



# Regulatory Committee

**Tuesday, 27 September 2022 at 7.30 pm**

**Committee Room, Runnymede Civic Centre,  
Addlestone**

## Members of the Committee

Councillors: J Wilson (Chairman), E Gill (Vice-Chairman), J Broadhead, T Burton and S Saise-Marshall

In accordance with Standing Order 29.1, any Member of the Council may attend the meeting of this Committee, but may speak only with the permission of the Chairman of the Committee, if they are not a member of this Committee.

## AGENDA

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss Clare Pinnock, Democratic Services Section, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk)).**
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr A Finch on 01932 425623. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).
- 4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

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Filming should be limited to the formal meeting area and not extend to those in the public seating area.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media audio-recording, photography and filming in the Committee meeting.

## List of matters for consideration

Page

### Part I

#### Matters in respect of which reports have been made available for public inspection

- |    |   |         |
|----|---|---------|
| 1. | <b>Notification of Changes to Committee Membership</b>  |         |
| 2. | <b>Minutes</b>  | 4 - 9   |
|    | To confirm and sign as a correct record the Minutes of the meeting held on 6 June 2022 (Appendix 'A').  |         |
| 3. | <b>Apologies for Absence</b>  |         |
| 4. | <b>Declarations of Interest</b>   |         |
|    | Members are invited to declare any disclosable pecuniary interests or other registrable and non-registrable interests in items on the agenda. |         |
| 5. | <b>Seat Belt Law for Children in Hackney Carriage and Private Hire Vehicles</b>   | 10 - 11 |
| 6. | <b>The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022</b>  | 12 - 15 |
| 7. | <b>The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022</b>  | 16 - 30 |
| 8. | <b>Exclusion of Press and Public</b>  |         |

### Part II

There are no exempt or confidential items on this agenda

## Runnymede Borough Council

### Regulatory Committee

**Monday, 6 June 2022 at 7.52 pm**

Members of the Committee present: Councillors J Wilson (Chairman), E Gill (Vice-Chairman), T Burton and S Saise-Marshall.

Members of the Committee absent: Councillor J Broadhead (apologies)

In attendance: Councillors V Cunningham and A King.

#### 1 Minutes

The Minutes of the meeting held on 9 November 2021 were confirmed as a correct record.

#### 2 Declarations of Interest

There were no Declarations of Interest to record.

#### 3 2022 Annual Report on Hackney Carriage and Private Hire Licensing

The Committee received for information the annual report on Hackney Carriage and Private Hire Licensing for 2021/2022.

Members were concerned to learn that the number of licensed drivers and vehicles had further declined since the last annual report, the speed at which this had happened was exacerbated by the effects of the pandemic and national shortage of drivers. In addition there were fewer younger drivers taking up the Trade and others leaving to find more secure employment.

The Committee reviewed other statistics regarding mileage, vehicle ages, and vehicle emission standards. The Council continued to have a policy of having no limits to the age of vehicles to assist drivers by not having to replace their cars if still roadworthy at regular intervals unless they chose to.

Officers advised they were in regular contact with the Trade using a number of different routes to keep them updated and to ensure their paperwork was up to date. It was reported that the taxi forum meetings held 3 times a year were an important way of talking informally with drivers and operators, although they were not very well attended. The one in March 2022 only attracted three attendees but the most recent one in May was attended by 13 people, in addition to the Officers present. Officers agreed to inform the Committee when the next forums were taking place

Officers were pleased to report that they received few complaints about drivers but that when they did it was a time consuming process to ensure complaints were thoroughly investigated and documented should they result in a hearing. There had been no suspensions revocations or refusals in 2021/2022.

All drivers and operators had completed the on-line mandatory safeguarding training and had subscribed to the Disclosure and Barring Service (DBS) Update service which allowed Officers to check their record on-line when renewing licences.

In terms of future changes Officers planned to report on the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act and mandatory disability training for drivers to the next

scheduled meeting of the Committee in September 2022.

Future licensing arrangements in the context of the Government's Levelling Up White Paper would be reported to a future meeting as and when a decision had been made whether to transfer taxi licensing to combined and upper tier authorities. The Chairman also undertook to brief the Leader and Deputy Leader of the Council on this subject.

The Committee discussed electric vehicles. It was noted that currently the infrastructure did not support them sufficiently and they were very costly. It was asked whether the Council held information on whether emissions correlated with the age of vehicles. Officers confirmed they did not monitor this but would need to consider the Council's corporate position on Climate Change and the implications for the Trade.

Members noted the many burdens on drivers financially and in order to be licensed. However it was agreed there was a need for balance to ensure drivers were fit and proper and to protect passengers.

The provision of taxi ranks particularly in Egham was discussed. The Committee was disappointed that the new Magna Square development had no provision for them. The Chairman had followed this up previously and received confirmation from the Corporate Head of Assets and Regeneration on the matter.

#### **4 Hackney Carriage and Private Hire Licensing Policy on Tinted Windows**

The Committee reviewed the Council's policy on tinted windows; a request arising from the previous year to revisit the subject in 2022.

