

AGENDA ITEM NO 7

REPORT NO 276/18

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 13 SEPTEMBER 2018

COMMENCEMENT OF SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010

REPORT BY SERVICE LEADER - LEGAL AND DEMOCRATIC

The purpose of this report is to provide an update, for Members to consider whether they wish to maintain a 'designated list' and, further, to consider the Options Appraisal.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) note that a public meeting was organised with the Trade in Arbroath at the Arbroath Registration Office, 67-71 High Street, Arbroath, DD11 1AN on Tuesday 26 June between 1.00pm and 2.30pm but that no members of the Trade attended;
- (ii) determine whether the licensing authority should maintain a designated list or not;
- (iii) if the Committee determines to maintain a designated list;
 - a. agree to adopt Dundee City Council's current assessment criteria as per **Appendix 1** as the criteria for appointing vehicles to the designated list (and as amended from time to time);
 - b. agree to appoint all vehicles who meet the criteria to the designated list; vehicles will be appointed when they are first licensed or, for current vehicles, at their next vehicle test;
- (iv) to consider the Options Appraisal attached as **Appendix 2 and Appendix 3** (provided by the Licensing Standards Officer);
- (v) agree to issue a letter to the trade stating:
 - (i) the Committee has determined that there is an unmet need for wheelchair accessible taxi and private hire vehicles in Angus;
 - (ii) the Committee determined, in the first instance, that the trade be engaged voluntarily;
 - (iii) that the number of wheelchair accessible taxi and private hire vehicles be monitored periodically;
 - (iv) to re-consider the matter by September 2019.

2. BACKGROUND

- 2.1 [Report No 369/17](#) provided Members with details of the commencement of sections 165 and 167 of the Equality Act 2010. Additionally, the report provided an overview of the duties the sections would impose on the driver of a designated taxi/private hire vehicle should a designated list be maintained by Angus Council and no exemption had been granted.
- 2.2 The decision of Members in relation to Report 369/17 was to note the commencement of the relevant sections of the Equality Act 2010 and commence a consultation exercise to inform the decision as to whether there was an unmet need in respect of the provision of wheelchair accessible vehicles in the Angus area. The consultation was to include:
- (a) wheelchair users;
 - (b) the taxi and private hire trade;
 - (c) groups and agencies involved in protecting and promoting the interests of users of wheelchair accessible vehicles;
 - (d) other agencies involved in the licensing of taxi and private hire vehicles
 - (e) local bus companies.
- 2.3 Between 19 December 2017 and 30 January 2018, a public consultation was advertised via the "Have Your Say" page of Angus Council's website. Details of the consultation and contact details were provided for responses. The consultation was advertised via Angus Council's Facebook page and Twitter feed. Additionally, letters and e-mails were directed to the following, as appropriate:
- (a) wheelchair users, including Angus Long Term Conditions Support Groups, Care Homes, Medical Centres, Sheltered Housing Complexes and Housing Associations in the Angus area;
 - (b) all taxi and private hire operators in the Angus area;
 - (c) groups and agencies involved with protecting and promoting the interests of users of wheelchair accessible vehicles, including Capability Scotland, Cornerstone, Sense Scotland, Turning Point Scotland, Lilybank, Lochlands and Rosehill Resource Centres, PAMIS, Angus Carers Centre, the Children with Disabilities Service, Tayside Dynamos Powerchair Football Team and Visit Scotland;
 - (d) other agencies involved in the licensing of taxi and private hire vehicles, including all Councillors of Angus Council, the Strategic Directors of Angus Council, Police Scotland, NHS Tayside, Angus Council's Housing Department, Education Department and Transport Team, Angus Health and Social Care Partnership and Angus Child and Adult Protection Committees
 - (e) local bus companies – eight local bus and coach companies were contacted.
- 2.4 16 responses were received. The responses were considered by Committee on 22 February 2018. [Report No 75/18](#) refers.
- 2.5 Members determined that there was an unmet need for wheelchair accessible taxi and private hire cars in the Angus area. Members further determined to commence a consultation exercise with taxi and private hire operators and drivers to inform the

decision as to how best to address unmet need in respect of the provision of wheelchair accessible taxi and private hire vehicles in Angus. Officers were directed, in the first instance, to try and deal with meeting any unmet need on a voluntary basis. Officers wrote to drivers and operators advising that Members consider there to be unmet need for wheelchair accessible vehicles in the area and their wish to see this addressed voluntarily, if possible. Officers highlighted the powers available to the Committee to require operators to provide wheelchair accessible vehicles but indicated that the Committee would rather the trade worked with Committee to resolve this issue. Officers further indicated that the number of licensed wheelchair accessible vehicles would be monitored and reported to Committee periodically to see if the issue was being addressed.

