

Equal and Fair Access for wheelchair users and people with sensory impairments to licensed Wheelchair Accessible Hackneys (WAVS) and Private Hire Vehicles (PHVs) in Eastbourne and Lewes

Submission to Eastbourne Borough Council (EBC) Licensing Committee, 1 October 2018

Page | 1

At the invitation of Eastbourne Disability Involvement Group: Prepared by Geraldine Des Moulins, Chief Officer, Possability People (Disabled People's Organization supporting Disabled People with all impairments in Brighton/Hove and East Sussex) Robert Bull and Liz Trethewey, co-chairs, East Sussex Wheelchair Services Collaborative and Ian Westgate, chair of Eastbourne Access Group

1. Overall compliance with the Equality Act 2010

We welcome the Council's overall approach to equality, as outlined in the Equality and Fairness Policy and the implementation of the Equality Objectives and Action Plan. We note the following as being of specific relevance:

'To promote equality and fairness and eliminate discrimination, ensuring fair access to services and opportunities; and to comply with the Council's general and specific duties under the Equality Act 2010'.¹

Objective 3: 'We will promote fairness and accessibility'.²

Equality and Fairness Policy- 'The Council is committed to involving disabled people at an early stage in decisions that affect them and will continue to apply the principles of the government's 'Disability Confident Committed Employer' scheme for recruitment. The Council is also committed to minimizing barriers restricting access to our premises, facilities, services, democratic processes and employment. To this end the Council will continue to engage with local groups about specific areas that matter to them and those that matter to the Council'.³

¹Cabinet, 7 February 2018 Equality and Fairness Policy, Equality Objectives, Annual Report and Action Plan

² Equality Objectives, Annual Report and Action Plan, EBC and LDC

³ Equality and Fairness Policy, LDC and EBC, 2018

2. Sections 165-180 of the Equality Act which specify the accessibility regulations for wheelchair users and users of assistance dogs that came into force on 6 April 2017

From 6 April 2017, drivers of taxis and PHVs designated by each licensing authority as being wheelchair accessible were required by law to comply with the requirements of Sections 165 onwards of the Equality Act 2010, unless they have been issued with an exemption certificate on prescribed and specific grounds.

The law from April 2017 introduced duties for each local Licensing Authority to:

- Designate vehicles as wheelchair accessible
- Communicate new legal requirements to Taxi and PHV drivers
- Handle exemption applications from drivers who cannot meet the requirements due to medical reasons and;
- Enforce the requirements

3. Section 165 of the Act in law from April 2017 set out the duties placed on drivers of designated wheelchair accessible taxis and PHVs, as follows:

'To carry the passenger while in the wheelchair; not to make any additional charge for doing so; if the passenger chooses to sit in a passenger seat to carry the wheelchair; to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort. To give the passenger such mobility assistance as is reasonably required. Also 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. Once the duties are commenced, it will be an offence for the driver (unless exempt) of a taxi or PHV which is on the licensing authority's designated list to fail to comply with them'.⁴

⁴ Source: Access for wheelchair users to taxis and Private Hire Vehicles, DFT. Statutory Guidance-Equality Act 2010, (published 2017), paras 4.2-4.4

4. Assistance Dogs for people with mobility and/or sensory impairments

'Section 168 of the Equality Act as from April 2017 imposes duties on the driver of a taxi which has been hired by or for a disabled person who is accompanied by an assistance dog, or by another person who wishes to be accompanied by a disabled person with an assistance dog, to carry the disabled person's dog and allow it to remain with that person and not make any additional charge for doing so'.⁵ The law change on 6 April 2017 introduced legal sanctions in so far that a person guilty of an offence in respect of the above sections is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