Members considered the existing policy which was put in place in March 2017. In the light of some high profile safeguarding cases elsewhere in the country, a number of local authorities, including Runnymede, had introduced further restrictions on hackney carriage and private hire vehicles if they fitted 'privacy glass'.

The conditions about privacy glass were unpopular and increasingly so, owing to the cost and inconvenience of replacing glass to a tinting deemed acceptable and the number of out of borough vehicles operating in the borough which had a deeper level of tinting than Runnymede's vehicles were allowed. The Trade raised their concerns on a number of occasions but hitherto the Police supported the condition due to concern over 'County Lines' and safeguarding issues during consultation in 2018. It was understood that their position had subsequently changed and could not provide any instances where tinted windows had been a contributory factor in any recordable crimes or incidents in the borough.

Officers confirmed that since 2017 other measures had been put in place including mandatory safeguarding training which had raised awareness of and increased confidence in passenger safety. In addition there was now a national database of drivers and licensing authorities were obliged to inform other Councils of any relevant suspensions and revocations. The increased regime of 6 monthly DBS checks was a further reassurance to the public and the licensing authority which Members shared.

The Committee considered the relevant sections of the consultation on best practice with regard to tinted windows. Of particular note was the need for conditions to be in place on an evidential basis and to be reasonable and proportionate. Furthermore, licensing authorities should have regard to the views of the public and the Trade when considering the acceptance of 'after-market' tinting. Officers stated that in light of this guidance it was difficult to justify the condition on tinted windows as it was currently drafted in the Council's policy.

The Committee agreed, taking into account the advantages and disadvantages of tinted

windows, that on balance it would be appropriate to relax the condition, particularly if it encouraged new drivers to apply and increased business. It would also be accommodating to electric vehicles which had tinted windows for environmental reasons.

Members were advised that a condition would be appropriate which made reference to the minimal legal requirements.

# **RESOLVED that –**

**Paragraph 6.60 (a) – (e), 6.60 (i) – (ii) of the Council’s Hackney Carriage and Private Hire Licensing Policy be amended as set out below:**

- i) all windows must be kept clean and free of labels except those required by relevant legislation or licensing conditions;**
- ii) all glazing must at all times comply with Road Vehicles (Construction and Use) Regulations 1986 regulations (as amended) with regard to the level of tint;**
- iii) tinted films applied to the vehicle windows post manufacture are not allowed; and**
- iv) All side and rear windows will be as installed by the vehicle’s manufacturer**

## **5 Hackney Carriage and Private Hire Licensing Policy on the Private Hire Drivers Knowledge Test**

The Committee was asked to consider the Council’s current policy which required Private Hire Drivers to undertake a topographical Knowledge Test and whether this should be amended in the light of the Department for Transport’s (DfT) consultation on best practice and feedback from the Trade.

The DfT consultation proposed that licensing authorities would not be required to set private hire drivers a topographical test but could choose to. This was suggested on the basis that legally the prospective passenger had to go through an operator to hire a private hire vehicle which would give the driver time to check the route or enter it into a navigating system. Some Members thought this sounded sensible although it was noted that a sat-nav would not be aware of unexpected changes to a route caused by an accident or road closure for example which could be an issue if the driver was unfamiliar with the given route to find an alternative.

The issue had also been raised by one of the Council’s long standing Private Hire Operators because they had difficulty recruiting drivers who reported finding the topographical test difficult and off-putting. The other issue the Operator raised was that drivers exclusively doing ‘school runs’, often under contract with the County Council, did not need to have as an extensive knowledge of the borough as other drivers.

Officers explained that to fulfil the ‘fit and proper’ test drivers must be able to demonstrate ‘suitable knowledge, experience and skills’ to drive and perform their duties. Locally, part of this was passing a topographical knowledge test whilst it was acknowledged that not all licensing authorities required this. Hackney Carriage drivers also had to pass a route test which was considered to be more challenging.

The Committee noted that the topographical test had been much simplified over the years to being a simple written test where drivers already knew the 60 locations they would have to identify from a list which was supplied in advance. Drivers were required to name the road each location was in and the town, with a pass mark of 45 (75%).

Officers had canvassed other licensing authorities but they were unenthusiastic about

discarding the topographical test for private hire drivers and thought it could be open to abuse. Officers stressed that the particular operator that had submitted this request was very reliable and Officers appreciated the issues they faced. However, it was agreed that to dispense with the topographical test would create a two-tier system if some private hire drivers had to take the test and others did not. Also if their circumstances changed and a driver expanded on taking school runs, Officers would find it difficult to monitor and enforce.

The Committee sympathised with the recruitment problems experienced by the operator in question and did not want to deter new drivers from applying. Some Members considered that as set out in the DfT consultation because journeys were pre-booked it gave drivers a chance to learn their route or use a sat-nav. However, it was also recognised that Runnymede's topographical test was straightforward and reviewed regularly. It was also noted that drivers faced penalties for using a mobile phone while driving and being knowledgeable about the borough and its various locations should make using a satnav unnecessary.

### **RESOLVED that –**

#### **the policy on the Private Hire Drivers Knowledge (topographical) Test be retained**

#### **6 Department for Transport Draft Best Practice Guidance and Consultation in relation to Taxi and Private Hire Licensing**

The Committee's approval was sought for the Council's official response to the Department for Transport's Draft best Practice Guidance and Consultation in relation to Taxi and Private Hire vehicle licensing.

