

REPORT: Regulatory Committee

DATE: 3 October 2018

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: The Inclusive Transport Strategy

WARDS: Borough-wide

1.0 PURPOSE OF REPORT

To consider the Inclusive Transport Strategy July 2018 in so far as it relates to taxi and private hire licensing.

2.0 RECOMMENDED: That the Committee note the report.

3.0 INTRODUCTION AND BACKGROUND INFORMATION

- 3.1 On 30 July 2018 the Under Secretary of State for the Department of Transport wrote to local authorities informing them about the Inclusive Transport Strategy (the Strategy) that was published on 25 July.
- 3.2 The Strategy is a 76 page document and deals a range of accessibility issues affecting disabled people in respect of all modes of transport.
- 3.3 A small part of the Strategy deals with taxi and private hire licensing and this report deals with that part.
- 3.4 The letter from the Under Secretary of State makes the following specific references to taxis and private hire vehicles:-

“ I also wanted to write to you about the accessibility of any taxi and private hire vehicle (PHV) services which your authority may be responsible for licensing. Such services play a vital role in helping disabled people to remain independent and to complete door-to-door journeys, yet all too often they are inaccessible to those who rely on them. I want all licensing authorities to play their part in ensuring that the taxi and PHV service they support meet the needs of passengers wishing to use them, including:

- *Publishing lists of taxis and PHVs designated as being “wheelchair accessible” for the purposes of section 167 of the Equality Act 2010;*

- *Prosecuting drivers for discriminating against assistance dog owners and wheelchair users, where sufficient evidence exists to do so, and applying appropriate licensing sanctions;*
- *Reviewing demand for wheelchair accessible taxis and PHVs in your area, and taking steps to ensure that the composition of fleets reflects this need; and*
- *Requiring all taxis and PHV drivers to complete disability awareness training.*

I am clear that where authorities have the powers necessary to improve services for disabled passengers they should be using them, and I will write to all local licensing authorities later in the year to understand better the steps they are taking to challenge discrimination and to support an inclusive service.”

- 3.5 Appendix 1 to this report lists all the references in the Strategy to taxis and private hire licensing.

4.0 ISSUES ARISING

- 4.1 It is clear from the text in Appendix 1 that the Strategy is at an early stage of development. It stresses the need to achieve accessibility by licensing appropriate vehicles and the requirement to train drivers in disability matters.
- 4.2 It is regrettable that the DfT have put forward no funding to achieve training. The cost and time involved in training over 500 drivers in Halton is not even acknowledged in the Strategy.
- 4.3 There is an emphasis in the Strategy on wheelchair users but the Strategy deals with all aspects of accessibility for persons with disabilities including rights and obligations relating to assistance dogs.
- 4.4 Matters for the near future are:
- By the end of 2019 a new code of best practice will be issued by the DfT.
 - By the end of Autumn 2018 the DfT will be writing to local authorities asking which Councils publish a list of vehicles under section 167 Equality Act 2010.
 - From Autumn 2018 the DfT will publish the proportion of vehicles in each licensing authority which are deemed to be wheelchair accessible vehicles.
 - From Autumn 2019 the DfT will ask which local authorities publish a list of vehicles under section 167 of the Equality Act 2010.
- 4.5 A significant issue not covered by the Strategy is the cost of providing wheelchair accessible vehicles throughout the taxi and private hire trade. Wheelchair accessible vehicles are considerably more expensive than non-wheelchair accessible vehicles. The impact of the Government's policy on deregulation is such that the trade may seek to be licensed by a local authority with the cheapest and least

controlled requirements. Local authorities seeking to impose higher standards have experienced fewer applications and more 'out of borough' penetration from drivers and vehicles licensed to lower standards. This means that this Council must be very careful in introducing further restrictions which could have the opposite effect than that intended.

5.0 WHAT DOES WHEELCHAIR ACCESSIBLE MEAN?

- 5.1 Unfortunately, the Strategy does not define this expression. However, from existing DfT publications this is assumed to mean what this Council defines as "fully wheelchair accessible". This is where a person in a wheelchair can enter the vehicle and be transported while remaining in the wheelchair.
- 5.2 All of Halton's fleet is "wheelchair accessible" as defined by this Council. This means that a person will be able to move from the wheelchair to a seat in the vehicle and that the wheelchair can be collapsed and stored in the vehicle.
- 5.3 It follows that a person who uses a non-collapsible wheelchair would have to book a fully wheelchair compatible vehicle. However, the majority of wheelchair users use collapsible wheelchairs and the Council has previously been informed by disabled wheelchair users that they prefer to use the normal seats in vehicles.

