or weeks on the 8<sup>th</sup> and 11<sup>th</sup> of November 2016 and on 19<sup>th</sup> of December 2016. The licensee had also been given a 14 week prison sentence suspended for 12 months, which he had failed to disclose to the Licensing Team.

Members of the Sub-Committee questioned the driver in great depth and agreed that his answers were contradictory and this gave them great concerns.

During the course of the interview, questioning of the licensee by the Sub-Committee revealed that the driver had been put on Police bail whilst awaiting a hearing for the section 39 offences with a condition not to stay in the family home until after the hearing had taken place. The driver revealed to the Sub-Committee during the interview that he had breached this bail condition and been sentenced to a week's imprisonment as a result, information which he had failed to disclose to the Licensing team.

The decision was made as follows:

That the licence be revoked.

Reasons for the decision:

1. The Sub-Committee was not persuaded that the licensee was being completely honest with them in his responses to their questions. He was vague and inconsistent with some of his answers and denied that the

assaults had taken place, save for one minor incident for which he admitted only pushing his wife. He was unclear about when the different incidents had taken place and whether he had been arrested for each incident. He expressed no remorse for the assaults. He blamed his wife for the incidents and suggested she had lied about them to the police. At the same time he admitted that she had fled the family home with their child to a friend's house during all three incidents, from whence she had called the Police.

2. The licensee provided information during the interview that he had breached his bail conditions whilst awaiting trial by moving back to his home address, which he said was done with his wife's consent. He admitted that the Police had become aware of this and that he had been taken before the Court and that he had been sentenced to one week in prison for breaching his bail conditions.
3. The Sub-Committee were concerned that the licensee had dishonestly failed to disclose the full details of his convictions regarding the suspended sentence and the breach of bail conditions, yet had partially disclosed some of his convictions, which indicated that he was aware of his duty to disclose all this information to the Licensing team.
4. The Sub-Committee after careful deliberation concluded that the licensee was not a fit and proper person to hold a Hackney Carriage/Private Hire driving licence.
5. The Sub-Committee agreed to uphold the current policy which stated that if a Hackney Carriage/Private Hire Driver was found guilty of an offence such as common assault, they would have their licence revoked immediately and not be considered for the grant of a licence until a minimum period of 4-5 years had elapsed.

**Present:** Councillor Pat Vaughan (*in the Chair*),  
Councillor Loraine Woolley, Councillor Kathleen Brothwell  
and Councillor Adrianna McNulty

**Apologies for Absence:** Councillor Andy Kerry

**16. Confirmation of Minutes - 1 June 2017**

The minutes of the meeting held on 1 June 2017 were confirmed.

**17. Declarations of Interest**

No declarations of interest were received.

**18. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**19. To Interview an Existing Driver who has been Convicted of a Relevant Offence [08/2017]**

The Licensing Officer presented the report and provided the background of why the Private Hire Driver was being put before the Sub-Committee. He informed the members that the driver had presented more documents at 11 am on the day of the hearing which he wanted to be considered. The Sub-Committee had not had time to read these papers and therefore they were not in a position to see if they were relevant.

The Sub-Committee asked the Private Hire Driver if it was vital that these papers be included and he insisted that they were relevant and the reason they were late was that his solicitors had sent them to the wrong office. He was also expecting one more statement from a police officer.

The Sub-Committee pointed out that they had already agreed to accept a late statement which was promised to arrive by Monday 3 July and did not arrive until Wednesday 5 July.

The decision was made as follows:

The hearing would be postponed until Thursday 3 August 2017

The reasons for the decision:

The Sub-Committee decided that, in order to give the driver a fair hearing and his insistence on the relevance of the paperwork, they would consider the documents and in the light of that they agreed to postpone the hearing.

The Sub-Committee advised the driver that any additional paperwork to be considered along with a final list of any witnesses would need to be with the Licensing Officer by noon on Thursday 20 July 2017. The Chair of the Sub-Committee reiterated that anything received after this deadline would not be considered and the hearing would go ahead on 3 August 2017.

**Present:** Councillor Pat Vaughan (*in the Chair*),  
Councillor Adrianna McNulty, Councillor Andy Kerry,  
Councillor Paul Gowen and Councillor Peter West

**Apologies for Absence:** Councillor Loraine Woolley and Councillor  
Kathleen Brothwell

**20. Confirmation of Minutes**

The minutes of the meeting held on 6 July 2017 were confirmed.

**21. Declarations of Interest**

No declarations of interest were received.

**22. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**23. To Interview an Applicant for a Private Hire Driver's Licence Who is Unable to Provide a Certificate of Good Conduct [08/2017]**

The Licensing Officer:

- a. presented the report and explained that the applicant had been unable to provide a certificate of good conduct due to this not being a practice of the country where he had originated from;
- b. reported that the applicant came to the United Kingdom in 2002 and was granted citizenship in 2011;
- c. reported that the applicant had a full UK driving licence which he had held since June 2006;
- d. reported that the applicant had passed the knowledge test on his second attempt as well as achieving a Low Risk on the Driver Improvement Programme.

The applicant, when asked by the Chair, confirmed that the information contained within the report was a true record.

The applicant explained that he sought to become a Private Hire driver to provide a living for his wife and children and had already been in liaison with an operator in the City who had indicated that he would be able to drive for the company.

When asked whether he had any points on his licence, the applicant admitted that he had received points for driving a vehicle without insurance but that this

was a genuine mistake due to him not understanding the rules in this country regarding insurance at that time.

The Chair asked the applicant what he would do in a circumstance whereby a passenger, half way to their home in the evening, informed him that they had insufficient funds to pay the fare. The applicant said that he would report this to his operator's office but still take the passenger to their destination, making the point that they may have money at home with which to pay for the fare. He emphasised that he would not abandon the passenger and instruct them to get out of the vehicle and would continue to drive them home.

The applicant confirmed that he had worked as a delivery driver for a local takeaway business for three to four months.

Further to a question by the Chair, the applicant confirmed that he felt he had been treated fairly at this hearing.

The decision was made as follows:

That the Private Hire Driver's Licence be granted.

The reasons for this decision:

The Sub-Committee was satisfied that the applicant had sufficiently demonstrated that he was a fit and proper person to hold a Private Hire Driver's Licence.

**24. To interview an Existing Driver who has been Convicted of a Relevant Offence [08/2017]**

The Licensing Officer:

- a. presented the report and explained that the licence holder had been convicted of perverting the course of justice.
- b. reported that the licence holder had attended a previous Sub-Committee meeting in July 2017 where the hearing was postponed so that additional information could be provided by him for the Sub-Committee's consideration. The deadline for this paperwork was 20 July 2017 and the licence holder was informed of this via letter, with additional documents provided in accordance with that letter. A list of these documents, for clarity, was confirmed with the Sub-Committee at the meeting. All members confirmed that they had read them.
- c. reported that the licence holder had held a Private Hire Driver's Licence since 2012 and did attend a Licensing Committee in that year due to undisclosed offences, as set out in table 3.3 of Appendix A to the report.
- d. reported that the Council's Licensing team was contacted by Lincolnshire Police seeking information as to the licence holder of a private hire vehicle in which the driver of that vehicle was alleged to have been caught speeding.
- e. reported that in 2014 two members of the Council's Licensing team were asked to provide witness statements to Lincolnshire Police about the

licence holder regarding unrelated events as a holder of a premises licence.

- f. reported that in 2017 the same two officers were requested to attend Lincoln Crown Court as witnesses against the licence holder who was being prosecuted for perverting the course of justice.
- g. reported that in 2017 the Council's Licensing team was informed that the licence holder had been convicted, receiving a custodial sentence of six months to be served immediately.
- h. reminded the Sub-Committee of the Council's policy in relation to dishonesty, as set out in paragraph 3.9 of Appendix A of the report.

It was noted that the licence holder was joined at the meeting by his son as his representative. The Sub-Committee had also allowed the licence holder's four daughters to attend the hearing in the public gallery.

The Council's Solicitor advised the licence holder, in view of his conviction for an offence with intent to pervert the course of justice, that the Sub-Committee could not look behind that specific conviction or consider any investigation of fairness in relation to the offence itself. He added that the hearing was not about a speeding offence or anything to do with how the licence holder felt he may have been treated by the Council in the past and that the Sub-Committee's deliberations lay solely to be focussed on whether the licence holder was a fit and proper person to hold a Private Hire Driver's Licence in view of his offence and conviction involving dishonesty. The licence holder confirmed that he understood these points.

The licence holder explained that he had not been dishonest and that a genuine mistake had occurred, which he had only realised when he was interviewed under caution by the police at the police station on 17 January 2014. The mistake was in respect of the time of day the offence had occurred and the person whom the licence holder reported was driving the vehicle at the time. The licence holder claimed that he had confused the morning with the evening when he responded to the Notice of Intended Prosecution and named another person as a possible driver at the time of the offence. A copy of the document was attached to the report at Appendix D(iii) and gave the date and time of the offence as 19:10 hours on 23 January 2013.

The licence holder confirmed that he was prosecuted for the offence of intentionally perverting the course of justice in that he supplied false information to Lincolnshire Police on a Notice of Intended Prosecution reply form as to the identity of the driver of the motor vehicle. The licence holder argued that it was difficult to prove intent and felt that this was not fair. He also claimed that the Council's Licensing Officer's made false statements against him. The licence holder felt that he had not done anything wrong and that his word against that of the police was worth nothing.

The licence holder reported that he had worked as a private hire driver for years without any problems so believed that he was a fit and proper person to hold a Private Hire Driver's Licence.