Members were advised that best practice guidance had last been issued in 2010 and the latest set of guidance and the consultation thereon resulted from engagement with a number of relevant bodies and detailed consideration by the Department for Transport (DfT).

Officers had drafted a series of responses to an extensive range of questions. Members noted that of the 62 areas under consideration many aligned with the Council's current policy and were therefore straightforward. However there were three areas which Members were asked to focus on. These were driver proficiency, driver licensing and vehicle safety ratings. In addition, the consultation also covered tinted windows and the knowledge test the responses to which would be added having considered them separately at the meeting.

The consultation also addressed environmental issues, namely the phasing out of petrol and diesel and the transition to zero emissions; the infrastructure for which locally had not yet been determined but which would be a significant challenge to the Trade.

The Committee noted that any equalities implications arising from the guidance once finalised would be subject to a screening assessment if required.

The Committee agreed that any best practice guidance should be aimed at ensuring a safe, inclusive, accessible and attractive service for passengers as well as allowing licensing authorities to support the Trade and the public while regulating and monitoring businesses.

With regard to accessibility, licensing authorities were encouraged to produce an Inclusive Service Plan (ISP). However, Officers felt this was too onerous a task for district councils and was better placed at County level as part of an integrated transport plan. Having said this Officers confirmed that accessibility was a priority and the Council's policy already included most of what was in the guidance. An addition would be reference to the prosecution of cases where there was sufficient evidence to identify the driver and

substantiate the claims made. Where an applicant has a conviction relating to discrimination they would not be granted a licence until at least seven years had elapsed since the completion of any sentence imposed.

The Committee also discussed accessibility for children and provision of car seats. This was not part of the best practice guidance so Officers were requested to look at this in more detail and submit a report to a future meeting of the Committee.

With regard to driver proficiency the Committee agreed that a higher level driving test was unnecessary as was obtaining a vocational qualification. It was considered to be a further barrier to new drivers and that the current requirements for applicants and renewals was sufficient.

Members also agreed that making it a condition of driver licensing to carry out daily vehicle checks was disproportionate and would be very difficult to monitor and enforce.

The Committee agreed that licensing authorities should consider the safety benefits to passengers, driver and pedestrians of vehicles which had received a higher Euro NCAP rating (where these had been assessed) when setting its vehicle requirements. Euro NCAP was an independent not for profit organisation widely recognised by the motor industry and road safety professional providing objective information on crash safety of passenger cars. Officers would investigate this further and report back to the Committee at a later date.

#### **RESOLVED that –**

- i) the contents of the Draft Best Practice Guidance be noted; and**
- ii) the response from Runnymede Borough Council, to the Draft Best Practice Guidance consultation, as amended, be approved.**

## **7 Review of Hackney Carriage (Taxi) Fares**

The Committee was asked to review the Hackney Carriage (taxi) fare tariffs and if it was considered appropriate to increase them, by how much.

Members noted that fares had not been increased since 2014. Officers had surveyed the Trade and received responses suggesting that an increase would be welcomed, particularly in the light of recent increases in fuel prices, inflation and the costs associated with being a Hackney Carriage driver such as insurance, and vehicle maintenance.

Officers advised that in the past drivers had been reluctant to increase their fares owing to competition and being undercut by out of area private hire vehicles. However, some Runnymede drivers had reported that the app based companies were increasing their fares making the gap between them less.

Members were informed that a number of hackney carriage drivers also worked for private hire operators and those operators used Runnymede's tariff as a measure for setting their own journey costs, and some private hire vehicles worked on meters set to the hackney carriage tariff. Therefore, although the tariffs legally applied to hackney carriages only, there existed a relationship between the tariffs and the private hire operators licensed in the borough.

It was also noted that drivers were allowed to charge less than the stated tariff and that they would incur a modest charge of £25 for the re-calibration of meters.

The Committee was concerned by the cost of advertising the proposed tariffs in a local newspaper (approximately £300). This was a legal requirement under the Local



Government Miscellaneous Provisions Act 1976. Officers were asked to give consideration to requesting through the Local Government Association that this out of date practice be reviewed and replaced by advertising on the Council's website.

It was suggested that an option could be to adjust fees and fares in line with an inflationary index. However, fares and fees could not be linked as fees had to reflect the actual cost.

The Committee agreed it would be appropriate to increase the taxi fare tariffs; of the examples shown, it was determined that a 30p increase for rates 1 – 4 inclusive, the pull off and second and subsequent miles would be reasonable.

**RESOLVED that –**

**Hackney Carriage fare tariffs (Rates 1 – 4 inclusive, pull off, second and subsequent miles) be increased by 30p**

**Urgent Action - Standing Order 42**

8

The Committee noted pro-forma 994 detailing action taken after consultation with the Chairman and Vice-Chairman of the Committee.

In doing so it was also noted that there had only been very minor changes to the Gambling Policy, nothing which required it to be re-submitted to the whole Committee for consideration.