- 2.7 Should compulsory action be required, it was suggested to Members at Committee on 22 February 2018 that this could include:-
- a. requiring all taxis and private hire vehicles to be wheelchair accessible by 2023 (example date);
 - b. requiring operators with x number of vehicles or above to have y% of their vehicles wheelchair accessible by 2023 (example date);
 - c. a combination of a and b; or
 - d. another formula acceptable to Members.
- 2.8 A date/venue had already been identified in March 2018 to meet, face to face, with operators. The meeting in March was not attended by any members of the Trade. A second meeting was arranged on 17 April 2018. This meeting was attended by members of the Trade and views were noted regarding the Committee's decision that there is an unmet need with regard to wheelchair accessible taxi and private hire vehicles.
- 2.9 Officers were advised during the meeting as follows:-
- a. those present did not feel that there is an unmet need;
 - b. it is not financially viable for operators to invest in a wheelchair accessible vehicle at present; they tend to cost more for fuel, road tax, and initial spend (one operator advised that his wheelchair accessible vehicle is needed for that purpose six times a week);
 - c. business customers prefer not to use vehicles as large as a wheelchair accessible vehicle;
 - d. not all persons with a disability require the use of a wheelchair accessible vehicle; some people with disabilities request that a saloon car is sent to pick them up rather than a wheelchair accessible vehicle;
 - e. disabled passengers have differing needs and these vehicles can be difficult to use;
 - f. there is a lack of financial incentive/support from the Council to the Trade with regard to addressing this issue;
 - g. Angus operators are rarely successful when applying for Angus Council contracts to assist wheelchair users;

- 2.10 Those present felt that it was necessary for the Council to provide financial support to the Trade whether by way of grant funding, reduced licence fees or contractual work. A suggestion was made that the only way to support this would be if an operator has 4 or more vehicles, then the next vehicle would require to be wheelchair accessible. Another approach could be looking at the needs of each Burgh area. Requiring all taxi and private hire vehicles to be wheelchair accessible by a future date would mean that the Trade couldn't make a living; the additional costs would not be sustainable.
- 2.11 With regard to the requirements of sections 165 and 167 of the Equality Act 2010 and the duties imposed, those present did note that the Trade is, generally, aged in the upper brackets so assisting wheelchair users may prove difficult. Officers confirmed that an exemption could be applied for, if appropriate. In the main, those present felt that the assistance to be provided in terms of the legislation is already being provided; that it is reasonable and that training is available to the Trade.
- 2.12 Due to many of the representations received being from the Arbroath area in connection with the Report considered by Members at Committee on 22 February 2018, and there being no representation from members of the Trade in the Arbroath area at the public meeting, Members were asked via [Report 165/18](#), considered by Members on 17 May 2018, to endorse recommendation (iii) of the Report and direct Officers to arrange and hold a meeting in the Arbroath area with the Trade, should they decide to attend. Members also agreed that a further report regarding this matter, containing an Options Appraisal, be submitted to the meeting of this Committee.
- 2.13 An additional written representation has been received from the Trade. It is attached, for completeness, in **Appendix 4**.
- 2.14 Officers will continue to work with Angus Council's Senior Practitioner (Equalities) to identify any external resource streams that may be available.

3 FINANCIAL IMPLICATIONS

- 3.1 If there is a reduction in the fees payable by those operating wheelchair accessible vehicles this will need to be offset by increasing the fees paid by the rest of the Trade.