The Chair made the point that the operator he was driving for at the time had confirmed that the licence holder had been driving the vehicle at the time of the

offence. The Chair was therefore confused as to how the licence holder had been unable to confirm the correct time of the day, especially since at that time of the year it would have been dark in the evening. The licence holder admitted that he was confused about the time but had realised his mistake at the police station during the interview under caution. He added that, as a private hire driver, he had lots of jobs, consisting of approximately 450 a month, which made it difficult to remember specific details especially after the period of time that had elapsed between the day of the offence and the date he was interviewed by the police. In addition, the licence holder explained that at the time he was also dealing with problems associated with his father's health so admitted that his mental preparation was not right in view of these circumstances. He reiterated that it was a genuine mistake.

The licence holder was of the opinion that the police had been unreasonable to him due to a previous complaint he had made of them on another matter. He stated that he had lived in the country for forty years respecting law and order. He questioned the validity of the witness statements made against him for the trial at the Crown Court for the offence of perverting the course of justice and was of the view that it was their word against his, reiterating that he had done nothing wrong.

The Sub-Committee asked whether the other driver named by the licence holder on the Notice of Intended Prosecution, in the licence holder's statement and referred to throughout the case, held a Private Hire Driver's Licence. The Licensing Officer confirmed that he did not, but also reported that the vehicle was leased from the other driver to the licence holder.

Reference was made to the Notice of Intended Prosecution, attached to the report at Appendix D(iii), and the fact that it stated that the other driver, not the licence holder, was driving the vehicle at the time of the speeding offence. With this in mind, the point was made that this gentleman would have been driving the vehicle with no insurance which would have resulted in him being prosecuted for that offence. The licence holder explained that the other gentleman owned a garage and understood that he was insured to drive any vehicle to and from his garage to have it repaired.

The Licensing Officer clarified that anyone driving a Private Hire vehicle should have a Private Hire Driver's Licence, but acknowledged that some insurance policies may provide cover for garage employees to move vehicles for repair.

Referring to the Notice of Intended Prosecution, the Sub-Committee asked whether the other person was driving at the time of the speeding offence. The licence holder confirmed that the other driver was not driving at the time of the offence but had been driving the vehicle earlier that day during a visit to the other driver's garage and scrap yard to undertake repairs to the vehicle. The licence holder confirmed that he, the licence holder, was driving when the speeding offence occurred.

The Sub-Committee asked the licence holder why he had named the other driver as the driver of the vehicle at the time of the offence when he responded to the Notice of Intended Prosecution. The licence holder confirmed that he had mixed up the different times of day.

The licence holder's son, representing his father, confirmed that the licence holder's daughter, who was under the age of 16 at the time, had completed the Notice of Intended Prosecution form on his behalf which the licence holder had



subsequently signed. The other driver's name had been included on the form as the licence holder believed he had been driving at the time of the speeding offence.

The Council's Solicitor referred to the licence holder's interview under caution held on 17 January 2014, attached to the report at Appendix D(v), and asked whether it was only on that day that he had realised his mistake.

The licence holder responded by saying that he had realised this when he got to the police station.

The Council's Solicitor asked the licence holder to confirm that he only understood the full meaning of the Indictment, attached to the report at Appendix D(vii), when the Police Officer pointed out to him that the private hire operator had made a statement confirming that the licence holder was driving the vehicle at the time of the alleged offence. The licence holder confirmed that this was correct.

The Sub-Committee noted that the wording of the Indictment stated the licence holder had perverted the course of justice 'with intent', therefore concluding that this conviction was for a deliberate act and did not represent a reckless act.

The Sub-Committee questioned why the date of 15 January 2013 had been inserted on the Notice of Intended Prosecution form, attached at Appendix D(iii) of the report. The licence holder reiterated that his young daughter had completed the form on his behalf and that this date was a mistake.

The Chair asked the licence holder why he had not brought the other driver with him as a witness to this hearing. The licence holder explained that the other driver had moved away from the area and he did not have any contact details for him.

The Sub-Committee asked whether the other driver had been charged or convicted for the speeding offence. The licence holder did not know this.

The Sub-Committee asked whether the licence holder had received any points on his UK driving licence for the alleged speeding offence. The licence holder confirmed that he had not received any points.

The Council's Solicitor made the point that the exact time recorded in the correspondence between Lincolnshire Police and the licence holder for the speeding offence was in 24 hour clock format at 19:10 hours, rather than 'a.m.' or 'p.m.' He therefore questioned how any mistake about the time of day could have occurred. The licence holder believed that the offence had occurred earlier on the day of the offence, when the other driver had been driving the vehicle. In view of this and in liaison with the other driver the licence holder said that he had agreed with the other driver that the other driver's details should be added to the Notice of Intended Prosecution form and returned to the police. The licence holder reiterated that he had made a mistake regarding the time.

The Council's Solicitor stated that, as a private hire driver, the licence holder should be expected to know that he would be logged-in with his operator when he started his shift and should understand the seriousness of the offence. He therefore asked whether the licence holder had made contact with his operator to clarify the time he was on duty on the day of the alleged offence. The licence

holder said that he knew the time he was on duty, so there was no need for him to check this with the operator. The licence holder's son, as his representative, confirmed that an assumption had been made by his father that the offence had occurred during the daytime as this was when he was used to seeing mobile speed camera vans.

The Council's Solicitor asked how he knew the offence was captured by a mobile speed camera. The licence holder's son replied by saying that there were not usually any other cameras on that particular road.

The Council's Solicitor reiterated his opening statement that the Sub-Committee could not look behind the merits of the conviction of perverting the course of justice. He asked why the licence holder, in view of his comments put forward at this meeting regarding his claim that the conviction was unfair and that there was no intent to provide false or misleading information, had not appealed against his conviction.

The licence holder confirmed that he had sought independent legal advice whereby he was informed that he was not entitled to the right of appeal. He outlined that he would be making a number of complaints, namely to the Crown Prosecution Service, the Ministry of Justice, Lincolnshire Police and the City of Lincoln Council regarding what he claimed to be misleading statements provided by the Council's Licensing Officers.

The Council's Solicitor informed the licence holder that any appeal against a conviction would need to take place through the Court of Appeal and a complaint would not address or rectify this. He emphasised, however, that he could not provide any legal advice to the licence holder in respect of this issue.

The Council's Solicitor made the point that the element of intent in the offence and conviction was clearly set out in the Indictment for the offence, as set out in Appendix D(vii) of the report.

The Chair asked why it had taken so long for the case to go to court. The licence holder explained that he thought the issue would be heard at the Magistrates Court as he had admitted the mistake regarding the time of the offence and who was driving the vehicle when he was interviewed under caution by the police. He felt that if the Crown Prosecution Service had dealt with the matter more reasonably he would have been issued with a fine and points on his licence for the speeding offence. Instead, the matter was referred to the Crown Court which he felt was very unfair.

The Sub-Committee questioned why a letter from the DVLA to the licence holder regarding vehicle tax mentioned in the licence holder's interview with the police, attached at the report at Appendix D(v), and had been sent to the licence holder rather than the owner of the vehicle. It was noted that an agreement was in place between the licence holder and the vehicle owner regarding the leasing and maintenance of the vehicle. Appendix C(vii) of the report was a copy of the agreement and showed that the owner of the vehicle was also the second driver named by the licence holder in the Notice of Intended Prosecution.

The Council's Solicitor confirmed that the offence of perverting the course of justice could only be tried in Crown Court due to the nature and seriousness of the offence as an indictable offence.

The licence holder said that intention had to be proved and he was of the opinion that his particular case had been taken to the Crown Court on a personal basis.

The Council's Solicitor noted and understood the licence holder's views in this respect, but reminded him that the Sub-Committee could not look behind the merits or otherwise of the conviction.

The Chair asked the licence holder whether he felt that he had received a fair hearing at this meeting. The licence holder said that he had been treated fairly and appreciated the second opportunity to address the Sub-Committee, following deferral of the previous meeting, to have this issue looked into very carefully. He added that he believed the final decision would be fair.

The Chair invited the licence holder to address the Sub-Committee by way of summary.

The licence holder was of the view that if the Licensing Officer's statements had been honest and true, there would not be a case against him of acting with intention to pervert the course of justice. He claimed that their witness statements were unfair, wrongful and led to the police and Crown Prosecution Service taking this action due to his previous record. The licence holder added that, had their witness statements not been provided, the police would have agreed that there had been a mistake.

The licence holder's son, as his representative, with regards to the Sub-Committee considering whether his father was a fit and proper person to hold a Private Hire Driver's Licence, reminded the Sub-Committee that his father had been a self-employed private hire driver his whole life and this was his livelihood which provided for his family who depended on him. He added that he did not feel the offence made his father improper to deal with the general public, as he had in previous years and that he provided a reliable and honest service as a Private Hire driver.

In closing, the Council's Solicitor encouraged the licence holder to submit a formal complaint regarding the allegations made against the Council's Licensing Officers using the authority's complaints process.

The decision was made as follows:

That the licence be revoked.