**Exclusion of Press and Public**

9

There were no exempt or confidential items discussed at the meeting.

(The meeting ended at 9.28 pm.)

Chairman

### **Seat Belt Law for Children in Hackney Carriage and Private Hire Vehicles (Environmental Services, Robert Smith)**

#### **Synopsis of report:**

**The purpose of this report is to inform Members of the law regarding seat belts for children in hackney carriage and private hire vehicles.**

#### **Recommendation(s):**

**None. This is for information only.**

### **1. Context of report**

- 1.1 At the meeting of this Committee on 6 June 2022, Members requested an update on the law regarding seat belts for children in hackney carriage and private hire vehicles.

### **2. Report**

- 2.1 The law states that all children travelling in the front or rear seat of any car, van or goods vehicle must use the correct child car seat until they are either 135cm in height or 12 years old (whichever comes first). Once they exceed this, they must use an adult seat belt. The driver is responsible for ensuring that children under the age of 14 years are strapped in correctly in accordance with the law.
- 2.2 Private hire operators or hackney carriage proprietors are not required by law to provide child car seats in taxis, private hire vehicles and minicabs.
- 2.3 Some exceptions to the seatbelt laws have been made for hackney carriage and private hire vehicles. These are shown in the paragraphs set out below.
- 2.4 Children under 3 years old.
- i) If carried in the front seat, an appropriate child restraint must be used (the adult seat belt is not sufficient).
  - ii) If carried in the rear seat, an appropriate child restraint must be used, if available. If a child car seat is not available in a licensed taxi or licensed private hire car, the child may travel unrestrained in the rear of the vehicle. This is the only exception for children aged under 3 years. It was introduced for practical rather than safety reasons.
  - iii) If an appropriate restraint is fitted in the front of the car, but not the rear, children under 3 years old must sit in the front and use that restraint. The restraint can be moved from the front to the rear, this must be done if using a rearward-facing baby seat and there is a passenger airbag fitted.

2.5 Children aged 3 years to their 12<sup>th</sup> birthday:

- i) If carried in the front seat, an appropriate child restraint must be worn if available. If not, an adult seat belt must be worn.
- ii) If carried in the rear seat, an appropriate child restraint must be worn if available. If not, an adult seat belt must be worn, if available.
- iii) If an appropriate restraint or seat belt is fitted in the front of the car, but not in the rear, children between 3 and 11 years old and under 1.35 metres tall, must use that restraint or seat belt. (it is possible of course to move the restraint from the front to the rear if required).

2.6 Passengers aged over 14 years old

- i) If carried in the front or rear seat, an adult seat belt must be worn if available.

3. Legal implications

- 3.1 The fixed penalty for failing to wear a seat belt as a driver or passenger is a £100 fine. If the case is taken to court, this can be up to £500.

**(For information)**

Background papers

<https://www.gov.uk/seat-belts-law/when-you-dont-need-to-wear-a-seat-belt>

### **The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (Environmental Services, Robert Smith)**

#### **Synopsis of report:**

**The purpose of this report is to inform Members of The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 and a resulting amendment to Runnymede's Hackney Carriage and Private Hire Licensing Policy.**

#### **Recommendation(s):**

- i) Members note the information regarding the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022; and**
- ii) the amendments to Runnymede's Hackney Carriage and Private Hire Licensing Policy, sections 4.41 to 4.43, as set out in this report, be approved**

#### **1. Context of report**

- 1.1 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 ("the Act") received Royal Assent on 31<sup>st</sup> March 2022.
- 1.2 The main purpose of the Act is to improve intelligence sharing by requiring licensing authorities to record information regarding drivers' adverse licensing histories (refusals, suspensions or revocations of licences), on a central database.
- 1.3 This builds on the Local Government Association's (LGA) work to tackle the issue of individuals who have had their licences revoked or refused by a licensing authority, for example for serious safeguarding or driving offences, and then applying for a licence with a different licensing authority.
- 1.4 In 2018, the LGA funded the development of the National Register of Licence Revocations and Refusals. It is known as NR3 as this is the database used to register the information. NR3 is hosted by the National Anti-Fraud Network (NAFN). The simple objective of NR3 is to provide a mechanism for licensing authorities to record details of where a taxi or PHV drivers' licence/application has previously been refused or revoked. This allows licensing authorities to check new applicants against the register and make an informed decision as to whether an applicant is fit and proper; the criteria an applicant must meet in order to be granted a licence.
- 1.5 The Department for Transport's statutory standards, published in July 2020, strongly recommended that licensing authorities use NR3 to record information on cases where they have refused or revoked licences.
- 1.6 This Council has been using the NR3 database since 2018. Our licensing process for drivers, vehicles and operators already has the NR3 check included as described in the main body of this report.

