

Eastbourne Licensing Committee 6 January 2020



Working in partnership with **Eastbourne Homes**

Time and venue:

6.00 pm in the Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG

Membership:

**Councillor Pat Rodohan (Chair); Councillors Robin Maxted (Deputy-Chair)
Colin Belsey, Helen Burton, Sammy Choudhury, Penny di Cara, Peter Diplock,
Amanda Morris, Colin Murdoch, Jim Murray, Barry Taylor and Candy Vaughan**

Quorum: 3

Published: Friday 20 December 2019

Agenda

- 1 Minutes of the meeting held on 30 September 2019 (Pages 5 - 10)**
- 2 Apologies for absence/declaration of substitute members**
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct**

4 Questions by members of the public

On matters not already included on the agenda and for which prior written notice has been given (total time allowed 15 minutes)

5 Urgent items of business

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.

6 Right to address the meeting/order of business

The Chairman to report any requests received to address the Committee from a member of the public or from a Councillor in respect of an item listed below and to invite the Committee to consider taking such items at the commencement of the meeting.

One spokesperson is permitted to speak for 3 minutes and must register by **12 noon, Thursday, 2nd January 2020**. Email: committees@lewes-eastbourne.gov.uk

Note: Normally only one speaker is allowed to address the Committee on an item for three minutes and that one person should act as spokesperson for the group. No more than one speaker can be allowed except in exceptional circumstances with prior agreement of the Chair before the registration deadline.

7 Taxi Licensing Guidance Review (Pages 11 - 34)
Report of the Senior Specialist Advisor (Licensing and Pollution)

8 Date of next meeting

The next meeting is scheduled for 9 March 2020 at 6pm.

Information for the public

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Information for councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address: Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

Democratic Services

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Working in partnership with **Eastbourne Homes**

Eastbourne Licensing Committee

Minutes of meeting held in Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG on 30 September 2019 at 4.00 pm

Present:

Councillor Pat Rodohan (Chair)

Councillors Robin Maxted (Deputy-Chair), Colin Belsey, Helen Burton, Sammy Choudhury, Penny di Cara, Amanda Morris, Jim Murray, Barry Taylor and Candy Vaughan

Officers in attendance:

Ed Hele (Functional Lead – Quality Environment), Danielle Ball (Specialist Advisor – Licensing), Oliver Dixon (Senior Lawyer and Data Protection Officer), Emily Horne (Committee Officer), and Elaine Roberts (Committee Officer).

15 Minutes of the meeting held on 29 August 2019

The minutes of the meeting of the Licensing Committee held on 29 August 2019 were submitted and approved and the Chair was authorised to sign them as an accurate record.

16 Apologies for absence/declaration of substitute members

Apologies for absence were reported from Councillor Diplock and Councillor Murdoch.

17 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.

There were none.

18 Questions by members of the public

There were none.

19 Urgent items of business

There were none.

20 Right to address the meeting/order of business

The Chair reported that an Objector had requested to address the Committee, having raised an objection to the proposed Hackney Carriage Fare increase during the Public Consultation, and would be invited to speak when the Committee considered that item.

21 Taxi Licensing Guidance Review

The Committee considered the report of the Director of Service Delivery which requested that Councillors consider and approve the Draft Hackney Carriage and Private Hire Licensing Guidance document in light of the comments received during the consultation.

The Functional Lead – Quality Environment (FLQE), referred to Appendix A which set out the draft Eastbourne Hackney Carriage and Private Hire Licensing Guidance and Appendix B, the Taxi Licensing Consultation Report, which set out the consultation process, who responded and key findings.

Members were advised of three amendments on page 9 of the report. Under Purpose of Report, the words 'reviewed Taxi Licensing guidance' were deleted. Under Officer Recommendation(s) the words 'and approve a final version' were added after the word 'consultation'. Under Reasons for recommendations, No (2), the word 'Guidance' was inserted after the words 'changes to the'.

Liz Trethewey, spokesperson for Eastbourne Access Group / the Chair, Mr Ian Westgate; Possability People, Mr Rowkins (resident) and herself as an access group member, welcomed the review of the draft Hackney Carriage and Private Hire Licensing Guidance. She stated that the need for a new and proactive policy will lead to an increase in the choice and availability of licensed Hackney Carriage and Private Hire vehicles for hire by disabled citizens in Eastbourne. In particular, they were in support of (para 5.5, option A) of the officers report that Hackney Carriage vehicles are replaced by wheelchair accessible vehicles, and (option B) must be rear loading only. They also supported (para 5.6, option A) that all new hackney carriage vehicles should only be licensed if they are wheelchair accessible and that (option B) the vehicles are rear loading only, or at least both to ensure there are more rear loaders on the road, available to pre book and available on the taxi ranks.

Discussion included:-

- Clarification on the percentage of wheelchair accessible vehicles (WAVS). The FLQE explained that in 2009, 12% of Hackney Carriages were wheelchair accessible and this had increased to 22% in 2019. Eastbourne is considered favourable compared to other urban areas at 15%.
- The cost of side loading vehicles compared to rear loading vehicles. The FLQE advised that side loading vehicles are more expensive than rear loading vehicles and do not provide as much accessibility. The Specialist Advisor – Licensing (SAL), added that as part of the quality control checks

for vehicles post 2009, if a vehicle is less than a year old with 20,000 miles on the clock, these vehicles would not be licensed. This increases the amount drivers pay for vehicles.