Reasons for the decision:

1. The Local Government (Miscellaneous Provisions) Act 1976 empowers the Licensing Authority acting through the Licensing Sub-Committee to revoke the licence holder's licence in accordance with the following provisions:

***61: Suspension and revocation of drivers' licences.***

*(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:*

*(a) that he has since the grant of the licence –*

*(i) been convicted of an offence involving dishonesty, indecency or violence; or*

*(b) any other reasonable cause.*

2. The Council's Statement of Policy on Relevant Convictions with regards to offences involving dishonesty states as follows:

### **10. Dishonesty**

*10.1 Licensed Hire Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property, taking children to school and families on holiday, is indicative of the trust that people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by any lost property being kept by an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 5 years free of conviction should be required before entertaining an application.*

*A licensed Hire Driver found guilty of a dishonesty offence should expect to have his/her licence revoked immediately and be banned from holding such a licence with the Council for 5 years.*

*10.2 In general, a minimum period of 5 years free of conviction or at least 5 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:*

- *theft*
- *burglary*
- *fraud*
- *benefit fraud*
- *handling or receiving stolen goods*
- *forgery*
- *conspiracy to defraud*
- *obtaining money or property by deception*
- *other deception*
- *taking a vehicle without consent*
- *and any similar offences*
- *Or any similar offences (including attempted or conspiracy to commit) offences which replace the above*

*10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.*

3. The Indictment of the licence holder at Appendix D(vii) of the report sets out the offence to be one of 'DOING AN ACT TENDING AND INTENDED TO PERVERT THE COURSE OF PUBLIC JUSTICE.' It goes on to give the following particulars of the offence: the licence holder 'with intent to

pervert the course of public justice did an act which had a tendency to pervert the course of public justice in that he supplied false information to Lincolnshire Police on a Notice of Intended Prosecution as to the identity of the driver of a motor vehicle that was alleged to have been driven in excess of the speed limit at 7:10 pm on 23rd day of January, 2013.'

4. The licence holder was convicted of the above offence and given a six-month custodial sentence plus a victim surcharge of £80.00.
5. The Sub-Committee were of the view that the licence holder had acted dishonestly and with intent by providing false information to the Lincolnshire Police as to the identity of the driver of the vehicle when the licence holder responded to the Notice of Intended Prosecution, a copy of which is shown at Appendix D (iii) of the report. The Sub-Committee noted that the Notice of Intended Prosecution clearly refers to the date and time of the alleged speeding offence as being at '19:10 hours on 23 Jan 2013', which would have been after dark at that time of year.
6. The Sub-Committee were not persuaded by the licence holder's explanation that he had made a mistake as to the time of day of the alleged speeding offence and the identity of the driver at that time of day when he responded to the Notice of Intended Prosecution naming another person as the possible driver.
7. The Sub-Committee noted that the licence holder had been shown to have been on duty as a private hire driver on the date and at the time of the alleged speeding offence, which he only admitted to when he was confronted by the evidence provided by the private hire operator during an interview under caution with the Lincolnshire Police.
8. The Sub-Committee were of the view that they could not look behind the merits of the conviction and that the licence holder had not provided them with extenuating circumstances as to why the Sub-Committee should depart from the Council's Policy on Relevant Convictions with regards to offences involving dishonesty.
9. The Sub-Committee were of the view that the offence and resulting conviction were extremely serious, being an indictable offence involving dishonesty which resulted in the imposition of a custodial sentence of six months.
10. The Sub-Committee addressed the question set out in paragraph 2.5 of the report: "would a member of the Licensing Committee be comfortable in allowing their son, daughter, spouse or partner, mother or father, grandchild or any persons for whom they care, to get into a private hire vehicle with this person?" The Sub-Committee concluded that they would not be comfortable in so allowing the above.

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**Present:** Councillor Loraine Woolley (*Vice-Chair, in the Chair*),  
Councillor Kathleen Brothwell, Councillor Andy Kerry and  
Councillor Paul Gowen

**Apologies for Absence:** Councillor Pat Vaughan and Councillor Adrianna McNulty

**25. Confirmation of Minutes for the meeting held 3 August 2017**

The minutes of the meeting held on 3 August 2017 were confirmed.

**26. Declarations of Interest**

No declarations of interest were received.

**27. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**28. To Interview an Applicant for a Private Hire Driver's Licence Who is Unable to Provide a Certificate of Good Conduct [09/2017]**

The Licensing Officer:

- a. presented the report and explained that the applicant had been unable to provide a certificate of good conduct from his country of origin, Syria
- b. reported that the applicant came to the UK in 2006 and was granted British citizenship in 2012
- c. stated that the applicant had held a full UK driving licence since February 2012
- d. advised that the applicant had passed the knowledge test on his third attempt and had achieved a low risk result on the DSA Taxi Driving Assessment

The Sub-Committee questioned the applicant about his reasons for applying for a Private Hire driver's Licence and was satisfied with the responses given. The applicant confirmed that he had been offered a position with a taxi firm should he be fortunate to be granted a licence.

The decision was made as follows:

That the Private Hire Driver's Licence be granted

The reasons for the decision:

1. The Sub-Committee felt that the applicant presented himself well and that he came across as open and honest with a genuine work ethic.
2. The Sub-Committee did not have any concerns over the suitability of the applicant and was sympathetic to the difficulties faced by him in obtaining a certificate of good conduct from his place of origin, Syria.
3. The applicant had not been convicted of any offences since arriving in the UK and becoming a British Citizen therefore there was no reason to doubt that he was a fit and proper person to hold a licence.

**29. To Interview an Existing Driver Following a Complaint [10/2017]**

The Licensing Officer:

- a. presented the report which detailed the contents of the complaint made against the Private Hire Driver Licence holder
- b. explained the concerns that the complainant had in believing the licence holder was being aggressive and threatening when he tried to speak to him through the window of the car. The complainant was concerned that the licence holder had tried the door of his car as if in an effort to open the door
- c. stated that two dash cam videos were available for the Sub-Committee to view and the Private Hire Licence holder had already seen the footage from the second video

The Sub-Committee viewed the dash cam videos and replayed them numerous times for clarification. It was noted that the licence holder did not indicate before starting to manoeuvre.

Members of the Sub-Committee asked the licence holder to explain his actions as recorded in the videos. The licence holder responded that he realised that he had made a mistake by getting out of the car and approaching the complainant's vehicle. He realised that he should not have tried the door handle but all he wanted to do was to make himself heard and talk to the driver to tell him that he believed he was going too fast and should have slowed down.

The Sub-Committee asked the licence holder what would happen if he had drunken people in the vehicle and after he had driven them to their destination, refused to pay the fare. The licence holder responded by informing the Sub-Committee of a similar incident that had happened to him where after refusing to pay one of the passengers had tried to hit him. On this occasion the licence holder had informed his office of what had happened and he had driven away.

The licence holder concluded that he was very sorry for the incident that had led to the complaint and that nothing like this would ever happen again. He would willingly apologise to the complainant in writing as he needed his licence to be able to provide for his wife and children.

The decision was made as follows:

That the licence holder be allowed to keep his licence on the following conditions:



- that he sent a written apology to the complainant
- a strongly worded letter would be issued to the licence holder which would emphasise the importance of his good conduct while acting in his role as a Private Hire Driver. The letter would also remind the licence holder of the very high standards of safe driving expected of him as a Private Hire Driver, including an expectation that he would not commit any traffic violations as these would result in him being brought back before the Sub-Committee.

The reasons for the decision:

1. The Sub-Committee believed that the licence holder was genuinely apologetic for his behaviour and that the situation that had happened was out of character.
2. The licence holder presented himself well and understood how his actions could have been misconstrued by the complainant.
3. The licence holder convinced the Sub-Committee that this or anything similar would never happen again as this job was vital to him being able to provide for his family.
4. Members agreed that the licence holder had learnt a lesson by being put under scrutiny by the Sub-Committee and felt that there would not be any further violations.
5. The Sub-Committee took all factors into consideration and believed that the licence holder was a fit and proper person to hold a Private Hire Driver's Licence.

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**SUBJECT: PROPOSAL TO INTRODUCE A LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES IN ACCORDANCE WITH THE EQUALITY ACT 2010**

**DIRECTORATE: COMMUNITIES AND ENVIRONMENT**

**REPORT AUTHOR: TOM CHARLESWORTH, LICENSING OFFICER**

## **1. Purpose of Report**

- 1.1 To inform Members of the provisions of the Equality Act 2010 (the Act) in relation to wheelchair user's access to hackney carriage and private hire vehicles.
- 1.2
  - 1. To seek Members' views on whether to maintain a list of designated wheelchair accessible vehicles for the purpose of the Act.
  - 2. And, if such a list is to be maintained, to request that the authority to grant exemptions to licensed drivers on medical grounds (from their duties in relation to wheelchair passengers) is delegated to the Hackney Carriage and Private Hire Licensing Sub-committee (this is currently undertaken by the Licensing Committee).

## **2. Executive Summary**

- 2.1 Sections 165 and 167 of the Act came into force on the 6<sup>th</sup> April 2017.
- 2.2 Section 165 of the Act requires the drivers of designated hackney carriage or private hire vehicle to carry passengers in wheelchairs, provide assistance to those passengers and prohibits them from charging extra.
- 2.3 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) on either medical grounds, or on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties. There are three such Certificates currently which have been granted by the Licensing Committee.
- 2.4 Section 167 of the Act provides Local Authorities with the powers to make lists of designated wheelchair accessible vehicles (WAVs).
- 2.5 Therefore, the three sections allow a licensing authority to make a list of vehicles that are capable of carrying a wheelchair and user. Once the vehicle is on the list, the driver must carry such passengers, assist them and not charge extra for carrying them. An exemption certificate can be issued to drivers who, for medical

reasons, cannot assist wheelchair users.

### **3. Background**

- 3.1 The Act received Royal Assent in 2010 however several sections were not commenced immediately, including sections 165 and 167 which came into effect on the 6<sup>th</sup> April 2017.
- 3.2 Section 166 has been in force for some time which requires licensing authorities (LAs) to grant exemptions to drivers from their duties under section 165 on medical grounds. Three hackney carriage drivers already hold such exemptions.
- 3.3 LAs were previously able to implement the provisions of section 167 although it was purely discretionary and had no effect in law. This authority felt that there was no need to do so as the hackney carriage fleet are all wheelchair accessible and it had granted exemptions where appropriate.
- 3.4 Following the commencement of the two sections, the Department for Transport issued statutory guidance to assist LAs in their implementation of the relevant sections.