5. Our Recommendations

1. EBC to commit to the principles and vision of the Government's Inclusive Transport Strategy, published on 25 July 2018. The Strategy recommends that: '*authorities not only use the powers available to them to ensure that taxi and PHV services not only comply with the legal requirements but that these services meet the needs of passengers more consistently*'.⁶
2. Develop policies and procedures to achieve compliance with the Equality Act 2010 sections 165 onwards relating to Taxis that **came into force on 6 April 2017**.
3. Change the existing policy of licensing ONLY side loading WAVs and license a flexible, accessible fleet. Currently the WAVS most suitable for carrying powered wheelchairs (including manual or powered wheelchairs which are not deemed as 'standard reference') are not available to wheelchair users. A more flexible approach is needed to facilitate the availability of other types of side loading vehicles other than just 'London style' cabs and also to increase the choice of rear loading WAVS.
4. Ensure disabled people have proper and effective access to full information about each designated WAV. Maintain a list that is updated with contact details and information. The statutory guidance states that: 'it would also be helpful to include information about the size and weight of a wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated'.⁷

⁵ Equality Act 2010, section 168, in force from 6 April 2017

⁶ The Inclusive Transport Strategy: achieving equal access for disabled people, para 4.20, DFT, published 25 July 2018

⁷ Source: Access for wheelchair users to taxis and Private Hire Vehicles, DFT. Statutory Guidance-Equality Act 2010, (published 2017), para 3.10

5. Adopt a proactive equality and fairness policy for taxi users (such as the Brighton Accessibility Policy for wheelchair users, people with visual, hearing impairments and learning disabilities). The statutory guidance states: 'We encourage LAs to provide drivers of taxis and PHVs who are not exempt from the duties with clear guidance on their duties with respect to the carriage of passengers in wheelchairs, either as part of existing driver-facing guidance, or as supplementary communication'.⁸ To strengthen this further we would like to see a policy that includes mandatory training so drivers and owners better understand their responsibilities under current legislation.
6. Take action to tackle the exorbitant charges that the Eastbourne area PHVs often apply to the carriage of wheelchair users, compared to the same journeys that would be undertaken by non- mobility impaired customers. The guidance recommends that each 'licensing authority guidance for drivers is updated to make clear when a meter can and cannot be left running'⁹.
7. Introduce procedures related to: prescribed Exemptions for Taxi operators, appeals process in respect of Exemptions, a complaints and enforcement mechanism for both local Taxi operators designated as WAVS and a complaints process for disabled people facing discrimination or less favourable treatment.
8. Actively work towards an increase in the choice and availability of WAVS in Eastbourne as there is a current scarcity of WAVS available during school hours, as well as during evenings and weekends. Examine an approach that requires larger operators (e.g. over 10 vehicles) to maintain a minimum percentage of WAVS in their fleets. Ensure all transferred, licensed Taxi plates are designated as wheelchair accessible.
9. Work with local disability groups who will undertake a mystery shopping exercises with disabled Taxi users who are living with the full range of mobility, sensory and learning impairments, in order to ensure policies are being effective.
10. Promote communication and awareness of the new policies with local disability groups and the Council's Disability Involvement Group: inviting feedback from local disabled people, and follow up any issues that arise.
11. Strengthen the current complaints mechanism to ensure that complaints are responded to in a timely and appropriate fashion. Adopt a zero tolerance approach to any evidence of unlawful discrimination taking place. Investigate complaints of discrimination or less favourable treatment and take appropriate enforcement action.

⁸ Source: Access for wheelchair users to taxis and Private Hire Vehicles, DFT. Statutory Guidance-Equality Act 2010, (published 2017), para 4.4

⁹ Access for wheelchair users to taxis and Private Hire Vehicles, DFT. Statutory Guidance-Equality Act 2010, (published 2017), para 4.7

In conclusion

Eastbourne Borough Council needs to develop, implement and monitor a proactive accessibility policy that will lead to a greater choice of types of WAVs that are licensed, thus ensuring both availability and increased choice for wheelchair users. Of the 15,000 NHS wheelchair prescribed users in East Sussex alone, a high proportion of these NHS wheelchair users have been prescribed powered wheelchairs, due to their clinical needs. It is simply not an option for many wheelchair users to transfer out of their wheelchairs and/or use a manual wheelchair for travel in taxis. The demographic of people living longer but with more complex conditions delineates the importance of addressing taxi access and availability for local disabled people. The current lack of choice and restricted availability of WAVS and accessible, affordable PHVs also adversely affects our tourist trade, as well as local disabled citizens.

1 October 2018