

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

8th SEPTEMBER 2011

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Housing & Community Safety – Lead Cabinet Member – Councillor Steven Nelson

EQUALITY ACT 2010 – TAXIS AND PRIVATE HIRE VEHICLES

1. Summary

The purpose of this report is to inform Members of the results of the consultation exercise carried with the taxi trade and local disabled groups on the issue as to whether the Council should maintain a list of “designated wheelchair accessible vehicles” under new powers contained in The Equality Act 2010 and to inform them of the views of the Licensing Committee.

2. Recommendations

1. That the Council maintain a list of designated vehicles under the provisions of the Act
2. That application for exemptions from drivers from the duties to offer assistance be considered by officers in consultation with the Chair and Vice Chair of the Licensing Committee.

3. Reasons for the Recommendations/Decision(s)

The provision of the list will assist in ensuring that people have access to wheelchair accessible vehicles and appropriate assistance from their drivers.

4. Members’ Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council’s code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member’s judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

AGENDA ITEM

REPORT TO CABINET

8th SEPTEMBER 2011

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

EQUALITY ACT 2010 – TAXIS AND PRIVATE HIRE VEHICLES

SUMMARY

The purpose of this report is to inform Members of the results of the consultation exercise carried with the taxi trade and local disabled groups on the issue as to whether the Council should maintain a list of “designated wheelchair accessible vehicles” under new powers contained in The Equality Act 2010 and to inform them of the views of the Licensing Committee.

RECOMMENDATIONS

1. That the Council maintain a list of designated vehicles under the provisions of the Act
2. That applications for exemptions from drivers from the duties to offer assistance be considered by officers in consultation with the Chair and Vice Chair of the Licensing Committee.

DETAIL

1. The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination, including disability discrimination. The new Act includes many of the hackney carriage vehicles (HCV) and private hire vehicle (PHV) provisions which were included in the Disability Discrimination Act 1995, but it also contains some important changes.
2. Sections 160 to 173 of the Equality Act 2010 relate specifically to HCVs and PHVs and some of these provisions were brought into force on 1st October 2010.

Lists of wheelchair accessible vehicles

3. Section 167 allows licensing authorities to maintain a list of “designated vehicles”, that is, a list of wheelchair accessible HCVs and PHVs licensed in their area. The consequence of being on this list is that the driver must undertake the duties to assist passengers who use wheelchairs (further details are provided later in the report).
4. Whilst this section is not to be commenced until a later unspecified date councils are being urged to start maintaining a list as soon as possible for the purpose of liaising with the trade and because drivers of these vehicles can apply for exemption from having to comply with this requirement with effect from 1 October 2010.

5. Members are advised that when this section comes into force, and the lists of designated vehicles have a statutory effect, it will be possible for the owner of a vehicle to appeal against a decision to include his/her vehicle on the list. The appeal will go to the magistrates' court.
6. If Members approve the maintaining of a list officers will seek permission from those to be placed on the list to add additional information regarding their contact details so that prospective customers have the relevant information to hire their services.
7. Further more detailed guidance will be issued by the Department of Transport regarding the accessibility requirements councils should apply in relation to this provision.

The duties

8. Section 165 of the Act places duties on drivers of designated wheelchair accessible HCVs and PHVs.

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.
9. Should the council decide not to maintain a list of "designated vehicles" then the above duties will not apply to the drivers.

Exemptions from the duties

10. Before the duties are brought into force drivers of designated vehicles who suffer from a disability or medical condition which would make it impossible or unreasonably difficult to provide physical assistance can apply for an exemption from the duties to offer assistance.
11. This section was commenced on 1 October 2010 and the council will therefore need to have a system in place for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt. Also it will be possible for drivers to appeal against a decision by the council not to grant an exemption; this appeal will also go to the magistrates' court.
12. The Department for Transport have indicated that they will be making regulations in 2011 specifying the format for the Exemption Notices that councils will issue and exempt drivers will be required to display in their vehicles and they will also print and distribute the Exemption Notices.
13. Officers recommend that any driver wishing to apply for an exemption should be required to produce a report either from his own doctor or his consultant, when applicable, confirming that his medical condition or physical condition makes it impossible or unreasonably difficult for him/her to comply with the duties and that each application be determined on its individual merits.

Consultation

14. At the time of preparing this report there are 36 wheelchair accessible vehicles licensed in Stockton of which 27 are HCV's and 9 are PHV's. 802 questionnaires were sent out to all members of the taxi trade and 75 replies were received. In response to the question whether

the Council should maintain a list of designated wheelchair accessible vehicles 29 were in favour 22 were against and 24 did not know.

15. Local disabled groups and their members were consulted via the Stockton Disability Advisory Group with a specific questionnaire being sent to all of its members. 13 replies were received, 12 of whom were in favour of the Council maintaining a list and one was against this option.
16. The Licensing Committee considered the above information on 27th June and recommended that a report be presented to Cabinet recommending that the Council maintain a list of designated vehicles under the provisions of the Act and that applications for exemptions from drivers from the duties to offer assistance be considered by officers in consultation with the Chair and Vice Chair of the Licensing Committee.

FINANCIAL IMPLICATIONS

17. None

LEGAL IMPLICATIONS

18. The new provisions include rights of appeal to the magistrates' court to aggrieved vehicle proprietors and drivers

RISK ASSESSMENT

19. The provision of a list of designated vehicles under section 167 of the Equality Act 2010 is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

COMMUNITY STRATEGY IMPLICATIONS

20. The provision of the list will assist in ensuring that people have access to wheelchair accessible vehicles and appropriate assistance from their drivers and support the following strategy areas:

Economic Regeneration and Transport
Liveability

EQUALITIES IMPACT ASSESSMENT

21. This report has been subject to an Equalities Impact Assessment and has been judged to have a positive impact. A summary version of the EIA will be published on the Council's website, following Cabinet

Corporate Director of Development & Neighbourhood Services

Name of Contact Officer: David Kitching
Post Title: Trading Standards & Licensing Manager
Telephone No: (01642) 526530
Email Address: dave.kitching@stockton.gov.uk

Background Papers

Report To Licensing Committee 27th June 2011
Department of Transport Guidance Notes For Local
Authorities and Hackney Carriage and Private Hire
Operators
(<http://www2.dft.gov.uk/pgr/regional/taxis/equality-act/index.html>)

Ward(s) and Ward Councillors

Not ward specific

Property

Not applicable