This guidance can be seen at appendix A.

- 3.5 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.

An example of a list maintained by a local authority can be seen at appendix B.

- 3.6 It is felt by officers that wheelchair users should be afforded the same services as everyone without suffering discrimination.
- 3.7 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.8 All the Council's 30 motorised hackney carriages are wheelchair accessible and therefore would be included on a list.
- 3.9 The Hackney Carriage and Private Hire Licensing Policy approved last year made provision for both side loading and rear loading wheelchair accessibility giving the hirer a greater choice when choosing their hiring.
- 3.10 However, none of the requirements of section 165 are directly enforceable in law on the driver of these hackney carriages even though the vehicle is capable of carrying a wheelchair user. This was something that was accepted as the duty of a hackney carriage driver.
- 3.11 Placing the vehicles on the section 167 list would then make the provisions of section 165 enforceable through the courts.

- 3.12 Protection from prosecution would be afforded if the drivers were exempt from giving assistance under the provisions of section 166.
- 3.13 In respect of private hire, there are wheelchair accessibility specifications in the policy but at the moment, although there are wheelchair accessible private hire vehicles licensed none are recorded on our systems.

#### **4. Further Details**

- 4.1 The Government has now clearly decided that now is the time to implement the two sections and thus give powers under section 167.
- 4.2 The legislation wishes 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.". (see section 3.8 of the statutory guidance)
- 4.3 The Council can easily accommodate this with its hackney carriage fleet as explained above but there are potentially issues with the private hire trade.
- 4.4 Section 165 places duties on a driver of a designated 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.
- 4.5 With these duties come the responsibilities of being properly trained in wheelchair handling. Hackney carriage drivers have to have the training so the issues are all with private hire.
- 4.6 Most, if not all, current private hire wheelchair accessible vehicles undertake County Council contracts and the contract requires properly trained drivers.
- 4.7 Such vehicles are in use on County business for a relatively short period of time and hence when not so used, can form part of the operator's general fleet of available vehicles.
- 4.8 Wheelchair accessible vehicles are more expensive than the equivalent standard vehicle because of the manufacture or conversion costs.
- 4.9 The drivers are more expensive to provide as they have to be specifically trained in wheelchair handling.
- 4.10 Thus, these vehicles are more expensive to hire and operators currently pass this on to the wheelchair users in the form of a surcharge on journey costs. This surcharge is the same irrespective of journey length. It is based on the time to load, secure and unload the wheelchair and its user.
- 4.11 With reference to section 165 (paragraph 4.4) that additional cost would appear to

be in breach of the legislation if a list of vehicles was maintained under section 167.

- 4.12 So, there is a real risk that operators will cease to make wheelchair accessible vehicles available for general private hire and concentrate solely on school contracts.
- 4.13 Another issue is ensuring that the wheelchair accessible vehicles are identified and measured to ensure that they are at least able to carry the 'reference wheelchair'.
- 4.14 The reference wheelchair has:
- total length of 1200mm, including extra-long footplates;
  - total width of 700mm;
  - sitting height (from ground to top of head) of 1350mm; and
  - height of footrest above floor of 150mm.

See appendix C for a diagram of the above.

- 4.15 To undertake the task, the Council would need to have a 'reference wheelchair' to try in the vehicles.
- 4.16 In respect of hackney carriages their drivers are controlled by the meter. The guidance advises that switching the meter on whilst loading and unloading should not be permitted and a condition could be placed on the vehicle licence to prevent this. The wording of such a condition can be formulated by the Licensing Officer and a Solicitor and then agreed by the Chair of Licensing at a later date. (see section 4.7 of the statutory guidance).
- 4.17 Proprietors of vehicles (either hackney carriage or private hire) can appeal the decision to place their vehicle on a designated list.
- 4.18 Drivers that have medical conditions, disability or physical condition which affect their ability to assist wheelchair users can apply to the licensing authority for an exemption certificate, as outlined above.

## **5. Strategic Priorities**

### **5.1 Let's drive economic growth**

- 5.2 Economic growth insofar as keeping existing jobs is concerned may be affected with the risk of withdrawal of private hire vehicles and hence their drivers. If that occurs wheelchair users may have to use out of town private hire operators. The Council cannot then guarantee quality service. See below.

### **5.3 Let's reduce inequality**

- 5.4 This report is directly concerned with reducing inequality within the wheelchair user community. The creation of a designated list of private hire vehicles as recommended by the Government may have a negative impact. We have not received complaints from users on having to pay the surcharge imposed by the private hire trade.

If a designated list of private hire vehicles is made, the risk is reduced availability of vehicles and hence choice and users may be forced into hackney carriages as their first option and out of town operators as a second.

Placing hackney carriages on the list would not be so problematic.

5.5 Let's enhance our remarkable place

5.6 As stated above, if there was a reduction in the number of private hire wheelchair accessible vehicles this could have a negative impact on Lincoln and its population.

**6. Organisational Impacts**

6.1 Finance

6.2 There would be an initial cost of creating the designated lists and maybe hiring/buying a reference wheelchair.

6.3 There would be increased enforcement until the duties of drivers was clearly undertaken responsibly. This would be met from existing fees and charges arrangements.

6.4 The cost of any appeals as detailed in 6.7 below cannot be assessed but any costs incurred would have to be met from the Legal Expenses budget.

6.5 Legal Implications

6.6 It is not a mandatory requirement that a local authority implements a "designated vehicle" list under Section 167 of the Act.

6.7 The Act allows for appeals to be made to the Magistrates' Court against a Council's refusal to exempt a driver on medical grounds from the requirements of Section 165 of the EA 2010 and also against a Council's decision to include a wheelchair accessible vehicle on its 'designated vehicles' list in accordance with Section 167. Under the EA 2010 any such appeals must be made within 28 days of either the refusal to exempt a driver, or the date the decision was made to designate a vehicle.

6.8 Equality Analysis

6.9 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.

6.10 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination. The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies,

procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.

- 6.11 There is no requirement to consult on the potential implementation of section 167 of the Act either with the hackney carriage / private hire trade or the wider public as a whole, as this is not an initiative that has been introduced locally by the Council, but comes about as a result of primary national legislation. It is a measure that the hackney carriage and private hire trades locally would be obliged to implement.
- 6.12 A review of the equality analysis process was undertaken to assess if introducing a list could result in less favourable treatment of some groups, and how this could be mitigated and it has been identified that the effect of introducing a list under Section 167 of the Act would potentially have an impact on the protected characteristic of “disability”.
- 6.13 The positive effects would be that in creating a list the Council would be able to show it has taken steps to ensure that it will be easier for disabled people to travel by way of private hire and drivers who can assist them and the charging structure will be equal.
- 6.14 If a list was introduced, the negative effect would be that the provision of wheelchair accessible vehicles could be reduced due to the costs as outlined in some of the responses of the consultation and in doing so the ability of disabled people to travel could be impacted upon.
- 6.15 Consultation and results
- 6.16 The consultation letter incorporating the relevant provisions of the Act can be seen at appendix D.
- 6.17 A list of those consulted can be seen at appendix E.
- 6.18 At appendix F through to appendix N responses to the consultation exercise can be seen.
- 6.19 Appendix J contains partial minutes of the Lincoln Tenants’ Panel meeting of the 6<sup>th</sup> September 2017, members are directed to minute 104.
- 6.20 Four responses were received that were not a result of direct consultation, these can be seen at appendix K through to appendix N.
- 6.21 At appendix N an email can be seen from Dick Fowler (author of appendix M) who, along with additional comments, provides a link to an extensive research paper created by Doug Paulley. Members may view this 41 page document by using the link below.
- <https://www.kingqueen.org.uk/s167/>
- 6.22 Of the eight responses received six were either against maintaining a list of designated wheelchair accessible vehicles or had made negative comments about the potential introduction of such a list.



- 6.23 Of those six, five worked in the hackney carriage / private hire trade. One of the responses was from the Lincoln Taxi & Private Hire Association but mainly concerned the comments from Cabserve Ltd, a private hire operator in Lincoln.
- 6.24 The remaining response came from the Lincoln Tenants Panel who felt that a premium fare for wheelchair accessible vehicles was reasonable. The Panel also felt that maybe a reduced licence fee could be levied for wheelchair accessible vehicles that are licensed as hackney carriages or private hire vehicles thus potentially increasing their provision in Lincoln, however this would be complicated.
- 6.25 The last two responses were positive towards a list of designated wheelchair accessible vehicles being maintained. Members were asked not to be side-tracked by the expected upset of taxi companies but to put the views of disabled people who use wheelchairs first. The response from Dick Fowler who urged the Council to maintain a list mentioned that research by muscular Dystrophy UK carried out in 2016 indicated that a quarter of wheelchair users had been refused service by a taxi driver purely because they are disabled.

## **7. Recommendation**

- 7.1 The Licensing Committee is asked to consider the following:
1. whether to maintain a list of designated wheelchair accessible vehicles for the purpose of the Equality Act 2010, or not;
  2. if a list is to be maintained; then whether to procure a 'reference' wheelchair at a cost to the Council, or not;
  3. whether to delegate to the Hackney Carriage and Private Hire Licensing Sub-committee the power to determine exemption certificates under Section 166 of the Equality Act 2010, or not;
  4. if needed, to add a condition to the current licensing conditions attached to all hackney carriage licences as detailed in 4.16 of this report above, or not, which will be approved by the Chair of the Licensing Committee.