- 1.7 The Act builds on this guidance by mandating the use of a 'licensing information database.' This is because not all authorities are signed up to the NR3 check which is inconsistent. It is expected that the database that will be used for the purpose of the Act will continue to be the NR3. Further details on the designated database will be circulated by the Government in the Autumn of 2022.
- 1.8 The Act also aims to tackle issues associated with out-of-area drivers, by making it mandatory for licensing authorities to report concerns about out-of-area drivers to the council which issued their licence. This is in response to the proliferation of taxis and private hire vehicles working out of area and across licensing authority borders. This has undermined a licensing authority's ability to safeguard their local community because they are unable to take enforcement action against taxi drivers licensed by other authorities, even if they are operating in their area.
2. **Report**
- 2.1 The Act introduces several new duties on licensing authorities, which fall into two principal areas:
- 2.2 Firstly, the duty to record licensing decisions in a central database, see (i to iii below). The Act will require licensing authorities in England to input, into a central database, instances where the authority has refused, suspended, chosen not to renew, or revoked a taxi or PHV driver's licence based on, or partly so, information relating to the driver concerning safeguarding or road safety.
- i) Licensing authorities must keep the entry in the database up to date, including where a licensing authority suspends, revokes or refuses to grant or renew a taxi driver licence; the drivers' name, address, date of birth, national insurance number and DVLA driving licence number. Information will be retained on the database for 11 years after the entry is first made.
  - ii) Before a licensing authority in England decides whether to grant or renew a driver's licence, it must search the database for any entry relating to the applicant.
  - iii) If there is a relevant entry on an individual who has applied for a licence, the authority must contact the recording authority to request the relevant information. The decision-making licensing authority must then have regard to the information provided when making their decision.
- 2.3 Secondly, the duty to report concerns out-of-area drivers. From 31<sup>st</sup> May 2022, if any licensing authority in England has information about a taxi or PHV driver licensed by another authority, that is relevant to safeguarding or road safety concerns, it must share that information with the authority that issued that driver's licence within 10 working days of becoming aware of that information.
- 2.4 Licensing authorities who receive concerns about drivers they have licensed must, within 20 working days of receiving this, inform, in writing, the licensing authority that reported the concerns whether they have suspended or revoked

the driver's licence (or intend to suspend or revoke the licence). They must also provide reasons for the action they have taken or intend to take.

### **3. Policy framework implications**

- 3.1 Runnymede's existing hackney carriage and private hire licensing policy, 4.38 to 4.46 details our approach to the NR3 and sharing information about drivers or operators with other licensing authorities.
- 3.2 In order to reflect the changes brought about by the introduction of this Act there is a need to amend the wording as follows :

Part 4.41 from its current text–

*Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on the NR3 register.*

To the updated text-

*Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on the NR3 register in accordance with the statutory requirements of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.*

Part 4.43 from its current text–

*'Should a request be made to Runnymede for additional information from another authority we will comply with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR) and the Human Rights Act. Any decision on the release of further information will take into account the nature and seriousness of the conduct which led to the revocation or refusal to renew a licence as well as the time that has elapsed since the decision was made. Each request will be treated on its own merits.'*

To the updated text-

*'Should a request be made to Runnymede for additional information from another authority we will comply with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR) and the Human Rights Act. Any information released shall be in accordance with the requirements of The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022'*

- 3.3 In addition to the above, part 4.42 states the information would be retained for 25 years. This requires amending to the 11 years stipulated in the Act.

### **4. Resource implications**

- 4.1 Officers do not expect any impact on resourcing as the NR3 (if selected for use) is already in use and information sharing with other authorities is already carried out. The processes for both are well practiced and the cost is built into the licensing fee.

- 4.2 Should the NR3 database not be selected as the national database and another database is brought into use there would be some cost in setting up and entering information which would be recovered through the fee structure.

**5. Legal implications**

- 5.1 This Act places a statutory duty on licensing authorities to use a national database and share information.

**6. Equality implications**

- 6.1 There are no equality implications as a result of this Act and none of the protected characteristics are affected.

**7. Conclusions**

- 7.1 This Act changes little in our day-to-day operation around information sharing and use of a database but it does bring in a national requirement to do so which will benefit all users and the public.

**(To resolve)**

**Background papers**

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.

<https://www.gov.uk/government/publications/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022>

Hackney carriage and private hire licensing policy

<https://www.runnymede.gov.uk/downloads/file/572/hackney-carriage-and-private-hire-licensing-policy>

### **The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 (Environmental Services, Robert Smith)**

#### **Synopsis of report:**

**The purpose of this report is to inform Members of:**

- **Amendments made to the Equality Act 2010 with respect to taxis and private hire vehicles and operators.**
- **A resulting amendment to Runnymede's Hackney Carriage and Private Hire Licensing Policy, and**
- **A consultation on mandatory disability training**

#### **Recommendation(s) that:**

- i) **Members note the changes to the Equality Act 2010 with respect to taxi and private hire car drivers and operators' obligations to disabled persons, and the duty on the Council as licensing authority, to maintain and publish a designated list of wheelchair accessible vehicles;**
- ii) **Members approve the amendments to the Runnymede Hackney Carriage and Private Hire Licensing Policy as set out in Appendix 'A'; and**
- iii) **Separate to ii) above, and in accordance with the provisions set out in the Council's Constitution regarding consultation requirements (Annexes 3 and 4 of the Scheme of Delegation), Members approve a consultation with the public and the taxi trade regarding the introduction of mandatory disability training.**

#### **1. Context of report**

- 1.1 Runnymede Borough Council is responsible for licensing hackney carriage and private hire drivers, vehicles and private hire operators. In undertaking those responsibilities, the Council must have regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
- 1.2 On 28 June 2022, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 (the 'Act') took effect in England, Scotland, and Wales. It amended the Equality Act 2010 by introducing new and amended existing duties for local authorities and taxi and private hire vehicle (PHV) drivers and operators alike.
- 1.3 The 2022 'Act' aims to ensure that disabled people can use taxi and PHV services with confidence that they will not be discriminated against. Local authorities have an important role to play in ensuring the requirements are implemented effectively.