6.0 WHAT DOES SECTION 167 EQUALITY ACT 2010 SAY?

- 6.1 Section 167 of the Equality Act 2010 is part of a group of sections (sections 165 to 167) which must be read together. Appendix 2 to this report sets out the text of these sections in full.
- 6.2 Essentially, section 165 gives certain rights to passengers in "designated taxis" and "designated private hire vehicles". The procedure for producing lists of private hire vehicles is set out in section 167. The exemptions in section 165 can be ignored for the purposes of this report.
- 6.3 This Council has so far not gone down the road of designating vehicles and the methodology of other local authorities is not considered to be compliant with legislation. The Council's conditions give the same rights to disabled users whether or not they would have been travelling in what might have been "designated". It must be stressed that the use of section 167 is voluntary at present.

7.0 POLICY IMPLICATIONS

- 7.1 This report is for information only. There may be policy implications in the future as the DfT provide more information.
- 7.2 It should also be pointed out that there is a move to harmonise a number of policies and conditions within the six Merseyside authorities which as yet is at a preliminary stage. The matter covered by this report will doubtless be part of those discussions.

8.0 OTHER IMPLICATIONS

None

9.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES

9.1 Children and Young People in Halton

None

9.2 Employment Learning and Skills in Halton

N/A

9.3 A Healthy Halton

N/A

9.4 A Safer Halton

None

9.5 Halton's Urban Renewal

N/A

10.0 RISK ANALYSIS

None

11.0 EQUALITY AND DIVERSITY ISSUES

Equality issues are central to this agenda item

12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Inclusive Transport Strategy	Licensing Section	John Tully

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Recent developments

3.4 As a result of the Government's action and investment, we have seen many developments in recent years that will improve the travelling experience for disabled people, including:

- 58%¹⁶ of taxis in England in 2017 are wheelchair accessible;

16 Taxi and Private Hire Vehicle Statistics: England, 2017, [TAXI0103](#) ↗

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Taxis and Private Hire Vehicles

4.17 Taxis and Private Hire Vehicles (PHVs) play an essential role in enabling disabled people to complete door-to-door journeys where other forms of transport may not be available or accessible. Vehicles and drivers are licensed by local licensing authorities (LLAs) which have broad powers to shape the service provided within their jurisdiction.

4.18 Disabled passengers travelling by taxi or PHV have a number of rights, including:

- Section 20 of the Equality Act 2010, which requires service providers to make reasonable adjustments to enable them to access their services;
- Section 165 of the Equality Act 2010, which requires non-exempt drivers of taxis and PHVs designated as wheelchair accessible to accept the carriage of wheelchair users, to provide them with appropriate assistance, and to refrain from charging them more than other passengers would pay for the same service; and
- Sections 168 and 170 of the Equality Act 2010, which requires non-exempt drivers of taxis and PHVs to accept the carriage of assistance dogs and to refrain from charging extra for them.

4.19 Around 58% of vehicles are already **wheelchair accessible**, but these tend to be concentrated in urban locations and taxi fleets. The proportion of wheelchair accessible PHVs remains very low, at about 2% nationally.

4.20 This Strategy should help ensure that authorities not only use the powers available to them to ensure that taxi and PHV services not only comply with the legal requirements but that these services meet the needs of passengers more consistently.

4.21 In the longer term we want the service currently provided by taxis and PHVs to be as accessible to disabled passengers as it is for those who are not disabled. This should mean not only that vehicles are sufficiently accessible to provide for people with a range of access needs, but that the means of hiring them is accessible, that passengers can be picked up or dropped off at a location convenient to them, and that no disabled person is ever left at the kerbside or charged extra for their journey. We also want LLAs to understand their role in helping this to happen, both through the licensing system and through other areas of influence, such as traffic management.

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Enforcement

5.6 To ensure passengers' rights are better enforced and regulated, we will:

Taxis/PHVs:

- **By end of 2019, publish for consultation revised best practice guidance** to support local licensing authorities (LLAs) to use their existing powers more effectively. In particular we will recommend that authorities require taxi and private hire vehicle (PHV) drivers to complete disability awareness and equality training, make it simple to report discrimination and take robust action against drivers alleged to have discriminated against disabled passengers. Consulting on best practice guidance for taxi and PHV licensing, authorities will provide an opportunity to further the discussion with the Local Government Association and other representative organisations around potential approaches for ensuring that licensing authorities use the powers available to them, and take robust action against drivers who have discriminated illegally against disabled passengers;
- Take steps to understand why taxi and PHV drivers continue to refuse to transport assistance dogs. For over a decade it has been illegal for drivers of taxis and PHVs to refuse the carriage of an assistance dog. Even where enforcement of this requirement is rigorous, such as in London, we understand anecdotally that refusal incidents continue to happen. We will undertake research to identify why the risk of fines and the loss of a driver's licence appear

insufficient in some circumstances to prevent them from discriminating against assistance dog owners. We will use evidence from this work to support any further action that we may take in this area to ensure that assistance dog owners are able to travel by taxi and PHV free from the fear of discrimination.