REPORT AUTHOR: T Magson

EMAIL DETAILS: MagsonT@angus.gov.uk

WHEELCHAIR ACCESSIBLE TAXI - GUIDANCE AND ASSESSMENT CRITERIA

1. References

- Guidance notes on the Test of Fitness for Vehicles to be Operated as Taxis or Private Hire Cars
- DoT Mobility Inclusion Unit and Other Relevant Guidance
- Manufacturers Specifications
- Dundee City Council's approved list of accessible vehicles
- Type Approval Certification Processes (Low Volume and Full European)
- Motor Transport Passenger and Associated Trades Codes of Practice

2. Accessible Vehicle Types

- 2.1 The Council does not specify a particular make, model or design but determines a vehicle's suitability based on practical assessments carried out by the Taxi Testing and Cabs Enforcement Teams.
- 2.2 A list of approved accessible taxis and reports is available on request; the Test Centre and Cabs Enforcement Officers will also offer advice on these vehicles to any prospective or licensed operator.
- 2.3 It is the operator's responsibility to ensure any accessible taxi presented for testing has been approved by the Licensing Committee and meets any additional requirements deemed necessary.
- 2.4 Any operator presenting an accessible vehicle which has not been approved will not have it tested and any which has been approved will fail the test where any additional requirements have not been met.

3. Assessment Process

- 3.1 Vehicle manufacturers, suppliers and operators must present the vehicle at the Testing Station at the pre-arranged date and time; the assessment is free and arrangements are made through the Testing Station Telephone Numbers 01382 434736/73.
- 3.2 Assessment teams will subject the vehicle to a series of tests and examinations to determine its suitability first as a taxi then as an accessible vehicle.
- 3.3 Once the assessment is completed, the presenter will be advised of the outcomes including modifications or additions required for the vehicle to be considered suitable for inclusion on the Council's list of approved accessible taxis.
- 3.4 An assessment report including any recommendations for approval or otherwise will be presented to the Licensing Committee for their consideration at the earliest possible date and, if approved, the vehicle will be added to the Council's list of approved accessible taxis.

4. Accessible Vehicle Requirements

4.1 General

- 4.1.1 The vehicle must have Low Volume or Full European Type Approval Certification and the presenters must provide proof or evidence of this preferably at time of assessment. This is important as without the appropriate type approval certification the vehicle will not be recommended for approval irrespective of assessment outcome.

4.1.2 The presenter will be advised of any modifications or additions required for the vehicle to be recommended to the Licensing Committee for approval. This will not hinder the approval process provided the presenter agrees the changes can be made and that if approval is granted any subsequent vehicle presented for testing as a taxi will be modified or equipped to comply with assessment outcomes.

4.1.3 If the presenter is unable to confirm the modifications or changes can be made then no recommendation for approval will be made and this will remain the case until such time as it can be confirmed the vehicle meets the requirements in full.

4.1.4 The assessment process considers a number of factors including the following:-

- Passenger seats and seating arrangements
- Ramps
- Luggage and other on-board space requirements
- Wheelchair and wheelchair passenger security
- Intermediate steps
- Grab handles
- Wheelchair passenger access, egress and headroom

4.2 Passenger Seats and Seating Arrangements

4.2.1 No side-on passenger seats permitted; seats must be forward or rearward facing but can be solid, flip up, fold forward, bench or individual but, irrespective of type, must conform to required testing standards.

4.2.2 Seating for up to a maximum of eight passengers is permitted but all passenger seats must be equipped with individual seat belts; the minimum requirements are:-

- forward facing three point inertia reel type
- rearward facing two point type

4.2.3 With a wheelchair passenger secured in position, the vehicle seating arrangements must allow for at least two other seated passengers one of whom must be seated in the same passenger area as the wheelchair.

4.2.4 Seats which have to be moved or removed to accommodate the wheelchair must be capable of being stored safely on the vehicle and not compromise or impinge on the minimum number of other passenger seating or other taxi space requirements such as luggage space or spare wheel.

4.2.5 If seats have to be removed then the health and safety of both driver and passengers has to be considered and if compromised will require the seat(s) to be permanently removed from the vehicle. This will result in a reduction in the maximum number of licensed passengers the vehicle will be authorised to carry.

4.3 Ramps

4.3.1 Vehicle ramping systems must be designed to accommodate nearside or rear wheelchair passenger access and egress; offside systems are permitted but these are only in addition to the main nearside/rear access and egress requirements.