- Can WAVS carry non-wheelchair passengers? The SAL confirmed that rear loading WAVS can carry up to 8 non-wheelchair passengers.
- How many customers have requested a WAV and not received one? This information was not immediately available.
- Do rear loading vehicles take up more space on the taxi rank? The SAL confirmed that rear loading vehicles do take up more room.
- How regularly do Hackney Carriage drivers change plates? The SAL advised that drivers were changing to private hire plates every week. The FLQE added that the demand for Hackney Carriage was less as customers were using phones to order taxis, rather than go directly to a taxi rank. The SAL explained that there were 84 vehicles which have pre-2009 plates that have no conditions and do not need to be wheelchair accessible. As such, these plates are more lucrative for drivers. Furthermore, if the plate is transferred to another driver it will retain grandfather rights and remain without conditions. However, if a new plate is applied for, it will need to meet the quality control policy.
- A request for an Equalities Impact Assessment to be undertaken (see paragraph's 5.5 and 5.6 of the officers report) in respect of new and replacement Hackney Carriage vehicles, and signed off by the Disability Cabinet Member. The FLQE explained that this would need to be outsourced and given sufficient time to be reviewed.
- Concern that the whole fleet will become wheelchair accessible too quickly and that there should be a combination of vehicles. The SAL advised that any driver issued with a licence and plate after 2009 must ensure their vehicle meets the Quality Control Policy and be wheelchair accessible.
- Whether or not fraudulent activity can occur on the electronic knowledge test. The FLQE confirmed that the test questions are changed to prevent fraudulent activity from occurring.
- Clarification on safeguarding. The SAL advised that safeguarding was part of the knowledge test and that courses were available externally by separate certification. However, this will involve an additional cost to the driver.
- The effect on taxi licensing when the UK exits the EU. The SAL clarified that the guidance/legislation will remain the same until UK law is changed.

Members chose to consider for decision paragraphs 5.2 to 5.7 of the officer's report which outlined the significant changes for consideration following the

public consultation on the draft Hackney Carriage and Private Hire Licensing Guidance.

Resolved: to approve the following changes to the draft Hackney Carriage and Private Hire Licensing Guidance:-

1. Councillor Taylor proposed a motion to include equalities, disability awareness, CSE (child sexual exploitation) and safeguarding as part of the knowledge test. This was seconded by Councillor Murray.
Resolved: (Unanimous) that equalities, disability awareness, child sexual exploitation and safeguarding be introduced as a section on the knowledge test.
2. Councillor Belsey proposed a motion to adopt emissions limits rather than engine cubic capacity. This was seconded by Councillor Murray.
Resolved: (Unanimous) that the Council should adopt emissions limits such as Euro 4 Petrol and Euro 6 Diesel, or the equivalent UK standard, as opposed to a minimum cubic capacity of the vehicle's engine.
3. Councillor Vaughan proposed a motion that vehicles be permitted up to 5 years old. This was seconded by Councillor Morris.
Resolved: (Unanimous) that Vehicles be permitted up to 5 years old from first registration upon first application.
4. Councillor Rodohan proposed a motion that any person found cheating on knowledge tests should be disqualified from the test and not be granted a licence for at least three years. This was seconded by Councillor Vaughan.
Resolved (Unanimous): that any person found cheating on knowledge tests should be disqualified from the test and not be granted a licence for at least three years.
5. Councillor Burton proposed a motion for an Equalities Impact Assessment to be undertaken regarding new and replacement Hackney Carriage Vehicles (5.5 & 5.6 of the officer's report). This was seconded by Councillor Murray.
Resolved (by 6 votes to 4 against): that an Equalities Impact Assessment is undertaken regarding new and replacement Hackney Carriage Vehicles as soon as possible.

The Functional Lead – Quality Environment raised an additional item for members to consider. Members were asked to decide if they would agree to the vehicle test occurring every 6 months instead of yearly (as per the MOT).

6. Councillor Rodohan proposed a motion to increase the number of vehicle checks from once a year to every 6 months. This was seconded by Councillor Murray.

Resolved (unanimous): that vehicle checks be undertaken every 6 months.

22 Date of Next Meeting

The next meeting is scheduled for 6 January 2020 at 6pm.

The meeting ended at 5.40 pm

Councillor Pat Rodohan (Chair)

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Report to:	Licensing Committee
Date:	6th January 2020
Title:	Taxi Licensing Guidance Review
Report of:	Director of Service Delivery
Ward(s):	All
Purpose of report:	To consider the results of the public consultation regarding the Hackney Carriage and Private Hire Guidance in relation to reviewing the existing Guidance in relation to Wheelchair Accessible Vehicles
Officer recommendation(s):	That the Licensing Committee consider the comments from all parties in relation to the consultation and decide upon one of the options detailed in 5.2 – 5.5
Reasons for recommendations:	Enable the Licensing Committee to review the proposed changes to the Guidance in relation to Wheelchair Accessible Vehicles and the comments identified by public consultation.
Contact Officer(s):	Name: Ed Hele Post title: Functional Lead Quality Environment E-mail: ed.hele@lewes-eastbourne.gov.uk Telephone number: 01323 085014

