

AGENDA ITEM NO 5

REPORT NO 369/17

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 2 NOVEMBER 2017

COMMENCEMENT OF SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010

REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is for the Civic Licensing Committee, if minded, to commence a review of the arrangements for wheelchair accessible taxis and private hire vehicles in the Angus area.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) note the commencement, in full, of sections 165 to 167 of the Equality Act 2010 as of 6 April 2017; and
- (ii) agree to commence a consultation exercise to inform the decision as to whether there is unmet need in respect of the provision of wheelchair accessible taxi and private hire vehicles in Angus; which consultation to include:-
 - (a) users of wheelchair accessible vehicles;
 - (b) the taxi and private hire trade;
 - (c) groups and agencies involved in protecting and promoting the interests of users of wheelchair accessible vehicles; and
 - (d) other agencies involved in the licensing of taxi and private hire vehicles.

2. BACKGROUND

- 2.1 The House of Lords report entitled “The Equality Act 2010: The Impact on Disabled People” was published on 24 March 2016. That report discussed the provision of taxi and private hire vehicles to people with disabilities. Taxi and private hire vehicles are, it is identified within the report, vital in the assistance of providing transport to disabled people with mobility problems and other disabilities such as mental health problems, learning disabilities or autism. The issues specified are that disabled people up and down the country regularly report being refused a taxi and being charged more for an accessible vehicle. The conclusion of the House of Lords report was that section 165 and the remaining provisions of Part 12 of the Act should be brought into force forthwith. Sections 165 and 167 of the Equality Act 2010 were commenced on 6 April 2017. Section 166 had already been commenced but was unable to be effective due to sections 165 and 167 having not been.
- 2.2 Currently, the 2010 Act is the principal piece of governing legislation. Sections 160 to 173 apply to taxis and private hire cars. The most notable sections are as follows.
- 2.3 Section 165 – “**Passengers in wheelchairs**”. This section imposes duties on the driver of a designated taxi/private hire vehicle which has been hired to carry the passenger.
- 2.4 The duties include:
 - (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;
- (e) to give the passenger such mobility assistance as is reasonably required.

Mobility assistance is assistance:-

- (i) to enable the passenger to get into or out of the vehicle;
- (ii) 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;
- (iii) to load the passenger's luggage into or out of the vehicle;
- (iv) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

The driver, in failing to comply with the provisions of this section, can commit an offence.

2.5 Section 166 – “**Passengers in wheelchairs: exemption certificates**”. A licensing authority must issue a person with a certificate exempting that person from the duties imposed by section 165 if satisfied that it is appropriate to do so on medical grounds or on the grounds that the person's condition makes it impossible or unreasonably difficult for the person to comply with those duties.

2.6 Section 167 – “**List of wheelchair-accessible vehicles**”. This section authorises a local authority to maintain a list of taxi/private hire vehicles if they so wish. The local authority “may” do this rather than “shall”. A list may be maintained of taxi or private hire vehicles which conform to the accessibility requirements considered fit by the licensing authority. Unless exempt, the duties contained within section 165 of the 2010 Act apply to all of the drivers of the taxi and private hire vehicles on the designated list.

2.7 Statutory Guidance has been produced by the Department of Transport on Access for wheelchair users to Taxis and Private Hire Vehicles. This Guidance can be found here:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf

2.8 Angus Council licensing section currently holds a list of all wheelchair accessible vehicles licensed in the local authority area. However, it is not currently a designated list. There are no specific vehicle specification requirements for inclusion on the current list. Applicants simply declare, at the point of application, whether the vehicle is wheelchair accessible.

2.9 It is a matter for this Committee to determine whether or not a designated list should be kept. It is not mandatory to do so. Committee is asked to note:-

- (i) There are 102 taxi/private hire Operators in the Angus area
- (ii) The number of operators with the corresponding number of vehicles is as follows:-

Number of Operators	Number of Vehicles
1	12
2	7
2	6
1	5
3	4
11	3
17	2
65	1

Total number of Taxis/Private Hire Vehicles = 187

(iii) Of the total number of vehicles, 14 are wheelchair accessible. Of the 14 vehicles, 6 are run by Firms as Operators and 8 are run by Individuals. 7.5% of the total numbers of taxi and private hire vehicles in the Angus area are wheelchair accessible.

2.10 It is submitted that the purpose of Sections 165 to 167 of the 2010 Act is to permit taxi and private hire car licensing authorities to regulate the number of wheelchair accessible vehicles available for use in its area. If the licensing authority is of the view that there is an unmet need for wheelchair accessible vehicles then it can introduce conditions on operators requiring them to have wheelchair accessible vehicles in use (either expressed as a percentage of their total number of vehicles or some other formula). If the licensing authority introduces requirements on operators in respect of wheelchair accessible vehicles then it can elect to create a list of wheelchair accessible vehicles in terms of Section 167 of the 2010 Act. By virtue of Section 165 of the 2010 Act, drivers of vehicles on the list of wheelchair accessible vehicles would be under a duty to assist passengers as described above. Section 166 of the 2010 Act would permit the licensing authority to issue exemption certificates to drivers exempting them from the duties imposed on drivers by virtue of section 165 referred to above.

2.11 To ascertain whether there is an unmet need for wheelchair accessible vehicles in the Angus area, it is recommended that a consultation exercise be commenced to ascertain the views of:-

- (a) users of wheelchair accessible vehicles;
- (b) the trade;
- (c) groups and agencies involved in protecting and promoting the interests of users of wheelchair accessible vehicles; and
- (d) other agencies involved in the licensing of taxi and private hire vehicles.

2.12 Committee is asked to note that if, following consultation, the Committee determines to introduce requirements in respect of wheelchair accessible vehicles then it may take some time and transitional arrangements to implement those requirements.

3. FINANCIAL IMPLICATIONS

3.1 There are no financial implications arising directly from this report.

REPORT AUTHOR: T Magson, Solicitor

EMAIL DETAILS: MagsonT@angus.gov.uk