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Actions to deliver our objectives:

6.8 In order to improve the service provided to disabled people, by 2020 we will:

- Lead the way, by providing disability equality and awareness training for Department for Transport staff as part of our staff development programmes;
- Raise awareness amongst DfT staff on how the Public Sector Equality Duty, and the needs of people with protected characteristics, should be considered as part of transport policy development and delivery. This will include through staff training, the creation of an Equality Leaders Scheme to drive change across the Department, and steps to ensure equality considerations are made explicit to decision makers such as Senior Civil Servants and Ministers.
- Develop a disability equality and awareness training package that can be made available across modes to all transport operators;
- Develop an accreditation scheme to incentivise operators to use the disability equality and awareness training package, publicly sign up to commitments to improve inclusivity, and to become Disability Confident employers;
- Recommend, or where appropriate require, that transport operators and regulators involve disabled people or representative organisations wherever possible in the training received by staff (i.e. transport operators should ensure that the course content is informed by the lived experience of disabled people, relevant to the transport mode concerned).

Taxi/PHV:

- Do everything in our power to ensure that local licensing authorities make full use of their existing powers, including recommending that driver disability equality and awareness training be mandated in licensing policies.

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Increasing levels of Wheelchair Accessible Taxis and PHVs

8.33 Whilst we have seen improvements in the numbers of accessible buses or trains in service, we are aware that the levels of wheelchair

accessible taxis and private hire vehicles are still comparatively low, with only 58% of taxis and 2% of private hire vehicles being wheelchair accessible. A number of draft AAP consultation responses highlighted regional variations in the levels of provision of wheelchair accessible vehicles (WAVs) with some areas of the country (particularly those outside urban areas) having low proportions of WAVs, whilst more urban areas, such as London having higher proportions.

8.34 Under Section 167 of the Equality Act 2010 local licensing authorities may maintain lists of vehicles they have designated as being wheelchair accessible, so as to ensure that their drivers are subject to the requirements at Section 165 of the same Act, to provide wheelchair users with assistance and to refrain from charging them extra. We strongly encourage authorities to exercise this power and maintain and publish lists, and to ensure that wheelchair users are protected from discriminatory behaviour.

8.35 Through our engagement with disabled people during the consultation it was clear how important wheelchair accessible taxis and PHVs were to enabling people to attend hospital appointments, go shopping or visit friends. We want to see a much greater proportion of WAVs, particularly in non-urban areas, over the next 10 years.

8.36 By autumn 2018, we will write to all local licensing authorities stressing the importance of supporting an inclusive taxi and PHV fleet and ask those authorities who have not already done so to publish lists of vehicles designated as wheelchair accessible under Section 167 of the Equality Act 2010. We will continue to monitor the proportion of WAVs within overall taxi and private hire vehicle fleets, as [reported in the annual DfT taxi and PHV statistics](#), and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles. As a first step we have published a list of the highest performing local licensing authorities in terms of the proportion of WAVs in their fleet (see [Annex A](#)).

8.37 We will also publish a list of those authorities which do, and do not, publish lists of WAVs, to share best practice. If the number of authorities publishing these lists does not increase significantly, we will consider amending the Equality Act to mandate local licensing authorities to publish lists of wheelchair accessible vehicles in their local areas.

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Actions to deliver our objectives

8.48 In order to improve physical infrastructure, we will:

Taxis and PHVs:

- From autumn 2018, publish data on an annual basis on the proportion of wheelchair accessible taxis and PHVs in local areas;
- From autumn 2019 publish on an annual basis a list of those authorities which we know to have issued a list of taxis and PHVs designated as being wheelchair accessible in accordance with Section 167 of the Equality Act 2010;
- Continue to encourage local licensing authorities, which have not already done so, to publish lists of taxis and PHVs designated as wheelchair accessible under Section 167 of the Equality Act 2010, and to inform the Department that they have done so.

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Annex B: Key rights of disabled passengers

The annex B section of [rights for disabled passengers on transport](#) is listed separately.

This largely repeats Paragraph 4.18 above plus the additional complaints and enforcement section below.

Taxi and PHV complaints and enforcement process

Passengers who feel that a driver has failed to comply with Sections 165, 168 or 170 of the Equality Act 2010 should contact the relevant Local Licensing Authority (LLA) in the first instance. LLAs may often be identified by a notice displayed in or on licensed vehicles, and are usually the relevant district or unitary authority. In London, Transport for London licenses taxis and PHVs on behalf of the Boroughs.

Where passengers believe that a driver has failed to make reasonable adjustments under Section 20 of the Equality Act 2010 they are encouraged in the first instance to contact the relevant LLA. They may however also wish to seek their own legal advice regarding the potential to take action in the courts.

Finally, where a passenger requires information on the accessibility of taxi and PHV services in their area, or on the steps being taken to improve it, they should also contact the LLA. If they feel the action being taken by the LLA is inappropriate or insufficient they might consider complaining to the authority concerned. Where complaints cannot be resolved they may be escalated to the [Local Government Ombudsman](#).

APPENDIX 2

EQUALITY ACT 2010

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.

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.

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).

