

**To: Regulatory Functions Board**

**On: 31 October 2018**

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**Report by: Director of Finance and Resources**

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**Heading: List of Wheelchair Accessible Vehicles**

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**1. Summary**

- 1.1 The Equality Act 2010 provides Local Authorities with the discretion to produce a list of wheelchair accessible taxis and private hire cars. Drivers of those vehicles listed are then required to carry and provide assistance to passengers in wheelchairs and are prohibited from charging them extra.
- 1.2 The purpose of this report is advise the Board on the relevant provisions of the Equality Act 2010 and to seek authorisation to publish a list of wheelchair accessible taxis and private hire cars in accordance with section 167 of the Act.
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**2. Recommendations**

- 2.1 The Board is asked to:-
- 2.1.1 Authorise officers to publish on 31 May 2019 and maintain a designated list of wheelchair accessible taxis and private hire cars licensed by the Council, in accordance with section 167 of the Equality Act 2010 (“the 2010 Act”); and
- 2.1.2 Instruct officers to make any necessary changes to licensing application procedures and practices as required to enable publication of the above list on 31 May 2019 and maintenance of the list thereafter.
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### 3. **Background**

#### Wheelchair accessible taxis and private hire cars in Renfrewshire

3.1 As part of the Council's ongoing commitment to supporting the provision of a high-quality transport service accessible by all, it has been the Board's policy, since 2002, that all Renfrewshire taxis must be wheelchair accessible. Additionally, private hire car operators in Renfrewshire who wish to license a multi-person vehicle can only do so if that vehicle is wheelchair accessible.

3.2 Renfrewshire Council has a duty to make reasonable adjustments to any provision, criterion or practice that puts a disabled person at a substantial disadvantage when compared to a person who is not disabled. Accordingly, exemptions have been granted from time to time to the Council's policy on wheelchair accessible vehicles.

3.3 At present there are 230 wheelchair accessible taxis operating in Renfrewshire and 30 wheelchair accessible private hire cars. There are 5 saloon cars operating as taxis due to the granting of exemptions.

3.4 There are also 13 taxi drivers who have been granted exemptions by the Regulatory Functions Board to the requirement to assist wheelchair passengers getting in and out of a vehicle.

#### Equality Act 2010: lists of wheelchair accessible vehicles

3.5 The 2010 Act provides the Council with the discretion to produce a designated list of wheelchair accessible taxis and private hire cars licensed by it. The driver of a vehicle identified on the list will then have duties towards wheelchair passengers under the Act as specified at Paragraph 3.6 below. Although this legislation was passed in 2010, Regulations prescribing the relevant exemptions were not commenced until 6<sup>th</sup> April 2017.

3.6 The duties placed on drivers are:

- To carry the passenger while in the wheelchair;
- Not to make any additional charge;
- To carry the wheelchair if the passenger prefers to sit in a passenger seat;
- To take necessary steps to ensure that the passenger is carried in safety and reasonable comfort; and
- To give the passenger such mobility assistance as required.

3.7 The Act defines mobility assistance as:

- To enable the passenger to get into and out of the vehicle;
- 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;
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle; and
- To load the passenger's luggage into or out of the vehicle.

- 3.8 If an owner of a vehicle believes that their vehicle should not have been placed on the list published by a local authority, then they can make an appeal to the Sheriff Court within 28 days of the vehicle being included on the list.
- 3.9 Drivers who wish to be exempt from the above duties may apply to the Council for an exemption certificate and a notice of exemption (which requires to be displayed on the vehicle). An exemption can only be issued if the Council is satisfied that it is appropriate to do so on:
- medical grounds; or
  - the ground that the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with those duties.
- 3.10 The holder of an exemption certificate will only be exempt from the above duties if the notice of exemption issued by the Council is displayed clearly in the vehicle and in the manner prescribed by the relevant regulations. A driver refused an exemption certificate is entitled to appeal the decision to the Sheriff Court within 28 days from the date of the refusal.
- 3.11 Any driver who fails to comply with the above duties (without an exemption notice displayed properly) will be committing an offence. It should be noted that the exemption will be from all the duties under the Act; there is no provision for making partial exemptions. As such, given that the Board presently allows exemptions to drivers which are limited to assisting wheelchair passengers, the introduction of a designated list could potentially reduce the availability of vehicles able to carry wheelchair passengers.

