

## Portfolio Holder decision record sheet

<b>Name of decision maker:</b>	<b>Councillor Janice Marshall</b>
<b>Portfolio:</b>	<b>Environmental Sustainability and Regulatory Services</b>
<b>Date of Portfolio Holder decision:</b>	

<b>Title of decision:</b>	<b>Equality Act 2010: Designation of taxis for carrying wheelchairs</b>
<b>Part II:</b>	<b>No</b>
<b>Part II reason:</b>	

<b>Decision made and reasons:</b>	<ol style="list-style-type: none"> <li>1. To maintain a list of designated vehicles, pursuant to section 167 of the Equalities Act 2010, to which additional legal duties for taxi drivers to carry and render assistance to passengers in wheelchairs shall apply.</li> <li>2. To adopt the attached 'Interim Taxi and Private Hire Vehicles (Wheelchairs and Assistance Dogs) Policy' as the Council's policy on matters relating to wheelchairs and assistance dogs in hackney carriage and private hire vehicles with immediate effect.</li> <li>3. To delegate the exercise of all relevant functions and powers under Part 12 Chapter 1 of the Equality Act 2010 to the Solicitor to the Council (via the Chief Executive).</li> </ol>
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<b>Reports considered: ( here reference can be made to specific documents)</b>	
Background information (below)	Interim Taxi and Private Hire Vehicles (Wheelchairs and Assistance Dogs) Policy

<b>Officers/Councillors/Ward Councillors/Stakeholders consulted:</b>	
	Cllr Neil Harden – Portfolio Holder for Residents & Corporate Services (inc. Equalities) Cllr Penny Hearn – Chairman, Licensing and Health & Safety Enforcement Committee

<b>Monitoring Officer comments:</b>	Designating licensed taxis as wheelchair accessible will help to protect residents who require the use of a wheelchair and ensure that they receive appropriate assistance in accordance with the Equality Act 2010.
<b>Deputy S151 Officer comments:</b>	There are no direct financial implications of this decision.

<b>Implications:</b>	Drivers of designated licensed vehicles will commit a specific criminal offence if they fail to carry or render assistance to passengers in wheelchairs without reasonable excuse. At present, a more generic offence is only committed if such a refusal or failure occurs at an appointed taxi rank.
<b>Risk:</b>	Decisions to designate vehicles are subject to a right of appeal to the magistrates' court, with the possibility of costs if a defence against such is unsuccessful.

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<b>Value for money:</b>	A wheelchair sized in line with the Government's 'reference wheelchair' has been purchased for the purpose of testing vehicle capacity and driver's loading/unloading techniques and loading/restraint equipment, from existing licensing equipment budget (N.B. this will also be made available for use by corporate first aiders at The Forum as required). No further direct expenditure is anticipated as a result of this decision.
<b>Options considered and reasons for rejection:</b>	The Council already has a number of policies and powers which may be exercised to ensure that passengers in wheelchairs are carried in licensed vehicles. However, creation of a list of designated vehicles will serve to formalise these powers and add a specific statutory offence.

<b>Portfolio Holder's signature:</b>
<b>Date:</b>
<b>Details of any interests declared and any dispensations given by the Standards Committee:</b>

<b>For Member Support Officer use only</b>
Date decision record sheet received from portfolio holder:
Date decision published: Decision no:
Date of expiry of call-in period:
Date any call-in received or decision implemented:

### Background

1. Dacorum Borough Council is responsible for the licensing of hackney carriages (taxis) and private hire vehicles, and their drivers. At last count, a total of 225 vehicles were licensed as hackney carriages (including 39 which are wheelchair-accessible), and 175 as private hire vehicles.
2. Licensing policies adopted by the Council stipulate that new hackney carriage vehicle licences ('plates') will only be granted in respect of wheelchair-accessible vehicles – i.e. those which are designed and constructed to safely load and carry passengers within their wheelchairs, with appropriate loading mechanisms and restraints. Existing non-accessible hackney carriages may be substituted with other non-accessible vehicles, providing that their licences are not allowed to lapse.
3. Powers under the Equality Act 2010 to designate licensed taxis and private hire vehicles were fully commenced in April 2017. When hired by or for a disabled person who is in a wheelchair, the driver of a designated licensed vehicle must:
  - Carry the passenger while in their wheelchair;
  - Not make any additional charge for doing so;
  - If the passenger chooses to sit in a passenger seat, carry the wheelchair;
  - Take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - Give the passenger such mobility assistance as is reasonably required (i.e. loading/unloading of the passenger, their wheelchair and any luggage).