- 1.4 For the purposes of this report the word 'taxi' refers to 'hackney carriage vehicles.
- 1.5 From 28 June 2022, all licensing authorities must maintain and publish a designated list of licenced taxi and private hire vehicles (PHV) they designate as being wheelchair accessible. Before this 'act' the legislative wording was 'may'.
- 1.6 As a Council we have had a designated wheelchair accessible vehicle list on our website since 2017. [Hackney Carriage and Private Hire public registers – Runnymede Borough Council](#)
- 1.7 The Council currently licences 4 wheelchair accessible vehicles (out of a total of 81). A list of these is available on the Council's website and is updated on a monthly basis. Should other vehicle proprietors offer a wheelchair accessible service these would also be included in the published list. However, there are none at the moment.
- 1.8 Under the requirements of the 'Act' a vehicle is wheelchair accessible if capable of carrying wheelchair users, either in their wheelchair, or in a passenger seat (depending on which the wheelchair user prefers), including allowing passengers to:
- i) get into and out of the vehicle in safety
  - ii) travel in the vehicle in safety and reasonable comfort
- 1.9 This means that to be placed on the designated list and therefore be classified as a designated vehicle, a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The government recommends that a vehicle should be included in a list only if it would be possible for the user of a "reference wheelchair" to enter, leave, and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 1.10 A "reference wheelchair" is defined as 700mm in width, 1200mm in length, and 1350mm in height.
- 1.11 By taking this approach it will allow the duties at section 165 of the 'Act' to be applicable to more drivers than if the licensing authority only included vehicles capable of accommodating larger types of wheelchairs on their lists.
- 1.12 The government recognises this will mean that some types of wheelchair or mobility aids, such as powered wheelchairs and mobility scooters, may be unable to access some of the vehicles included in the list.

## **2. Report**

- 2.1 Prior to 28<sup>th</sup> June 2022, the legislation only required drivers of designated wheelchair accessible vehicles to comply with the requirements of the 'Act'. The updated 'Act' imposes duties on all drivers of taxis or private hire vehicles which have been hired by or for a disabled person or by another person who wishes to be accompanied by a disabled person. From 28<sup>th</sup> June, all licensed drivers (taxi and PHV) and private hire operators; regardless of whether the

vehicle is wheelchair accessible, will be subject to duties under the Equality Act.

2.2 The information below shows the 'Act's' requirements from 28<sup>th</sup> June 2022.

Disabled passengers: duties of drivers

2.3 The updated 2010 Act imposes duties on all drivers of taxis or private hire vehicles which have been hired by or for a disabled person or by another person who wishes to be accompanied by a disabled person. This section is applicable to a disabled person who is able and wants to travel in a non-wheelchair accessible vehicle. The duties are:

- To carry the passenger
- If the passenger is in or has with them a wheelchair, to carry the wheelchair
- If the passenger has with them any mobility aids, to carry the mobility aids
- To take such steps, as are reasonable to ensure that the passenger is carried in safety and reasonable comfort
- To give the passenger such mobility assistance\* as is reasonably required
- Not to make, or to propose to make, any additional charge for complying with these duties

2.4 \*Mobility assistance is defined as assistance:

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

Disabled passengers in wheelchairs: duties of drivers of designated vehicles

2.5 The new legislation has also updated the requirements for drivers of a designated taxi or designated private hire vehicle which has been hired by or for a disabled person who is in a wheelchair or by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

2.6 The additional duties for designated vehicles are:

- To carry the passenger while in the wheelchair
- If the passenger chooses to sit in a passenger seat, to carry the wheelchair

Disabled passengers: assistance to identify and find vehicle

2.7 There is a new duty on the driver of a private hire vehicle or pre-booked taxi where:

1. the vehicle has been booked by or for a disabled person or by another person who wishes to be accompanied by a disabled person and

2. the driver of the vehicle has been made aware before the start of the passenger's journey in the vehicle that the passenger requires assistance to identify or find that vehicle.

2.8 The duties are:

- To take such steps as are reasonable to assist the passenger to identify and find the vehicle which has been hired
- Not to make, or propose to make, any additional charge with the above duty

Duties of operators of private hire vehicles

- 2.9 The updated 2010 Act creates a new offence for private hire car operators who fail or refuse to accept a booking requested by or on behalf of a disabled person, when the reason is that the passenger has a disability or to prevent the driver being made subject to a relevant duty.

