

Committee:	Licensing and Environmental Health	Date:
Title:	Evaluation and Implementation of Sections 165 and 167 of the Equality Act 2010	24 January 2018
Report Author:	Joanne Jones, Licensing Officer	Item for decision:
		No

Summary

1. This report is for information only and has been submitted to advise Members of the commencement of Section 165 and 167 of the Equality Act 2010 (the Act).

Recommendations

2. That Members note the content of this report

Financial Implications

3. None. There are no costs associated with the recommendations

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	School contract providers were contacted and confirmed that their vehicles are not available for hire by the public.
Community Safety	None
Equalities	Publication of a voluntary list of wheelchair accessible vehicles would improve information available for wheelchair users who wish to use Licensed vehicles.
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None

Ward-specific impacts	None
Workforce/Workplace	None

Background

- In the preparation of this report the author referred to the Department for Transport Statutory Guidance “Access for wheelchair users to Taxis and Private Hire Vehicles”
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf

The Government enacted Sections 165 and 167 of the Equality Act 2010 with effect from 6 April 2017 in respect to hackney carriage and private hire drivers, vehicles and operators, to make public transport more accessible for members of the community, including disabled people. In 2010 the Act placed a duty on all hackney carriage and private hire drivers to carry guide/assistance dogs at no extra cost to the passenger and obliged those drivers who could not carry assistance dogs on medical grounds to apply for an exemption certificate.

The legislation has now been further extended to include similar protections for wheelchair users by way of implementing sections 165 and 167 of the Act. **Section 165** places a duty on drivers of wheelchair accessible hackney carriage and private hire vehicles listed by the local authority under s167 to carry passengers in wheelchairs and to provide assistance loading and unloading the passenger and handling the passenger’s luggage. Section 166 gives drivers the possibility of applying for an exemption from these duties on medical or physical grounds. **Section 167** gives local authorities a power (but not a duty) to maintain lists of hackney carriages and private hire vehicles that are suitable for carrying persons in wheelchairs – ‘designated vehicles’.

It is important to note that licensing authorities are not obliged to produce a list of ‘designated vehicles’. However, should an authority decide not to maintain such a list, the criminal provisions giving protection to wheelchair users, under s165 will not come into effect.

Situation

- Currently Uttlesford District Council does not maintain a list of proprietors that operate wheelchair accessible hackney carriage or private hire vehicles. Of the 1791 private hire vehicles licensed by this Authority 260 are wheelchair accessible, but all of these vehicles are licensed by operators who use them solely for school/adult social care contract work. Of the 83 hackney carriage vehicles licensed by this authority 2 are wheelchair accessible.
- Before preparing this report the Licensing Officer contacted the 6 school contract operators to ask whether their vehicles could be made available for use by the general public if their details were included on our website. Two did not reply, but 3 replied that their vehicles would not be available for general private hire and one replied that they would be happy to help if the vehicle was

not being used for a contracted journey. In practice this would mean that if such vehicles were to be included on a 'designated list' they would not actually be available for use by the general public.

9. Officers considered publishing a list of 'designated vehicles' consisting of the 2 hackney carriage vehicles only and then publishing the contact details of the private hire operator that runs wheelchair accessible vehicles and who is happy to make them available to the public if they are not being used on contracted work. However, having consulted with our legal advisor this is not an option as if a Local Authority decides to produce a list of 'designated' vehicles there is no discretion over which vehicles are included. The Equality Act 2010 Section 167 subsections 1 and 2 states:

1. 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.

All vehicles that meet the criteria would need to be on the list including all of the school contract vehicles BUT this would not be of assistance to disabled passengers because these vehicles would not be available for hire by the public. In addition the administrative burden of maintaining such a list and keeping it up-to-date would be high given the number of vehicles that this authority licences.

Conclusion

Officers consider that, given the nature of the private hire trade in Uttlesford, publishing a list of 'designated vehicles' would not help improve access to transport for disabled passengers. The administrative burden of maintaining a designated list of vehicles that are wheelchair accessible would outweigh the benefit to the public as the vast majority of the vehicles would not be available for hire. However, Officers do intend to produce a voluntary list of vehicle proprietors that operate wheelchair accessible vehicles as this would provide useful information to the disabled community and would mean that only vehicles that are genuinely available to the public would appear on the list. Whilst drivers who refuse to comply with s165 of the Equality Act 2010 could not be prosecuted if an authority decides to produce a voluntary list, conditions could be applied to licences which enable the authority to investigate alleged discrimination and take appropriate action, such as reviewing whether the driver remained a fit and proper person to hold a taxi or PHV licence.