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4. Failure to comply with the above duties is a criminal offence, subject on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).
5. Vehicles are designated by way of inclusion on a list maintained and published for the purpose by the local authority, providing that they conform to such accessibility requirements as the Council may determine appropriate. There is a statutory right of appeal against decisions to designate a vehicle, to the magistrates' court.
6. Although maintenance of such a list is a discretionary power, the Government has strongly encouraged its use, via statutory guidance<sup>1</sup> (para 3.2).
7. In line with the above-mentioned guidance, this authority will designate vehicles to which a user of a 'reference wheelchair' may enter, leave and travel within the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. The reference wheelchair is defined as being 1200mm in length (including extra-long footplates), 700mm in width, and 1350mm in total height (including the seated occupant), with a 150mm ground clearance beneath the footplate. It is expected that these dimensions will cover the majority of manual wheelchairs, although it is noted that larger specialist or motorised chairs and mobility scooters may exceed these dimensions and require specialist provision.
8. As existing policies require that hackney carriage vehicles be accessible to passengers in such reference wheelchairs before they will be licensed, it is proposed to designate all currently-licensed wheelchair-accessible hackney carriages under section 167, once the relevant powers have been delegated. In future, any newly-licensed wheelchair-accessible hackney carriage would also be designated upon first licensing.
9. A list of all designated hackney carriages would be maintained and published on the Council's website, replacing the existing voluntary list of proprietors of wheelchair-accessible hackney carriages<sup>2</sup>. It is intended to ask proprietors of designated vehicles whether they wish to provide contact details for bookings, which would be included alongside the statutory list details, to assist passengers in booking a suitable vehicle for their needs – however express consent would be required for the publication of contact details, to comply with data protection requirements.
10. Drivers with medical or physical conditions which preclude compliance with the above duties may apply to the Council for an exemption certificate, excusing them from these duties. Exemption certificates apply only to a named driver, and must be displayed in the vehicle for the exemption to apply. The Council's discretion in issuing such certificates is wide, and it is expected that exemptions will be issued infrequently, in cases where applications are supported by comprehensive medical evidence demonstrating that to strictly enforce the duties would be detrimental to the driver's welfare or public safety.
11. An interim policy to guide the exercise of the designation and exemption powers has been prepared, and is attached. It is intended that in due course the provisions of this interim policy will be incorporated in a new consolidated Taxi Licensing Policy, which is currently being prepared ahead of public consultation.
12. At this time, it is not proposed to designate any private hire vehicles (PHV) under the new powers. Historically, the Council has not applied any specific accessibility policies to its licensed private hire vehicles (which unlike hackney carriages, must be pre-booked, allowing passengers with specific transport needs to seek out a licensed operator with suitable vehicles

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<sup>1</sup> <https://www.gov.uk/government/publications/access-for-wheelchair-users-to-taxis-and-private-hire-vehicles>

<sup>2</sup> <http://www.dacorum.gov.uk/home/environment-street-care/licensing/taxis-private-hire-vehicles/wheelchair-accessible-vehicles>

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in advance of their journey), and only a small proportion of licensed PHVs are capable of carrying passengers in wheelchairs. At the present time, it is not considered that the benefits to the public of designating the few accessible PHVs would justify the work involved in doing so, although this will be kept under review and revisited if a significant number of complaints about accessing accessible PHVs are received.

13. There is no change to the existing duties under the Equality Act 2010 for taxis and private hire vehicles to carry assistance dogs, which apply to all licensed vehicles. Drivers with specific medical issues affected by dogs may apply for exemption certificates excusing them from the relevant duties.