

## PART A

**Report to:** Licensing Committee  
**Date of meeting:** 14 September 2015  
**Report of:** Head of Community and Customer Services  
**Title:** Hackney carriage/private hire services for disabled and vulnerable passengers

### 1.0 SUMMARY

- 1.1 Watford Borough Council is responsible for licensing hackney carriages (taxis) and private hire vehicles and has a general duty to promote equalities. In turn, providers of taxi and private hire vehicle services licensed by the council are under a specific duty to assist passengers with particular disabilities.
- 1.2 Consultants were appointed earlier this year to test and evaluate the service provided by local licensed drivers. This report sets out their findings and some proposals for future developments.

### 2.0 RECOMMENDATIONS

- 2.1 That a working party of licensed drivers, vehicle proprietors, private hire operators, members of Disability Watford, Councillors and officers be established to consider the best way to improve the standards of service provided to customers with disabilities wanting to use licensed vehicles.
- 2.2 That members of Disability Watford be engaged in training to give practical advice on how to ensure they are dealt with correctly and lawfully.
- 2.3 That the findings of the working party be brought back before the Committee for further decisions to be made on proposals.

#### **Contact Officer:**

For further information on this report please contact: Jeffrey Leib, (Licensing Manager), tel: 01923 278476 email: [jeffrey.leib@watford.gov.uk](mailto:jeffrey.leib@watford.gov.uk)

**Report approved by:** Alan Gough, Head of Community and Customer Services

### 3.0 **Background and discussion**

- 3.1 Around 13.5% of Watford's population have long-term health or disability problems that limit their day-to-day activities a lot or a little.<sup>1</sup> Official figures<sup>2</sup> suggest that nationally the use of taxis and private hire vehicles is lower than most other forms of public transport for people with disabilities but it is important to remember licensed vehicles are often the only direct door-to-door service available and therefore the quality of service provided is very important.
- 3.2 Drivers, proprietors and operators are under a number of legal duties to convey passengers in safety and comfort, to charge only certain pre-agreed or clearly advertised fares and to make sure all passengers are treated equally. The Disability Discrimination Act 1995 introduced a specific duty on drivers to convey assistance dogs without additional charge. This provision was reinforced by the Equalities Act 2010 and it remains a criminal offence for licensed drivers to refuse to carry an assistance dog in either a taxi or a private hire vehicle, or to make an additional charge to do so. It is important to note that this provision concerns only the driver of the vehicle and not the operator or proprietor unless it could be shown that the operator or proprietor had been complicit in the discrimination. Similar provisions concerning passengers travelling in wheelchairs are written in to the Act but have not yet been brought in to force. The Act in general prohibits discriminatory behaviour by service providers towards people with disabilities (as well as other protected characteristics such as race and sex). This could include, for example, making a passenger with an assistance dog wait longer than necessary for a vehicle to pick them up when pre-booked.
- 3.3 Between 2007 and 2012 all drivers then licensed by the council attended a free half-day disability awareness course by a specialist training company as a condition of their licence<sup>3</sup>. Over the last three years all existing drivers have received an update on disability awareness as part of their Professional Skills Update (PSU) course required to renew their driver licences. Since earlier this year applicants have to attend a disability awareness course prior to being granted a new licence, and a separate report to the Committee outlines proposals how this can be offered in future in conjunction with the council Knowledge Test.
- 3.4 Private hire operators licensed by the council are also required to have policies on assisting passengers with disabilities as a condition of their licence. In December 2012 officers held information sessions with operators to explain in detail their obligations under the Equalities Act 2010 and to help develop new disability policies in line with the Act. Although taxi and private hire drivers are in the main self employed, the Act makes clear that a service provider has responsibility and therefore liability for the actions of its agents be they directly employed or not.
- 3.5 Between 2008 and 2015 the council received 26 complaints concerning alleged discrimination by taxi or private hire drivers and operators as follows:

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<sup>1</sup> Table [QS303EW](#), 2011 Census: Quick Statistics for Local Authorities (ONS, 30.01.13).