Exemption Certificates

- 2.10 Prior to 28<sup>th</sup> June 2022, the legislation permitted drivers of designated wheelchair accessible vehicles to apply for an exemption certificate on medical grounds or where their physical condition made it impossible or unreasonably difficult to perform the section 165 duties. Exemptions were granted from all the duties in section 165.
- 2.11 As a result of the new Act, from 28<sup>th</sup> June 2022, any taxi and PHV driver may apply for an exemption certificate and notice on medical grounds or where their physical condition prevents them from performing mobility assistance duties. This means that drivers with such exemption certificates are not exempt from any of the other duties imposed by the 'Act'.
- 2.12 Both existing and new exemption notices will only exempt a driver from the mobility assistance duty requiring them 'to give the passenger such mobility assistance as is reasonably required'.
- 2.13 Appendix 'A' shows the relevant area of the Council's policy with the proposed changes. These are to sections: 5.73, 5.79, 5.80, 5.85, and 5.87. Officers will highlight these in detail at the meeting.

Training

- 2.14 In order to inform and assist drivers in meeting their obligations under the 'Act' all Runnymede licenced drivers and private hire operators were notified of the requirements of the 'Act' prior to it coming into force. This included an email on 21<sup>st</sup> June 2022, which was backed up with a letter explaining the new 'Act', updating the information available on the Council's website, and information via our taxi newsletters.
- 2.15 Even though drivers and operators have been made aware of the 'Act' there is a realisation that drivers and operators may not be familiar with their legal responsibility or have had any formal training in handling or understanding disability matters.

- 2.16 Officers would like to consult with the trade and public to seek their views on the introduction of mandatory disability training. In order to ensure drivers and operators are fully aware of their legal responsibilities, through mandatory training, it is appropriate that Members consider a condition of licensing for drivers and operators.
- 2.17 Officers would suggest the following wording for a licensing condition-
- ‘All hackney carriage drivers, private hire drivers and private hire operators must take and pass a Disability Awareness training program specified by the Council by (insert date) or on application for a licence’.
- 2.18 Any additional licence conditions would require a change to our policy and consultation in accordance with the Council's Constitution (Annexe 4). Therefore, Officers are seeking this Committee's authority to conduct this consultation.
- 2.19 The question the consultation seeks a response to is simply ‘Do you believe the Council should make it a mandatory condition of licensing that all hackney carriage drivers, private hire drivers and private hire operators must take and pass a Disability Awareness training programme as specified by the Council?’
- 2.20 The consultation would take place with drivers, operators, the public and other interested parties. It would take place over a 6 week period from 1<sup>st</sup> to 12<sup>th</sup> October 2022. The results and a report can then be brought back to this Committee in January 2023 for consideration.

### **3. Policy framework implications**

- 3.1 The new Act makes it essential to review the appropriate section of our hackney carriage and private hire licensing policy to ensure it reflects Equality Act changes. Appendix ‘A’ shows the relevant area of this policy with the proposed changes for Members’ approval.

### **4. Resource implications**

- 4.1 There would be a cost for training if that was agreed. This would be approximately £40 per person (£4,000 in total based on the current number of drivers) and is normally an online course. It is proposed that new drivers and operators would have the cost of the course incorporated in the application fee.
- 4.2 There is currently no budget available to fund this training if the cost is not passed on to the drivers and operators. Therefore, a supplementary budgetary estimate would be required should another source of funding be unavailable. Subject to the results of the consultation this would be included in the report back to this Committee in January for a recommendation to Corporate Management Committee.
- 4.3 Should there be any prosecutions or hearings regarding a driver or operator's conduct there would be a financial cost for Officer time and potential court proceedings. This would be recovered through the licensing fees in future years.

### **5. Legal implications**

- 5.1 These are statutory duties placed on the Council, licenced drivers and operators.
- 5.2 The driver of a taxi or private hire vehicle or a private hire operator commits an offence by failing to comply with the above duties and would be liable on a summary conviction to a fine of up to £1,000. The onus would be on the driver or operator to prove their refusal was reasonable, using the defences set out in the 2010 Act.
- 5.3 Any enforcement action would be taken by the Council.
- 5.4 If a driver or operator fails to abide by the 'Act', it would be appropriate for the Council, as licensing authority, to review whether they remained a fit and proper person to hold a taxi or PHV drivers' licence or PHV operator's licence.

## **6. Equality implications**

- 6.1 These are statutory duties introduced countrywide as an update to the Equality Act 2022. This places statutory duties on the Council and licenced drivers and operators which benefit users of axis and private hire vehicles

## **7. Conclusions**

- 7.1 This report introduces the provisions of the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022. The Council will need to review licensing procedures to ensure compliance with the legislation and associated guidance.
- 7.2 The introduction of the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 will ensure that disabled people can access transport services, free from the fear of discriminatory treatment or being faced with additional charges. It will provide specific rights and protections for 13.7 million disabled people across England, Scotland, and Wales so that they can travel with the confidence that they will receive the assistance they require when accessing taxi and private hire vehicle services.