**How many appendices does the report contain?** 14

**Lead Officer:** Thomas Charlesworth, Licensing Officer  
Telephone (01522) 873263

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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 cursive script that reads "Andrew Jones".

**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

- 2.1 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.
- 2.2 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.
- 2.3 On 15<sup>th</sup> 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"*.
- 2.4 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.

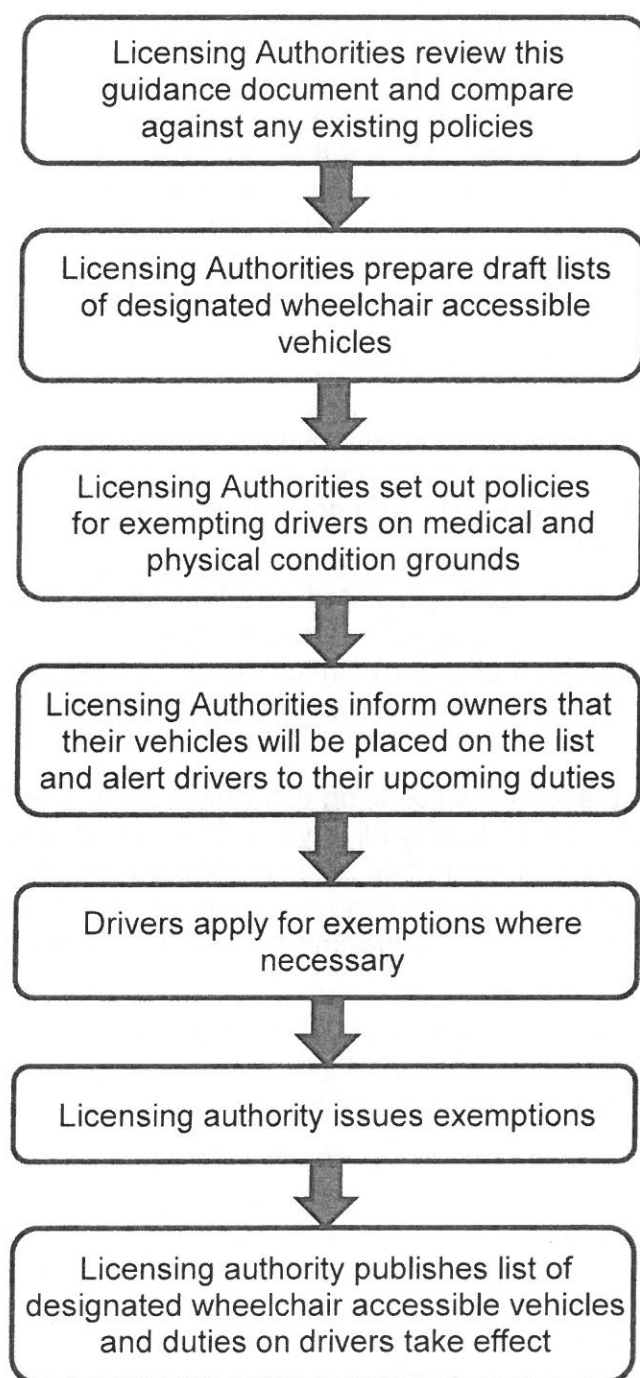
### Transitional arrangements

- 2.5 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.
- 2.6 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.
- 2.7 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.

- 2.8 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

- 3.1 Section 167 of the Act permits, but does not require, LAs to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 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

- 3.3 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.
- 3.4 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.
- 3.5 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"<sup>1</sup> to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 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.
- 3.7 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 about the vehicles that will be available to them to make informed choices about their journeys.

---

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

## Preparing and publishing lists of designated vehicles

- 3.8 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.
- 3.9 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'.
- 3.10 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.
- 3.11 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.
- 3.12 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

- 3.13 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

- 4.1 Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 4.2 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.
- 4.3 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.
- 4.4 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 Staff<sup>2</sup> may provide a useful resource.
- 4.5 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.
- 4.6 Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance could also include pushing a manual wheelchair or

<sup>2</sup>

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

light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

- 4.7 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

- 4.8 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 1<sup>st</sup> October 2010.
- 4.9 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.
- 4.10 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.
- 4.11 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.
- 4.12 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.
- 4.13 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

- 4.14 In addition to the exemption certificate, exempt drivers need to be issued with a notice of exemption for display in their vehicle.
- 4.15 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.
- 4.16 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.
- 4.17 Only one exemption notice should be displayed in a vehicle at any one time.

## Appeals

- 4.18 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.
- 4.19 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

- 5.1 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.
- 5.2 The Government expects LAs to take tough action where drivers breach their duties under section 165 of the Act.
- 5.3 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.
- 5.4 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".
- 5.5 Authorities might also apply conditions which enable them to investigate cases of alleged discrimination and take appropriate action, even where prosecution did not proceed.

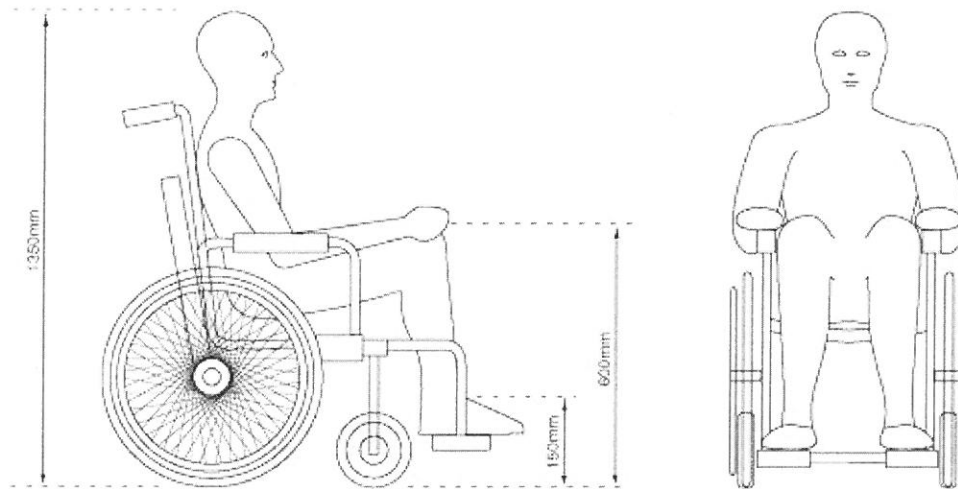
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## Wheelchair Accessible Vehicles

Licence Number	Registration	Make & Model	Proprietor	Tel No
HC0054	SF62 GJK	Peugeot Partner	Iftikhar Hussain Khan	07989 480534
HC0055	SF60 HVW	Peugeot Partner	Mohammed Shabir	07877 207622
HC0056	MC65 OBW	Ford Tourneo	Qamar Zaman	07799 588770
HC0057	SJ62 ENW	Peugeot Partner	Mehrban Khan	07960 609062
HC0058	SN14 AEC	Citroen Berlingo	Mohammed Sharif	01254 555555
HC0059	DK65 XMH	Mercedes Benz	Malik Mahmood Ul-Hassan	07971 331250
HC0060	SF12 LYA	Peugeot Premier	Mohammed Yasin	07950 871996
HC0061	PK09 RPY	VW Transporter	Mohammed Ansar Mahmood	07730 680235
HC0062	SF10 LCA	Peugeot Partner	Khalid Hussain	07813 131965

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**Directorate of Communities & Environment**

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**Consultee**

Tom Charlesworth is dealing with this matter

Direct Line: **(01522) 873263**

E-Mail: [tom.charlesworth@lincoln.gov.uk](mailto:tom.charlesworth@lincoln.gov.uk)

Date: 16 August 2017

Dear Sir or Madam

**RE: EQUALITY ACT 2010 – ACCESS FOR WHEELCHAIR USERS TO HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES**

The Council will shortly be taking a report to the Licensing Committee to inform Members of the provisions of the Equality Act 2010 in relation to wheelchair user's access to hackney carriage and private hire vehicles.

We are seeking Members' views on whether to maintain a list of designated wheelchair accessible vehicles (WAVs) for the purpose of the Act.

Section 167 of the Act provides a Council with the powers to make lists of designated wheelchair accessible vehicles. Once a vehicle is on this list then drivers of that vehicle must comply with Section 165 of the Act.

Section 165 of the Act imposes the following duties on drivers:

- 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;
- to give the passenger such mobility assistance as is reasonably required.

*(please see enclosed for further information and definitions)*

Please note that exemption certificates can be issued to drivers, who for medical reasons, cannot assist wheelchair users. Any medical exemption certificates that have already been issued to hackney carriage or private hire drivers will still be in force as they were issued under the same provision of the Equality Act. Drivers will not have to re-apply for a medical exemption certificate until such time as their current certificate expires.

If Members decide that the Council should make a list of WAVs then we have identified the following risks that may occur:

- Adverse reaction from proprietors and drivers;
- Reduction in wheelchair accessible vehicles;
- Increased enforcement and prosecution;

- Increased costs to general public.

If Members decide that the Council should not make a list of WAVs then we have identified the following risks that may occur:

- There may be criticism from interested parties;
- The Council appearing to ignore Government guidance to introduce equality measures.

Therefore Members must decide on the evidence, their own local knowledge, Statutory Guidance and representations made whether to produce a list of wheelchair accessible vehicles or not.

We are asking for your views on this matter which will form part of the report that will be presented to Members. We request that you send any responses to the Council before the 25<sup>th</sup> September 2017, any responses received on or after this date will not be considered.

