

REPORT TO: Regulatory Committee

DATE: 22 November 2010

REPORTING OFFICER: Chief Executive

SUBJECT: Equality Act 2010 – Taxi &
Private Hire Vehicle Provisions

WARDS: Boroughwide

1. PURPOSE OF REPORT

To advise the Committee of relevant provisions contained in the Equality Act 2010

2. RECOMMENDED: That the report be noted.

3. SUPPORTING INFORMATION

- 3.1 The Equality Act 2010 consolidates and amends most of the existing legislation relating to disability.
- 3.2 A small part of the Act (sections 160 to 173) relates to taxis and private hire vehicles.
- 3.3 Some of these provisions came into effect in October 2010 but will have no effect until regulations have been made to provide detailed rules to augment the principles which are set out in the Act.
- 3.4 Appendix 1 contains guidance issued to drivers of taxis and private hire vehicles. This guidance is somewhat sketchy at this time.

4. ISSUES FOR THE COMMITTEE

- 4.1 At this stage there are no decisions to be made.
- 4.2 It is anticipated that matters will become clearer early in 2011.

5. POLICY IMPLICATIONS

- 5.1 Until the relevant regulations have been drafted it is not possible to determine the policy implications of these provisions.

6. OTHER IMPLICATIONS

- 6.1 There are no other implications arising out of this report.

7. IMPLICATIONS FOR THE COUNCILS PRIORITIES

7.1 Children and Young People in Halton

There are no new implications arising out of this report

7.2 Employment Learning and Skills in Halton

There are no new implications arising out of this report

7.3 A Healthy Halton

There are no new implications arising out of this report

7.4 A Safer Halton

There are no new implications arising out of this report

7.5 Halton's Urban Renewal

There are no new implications arising out of this report

8. RISK ANALYSIS

N/A

9. EQUALITY AND DIVERSITY ISSUES

The legislation is based on equality considerations.

10. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972

This report is based on the Equality Act 2010 and information provided by the DfT and HMSO.

Equality Act 2010

Are you a taxi or private hire vehicle driver?

There are some changes in the law which will come into effect in October 2010 which might affect you.

The Equality Act, which was passed earlier this year, includes some provisions relating specifically to taxis and private hire vehicles (PHVs) and disability.

Certain parts of the Act do not become law until the Government makes commencement orders to bring each part of it into force. The Government intends to bring into force several parts of the Act in October 2010, including some, but not all, of the provisions that are specific to taxis and PHVs. Other provisions will come into force later – but not before April 2011.

This note describes what will happen in October in relation to those parts of the Act that are specific to taxis and PHVs, and what the implications will be for taxi and PHV drivers.

This note focuses on the implications for the taxi and PHV trades of the October provisions. A separate note has been prepared for licensing authorities.

Duties on drivers to assist passengers in wheelchairs.

The Equality Act is due to place duties on the drivers of designated wheelchair accessible taxis and PHVs to provide physical assistance to passengers in wheelchairs. A further announcement will be made on when the duties will come into force, but it will not be before April 2011.

The duties will apply to the driver of any wheelchair accessible taxi or PHV which is on the licensing authority's list of "designated vehicles".

If you are the driver of a wheelchair accessible taxi or PHV, it is advised that you find out whether your licensing authority intends to maintain a list of designated vehicles, and therefore whether the duties are likely to apply to you.

Before the duties are brought into force, any drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance can apply for an exemption from the duties to offer assistance.

The opportunity to apply for exemptions starts on 1 October.

What do I need to do?

If you are the driver of a wheelchair accessible taxi or PHV, the first thing you need to do is establish whether your licensing authority intends to keep a list of designated vehicles. We are encouraging licensing authorities to make their decision known to drivers and perhaps establish a "shadow" list as soon as possible.

If your licensing authority does intend to maintain a list of designated vehicles, and your wheelchair accessible vehicle is to be included on the list, you will be required to carry out the duties to assist wheelchair users.

What are the duties?

The duties being placed on the drivers of designated wheelchair accessible taxis and PHVs are:

to carry the passenger while in a 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.

What does mobility assistance mean?

Mobility assistance essentially means helping passengers who use wheelchairs by providing physical assistance.

If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get into and out of the vehicle.

If the passenger wants to transfer to a seat, the driver must help him or her to get out of the wheelchair and into a seat and back into the wheelchair; the driver must also load the wheelchair into the vehicle.

The driver must also offer to load the passenger's luggage into and out of the vehicle.

What if my licensing authority does not intend to keep a list of designated vehicles?

If a licensing authority does not intend to maintain a list of designated vehicles then the duties will not apply; the duties only apply to drivers of vehicles which are on the licensing authority's list of designated vehicles.

What if I have a back condition which makes it impossible for me to help a passenger in a wheelchair get into a cab?

The new Act allows for exemptions from the duties on medical grounds or if the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with those duties.

It is the responsibility of drivers who require an exemption to apply for one from their licensing authority before the duties come into force; they will have at least six months to go through this process.

Who decides if a driver is exempt?

The local licensing authority decides if a driver should be exempt from the duties.

What if the licensing authority says that I am ok to carry out the duties and I disagree?

The legislation allows a driver to appeal to the magistrates' court within 28 days if the licensing authority decides not to issue an exemption certificate.

How will passengers know that I am exempt from the duties to assist passengers?

The Department will be printing and issuing to licensing authorities special Exemption Notices which exempted drivers must display on their vehicles in order that passengers will know that the driver is exempt from duties.

When will the duties come into force?

A further announcement will be made about when the actual duties to assist will come into force, but it will not be before April 2011.

Drivers with a medical condition that prevents them from carrying out the duties will be able to apply to their licensing authority for an exemption from October 2010, before the duties come into force.

Guide Dogs

The other thing that will happen on the 1st of October is that the duties placed on taxi and PHV drivers and on PHV operators to carry guide dogs and other assistance dogs will transfer from the Disability Discrimination Act 1995 to the

Equality Act 2010. In practice, the duties will remain exactly the same as they are now.

Any person who is currently exempt from the duty to carry an assistance dog on medical grounds will continue to be exempt.

That is because we have made a change in the law so that all existing exemption certificates and all existing exemption notices remain in force as though they had been made under the Equality Act 2010.

Will I have to take a different approach to the carriage of guide dogs from 1 October?

No. The change is a purely technical one; the duties to carry guide dogs and other assistance dogs will not change at all.

I have an exemption certificate which says that it was issued under the Disability Discrimination Act 1995 – do I have to get a new one?

No, you do not have to get a new certificate, the certificate which you have been granted remains valid until its expiry date.

I have a special notice in my taxi/PHV which says that I am exempt from carrying guide dogs and mentions the Disability Discrimination Act 1995 – do I need to get a new one?

No, you do not have to get a new exemption notice; the notice which was provided by the licensing authority remains valid until its expiry date.