1 Introduction

- 1.1 The draft Guidance went to the Licensing Committee on the 30th September 2019 for consideration. The Guidance was agreed subject to several minor amendments and came into effect from 1st December 2019.
- 1.2 Members asked that an Equality Impact Assessment was undertaken. Following consultation with the Councils Lead on Equalities, advice was received that an Equality and Fairness Analysis (EaFA) should be undertaken to fulfil the Equalities Impact Assessment. This was completed and submitted to the EaF Planning Group and to the EaF Stakeholder Group (representatives of organisations who promote the interests of groups protected under the Equality Act 2010) for comment. In relation to the proposal to make all new Hackney Carriage Vehicles Wheelchair Accessible Vehicles (WAVs) the EaFA is contained in Appendix 1. Also in Appendix 1 are the comments of the EaF Stakeholder Group and note that no comments were received from the EaF Planning Group
- 1.3 Following the last meeting of the Committee on 30th September 2019 the

Functional Lead Quality Environment agreed with the Chair on 4th December 2019 other minor changes that had been proposed by the Taxi Trade during the consultation process where minor errors and grammatical changes were highlighted.

2 Background

- 2.1 Currently the law only allows the Licensing Authority to stipulate that Hackney Carriages be WAV's and this cannot apply to Private Hire Vehicles ("PHVs"). In terms of wheelchair accessibility the relevant case law includes *R v Manchester City Council, ex p Reid and McHugh* and *R v Lincoln City Council, ex p King and Cook, R v Luton Borough Council ex. p Mirza*.
- 2.2 The Department of Transport: Taxi and Private Hire Vehicle Licensing Best Practice Guidance (March 2010) at paragraph 14 points out that different accessibility considerations apply between taxis and PHVs since taxis can be hired on the spot whereas PHV's can only be booked through an operator. It is considered that a disabled person should be able to hire a taxi on the spot with the minimum of delay or inconvenience, and having accessible taxis helps make that possible.
- 2.3 The applicable legislation in relation to WAV's is contained within Equality Act 2010 which permits the Authority to keep a list of WAV's which is published on the Council's website and a requirement to carry assistance dogs, unless an exemption certificate had been obtained. 72% of authorities maintain a list of wheelchair accessible taxis in accordance with section 167 of the Equality Act 2010, while 62% maintain a list of wheelchair accessible PHVs.
- 2.4 The Law Commission's review of Hackney Carriage and Private Hire legislation in 2014 included matters relating to access to Hackney Carriages by disabled persons. It is acknowledged that the Law Commission's report does not advocate 100% WAV fleets and raises concerns about the potential harm of focussing solely on wheelchair users, to the detriment of people with other disabilities. The report also advocates a mixture of WAV's which includes both side-loading vehicles and those where the wheelchair is loaded from the rear. The report also recommends giving due consideration to alternative aids to accessing vehicles by disabled persons, for example swing seats.
- 2.5 A number of disability groups have made it clear that at the current time they feel that the current fleet does not provide for their needs and that there are insufficient WAV's meeting these needs. They cited locations such as London that require all Hackney Carriages to be WAV's and Brighton which require all Hackney Carriage multi-seater vehicles (5 – 8 passengers) to be WAV's.
- 2.6 The Department for Transport published Taxi and Private Hire Vehicle Statistics for England in 2019. 66% of authorities require all or part of the taxi fleet to be wheelchair accessible, an increase from 65%. All 20,100 London taxis were wheelchair accessible as required by Transport for London's 'Conditions for Fitness' taxi licensing policy. Similar to last year, in England outside London, metropolitan areas had 82% wheelchair accessible taxis. However, when looking at all licensed vehicles 19% of licensed vehicles in London were

wheelchair accessible, compared to 11% of licensed vehicles in rural areas. At the time of writing WAV's make up 23% of all Hackney Carriage vehicles in the Borough and currently only 2% of PHV's are WAVs.

- 2.7 The proposal to require all newly licenced vehicles to be WAVs will undoubtedly have a financial impact on proprietors due to the higher prices of these vehicles compared with those of saloon car type vehicles. Research has been undertaken to establish the cost difference of side and rear loading WAV's. The cost of a sidelading WAV is in the region of £38,000 (Ford Procab) and a rear loading (Peugeot Premier) is £22,000. For comparison the price of a new Skoda Octavia is £18,000 but these are permitted up to the age of 5 years and can be obtained at a lower cost.
- 2.8 Members may also wish to consider that a Hackney Carriage fleet that entirely consists of WAVs would lead to a reduction in the number of vehicles that can be accommodated on the taxi ranks due to the larger size of these vehicles.

3 Notable changes to WAV Guidance

- 3.1 The proposal in the consultation on the Guidance was that new Hackney Carriage Vehicles would only be licensed if they are wheelchair accessible. The vehicles may be either side or rear loading or both.
- 3.2 The current Guidance on WAV's states that any new vehicle licence will only be released to side loading WAV's capable of carrying 5,6,7 or 8 passengers and are European Whole Vehicle Type Approved. This took effect from 22 April 2009. Currently the Licensing Authority licenses only side loading Hackney Carriage WAV's. The current Guidance in relation to WAV's is produced as Appendix 2.