4.3.2 A full width solid type ramp is preferred but lighter twin extendible ramps are acceptable provided these are rated at safe working load of at least 300kg/ramp and can be adjusted to accommodate different widths of wheelchair.

4.3.3 Ramps, irrespective of type, must be secured to the vehicle in such a manner as to prevent movement when in use; twin ramp securing systems must prevent splaying of the ramps when deployed.

4.3.4 Ramps must allow for both kerbside and ground level access and egress with power assistance provided where ramp angles are considered excessive for safe manual handling,

4.4 Luggage and On-board Space

4.4.1 Luggage and other on-board space requirements i.e. spare wheel, ramp storage and passenger comfort must not be compromised in order to accommodate a wheelchair bound passenger.

4.5 Wheelchair and Wheelchair Passenger Security

4.5.1 Wheelchair securing systems must prevent undue movement of the wheelchair when the vehicle is in transit. Four point securing systems are preferred but other options will be considered provided these do not compromise passenger safety.

4.5.2 Irrespective of wheelchair security device fitted, the system must provide for forward or rearward facing of the wheelchair only; no side-on positioning of the wheelchair is permitted.

4.5.3 Wheelchair passenger belts or alternative securing devices must be adjustable to accommodate a range of passenger requirements, be comfortable when fitted and not constrain arm or head movements.

4.6 Intermediate Steps

4.6.1 A nearside intermediate passenger step may be required where step up heights measured from ground level exceed 350 mm; steps can be fixed, detachable or retractable.

4.6.2 Fixed steps can be external or inboard; if external, the step must not protrude out in such a manner as to pose a hazard to other road users; If inboard, not create a hazard for passengers when the door is closed i.e. any exposed inboard space requirements.

4.6.3 Detachable steps must be capable of being securely stored on the vehicle when not in use and when stored must not compromise passenger safety, hinder passenger access and egress or detract from luggage or any other on-board space requirements.

4.6.4 Retractable steps can be manual, powered or automatic in operation but must have devices fitted to warn the driver or prevent the vehicle moving off with the step deployed. If powered or automatic the steps must have touch sensitive devices or be deployed in such a manner as to prevent anyone standing in close proximity to be injured when the step is deployed.

4.7 Grab Handles

4.7.1 High visibility grab handles, both offside and nearside, will be required at door entrances where it is deemed necessary for assisting passengers on and off the vehicle.

4.7.2 Additional inboard drop down or fixed high visibility grab handles may be required where these directly benefit the safety and security of wheelchair passengers.

4.8 Wheelchair Access, Egress and Headroom

4.8.1 Door entrances dimensions must be sufficient in height and width to allow free and easy movement of a manually assisted wheelchair passenger on and off the vehicle from ground level.

4.8.2 Ramp and vehicle floor surfaces must be flat and free from obstructions so as not to restrict movement and allow easy positioning of the wheelchair passenger when inside the vehicle. Floor seat rails, securing points or depressions must be covered so as not to pose a tripping or trapping hazard for drivers, assistants and other passengers.

- 4.8.3 Door entrances and internal layout must be designed so that seating and other fixings do not impede or restrict the movement of a wheelchair passenger when being positioned in the vehicle.
- 4.8.4 There must be sufficient headroom available to allow free head movement of a wheelchair passenger when secured in the vehicle and not pose a risk of their head striking the roof when the vehicle is in transit.
- 4.8.5 Roof mounted fixtures and fittings must be positioned in a manner so as not to pose a risk to any seated passenger whether wheelchair-bound or not.
- 4.9 Darkened and Tinted Glass
- 4.9.1 The Council requires vehicles operated as taxis to have clear and unrestricted views into the passenger areas and to meet this requirement clear glass is the preferred option
- 4.9.2 Where clear glass is not an option on windscreen or driver and front passenger windows, darkened or tinted glass is permitted provided these meet the minimum legal requirements for light transmission.
- 4.9.3 Darkened or tinted glass is permitted on all other windows provided the clear view requirements are met and the level of tint is no less than the minimum legal requirement for the driver and front passenger windows.
- 4.10 Model Updates and Modification
- 4.10.1 To ensure compliance with all requirements all new models of accessible taxi already approved will need to undergo the full assessment and approval process before being added to the Council's list of accessible taxis.
- 4.10.2 Modifications to models already approved will also need to be presented for assessment but may not need Licensing Committee approval if the assessment team consider the modification too minor in nature. The presenter will be advised of the assessment outcomes and any decisions at the end of the assessment process.
- 4.10.3 If the assessment team consider the modification major in nature i.e. affects passenger or other road user safety, then the matter will need to be considered by the Licensing Committee and approval given before it can be added to the list.

