

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
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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
<p>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.</p>	Age		x	
	Disability	x		
	Gender reassignment			x
	Marriage and civil partnership			x
	Maternity and pregnancy			x
	Race			x
	Religion or beliefs			x
	Sex			x
<p>Which parts of the Public Sector Equality Duty are most relevant to the policy?</p>	1. Eliminate discrimination, harassment and victimisation	x		
	2. Advance equality of opportunity	x		
	3. Foster good relations	x		

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)

- 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 able elderly residents that finding 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;
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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**