4 Key findings from the Consultation

- 4.1 In the consultation process which occurred between 23rd April 2019 and 18th June 2019, 272 electronic responses were received to the online survey and 12 written replies. The responses can be further broken down into 162 responses from residents and 98 from drivers/operators. The full consultation response is provided in previous committee papers.

In relation to WAV's:-

- 36% of respondents said they felt there is no unmet demand in Eastbourne for WAV's with 29% believing that there is unmet demand.
- 70% of drivers felt that there is no unmet demand whereas 40% of residents felt there was an unmet demand (with 42% of residents stating that they did not know).
- 36% of respondents agreed that when Hackney Carriage Vehicles are replaced they should all be replaced with WAV's. 58% of respondents disagreed with this proposal. (83% of Hackney and PHV drivers disagreed with this proposal. 46% of respondents with a disability agreed with the proposal).

5 Options for consideration by the Licensing Committee

- 5.1 The Committee are requested to amend the current Guidance by adopting one of the following options:
- 5.2 Option 1 - Require all new Hackney Carriage vehicles to be replaced by WAV's, noting this would eventually lead to a 100% WAV fleet.
- 5.3 Option 2 – For proprietors with plates licenced prior to April 2009 they will only be required to have a WAV when the plate changes ownership. Members may be aware that this suggestion was put forward in the last meeting. Although this would eventually lead to a 100% WAV it would take longer than Option 1. All other new Hackney Carriage vehicles to be replaced by WAV's.
- 5.4 Option 3 - Keep the current arrangements whereby only additional Hackney Carriage plates introduced to the trade are required to be WAV's.
- 5.5 In addition to options 1, 2 and 3 WAV's are currently side loading but respondents have requested that both side and rear loading should be permitted. The Committee is asked to consider if WAV's should remain as side loading or whether both side and rear loading WAV's can be permitted.

6 Financial appraisal

- 6.1 There are no significant financial implication associated with this report.

7 Legal implications

- 7.1 There is no statutory requirement for the Licensing Authority to adopt any Guidance in relation to Hackney Carriage or Private Hire licences but it is considered best practice to do so as it informs and guides decision makers and assists with consistent decision making. It also serves to inform and guide the Trade and the general public. However, any Guidance is not a fetter on decision making as each case must be considered on its own merits.
- 7.2 The Legal considered and commented on this Report on 18 December 2019 (IKEN-8059-MW).

8 Risk management implications

- 8.1 It is important that these changes are considered to ensure the safety of the Public and that the needs of the public and equalities have been fully considered.

9 Equality analysis

An Equality and Fairness Analysis has been undertaken and this is provided as Appendix 1.

10 Sustainability and/or carbon reduction implications

10.1 Sustainability was considered at the previous Committee meeting and the introduction of the relevant Euro Standards for vehicle emissions was introduced as a starting point to further improve air quality within the borough.

11 Appendices

- Appendix 1 - Equality and Fairness Analysis
- Appendix 2 – Current WAV Quality Control Guidance

12 Background papers

The background papers used in compiling this report were as follows:

[Taxi and Private Hire Licensing: Best Practice](#)

[The Law Commission Taxi and Private Hire Services Report 2014](#)

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Appendix 1 Equality and Fairness Analysis Report assessing the impact of proposed changes and decisions

Report or policy title & date of meeting (Cabinet / Board report or policy title)	Report to the Licensing committee
Report author (Cabinet / Board report or policy author)	Stewart Bryant Stewart.Bryant@lewes-eastbourne.gov.uk
Responsible Head of Service	Linda Farley
Responsible Director/Assistant Director	Tim Whelan
Decision Makers (LDC or EBC - Full Council / Cabinet / Committee / name of Board / Cabinet Member / Service Head)	EBC Licensing Committee
EaFA and report sent to the Equalities Email	Final received

This form is used to demonstrate any potential impacts on groups protected under the Equality Act, and any other identified group who may be affected. It should be used to assess the impact of new projects, services, initiatives and changes in the way we deliver services that will affect staff, residents and service users, and help decision makers to understand any anticipated impacts.

Where this report relates to Council, Cabinet, Scrutiny or Board Reports, this form must be completed and a first draft submitted to EqualitiesEmail@lewes-eastbourne.gov.uk at least **10** days before the deadline for draft Cabinet/ relevant meeting reports. This allows us time to process your analysis, seek feedback from our EaF Groups and work with you to make any necessary improvements.

We have various engagement groups who can review and provide feedback on your analysis. Contact the Equality team if you would like to engage with these groups ahead of completing your analysis.

The Public Sector Equality Duty

The Council and its companies must, in the exercise of our functions and in our decision making, have due regard to the need to:

1. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

The second aim (advancing equality of opportunity) involves, in particular, having due regard to the need to:

- Remove or minimise disadvantages experienced by people because of their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

It describes the third aim (fostering good relations) as tackling prejudice and promoting understanding between people who share protected characteristics and those who do not.

It explains that compliance with the general equality duty may involve treating some people more favourably than others, as long as this is within the law.