Representations can be sent via email to [tom.charlesworth@lincoln.gov.uk](mailto:tom.charlesworth@lincoln.gov.uk) or by post to:

The Licensing Team  
Directorate of Communities & Environment  
City of Lincoln Council  
City Hall  
Beaumont Fee  
Lincoln  
LN1 1DF

For any weight to be given to responses, they should be backed up by tangible evidence and considered reasons and not be based on a mere wish or whim.

For your information I have enclosed the relevant provisions of the Equality Act 2010.

Yours faithfully,

*7. Charlesworth*

**Tom Charlesworth**  
**Licensing Officer**

Enc:

Section 165 - Passengers in wheelchairs

- (1) This section imposes duties on the driver of a designated taxi which 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.
- (2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph (a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.
- (3) For the purposes of this section—
- (a) a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167;
  - (b) “the passenger” means the disabled person concerned.
- (4) The 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.
- (5) Mobility assistance is assistance—
- (a) to enable the passenger to get into or out of the vehicle;
  - (b) 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;
  - (c) to load the passenger's luggage into or out of the vehicle;
  - (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- (6) This section does not require the driver—
- (a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;
  - (b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.
- (7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (9) It is a defence for a person charged with the offence to show that at the time of the alleged offence—
- (a) the vehicle conformed to the accessibility requirements which applied to it, but
  - (b) it would not have been possible for the wheelchair to be carried safely in the vehicle.
- (10) In this section and sections 166 and 167 "private hire vehicle" means—
- (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
  - (c) a vehicle licensed under an equivalent provision of a local enactment;
  - (d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.



Section 166 - Passengers in wheelchairs: exemption certificates

- (1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an "exemption certificate") if satisfied that it is appropriate to do so—
  - (a) on medical grounds, or
  - (b) on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.
- (2) An exemption certificate is valid for such period as is specified in the certificate.
- (3) The driver of a designated taxi is exempt from the duties imposed by section 165 if—
  - (a) an exemption certificate issued to the driver is in force, and
  - (b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.
- (4) The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—
  - (a) an exemption certificate issued to the driver is in force, and
  - (b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.
- (5) For the purposes of this section, a taxi or private hire vehicle is "designated" if it appears on a list maintained under section 167.
- (6) In this section and section 167 "licensing authority", in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

Section 167 - Lists of wheelchair-accessible vehicles

- (1) For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).
- (2) A vehicle falls within this subsection if—
  - (a) it is either a taxi or a private hire vehicle, and
  - (b) it conforms to such accessibility requirements as the licensing authority thinks fit.
- (3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.
- (4) In subsection (3) “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).
- (5) “Accessibility requirements” are requirements for securing that it is possible for disabled persons in wheelchairs—
  - (a) to get into and out of vehicles in safety, and
  - (b) to travel in vehicles in safety and reasonable comfort,either staying in their wheelchairs or not (depending on which they prefer).
- (6) The Secretary of State may issue guidance to licensing authorities as to—
  - (a) the accessibility requirements which they should apply for the purposes of this section;
  - (b) any other aspect of their functions under or by virtue of this section.
- (7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

Section 172 - Appeals

- (1) A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 may appeal to a magistrates' court before the end of the period of 28 days beginning with the date of the refusal.
- (2) A person who is aggrieved by the refusal of a licensing authority in Scotland to issue an exemption certificate under section 166 may appeal to the sheriff before the end of the period of 28 days beginning with the date of the refusal.
- (3) On an appeal under subsection (1) or (2), the magistrates' court or sheriff may direct the licensing authority to issue the exemption certificate to have effect for such period as is specified in the direction.
- (4) A person who is aggrieved by the decision of a licensing authority to include a vehicle on a list maintained under section 167 may appeal to a magistrates' court or, in Scotland, the sheriff before the end of the period of 28 days beginning with the date of the inclusion.

Section 173 – Interpretation

(1) In this Chapter—

“accessibility requirements” has the meaning given in section 167(5);

“assistance dog” means—

- (a) a dog which has been trained to guide a blind person;
- (b) a dog which has been trained to assist a deaf person;
- (c) a dog which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;
- (d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind;

“taxi”—

- (a) means a vehicle which is licensed under section 37 of the Town Police Clauses Act 1847 or section 6 of the Metropolitan Public Carriage Act 1869, and
- (b) in sections 162 and 165 to 167, also includes a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982,

but does not include a vehicle drawn by a horse or other animal;

“taxi accessibility regulations” has the meaning given by section 160(1).

- (2) A power to make regulations under paragraph (c) or (d) of the definition of “assistance dog” in subsection (1) is exercisable by the Secretary of State.

Official consultee	Response received?	Appendix No.	For / Against S.167	Summary of response(s)
Hackney Carriage Proprietors (31)	Yes – 1	F	Against	<ul style="list-style-type: none"> <li>- no hackney carriages on the list</li> <li>- cannot load / unload wheelchairs safely</li> <li>- cannot accommodate all wheelchairs</li> </ul>
Private Hire Operators (17)	Yes – 2	G & H	Against	<ul style="list-style-type: none"> <li>- cost in investing and maintaining specialist vehicles and specialist insurance</li> <li>- no incentive in operating a wheelchair accessible vehicle (WAV) if you cannot charge extra</li> <li>- WAVs may be removed from fleets as a result</li> <li>- takes longer to load / unload wheelchair passengers so potentially less work in a standard day but for the same fares</li> </ul>
Lincoln Taxi & Private Hire Association	Yes	I	Against	<ul style="list-style-type: none"> <li>- WAVs and appropriate training does not come cheap</li> <li>- drivers struggling to achieve minimum wage due in part to the cost of the badge / Council courses</li> <li>- takes time to find the right kind of driver to do this work, tolerance and patience required</li> </ul>

					- if costs cannot be recouped then this service will no longer be able to be provided
Transport Services Group (TSG) – Lincolnshire County Council	No				
Age UK Ltd	No				
JUST Lincolnshire – local equality groups, communities and support groups	No				
Lincoln Disability Forum – Lincolnshire County Council	No				
Lincoln Volunteer Centre Services	No				
Children's Links	No				
Lincoln Tenants Panel – City of Lincoln Council	Yes (minutes)	J (104 of the minutes)	Against		<ul style="list-style-type: none"> <li>- taking into account the cost of WAVs a premium fare would be reasonable</li> <li>- disabled people receive an allowance</li> <li>- the Council could have reduced licence fees for WAVs operating as hackney carriages or private hire vehicles</li> <li>- the panel did not think that private hire operators should have a condition on their licence stating that a % of their fleet must be wheelchair accessible</li> </ul>
North Neighbourhood Working Team – City of Lincoln Council	No				
Central Neighbourhood Working Team – City of Lincoln Council	No				

South Neighbourhood Working Team – City of Lincoln Council	No				
Disability Ltd – Ancaster Day Centre	No				
Various nursing homes in Lincolnshire (29)	No				
Disabled person and able-bodied friend who had submitted a complaint re: Lincoln private hire driver (2)	No				
VoiceAbility	No				
<b>Unofficial consultee</b>	<b>Response received</b>	<b>Appendix No.</b>	<b>For / Against S.167</b>	<b>Summary of response(s)</b>	
Howard Collins (private hire driver)	Yes	K	Against	<ul style="list-style-type: none"> <li>- reduction / disappearance of WAVs</li> <li>- disadvantage to me and my earnings, currently have WAV would change to saloon car</li> <li>- commercial reasons why WAVs are charged at a higher rate</li> <li>- extra travel time as small no. of WAVs in City</li> <li>- extra waiting time</li> <li>- never had a complaint about the premium fares</li> <li>- making all private hire vehicles WAVs would be too costly</li> </ul>	
Douglas Lewins	Yes	L	For	<ul style="list-style-type: none"> <li>- primary consideration should be the disabled people who use wheelchairs and not the expected upset of taxi companies</li> </ul>	

				<ul style="list-style-type: none"> <li>- members should have a regard to the Council's own policies in regards to equality issues and those with protected characteristics</li> </ul>
Dick Fowler	<p>Yes x 2 &amp; provided link to research paper created by Doug Paulley</p>	M & N	For	<ul style="list-style-type: none"> <li>- WAVs are more necessary now but less affordable</li> <li>- a ¼ of wheelchair users have been refused service by a taxi driver purely because they are disabled</li> <li>- in the last 2 years most authorities have shown a slight reduction in WAV taxis and a small increase in WAV private hire vehicles</li> </ul>



**Charlesworth, Tom (City of Lincoln Council)**

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**From:** STEPHEN ROBINSON [REDACTED]  
**Sent:** 24 September 2017 10:08  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Subject:** wheelchair accessible vehicles list.

Tom,

In response to your request to whether the council should have a wheelchair vehicles list, I personally don't think they should include any hackney on the list because as I have stated in the past to your office.

On the subject of wheelchair vehicles, most of the hackneys in Lincoln cannot load/unload and secure wheelchairs passengers safely because they are side loading.

The main problems with side loading vehicles are that you haven't got enough room to turn most chairs round to secure them safely, you cannot fit a pulley hoist to assist on loading people above your own capability, (as you may know one of the new drivers injured himself very badly in the last year loading a wheelchair and went back to driving private hire so he wasn't put in that position again).

At the time of writing this email there is only one cab on the rank that will take nearly every wheelchair. (which on my understanding of the specification for hackneys in Lincoln doesn't meet either the old or new regulations) If I am wrong about this you might find there would be more of that type of vehicle on the rank.

Many thank  
Stephen Robinson.

