

Subject: Section 165, 166 and 167 of the Equality Act 2010

Report to: Licensing Committee

Date: 26 February 2018

Report by: Licensing Manager

**SUBJECT MATTER AND DECISIONS REQUIRED:**

**Members are asked to consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010**

**Background:**

The Government introduced in April 2017 sections 165 and 167 of the Equality Act 2010 in relation to the assistance of passengers in wheelchairs using designated taxi and private hire vehicles.

These provisions allow a licensing authority to create a list of 'designated vehicles' which are capable of carrying passengers in wheelchairs (section 167) and then require drivers of those vehicles to provide mobility assistance (section 165)

Whilst Licensing Authorities 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.

According to the guidance, 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. Vehicles should also be able to carry passengers in their wheelchairs should they prefer. The Government therefore recommends that a vehicle should only be included on the authority's list if it would be possible for the user of a reference wheelchair to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

Section 165 sets out the duties placed on drivers of these designated wheelchair accessible taxis and PHV's. 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
- To give the passenger such mobility assistance as is reasonably required

It will be an offence for a licensed driver on the designated list, unless exempt as outlined below, to fail to comply with these duties

Some drivers may have a medical or physical condition or disability which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. The local authority may therefore grant exemptions from the duties to individual drivers under the provisions of section 166 of the Act. This exemption has been available since 2010. Drivers who are granted exemptions will be issued with an exemption certificate and a notice to display in the vehicle. The purpose of the notice is to clearly communicate to passengers in wheelchairs whether the driver has been exempted from the duties to provide assistance.

Licensed drivers on the designated list are expected to comply with the section 165 duties regardless of where the journey starts or ends. If a driver is convicted of breaching their duties it would be appropriate for the licensing authority to review whether or not they remained a fit and proper person to hold a licence.

The legislation states that a licensing authority may maintain a list of vehicles designated as capable of carrying passengers in wheelchairs. The Licensing Authority must therefore make a decision as to whether it will enact this requirement, as recommended by the Department for Transport. The Licensing authority does not currently hold such a list.

If the committee decides that the licensing authority should maintain such a list, a number of steps will be undertaken as outlined below:

- a. Prepare draft lists of wheelchair accessible vehicles
- b. Set out policy for exempting drivers on medical and physical conditions grounds
- c. Set out policy for determining what is a wheelchair accessible vehicle
- d. Inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties
- e. Drivers apply for exemptions where necessary
- f. Licensing authority issues driver exemptions where necessary
- g. Licensing authority publishes list of designated wheelchair accessible vehicles and duties on drivers then take effect

### Current Situation for Norfolk

Council	Designated List	When Implemented	Committee Involvement	Notes
Breckland	TBC	TBC	Yes	Agreed by Committee on 22/11/2017
Broadland	Yes	Once approved by Council	Yes	Agreed by Lic & Reg Committee on 22/11/2017
North Norfolk		TBC		Implementing changes following consultation on new policy/handbook
South Norfolk	Yes	February 2018	Yes	Went to Committee on 14 Nov 2017
West Norfolk	Yes	01 November 2017	No	

## Options

1. To enact the provisions of sections 165, 166 and 167 of the Equalities Act 2010 by implementing and maintaining a designated list of wheelchair accessible vehicles and the associated duties for drivers.
2. To maintain current procedures and not enact the provisions of sections 165, 166 and 167 of the Equality Act 2010

## Recommendation

It is recommended that Members consider the information within this report and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010. The Licensing Authority is required to have regard to the statutory guidance published by the Department for Transport which states that the Government recommends strongly that they do so.

### FINANCIAL IMPLICATIONS:

None

### LEGAL IMPLICATIONS:

Dealt with in report

### EXECUTIVE BOARD OR DIRECTOR CONSULTATION:

Report seen by

Does this report raise any legal, financial, sustainability, equality, crime and disorder or human rights issues and, if so, have they been considered?	Issues	
	Legal	√
	Financial	x
	Risk	X
	Sustainability	X
	Equality	X
	Crime and Disorder	X
	Human Rights	X
	Every Child Matters	X