By thoroughly assessing what we do against the general duty we are able to make better decisions, leading to better outcomes for people who work for us and for people who access our services and facilities.

An Equality and Fairness Analysis should be carried out when

- developing or reviewing strategies, plans, policies and procedures;
- proposing changes to the services delivered or the way these are delivered
- proposing new services, functions, projects or initiatives.

Assessing the impact of the options you are considering

In your answers to the questions in this analysis, please spell out any positive or negative impacts relating to the three general duties which are to:

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

You need to think about the protected characteristics below as defined in the [Equality Act 2010](#)

- **Age**
- **Disability**
- **Gender reassignment**
- **Marriage and civil partnership**
- **Pregnancy and maternity**
- **Race and ethnicity**
- **Religion, belief and culture**
- **Sex / gender**
- **Sexual orientation**

The Council's Equality and Fairness Policy states that 'we also recognise that **socio-economic status** can be a significant barrier to equality of opportunity'.

Information on key demographic data and an Area Profile covering Equalities can be found on the [East Sussex in Figures' website](#).

Question 1)

What is your proposal and what will change as a result?

Please give an overview of your proposals. What decisions are you seeking?

The Committee are requested to amend the current Guidance by adopting one of the following options:

Option 1 - Require all new Hackney Carriage vehicles to be replaced by WAV's, noting this would eventually lead to a 100% WAV fleet.

Option 2 – For vehicles licenced prior to April 2009 where the plate changes ownership, the new proprietor will be required at the time of replacement or renewal of the vehicle to be WAV. Members may be aware that this suggestion was put forward in the last meeting. Although this would eventually lead to a 100% WAV it would take longer than Option 1. All other new Hackney Carriage vehicles to be replaced by WAV's.

Option 3 - Keep the current arrangements whereby only newly plated Hackney Carriages introduced to the trade are required to be WAV's.

In addition to options 1, 2 and 3 WAV's are currently side loading but respondents have requested that both side and rear loading should be permitted. The Committee is asked to consider if WAV's should remain as side loading or whether both side and rear loading WAV can be permitted.

Question 2)

a. Who will be affected by the changes and how? Thinking about groups protected under the Equality Act, what impact do you anticipate for these groups? Explain your answer on the next page

	Positive	Negative	Neutral
Age		x	
Disability	x		
Gender reassignment			x
Marriage and civil partnership			x
Maternity and pregnancy			x
Race			x
Religion or beliefs			x
Sex			x
Sexual orientation			x
1. Eliminate discrimination, harassment and victimisation	x		
2. Advance equality of opportunity	x		
3. Foster good relations	x		

What will be the impact?

Consider who the policy/ decision is intending to benefit and what the expected outcomes are. Assess each characteristic and indicate what impact you anticipate for each group.

Which parts of the Public Sector Equality Duty are most relevant to the policy?

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity
3. Foster good relations

Use this space to explain your answer to 2) a. and expand on either the positive or negative impact you have identified for each group.

Negative impact on elderly people

Following feedback from the detailed public consultation that took place at the end of the summer it was negatively reported that as a result of requiring all Hackney carriages (HC) to be Wheelchair accessible vehicles (WAVs) there would be an impact on both the trade and those with either non mobility related disabilities and the elderly. A Number of elderly residents responding stated that due to other mobility issues they would find it difficult to ingress /egress the large vehicles generally used as WAVs.

The table below identifies the ages of all the responding to the consultation

14. What is your age?				
			Response Percent	Response Total
1	Under 18		0.00%	0
2	18 - 24		1.19%	2
3	25 - 34		7.14%	12
4	35 - 44		19.64%	33
5	45 - 54		25.00%	42
6	55 – 64		25.00%	42
7	65 – 74		17.26%	29
8	75 +		4.17%	7
9	Prefer not to say		0.60%	1
			answered	168
			skipped	104

14 additional comments were received. All relating to concerns over access to WAVs by the elderly.

Positive impact upon those with a disability

46% of disabled respondents agreed with the statement below

7. Do you agree or disagree that when Hackney carriage vehicles are replaced they should ALL be replaced with wheelchair accessible vehicles?

Respondents with a disability

			Response Percent	Response Total
1	Strongly agree		33.33%	15
2	Agree		13.33%	6
3	Disagree		26.67%	12
4	Strongly disagree		15.56%	7
5	Don't know		11.11%	5
			answered	45
			skipped	1

Comments: (19)

Mixed Fleet better – 8 comments

Older residents can have difficulty in getting in and out of WAVs – 3 comments

In East Sussex, 43,632 people of working age (16-64) have a long-term health problem or disability.¹

This is especially important in Eastbourne as the borough has a higher than national average of disabled residents with 21% of the population self-report having a limiting long-term health problem or disability²

Increasing accessibility will work towards eliminating discrimination, advancing equality of opportunity and foster good relations – disabled people will be able to access the same services and work in the same environments as non-disabled people.

From the total responses in relation to replacing all Hackney carriages with Wheelchair accessible vehicles the following results across all groups were received:

¹ 2011 Census Equalities... in brief (East Sussex) by ESIF

² Area Summary for Eastbourne, local authority view of the JSNAA Scorecards 2016 East Sussex Public Health

7. Do you agree or disagree that when Hackney carriage vehicles are replaced they should ALL be replaced with wheelchair accessible vehicles?

All respondents

		Response Percent	Response Total
1	Strongly agree	19.03%	51
2	Agree	16.79%	45
3	Disagree	25.75%	69
4	Strongly disagree	32.09%	86
5	Don't know	6.34%	17
		answered	268
		skipped	4

Comments: (68)

Interaction with Eastbourne Access group

The Functional Lead QE met with The Eastbourne Access Group to discuss their concerns around the numbers of Wheelchair Accessible Vehicles and advised on the legislative process around Hackney Carriages being deemed WAV's. Paper copies of the consultation were sent to members of the Group and a verbal update was given at one of the group's meetings The Functional Lead discussed the groups concerns and this is reflected in the proposal laid before the Licensing Committee to make all Hackney carriages Wheel chair accessible vehicles.

Comments for consideration on behalf of Possibility People, Disabled Peoples' organization covering East Sussex, Eastbourne Access Group:

The need to travel spontaneously is something everyone should have a right to do and not be discriminated against because of a disability. Of course there will be exceptions but to be a wheelchair user should not be a reason to be denied such a human right.

We do recognize that many mobility impaired people who are not full time wheelchair users prefer saloon cars. However if only side loading WAVS are licensed this is simply not meeting the need. A side loader requires the driver to assist the wheelchair user into the vehicle and side loading vehicles are unsafe as the person in their wheelchair cannot be safely secured. There are too few rear loaders currently available to pre book and wheelchair users cannot access them on the ranks.

The Group also sent several key questions to the committee following a group meeting on the 27.11.19 in relation to their understanding of Wheelchair Accessible Vehicles and the licensing team also made contact with Liz Trethewey, at the Eastbourne Access group to allay concerns.

b. What mitigations have you identified for each negatively impacted group? If you cannot identify any please explain e.g. a replacement service does not exist/ there is no resource. (There is a space for action planning at the end of this document)

Consider any additional steps the Council could take to enhance (where positive or neutral) or mitigate any negative impacts. Mitigations may include the expansion of one service to cover the restriction of another/ ensuring promotional material is designed with target audience in mind / etc

The council licenses over 400 Private hire vehicles that can be saloon, estate or mini buses. The elderly and those with other disabilities / mobility issues favour pre-bookable private hire companies due to the types of vehicles and the ability to pre book.

This policy will not be looking to make any changes to the way Private Hire Vehicles operate, the legislation does not currently allow for this. However the Council holds and maintains a list of WAVs which includes the operator details made publically available and is subject to revision where applicable.

c. If you believe there are additional groups who may be positively or negatively impacted (e.g people from disadvantaged backgrounds, carers, homeless people, people living in remote locations) please record this here. Outline what you anticipate the impacts to be for these groups and any mitigations you have identified.

Positive impact on carers

Often carers care for disabled people, older people or children. By improving accessibility to Hackney Carriages carers might be able to access more services with the people they care for, without needing to pre book journeys in advance.

According to the 2011 Census, 10,518 people provided unpaid care in Eastbourne, compared to 9,442 in Hastings and 16,687 in Wealden. ³

³ East Sussed in Figures - Provision of unpaid care 2011

Question 3)

What information have you used to assess the above anticipated impacts on different groups?

Have you conducted any consultation or carried out any research? Use this space to explain any data (internal and external), academic research, theories, models you have taken into account.

The Council has an external Equalities Stakeholder Group who receive and comment on EaFAs. If you attended the group please outline any comments or feedback. (There is a section to follow where you can record comments from the group).

- The responses to the consultation.
- 2011 census equalities
- Area Summary for Eastbourne, local authority view of the JSNAA Scorecards 2016 East Sussex Public Health
- Meetings with the Eastbourne Access group and verbal updates at group meetings prior to the initial consultation, paper copies of the consultation documents were also sent to the group for their members access and to make responses.

Question 4)

Was there any information you needed but were not able to find? What might be done to remedy this?

No

Next steps: Send your first draft to EqualitiesEmail@lewes-eastbourne.gov.uk **10 days** ahead of the Cabinet report deadline. Once complete (allowing for edits) it will be forwarded to members of the Equality and Fairness Planning (internal) Group and Stakeholder Group (external) for their comments. They will give any feedback or suggest amendments directly to you as the report author within 5 working days. Confidential reports will be sent to the internal Planning Group only.

If you receive any comments or suggestions from a member of the Stakeholder Group please reply by email with: *'Thank you for your comments. We will take these into consideration and you will receive feedback at the next meeting of the Equality and Fairness Stakeholder Group'*.

Question 5)

- a. Set out below any comments from members of the EaF Planning or Stakeholder Groups.**

Feedback from Ray Blakebrough Deputy Chair, Eastbourne Access group can be found at the end of this analysis.

b. Response to feedback. *Describe any changes you have made to your policy / proposals as a result of the feedback. If you are not proposing changes in response to any of the feedback, please explain why.*

Record any actions in the table at the end of this document.

There are many forms of disability, some of which are hidden and not all those people require the use of a wheelchair and therefore require a wheelchair accessible vehicle. The consultation has highlighted concerns by more abled elderly residents that find getting into a WAV without a wheelchair problematic.

It is acknowledged that the Law Commission's report does not advocate 100% WAV fleets and raises concerns about the potential harm of focussing solely on wheelchair users, to the detriment of people with other disabilities. The report also advocates a mixture of WAV's which includes both side-loading vehicles and those where the wheelchair is loaded from the rear. The report also recommends giving due consideration to alternative aids to accessing vehicles by disabled persons, for example swing seats.

Executive Summary

This is for you to paste into your Council / Cabinet / Committee / Member Board report. Keep this to 2–3 paragraphs only and incorporate any points raised by members of the EaF Planning and/ or Stakeholder Group and including actions.

Paste this summary in your report under the heading **Implications for Equality and Fairness.**

An Equality analysis has been undertaken on these proposals. This has concluded that;

Current legislation does not allow Licensing Authorities to stipulate that Private Hire Vehicles (PHV) have to be wheelchair accessible. PHV can only be pre-booked and this means that there are difficulties with pre booking WAV's.

The Licensing Authority can however stipulate Hackney Carriages and it is intended to make Hackney Carriages more accessible by allowing rear and side loading vehicles.

Similarly having 100% of the Hackney Fleet WAV will not meet the needs of all passengers particularly the elderly who find the high step into a WAV more restrictive.

Action Planning

Issue identified	Action to be completed	Lead Officer	Required Resources	Target Date	Measure of Success

Approval	
I confirm I have approved this Analysis and will review the action plan to ensure it is completed within the dates identified	<i>To be signed and dated by Head of Service</i>
I confirm that I have received this Analysis and approved it	<i>To be signed and dated by Director/Assistant Director</i>

Please now send this report to EqualitiesEmail@lewes-eastbourne.gov.uk and to the Cabinet Officer / Company Secretary with your final report.

Appendix 1 Cont...

Hi I would like to feedback based on your outline functions and decision making.

The Council and its contractors must, in the exercise of our functions and in our decision making, have due regard to the need to:

1. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act;
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

The second aim (advancing equality of opportunity) involves, in particular, having due regard to the need to:

- Remove or minimise disadvantages experienced by people because of their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

It describes the third aim (fostering good relations) as tackling prejudice and promoting understanding between people who share protected characteristics and those who do not.

It explains that compliance with the general equality duty may involve treating some people more favourably than others, as long as this is within the law. It is lawful to treat disabled people more favourably by the means of providing Reasonable Adjustments where disabled people are placed at a substantial disadvantage.

By thoroughly assessing what we do against the general duty we are able to make better decisions, leading to better outcomes for people who work for us and for people who access our services and facilities.

Firstly I want to outline the full responsibilities Eastbourne Borough Council should have under the Equalities Act 2010, as I understand them.

Sections 165-180 of the Equality Act place legal duties upon Local authorities and licensing authorities in respect of licensed Hackneys, but also access to PHVs. There are specific requirements which are reflected at least mostly in the published EBC licensing guidance published in December 2019. The Officers and committee were sent a paper from Eastbourne Access Group as you are aware in October 2018 which outlines the duties.

LICENSING COMMITTEE KNOWLEDGE

Let's reflect on the poor state of knowledge displayed by some members of the licensing committee at the last meeting. Some did not seem to understand:

Best practice in other towns - our committee has worked in isolation of any benchmarking thus how can they make a meaningful fair and valid decision as they are in denial or ignorant of the EBC function and decision making process.

Had no idea what a WAV is.

Did not know the price or running costs of WAVs.

Seemed to believe that all saloon cars were wheelchair accessible.

Whilst the function and decision making process seems fair it is rendered useless if Councillors or other committee members are not fully informed of their obligations to deliver inclusive services and an inclusive town. This issue is critical given the Eastbourne Direction of Travel. In fact their lack of knowledge renders the process redundant of purpose. Thus I would expect EBC guiding equality principles to overrule the licensing process to deliver the right outcome for an inclusive society. Right now the town has no reliability of WAVs on any taxi rank, no readily available list of accessible taxis to book, nor a fleet that is not fit for purpose. Any decision other than seeking to deliver parity for all will leave us with no proactive equality policy going forward.

OVERVIEW

The Eastbourne and Lewes direction of travel document makes great play on inclusion, this document makes it clear that private cars will be eliminated from the town centre and discouraged from making visits to out of town shopping centres. The whole direction is geared to quality, environmentally friendly and inclusive public transport (or walking and cycling). If we combine this with Government's squeeze on disability benefits, which are designed to get disabled people into work we see a growing demand from this demographic for good quality readily available affordable public transport. As the town re develops through phase two I have noticed a continued squeeze of and elimination of disabled parking bays. The Beacon for example has no WAV parking available. This must inevitably create demand for the use of more local taxi services.

DIRECTION

It is estimated that we will reach the figure of at least 24% of our local population who will have a protected characteristic of living with a disability. This group will control at least 25% of local spend (more if you add in their families) and thereby form a hugely important focus group for local commerce. These people are critical to the local economy when you add in the reality that when they shop and move around our town they, in the main, take carer(s) or family member(s) with them. These people living with disability display the characteristic our town centre needs: a desire and willingness to shop, eat and and enjoy social time with others away from their home environment. In March 2019 the Eastbourne Disabled Access Day demonstrated that The Beacon shops enjoyed:

5% growth in sales
20% growth in dwell time
9% growth in footfall

These numbers are mentioned to demonstrate the positive impact disabled people have on a local economy given the opportunity. Taxi drivers need to add in a growing elderly population who also require easy step in step out access to vehicles.