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## Charlesworth, Tom (City of Lincoln Council)

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**From:** michella@countycarsprivatehire.co.uk  
**Sent:** 21 August 2017 10:43  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Subject:** Re: Equality Act 2010 - access for wheelchair users to hackney carriages and private hire vehicles

**Importance:** High

Good Morning Tom,  
Read through this. We do not have any wheelchair accessible vehicles and the only comment I would make is about the charging. For those drivers who have invested in specialised vehicles and most likely specialised insurance risk needs it seems unfair on those drivers not to be able to operate at an economic rate (taking account of their increased overheads) and no incentive at all to equip themselves with a specialised vehicle.  
Ella

On 2017-08-16 12:46, Charlesworth, Tom (City of Lincoln Council) wrote:

Dear all,

Please find attached an official consultation request (hard copy is in the post) together with supporting information for your perusal.

Please note that all responses should be sent to the Council before the 25<sup>th</sup> September 2017, any responses received on or after this date will not be considered.

Kind regards

**Thomas Charlesworth**  
Licensing Officer  
T 01522 873263



CITY OF  
**Lincoln**  
COUNCIL

Together, let's deliver  
Lincoln's ambitious future



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**Charlesworth, Tom (City of Lincoln Council)**

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**From:** john edwrads <info@blackcatcabs.co.uk>  
**Sent:** 21 August 2017 12:21  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Subject:** Equality Act 2010 Feedback

Hi Tom.

Regarding your letter dated 16<sup>th</sup> August I have the following points to raise;

- Exemption certificates for drivers not able to assist passengers what are the guidelines for this? I have no back issue for example but my family do so I may for personal reason wish not to load a person on board for risk of injury. How would this play out? Can I apply for one on person preference?
- The cost of purchasing and maintaining wheelchair accessible vehicles is far greater than that of a standard vehicle there for overall cost more to run, higher charges are made for 8 seat vehicles rather than 4 seat vehicles for this same reason, if higher charges could not be made then profit margins that are already tight may not be viable and these vehicles would be removed from service reducing the amount available to the disabled population of the city. The same can be said for loading times, it takes far longer to load than standard so this would reduce the amount of work done in the day there for the monies taken by the driver if fares were the same as standard vehicles.
- Would there become a need to operate a WAV to maintain an operator's licence? If so then this could reduce the amount of companies operating and not benefit the population.

Many Thanks

John Edwards  
Black Cat Cabs Ltd

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Gary Dickinson

Chairman Of Lincoln Taxi Ass.

23 CHURCH Drive

Lincoln

LN6 7809

01522 829820.

To whome it might concern.

Having been a private hire driver for many years and in the last two years been registered disabled I feel I might be of assistance to you with the decision-making dilemma reference disabled.

I along with Mr S Miller started to put wheelchair carrying private hire cars on approximately 14 years ago. This was to the great delight of many people who in their words struggled to get about. This option of alternative cars along with extra training we feel is necessary does as you can imagine not come cheap. One of the major problems is finding the right people to undertake the operation of said cars. This problem is getting harder all the time, contrary to public belief the drivers are sometimes struggling to achieve minimum wage that is after they have paid to get their badges and pay for there courses.

It takes a very tolerant and patient type of person due to all the time waiting around. This is due mainly to the fact that most people wishing to use us require you to collect them in a lot of cases push them and then secure and stow their mode of transport. On a lot of jobs, we have to fetch the people from wards and rooms in hospitals and nursing homes. On other occasion's we have to clean and sanitise the equipment after it has been used, so all cars carry cleaning products and sanitiser. A lot of people travelling have terminal illnesses along with incontinence issues.

I have spoken to the drivers that provide this service and they have stated if we cannot recoup at least some of the Cost Incurred, then sadly we will no longer be in a position supply this service to our customers.

Being a disabled person with mobility issues I assumed I would perhaps be approached by the people who represent me at local councillor level as to what I might like. Once again if there is to be consultation to this will I or indeed anybody else with mobility issues be consulted?

Your Sincerely



G Dickinson

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<b>Present:</b>	Eric Jenkinson ( <i>in the Chair</i> )
<b>Members:</b>	Mick Barber, Kathleen Hill, Brian Botham, Debbie Rousseau (Vice-Chair), Caroline Coyle-Fox, Barrie Frith, Hall, John Ranshaw and Felicity Kelsall
<b>Officers:</b>	Chris Morton, Charlesworth and Cornwell
<b>Others:</b>	Graham Palmer, Mr Gooding
<b>Apologies for Absence:</b>	Sharron Elsom and Christine Lamming

### 100. Welcome and Apologies

The Chair welcomed everyone to the September meeting. Apologies were received from Sharron Elsom and Christine Lamming.

### 101. Confirmation of Minutes - 16 August 2017

No comments were received regarding the minutes.

RESOLVED that the minutes from 16 August 2017 were accurate.

### 102. Declarations of Interest

RESOLVED no declarations of interests were received.

### 103. Feedback from Executive - Meeting 30 August 2017

Chris Morton advised that the Mutual Exchange Policy report, which had been supported by the panel, had been passed and approved by Executive.

RESOLVED that the report had been noted.

### 104. Equality Act 2010 Access for Wheelchair Users to Taxi and Private Hire Vehicles (Tom Charlesworth)

Tom Charlesworth explained the background of the report, which is going to licensing committee in October, and advised that he is undertaking consultation on whether to maintain a list of designated wheelchair accessible vehicles for the purpose of the Equality Act 2010.

Tom Charlesworth welcomed comments from the panel, which are listed below:

- Taking into account the cost of the wheelchair accessible vehicle a premium fare would be reasonable for those passengers
- Disabled people receive an allowance therefore it shouldn't be a problem to charge premium for the fare
- The council could meet the private taxi companies half way with the fees

Tom Charlesworth suggested that the council could change the policy to say that private hire need to have a percentage of wheelchair accessible vehicles however the consensus of the panel was that is a step too far to dictate to private businesses how many wheelchair access vehicles they need to have. Tom Charlesworth also suggested that there could be a reduction in the licence fees for the wheelchair accessible vehicles so it is an incentive for the private hire to keep them which the panel agreed was a good idea.

**Question:** What have other councils done?

**Answer:** It is a 50/50 split on the take up, some haven't created a list and others have. There has been no feedback from the councils who have created a list however our consultation has been sent to them therefore it is hoped that feedback will be received shortly.

RESOLVED that the report to be noted.

**105. Code of Conduct Review (All)**

RESOLVED that the panel agreed to the proposed amendments to the code of conduct. Chris Morton will make arrangements for the code of conduct to go to the next Executive meeting for approval.

**106. Leasehold Matters (Felicity Kelsall)**

Felicity Kelsall advised the panel that there was nothing to report. The next leaseholder meeting is on 27 September.

**107. Review Groups**

**108. Allocations and Tenancy (Caroline Coyle-Fox)**

Caroline Coyle-Fox advised that a re-election had taken place and she had been elected chair for another year.

Caroline Coyle-Fox informed the panel that a new review is going to explore the possibility of having a furniture storage for tenants based on their need for furniture. Shelia Watkinson suggested advertising in the Home! magazine for people who have old furniture that they no longer want so they can be given to people who are in need. Matt Hall suggested having a database of the furniture that is in storage as well as a list of people in need and what items they need so if something becomes available there is a possibility of it going straight to the tenant in need rather than in storage. There is a meeting on 22 September to discuss this in greater detail.

RESOLVED for Chris Morton to find out where the furniture goes when people are evicted from their property.

**109. Neighbourhood, Community Involvement and Home (John Ranshaw)**

John Ranshaw informed the panel that there was a meeting on 22 August where it was identified that the questionnaire for repairs staff wasn't sent to all of them therefore this will now be done.

RESOLVED the update to be noted.

## Charlesworth, Tom (City of Lincoln Council)

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**From:** Howard Collins [REDACTED]  
**Sent:** 21 September 2017 22:33  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Subject:** Equality Act 2010

RE: Equality Act 2010 – Access for wheelchair users to Hackney Carriages and Private Hire Vehicles

I would like to make the following comments for consideration by Members.

I am a licenced Private Hire driver in Lincoln, badge no. 4588. I work under Direct Cars, and one of a small number driving a wheelchair accessible vehicle (WAV). I work full time during the day, Monday to Friday, and most Sundays. I am aware of the new legislation and would urge Members NOT to make a list of designated WAVs in Lincoln as I believe it will result in a reduction of, and most probably the disappearance of, wheelchair accessible Private Hire vehicles.

I would personally say that if the new legislation is enforced in Lincoln I would be looking to move to a standard saloon car as soon as possible, as driving a WAV would then become a disadvantage to me and my earnings.

There is a good commercial reason why wheelchair work is charged at a higher rate than a standard vehicle.

First, most wheelchair jobs involve extra travel when picking up. When a booking comes through, the nearest vehicle is allocated to the job but as there are only a small number of WAVs in the city this almost always means a trek across town, much more so than for a standard fare. This would not be viable if the fare was lower than at present.

Wheelchair work also often requires considerable extra waiting, and some customers require that we enter their homes and take them in their chairs to the vehicle. This can be very time consuming and is as I understand it way beyond the requirements of the new legislation. The additional charge we make helps to make this viable.

Our wheelchair customers are a mixture of regular / weekly users and occasional bookings for hospital appointments etc. Customers are aware that they pay a premium for what is considered a specialist vehicle, and I have never had a complaint about this. I have though had many customers say how much they value the service we offer, and that they are just grateful that we offer it. Without private hire options for travel would be much harder to find and considerably more expensive.

