



Directorate of Communities & Environment

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Consultee

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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 25th 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 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:

Equality Act 2010

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.

Equality Act 2010

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.

Equality Act 2010

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).

Equality Act 2010

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.

Equality Act 2010

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.