

Report to Environment & Licensing Committee

Subject: Amendments to Equality Act 2010 following the introduction of the Taxi & Private Hire Vehicles (Disabled Persons) Act 2022

Date: 9 January 2024

Author: Head of Environment

Purpose

To inform Members' of the introduction of the Taxi & Private Hire Vehicles (Disabled Persons) Act 2022 (the '2022 Act'), which amends the Equality Act 2010 (the '2010 Act'), by amending existing duties, and placing new duties on local licensing authorities ('LLA'), drivers of both taxis and private hire vehicles and private hire operators.

To update Members' on the requirement for LLAs to maintain and publish a list of designated wheelchair accessible vehicles ('WAV') under s.167 of the 2010 Act.

To seek Members' approval to introduce the 'Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle List'. This Policy is attached at Appendix 1 of this report including the process to apply for an exemption.

To seek Members' approval to delegate all functions and responsibilities under the Act and any regulations made there under, to the Chief Executive.

Recommendation(s)

THAT:

- 1) Members approve the introduction of the 'Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle List' found at Appendix 1 of this report including the process to apply for an exemption at Appendix 2 of this report and the request for exemption form at Appendix 3 of this report.
- 2) Members note the amendment to s.167 of the 2010 Act and the legal obligation on the Council to maintain and publish a list of designated

wheelchair accessible vehicles.

- 3) Members delegate all functions and responsibilities under the 2022 Act and any regulations made there under, to the Chief Executive.

1 Background

- 1.1 In April 2018, members approved the 'Policy on the Carriage of Persons in Wheelchairs when Carried in a Designated Vehicle', following the introduction of statutory guidance issued to local authorities under the 2010 Act. This Act brought together a number of existing laws into one place making it easier to use. The 2010 Act legally protects people from discrimination in the workplace and in wider society.
- 1.2 Part 12 of the 2010 Act specifically relates to the use of taxis and private hire vehicles by disabled persons, and their rights when using such services provided by drivers of taxi and private hire vehicles, and operators of private hire vehicles.
- 1.3 On 29th June 2022, the 2022 Act came into force. The 2022 Act amends Part 12 of the 2010 Act by introducing new, and amending existing duties placed upon local authorities, taxi and private hire drivers and private hire operators.
- 1.4 The aim of the 2022 Act is to ensure disabled people can access and use taxi and private hire services with confidence, and not be discriminated against.
- 1.5 Before the introduction of the 2022 Act, duties were only placed on the drivers of taxis and private hire vehicles which were designated as Wheelchair Accessible Vehicle (WAV) and regarding passengers travelling with assistance dogs. The 2022 Act now places new duties on all drivers of non-designated WAV taxis and private hire vehicles when dealing with disabled passengers. These new duties can be found in the proposed policy at Appendix A.
- 1.6 Drivers of Gedling licensed taxis and private hire vehicles will be advised and made aware of their duties imposed upon them by the 2022 Act via email and it is a criminal offence for drivers of a taxis and private hire vehicles (unless exempt) to fail to comply with these duties. The new duties will also be made available to the service users through the Council's website and Council's Contacts magazine.
- 1.7 Prior to the implementation of the 2022 Act, section 167 of the Equality Act 2010 stated that a licensing authority **may** maintain a list of vehicles which are designated as WAV. The 2022 Act amends section 167 which now

states licensing authorities **must** maintain and publish a list of licensed taxi and private hire vehicles which are designated as being WAV.

- 1.8 Section 166 of the 2010 Act allows drivers to apply for an exemption from the duties. All applications will be determined by the licensing authority. An exemption certificate will be granted if the Council are satisfied that it is appropriate to do so, on medical or physical grounds.

The licensing authority are responsible for the enforcement of drivers' duties under the 2010 Act as well as, the administration of any exemption requests received from any of its licensed drivers who drive either a designated or non-designated wheelchair accessible vehicle, and the maintenance of the Designated Vehicle List.

- 1.9 Section 172 of the 2010 Act enables vehicle owners to appeal against the decision of a licensing authority to include their vehicle on the designated list. That appeal should be made to the Magistrates' court and must be made within 28 days of the vehicle in question being included on the published list.

Section 172 also enables drivers to appeal against the decision not to issue an exemption certificate under section 166, 169 and 171, that appeal should also be made to the Magistrates' court within 28 days beginning with the date of the refusal.

- 1.10 The 2022 Act also places new duties on private hire vehicle operators. The operator must accept a booking for a vehicle, if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person. The operator must not make or propose to make any additional charge for carrying out and fulfilling the booking made by or on behalf of a disabled person.

- 1.11 Implementing the 'Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle List' will provide clarity to both licensed drivers, private hire operators and service users and provide information about the Council's roles and responsibilities with regards to disabled persons having access to and for their safe carriage within licensed Taxis and private Hire vehicles.

- 1.12 The policy will also provide a clear application process and guidance to licensed drivers who wish to apply for an exemption from the duties to carry disabled passengers.

2 Proposal

- 2.1 That Members approve the 'Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle List'.
- 2.2 That Members delegate all functions and responsibilities under the 2022 Act and any regulations made there under, to the Chief Executive.

3 Alternative Options

- 3.1 Members could choose not to approve the 'Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle List'. This would potentially leave licensed drivers, private hire operators unclear about their duties, and service users unaware of their protections. Officers would therefore not recommend this course of action.

4 Financial Implications

- 4.1 The implementation and communication of the new duties and policy will be met through existing budgets.

5 Legal Implications

- 5.1 The new duties introduced under The 2022 Act along with the existing duties under The 2010 Act are law and must be adhered to. Drivers of taxi and private hire vehicles, and operators of private hire vehicles will face criminal charges if they are found in breach of the duties.
- 5.2 Under the 2022 Act it is now a legal requirement that the Council maintain and publish a list of WAV's and that this is kept under review. We also have a legal duty to issue exemption certificates to drivers if appropriate.

6 Equalities Implications

- 6.1 EIA form attached at Appendix 4

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 None

8 Appendices

- 8.1 Appendix 1: Policy on Disabled Persons having Access to and for their Safe Carriage within Licensed Taxis & Private Hire Vehicles and the Requirement for the Licensing Authority to Maintain a Designated Vehicle

List.

8.2 Appendix 2: Process to Applying for Exemption from Duties Imposed on the Driver of a Licensed Vehicle when hired by or on Behalf of a Disabled Person

8.3 Appendix 3: Request for Exemption from Duties Imposed on the Driver of a Licensed Vehicle when hired by or on Behalf of a Disabled Person Form

8.4 Appendix 4: Equality Impact Assessment form

9 Background Papers

9.1 None

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer