

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:

- 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;**
- Members approve the amendments to the Runnymede Hackney Carriage and Private Hire Licensing Policy as set out in Appendix 'A'; and**
- 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 28th 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 28th 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 28th 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 28th 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 28th 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 21st 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 1st to 12th 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>