### **(To resolve)**

#### **Background papers**

Statutory Guidance – Access to taxis and private hire vehicles for disabled users

<https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2#introduction>

Equality Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

<https://www.legislation.gov.uk/ukpga/2022/29/enacted>

Runnymede hackney-carriage-and-private-hire-licensing-policy

<https://www.runnymede.gov.uk/downloads/file/572/hackney-carriage-and-private-hire-licensing-policy>

### 5.73 Equality Act 2010

- 5.73a While it is not the Councils intention to replicate the Equality Act 2010 within this policy, certain information is included below at 5.74 to 5.87 and in appendices F & G for the information of drivers and operators to highlight this important area of legislation.
- 5.73b **It is the duty and responsibility of drivers and operators to make themselves familiar with their duties under the Equality Act 2010.**
- 5.73c Any driver or operator who has difficulty understanding the meaning of this act is welcome to contact the licensing section for advice.

### 5.74. Assistance Dogs (also see appendices F & G)

- 5.75. Under sections 168 and 170 the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make **any** additional charge for doing so

- 5.75a. Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed

### 5.76 Medical Exemption Certificates – assistance dogs (also see appendices F & G)

- 5.77 Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council (sections 169 and 171 the Equality Act 2010 for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs. The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.

## Appendix A

- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### 5.78. Wheelchair Accessible Vehicles (also see appendices F & G)

5.79. Section 164 -165 of the Equality 2010 Act sets out the duties placed on drivers of wheelchair accessible taxis and PHVs.

5.80. Drivers are subject the following duties :-

- a) to carry the passenger while in the wheelchair;
- b) 'if the passenger has with them any mobility aids, to carry the mobility aids'
- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.
- f) not to make, or propose to make, any additional charge for complying with any of the duties mentioned in a) to e) above

### The Act then goes on to define mobility assistance as, 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.
- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.

5.81. The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2010 to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).

## Appendix A

5.82. To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:

- a) Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
- b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with

**5.83. Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users** (also see appendices F & G)

**5.84** – Section 166 of the Equality Act 2010 allows the Licensing Authority to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. For example musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.

5.85 Any driver of a hackney carriage or private hire vehicle may submit a request for an exemption from the Section 164a or 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.

5.86. To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).

5.87. **Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.

5.87a If a driver or operator fails to abide to the Equality Act 2010, it would be appropriate for the Council, as licensing authority, to review whether or not the driver remained a fit and proper person to hold a taxi or PHV drivers licence or PHV operators licence.



Appendices F & G contain the below information which has been amended in line with the above changes.

## Equality Act 2010

### 5.73 Equality Act 2010

5.73a While it is not the Councils intention to replicate the Equality Act 2010 within this policy, certain information is included below at 5.74 to 5.87 and in appendices F & G for the information of drivers and operators to highlight this important area of legislation.

5.73b **It is the duty and responsibility of drivers and operators to make themselves familiar with their duties under the Equality Act 2010.**

5.73c Any driver or operator who has difficulty understanding the meaning of this act is welcome to contact the licensing section for advice.

### 5.76. Assistance Dogs (also see appendices F & G)

5.77. Under sections 168 and 170 the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

5.75a. Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed

### 5.76 Medical Exemption Certificates – assistance dogs (also see appendices F & G)

## Appendix A

- 5.77 Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council (sections 169 and 171 the Equality Act 2010 for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### **5.78. Wheelchair Accessible Vehicles** (also see appendices F & G)

- 5.79. Section 164 -165 of the Equality 2010 Act sets out the duties placed on drivers of wheelchair accessible taxis and PHVs.

- 5.80. Drivers are subject the following duties :-

- a) to carry the passenger while in the wheelchair;
- b) 'if the passenger has with them any mobility aids, to carry the mobility aids'
- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.
- f) not to make, or propose to make, any additional charge for complying with a duty mentioned in a) to e) above

### **The Act then goes on to define mobility assistance as, 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.

## Appendix A

- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.
- 5.81. The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2010 to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).
- 5.82. To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:
  - a) Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
  - b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with
- 5.83. Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users** (also see appendices F & G)
- 5.84** – Section 166 of the Equality Act 2010 allows the Licensing Authority to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. For example musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.
- 5.85 Any driver of a hackney carriage or private hire vehicle may submit a request for an exemption from the Section 164a or 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.
- 5.86. To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).
- 5.87 Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.
- 5.87a If a driver or operator fails to abide to the Equality Act 2010, it would be appropriate for the Council, as licensing authority, to review whether or not the driver remained a fit and proper person to hold a taxi or PHV drivers licence or PHV operators licence.

Drivers are reminded of the law in relation to the carrying of assistance dogs and wheelchair accessible vehicles; this is legislated by the **Equality Act 2010**

### **Assistance Dogs**

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

### **Medical Exemption Certificates – assistance dogs**

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### **Wheelchair Accessible Vehicles**

Section 165 of the Equality 2010 Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.

## Appendix A

The licensing authority maintains a 'designated vehicle' list in accordance with the section 167 of the Equality Act 2010, as such drivers are subject the following duties :-

- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.

**The Act then goes on to define mobility assistance as 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.
- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.

The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2003, to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).

To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:

- a) Have a zero-tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
- b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with

## Appendix A

### **Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users**

Section 166 of the Equality Act 2010 allows the Licensing Authority to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. For example, musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.

Any driver of a hackney carriage or private hire vehicle on the designated list may submit a request for an exemption from the Section 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.

To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).

**Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.