WHY WAVs

Eastbourne and Lewes function and decision making process makes it clear that inclusion and long term sustainable access for all is not a choice. In fact the guiding principle by definition, should ensure that all people in Eastbourne have access to taxis at any given time on a spontaneous basis at the same cost as non -disabled residents. I believe the only way to do this is for every taxi to be a modern, low level access WAV. The majority of journeys are local and

WAVs also offer the greatest opportunity for older people to access and disembark vehicles with ease and comfort compared to some saloon cars.

ATTITUDINAL PREJUDICE

I believe “attitudinal prejudice” is a real issue in this process. With the direction of travel document alongside the function and decision making process statement I believe that no alternative exists other than to approve a fleet of WAVs, a mixed fleet offering a choice of both low level modern side loading WAVS, as well as rear loading WAVS for heavier powered wheelchairs. The NHS is increasing the issue of powered wheelchairs in East Sussex to afford greater independence and mobility.

I think some licensing committee members reflect attitudinal prejudice, one that states there is no unmet need (there is no evidence produced in the process so far to uphold this claim). Yet we have a disabled community who try to navigate Eastbourne the same as non- disabled people reporting an opposite view. I do believe the approach our licensing committee need to take is one that positively tries to deliver equality and fairness for all. For Eastbourne to publish its direction of travel consultation whilst potentially deciding to not fulfil its legal obligation to serve everyone equally would need questioning. The forthcoming decision is a test of whether Eastbourne is truly committed to the delivery of a fully sustainable accessible town.

PUBLIC PREJUDICE

I really believe moving towards a fleet of WAV vehicles, if managed and marketed correctly will model what a forward thinking town should be doing to encourage inclusion. As such it will foster goodwill amongst all groups and by example reduce prejudice against people living with disability. Other towns across the south coast have worked towards this and WAVS are available on ranks in Chichester, Brighton and Worthing for example.

Summary

Whilst the function and decision making document is good it should not be open to translation or subject to external pressure that prevents Eastbourne delivering a fully inclusive service. This I believe should be the brief to the licensing committee.

Ray Blakebrough,
Deputy Chair, Eastbourne Access group

NB: the Business case for the financial contribution disabled people make to the economy

- **1 in 5** – More than **1 in 5** potential UK consumers have a disability.
- **£2 billion** – Businesses lose approximately **£2 billion** a month by ignoring the needs of disabled people.
- **£11.75 billion** – Estimates show that the 4.3 million disabled online shoppers, who click away from inaccessible websites, have a combined spending power of **£11.75 billion** in the UK.
- **13.3 million** – The number of disabled people is increasing: From 11.9 million (2014) to **13.3 million** (2017).
- **75%** – **75%** of disabled people and their families have walked away from a UK business because of poor accessibility or customer service.
- **Transport Providers – £42 million**

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Quality Control Policy Agreed By Eastbourne Borough Council's Full Licensing Committee on 21 April 2009

Quality Control Policy Applied to New Hackney Carriage Proprietor Licences Released After 22 April 2009

All new Hackney Carriage Proprietor licences released after 22nd April 2009 will only be released subject to the following terms and conditions. This Policy must be read in conjunction with our Standard Hackney Carriage Vehicle Licence Conditions and complied with prior to a Hackney Carriage Proprietor licence being issued.

- (1) The vehicle shall include Council approved Accessible Vehicle signage.
- (2) Vehicles must hold "European Whole Vehicle Type Approval (EWVA). The appropriate "Type Approval Certificate" must be made available for inspection to an Authorised Officer prior to being licensed and at any time thereafter.
- (3) Vehicles first presented for licensing must not be more than 12 months old from the first date of registration, and except in the case of manufacturer's purpose built vehicles, namely London Cab /TX vehicles, may not be presented for the purposes of renewing the licence beyond 7 years of age. The mileage of the vehicle being licensed under this Policy shall not exceed 20,000 miles at the time of the vehicle first being presented for licensing.
- (4) Vehicles presented for licensing must be fully wheelchair accessible, (WAV) side loading and capable of being licensed to carry 5, 6, 7 or 8 passengers.
- (5) The Hackney Carriage Proprietor licence granted under this policy and conditions may not be transferred to another individual or organisation within 12 months of the date of this issue, except where the licence holder is permanently relinquishing all Hackney Carriage/Private Hire licences issued by us.
- (6) A vehicle will only be licensed where it has met the criteria set out in the above conditions, forming the "Quality Control Policy." Any vehicle replacing one issued under this Policy and conditions must meet the same criteria.
- (7) New individuals issued with a licence under this policy are required to attend the VRQ2 (BTEC) course for Transporting Passengers by Taxi and Private Hire. Individuals must have passed this course within 12 month of being issued with a Hackney Carriage Proprietor licence. This requirement shall also apply to journeymen seeking to operate under the terms of the licence.

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