5 Wheelchair Accessible Taxi Assessment Criteria Summary

5.1 The following DoT Mobility and Inclusion Unit criteria used for guidance purposes only:

- | | |
|--------------------------------|---|
| • Swivel Seat | Powered |
| • Seat height | 430mm to 460mm |
| • Door width | 850mm |
| • Door height | 1595mm |
| • Internal roof height | 1625mm |
| • Ramp Angle/Gradient | maximum 7 degrees/1:12 gradient for 1000mm length of ramp |
| • Intermediate step height | 100mm |
| • Floor area (unobstructed) | 1300mm x 1340mm |
| • Grab Rails | Where appropriate |
| • Door closure effort | 70N or less |
| • Door Closure reach | 450mm maximum |
| • Door handle design | Full wrap power grip |
| • Door handle length | 65mm minimum |
| • Door handle diameter | 30mm to 50mm |
| • Door handle clearance | 45mm minimum |
| • Ambient Light Level (Inside) | 150 lux |

5.2 Other Assessment Criteria

- Type approval certification Full European M1 or Low Volume
- Passenger seating capacity 4 minimum to 8 maximum
- Passenger seats + wheelchair 2 minimum; 1 in wheelchair area
- Seats Individual or bench type (16" per passenger); Forward or rearward facing; fixed or removable
Flip up, tilting or adjustable (height, fore & aft)
- Removable seats Must be stored on vehicle; health and safety considerations for driver and passengers
- Seat belts Inertia reel (forward or facing seats); 2 point minimum for rearward facing and centre forward facing bench seat.
- Ramp type Fixed or removable
- Ramp rating (All types) 300kg SWL minimum
- Ramp width (Single full width) 600mm minimum
- Ramp Widths (Twin) Adjustable for widths 400mm to 600mm (Adult and Juvenile wheelchairs)
- Floor space for wheelchair Free from obstructions and tripping hazards; seat floor runner grooves and wheelchair securing points covered
- Intermediate step requirement 350mm or more ground to floor step up height
- Intermediate step type Rear nearside passenger door fitment (external or internal)
Detachable, fixed or extending, manual, automatic or powered.
Pressure sensitive safety devices
Step deployment warning devices
- Spare wheel External or internal fitting
- Luggage space One adult sized wheelchair folded minimum plus space for any on-board equipment storage
- Luggage space security Guarding or other devices to provide separation and prevent movement of small items entering passenger areas
- Windows Clear glass or 70% light transmission if tinted
- Taxi Plate External fitting (245mm x 180mm)
- Taxi Sign External fitting (integral or removable)

APPENDIX 2 TO REPORT 276/18

Should compulsory action be required, it was suggested to Members at Committee on 22 February 2018 that this could include:-

- a. requiring all taxis and private hire vehicles to be wheelchair accessible by 2023 (example date);
- b. requiring operators with x number of vehicles or above to have y% of their vehicles wheelchair accessible by 2023 (example date);
- c. a combination of a and b; or
- d. another formula acceptable to Members.

As per the body of the Report, members of the Trade felt that option (a) was unnecessary and they would be unable to make a living due to the additional costs; the costs would be even higher in 2023. With regard to option (b), members of the Trade felt that the only way to address this issue was to look at fleet size, for example, if an operator has 4 or more vehicles, the next one needs to be wheelchair accessible. Members are asked to consider the proposal that operators with 4 or more vehicles would require to have 10% of their fleet wheelchair accessible by 2023. The numbers would be monitored and reported to Committee annually.

Members are asked to consider whether they would be prepared to disregard the current requirement for each operator and driver to work only within one of the 4 designated zones. Currently, each driver or operator must either uplift or drop off passengers within the zones for which they are licensed. This would allow wheelchair accessible vehicles to provide a service to the whole of Angus. Members should be mindful, however, of the current requirement of taxi (not private hire car) drivers to pass a knowledge test for the zone they wish to work in prior to the grant to them of a taxi driver's licence. This proposal could possibly be conjoined with a requirement that vehicles must be fitted with a satellite navigation system. It is suggested that if this is the direction of travel for Members that this decision is deferred for consultation to be undertaken.