Finally, I am sure that someone will suggest simply making all private hire vehicles in the city WAVs. This would solve the problem of travelling long distances to pick up customers, but would create a whole new problem for the operators in that most would be faced with buying brand new adapted vehicles, as good second-hand adapted vehicles of the type/ layout required for cab work are hard to find. This would then mean considerable extra costs for the operator, and much higher fares for everybody.

I am happy to be contacted if Members have any questions about the points I have raised.

Howard Collins

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**Charlesworth, Tom (City of Lincoln Council)**

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**From:** Douglas Lewins [REDACTED]  
**Sent:** 31 August 2017 23:31  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Cc:** [REDACTED]  
**Subject:** Wheelchair users and cabs

Tom

I understand from Healthwatch that you are seeking views on this issue.

I was, before my early retirement, Head of Equality and Diversity for the Metropolitan Police Authority. I continue to be an Independent Advisor for British Transport Police.

It is important that Members are not sidetracked by the expected upset of those in the taxi companies. Most firms should be pleased to use this opportunity to show their businesses in a good light as well as to get repeat business. It is also for Members not to be seen to be facilitating discrimination against disabled people and, indeed, to be encouraging the ability of disabled people to engage as fully as possible in life. It is interesting to note that the list of impacts of a decision to make a list or not, as advised in the communication from Healthwatch, does not mention the effects on disabled people who use a wheelchair. Surely, that should be a primary consideration. In considering the issue, the Members should also be operating within the policy that the Council has around Equality, Diversity, Inclusion and Discrimination. Under the Act, decision-makers are under a personal duty, to have due regard of the need to protect and promote the interests of persons with 'protected characteristics'. These include disability. Your own policy has as an objective for the Council:

- Make a positive difference for our communities. When we review or introduce a new policy or activity, commission, begin a new project, decommission or help communities to do things for themselves, we will always assess the impact on people with protected characteristics. This analysis helps us to make informed decisions. Has an impact assessment been done on the effects on disabled people?

Regards

Most Rev Douglas Lewins

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## RESPONSE TO LINCOLN CITY COUNCIL CONSULTATION REGARDING S167 -WAV TAXIS & PHVS

Dear Mr Charlesworth,

### SUMMARY.

I urge Lincoln City Council to trigger s167. Cutbacks in public transport and stagnation of incomes have adversely affected the disabled and made WAVs more necessary but less affordable. There are unlikely to be significant reductions in numbers of WAV taxis and WAV PHVs due to loss of revenue as cheaper fares will encourage more journeys by resident and visiting wheelchair users.

Research by Muscular Dystrophy UK in 2016 indicated that a quarter of wheelchair users had been refused service by a taxi driver purely because they are disabled. This is a long awaited and much needed Equality measure and Lincoln City Council is subject to the Public Sector Equality Duty. Wheelchair users and disability groups are receptive to publicising those places which are friendly or unfriendly to wheelchair users and their families.

### COMMENTS

Thank you for the opportunity to comment and for the extra time to do so. I am Richard Fowler, a disabled wheelchair user living near Horncastle and an occasional visitor to Lincoln and its cultural attractions. I am also in the middle stages of a nationwide 10% sample study of availability of wheelchair accessible taxis and PHVs, (collectively, "WAVs") and a related 'mini-study' of WAVs and the Rail industry because train operators licenses impose specific requirements about taxi accessibility.

A fellow wheelchair user did a full study of s167 commencement among all approx 350 LAs about 3 months ago which was published directly and via various organisations including Muscular Dystrophy UK. This indicated that about 41% of LAs expect to have s167 commenced in the 2017-2018 financial year. <https://kingqueen.org.uk/s167> With changes following discussion with DfT that study will be updated soon.

The DfT have just put out for consultation their Accessibility Action Plan August 2017. Extract:

4.36 Authorities already have the powers they need to ensure that taxis and PHVs within their jurisdiction are accessible to those who need them, and the revised guidance aims to help them to make more effective use of these powers.

4.41 The continued illegal discrimination by some taxi and PHV drivers against disabled passengers is unacceptable, and we encourage local authorities to take appropriate action against those responsible when instances are reported. In particular, we would encourage local authorities to provide clearer information on the making of complaints about continued discrimination by some taxi and PHV drivers, and encourage them to take effective action against those responsible when instances are reported.

Lincoln City Councils main concern is that triggering s167, essentially "carrying (people in) wheelchairs" and "not charging more" will result in fewer WAVs or higher fares for everyone. Secondly that the council will be perceived as defying government equality guidance and being anti-wheelchair.

### DfT STATISTICS – LINCOLN CITY COUNCIL

2015 WAV Taxis 29 ( of 31)      No separate 2015 WAV PHV figure, total 303

2017 WAV Taxis 30 (of 31)      2017 WAV PHVs 7 (of 350)

#### Notes on statistics:

1.The above is similar to many LAs, in showing about the same or a slight reduction in WAV taxis and a small increase in WAV PHVs between 2015 and 2017.

2.About a quarter of LAs in my sample have had 'not charging more for WAVs' policies in place BEFORE 2016 (ie before commencement of s167 and its February 2017 Statutory Guidance was announced by government ) and have not recorded a significant change :



Eg Cambridge City Council	2015 WAV Taxis 210 (of 324)	2015 WAV PHVs 7 (of 178)
	2017 WAV Taxis 214 (of 327)	2017 WAV PHVs 2 (of 153)
Weymouth and Portland BC	2015 WAV Taxis 7 (of 80)	2015 WAV PHVs 12 (of 184)
	2017 WAV Taxis 6 (of 80)	2017 WAV PHVs 16 (of 202)

3. Simple WAV numbers do not tell the whole story. A range of factors reduce WAV availability eg SEN, schools and Social Services contracts (Durham for example say that 80% of their licensed WAVs are engaged just on on schools contracts, so are not available say, on schoolday mornings and afternoons ; Figures are available for Lincolnshire County Council are available if required) ; medical exemptions ; large rural areas especially in Wales and Scotland. Conversely some factors help eg comprehensive and easy to find listings of WAV phone numbers; cooperation amongst drivers and operators to cover different shifts or refer work between them under a 'buddy' system. Even a mixture of religions helps where different holy days mean that say Christmas and Easter can be covered.

#### COST

In 2016, Cabserve charged me £10 for a WAV from the bottom of Lindum Hill to the cathedral (standard fare I believe £5) and £15 to Whisby. As I recall, both Cherry and Marks took 4-24 hours to reply and quoted me about double the saloon taxi rate for similar journeys. A saloon phv from Lincoln to Horncastle area costs about £28-£30, whereas for a WAV I have been quoted from £40 to £50. For comparison outside Lincoln, from Horncastle I was quoted £40 for a 7 mile trip whereas from Louth where there is more competition and perhaps more cooperation, the equivalent 7 miles cost £25 in a WAV.

Lincoln City Councils consultation has highlighted a national loophole in the DfT guidance on s167. WAV taxi fares are published and 'not charging more' means not putting loading/unloading time on the meter.

However, while the DfT guidance clearly covers WAV PHVs there are no set charges so determining what 'not charging more' is unspecified and may have to be enforced via complaints or mystery shopper exercises etc. Trying to get a quote first without declaring that a WAV taxi/phv is needed sometimes backfires in being told that a WAV is not available. It is possible that some eg SEN transport providers are accustomed to generally higher fares than other PHV operators.

I hope you will find these comments relevant .

Richard Fowler, [REDACTED] 17 October 2017



## Charlesworth, Tom (City of Lincoln Council)

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**From:** dick fowler [REDACTED]  
**Sent:** 04 September 2017 14:35  
**To:** Charlesworth, Tom (City of Lincoln Council)  
**Subject:** LINCOLN WAV TAXIS -WHEELCHAIR ACCESSIBLE TAXI/PHV & S167 TAKEUP

good afternoon Mr Charlesworth,

as promised, h/w link to Doug Paulleys s 167 takeup research. the blog contains a summary and links to the detail. <https://www.kingqueen.org.uk/s167/>

### Wheelchair Accessible Taxis and the Equality Act – Doug ...

[www.kingqueen.org.uk](http://www.kingqueen.org.uk)

Download report Download report "Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination" Report (PDF format, 7Mb ...

this was a 100% survey, my current complementary study of WAV availability covers a sample 41 licensing authorities with a smaller sideline study of the DFT/ORR guidance on and of use of WAVs by train operators and their passengers. i will try to incorporate anything relevant without delaying your consultation.

Your reply to my Freedom of Information request has highlighted an interesting loophole. while the DFT s167 February 2017 guidance to LAs clearly refers to PHVs as well as taxis, what constitutes 'not charging more' is defined for taxis but not PHVs and is difficult in the absence of fares table. An arbitrary extra £5 charge which i found in Lincoln is exactly the issue that the BBCs ONE SHOW encountered when they covered the issue back in May in Nottingham i recall.

kind regards dick fowler, tetford lincolnshire

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<b>SUBJECT:</b>	<b>EXCLUSION OF THE PRESS &amp; PUBLIC</b>
<b>DIRECTORATE:</b>	<b>CHIEF EXECUTIVE &amp; TOWN CLERK</b>
<b>REPORT AUTHOR:</b>	<b>CAROLYN WHEATER, MONITORING OFFICER</b>

**1. Purpose of Report**

- 1.1 To advise members that any agenda items following this report are considered to contain exempt or confidential information for the reasons specified on the front page of the agenda for this meeting.

**2. Recommendation**

- 2.1 It is recommended that the press and public be excluded from the meeting at this point as it is likely that if members of the press or public were present there would be disclosure to them of exempt or confidential information.

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