#### Implementation of lists of wheelchair accessible vehicles

- 3.12 It is rare for a complaint to be made to officers in relation to accessibility of licensed taxis and private hire cars for disabled users or assistance given to those users by the drivers of these vehicles. The Civic Government Enforcement Officer attends meetings of the Renfrewshire Access Panel on a quarterly basis. The Renfrewshire Access Panel have been complimentary of the steps the Council has taken in support of a high-quality transport service accessible by all. It would therefore appear that the policies adopted by the Council have assisted in the provision of accessible taxis and private hire cars for disabled users.
- 3.13 It is a matter of discretion for each local authority to decide whether to publish a designated list under the 2010 Act. Adopting the list will mean that any wheelchair passenger who believes a driver has failed to comply with their duties under the 2010 Act would be able to report the matter to Police Scotland as well as to the licensing department of the Council. This may give some passengers added assurance that they will have proper access to travel in the Renfrewshire area.

- 3.14 The Statutory Guidance published by the Department for Transport recommends that the list should
- set out the make and model of the vehicle;
  - specify whether the vehicle is a taxi or private hire car; and
  - state the name of the operator.
- 3.15 The Guidance also states that where possible it would be helpful to include information about the size and weight of wheelchair that can be accommodated and whether a vehicle can accommodate a wheelchair larger than a “reference wheelchair”.
- 3.16 It is proposed at this time, should the Board agree to publish and maintain a designated list, that the information set out at Paragraph 3.14 be included in the list. However, it is the view of officers that it would be beneficial to the travelling public if a contact telephone number could also be published on the list in respect of any vehicle. To publish this information, the consent of licence holders will be required. It is anticipated that officers will seek this consent in advance of any designated list being published and will amend the terms of licence application forms to enable this information to be updated.
- 3.17 The Statutory Guidance recommends that prior to publishing a list, local authorities should inform owners that their vehicles will be placed on the list and alert drivers to their upcoming duties. Drivers should also be given an opportunity to apply for exemptions where necessary before the publication of the list.
- 3.18 It is therefore recommended that a publication date of 31 May 2019 be approved. This will allow officers to write to operators in relation to the decision to publish a list and requesting consent to publish a contact telephone number.
- 3.19 The timescale will also allow officers to prepare and adopt an application procedure for drivers to make exemptions requests and have applications decided prior to the publication of the list. Given that failure to comply with the duties under the Act is an offence, drivers should be given adequate time to obtain exemptions where necessary.

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## Implications of the Report

1. **Financial**- There may be a requirement to refer applicants seeking an exemption to occupational health consultants with attendant costs
2. **HR & Organisational Development** – none
3. **Community/Council Planning** –
  - Tackling inequality, ensuring opportunities for all – the proposal supports the Council’s ongoing commitment to supporting the provision of a high-quality transport service accessible by all.

4. **Legal** – the relevant statutory provisions are sections 165 to 167 of the Equality Act 2010. Aggrieved owners or drivers can also make appeals to the Sheriff Court under section 172 of the Act.
5. **Property/Assets** - none
6. **Information Technology** - none
7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. There is a potential negative impact on equality groups in that, as the Board presently allows exemptions to a driver restricted to assisting wheelchair passengers, the introduction of a designated list could potentially reduce the availability of vehicles able to carry wheelchair passengers, due to the wider scope of the statutory exemption. There is also a potential negative impact in that drivers who currently have an exemption from assisting wheelchair passengers on medical grounds will require to apply for exemption from the duties detailed at Paragraphs 3.6. However, it is considered that these potential impacts would likely be outweighed by the benefits of publishing and maintaining a designated list. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council’s website.
8. **Health & Safety** - none
9. **Procurement** – none
10. **Risk** - Aggrieved owners or drivers can make appeals to the Sheriff Court under section 172 of the Act. Successful appeals will result in expenses being awarded against the Council.
11. **Privacy Impact** – none.
12. **Cosla Policy Position** – none.

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### List of Background Papers

None

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**Author:** Andrew McLaughlin  
[andrew.mclaughlin@renfrewshire.gov.uk](mailto:andrew.mclaughlin@renfrewshire.gov.uk)  
0141 618 7585