Members are asked to note that condition 28(b) of the driver's licence conditions, namely "When a taxi is engaged by telephone or otherwise the hiring shall be deemed to have commenced when the driver arrives at the premises or other place to which he/she has been directed to uplift the hirer when he/she shall forthwith set the taximeter in motion and carry out the engagement. No charge shall be made for any waiting time incurred prior to any pre-arranged collection time." The condition provides that the fare can only start to be charged when the driver arrives at the premises/place. Any deviation from this would have to be agreed and would effectively result in higher fares for wheelchair users which could be construed as discrimination by Angus Council.

The Trade raised the need for Angus Council to offer a financial incentive to support the increase of wheelchair accessible taxi and private hire cars. Members are asked to consider waiving the fees completely to the operators of taxi and private hire cars which are wheelchair accessible. Currently, the fees to be waived would be:

| | |
|-------------------------------------|---|
| Operator grant | £126 |
| Operator renewal | £104 |
| Substitute/replacement vehicle test | £104 (this fee would only be waived if the new vehicle was wheelchair accessible too) |
| Vehicle re-test | £67 |
| Plate fee | £33 |

Cars with meters

| | |
|--------------------------------|---------------------------------|
| Granting fee (1 Year) | £361 (new grant)/£306 (renewal) |
| Granting fee (3 Year) | £902 |
| Subsequent meter test | £59 |
| Full vehicle and meter re-test | £104 |

Cars without meters

| | |
|-----------------------|---------------------------------|
| Granting fee (1 Year) | £303 (new grant)/£255 (renewal) |
| Granting fee (3 year) | £758 |

Note – A granting fee for one year includes one annual test, one re-test and a meter test where applicable. A granting fee for three years includes three annual test, three re-tests and three meter tests.

APPENDIX 3 TO REPORT 276/18

Currently, operators self-declare whether their vehicles are wheelchair accessible by way of a yes/no question within the application form.

For information, the current number of self-declared wheelchair accessible vehicles for each zone are:

| | | |
|---------------------|---------|----------------|
| Arbroath/Carnoustie | 1 taxi | 1 private hire |
| Forfar/Kirriemuir | 4 taxis | 2 private hire |
| Monifieth/Sidlaw | 1 taxi | 1 private hire |
| Montrose/Brechin | 0 taxi | 4 private hire |

The full criteria for determining wheelchair accessible vehicles can be found at **Appendix 1** however, after advice from the Transport manager at Dundee City Council, the LSO contacted the operators of the wheelchair vehicles and confirmed that:

- they had a rear facing or near side ramp/lift;
- the wheelchair(s) could be secured for the duration of the journey; and,
- the occupant of the wheelchair were able to complete the entire journey whilst remaining within their wheelchair.

APPENDIX 4 TO REPORT 276/18

From: Darren Penman
Sent: 18 July 2018 19:32
To: MagsonT
Subject: Wheelchair coverage

I have been asked to e-mail you to express my concerns over the ongoing wheelchair coverage issue in Angus but closer to hand in Forfar.

It has been brought to my attention and daily knowledge that there is now no **on rank** wheelchair accessible taxis in Forfar and as such (we) the two cars in Kirriemuir are receiving many daily requests to come down to Forfar to undertake fares.

This on the face of it is a good thing for myself however it is very embarrassing and awkward advising customers that we are traveling 6.4 mile to transport them 1 mile which results in a fare of £15 to £20 for a local Forfar ride. Also this takes me of my regular Kirrie customer and therefore a loss of trade which has taken years to build up so I can undertake this.

I wish to know if the Angus Council is aware of this outcome that has been created following there letters to the taxi trade and the threat of fines etc following the consultation period of the Disability Act 2010 ?.

I am therefore offering to transfer my business to Forfar to cover such work if Angus council can offer any incentives to do so, because very shortly I to shall also be refusing to leave my base to cover this work.

Can you call to discuss further

Regards

Darren Penman

A Helping Hand Taxi co