<sup>2</sup> Table [NTS0709](#), National Travel Survey 2013 (Department for Transport, 2014)

<sup>3</sup> Thirty per cent of English and Welsh licensing authorities (93 councils) have a requirement for disability awareness training for hackney carriage drivers, with 75 having a requirement for private hire drivers to be trained (Source: [National Taxi Statistics 2013](#), DFT 2013).

2008 - 2  
2009 - 3  
2010 - 8  
2011 - 2  
2012 - 6  
2013 - 1  
2014 - 3  
2015 to date – 1

- 3.6 All complaints about drivers, proprietors and operators are investigated in accordance with the Environmental Health and Licensing enforcement policy. Investigations will seek to determine if any relevant offence has been committed by a driver, proprietor and operator regardless of whether it be related to disability discrimination or not. In many cases reported to the council there are no taxi or private hire specific offences even if there may be discrimination involved. Conversely, there may be other offences detected that were not subject to the initial complaint and these will be dealt with in accordance with the enforcement policy where the council has a power to act. The council cannot take a case for discrimination to the court on behalf of a customer.
- 3.7 Of these twenty-six complaints, eleven resulted in formal action being taken against the driver, proprietor or operator. Where action was not taken in the remaining fifteen cases this was overwhelmingly due to either no evidence provided that identified the perpetrator, or the customer expressly forbade any contact with the driver for fear of being identified as a complainant. In one case a complaint that had elements of alleged discrimination turned out on investigation to be a case of poor customer service and charging, and was not specifically related to any discrimination or criminal offence.
- 3.8 These formal complaints do not include numerous informal conversations and emails received by officers concerning ad-hoc reports of poor experiences of journeys when using an assistance dog or wheelchair.
- 3.9 Complaints concerning wheelchair users are predominantly made when a company attempts to charge more for a journey, particularly when pre-booked, or a driver refuses to carry a passenger from a rank.
- 3.10 Complaints concerning assistance dogs are predominantly made when waiting at ranks; drivers arrive and then complain at having to carry a dog; or, where private hire operators do not refuse a journey, but give a very long and often fluctuating waiting time for a booking.
- 3.11 It is more difficult to take formal enforcement action in some discrimination cases because:
- (a) passengers are often vulnerable and reluctant to provide formal witness statements or even for contact with the driver to be made for fear of being 'blacklisted' from a particular company. Taxi or private hire may be the only way that this person can travel;

(b) in order to prove a criminal offence in court it must be shown beyond reasonable doubt that the person accused committed the offence. This is almost impossible without a witness statement or some other corroborating evidence.

(c) the matter may not be a criminal one for the which the council can take action. It may be a civil matter of discrimination only and this leaves the passenger to take their own action in the county court. Private litigation is a daunting task.

- 3.12 Although complaints are relatively low, the impression gained through informal discussion with customers and through study of the national situation was that this was an ongoing issue. Given the myriad difficulties in accurately assessing the situation in Watford, taking effective enforcement action, and the evidence that nationally discrimination was continuing, officers commissioned a specialist consultancy to conduct a mystery shopping exercise to assess the service currently offered to passengers with disabilities. The aim of this was to be able to support taxi users and taxi drivers in improving service levels and reducing discrimination if it was found to be an issue in Watford, and to get detailed information as to the actual issues so that this support could be targeted.
- 3.13 CTS and Social Research Associates were engaged following a tendering process. They were chosen as the outstanding candidate given their previous history of conducting similar surveys nationally, most recently in Coventry where similar findings illustrate the national nature of this problem.
- 3.14 Twenty-six trips were carried out during March and April 2015 by volunteer passengers who were wheelchair users, ambulant but with disabilities, blind, deaf or had learning disabilities. Details of each trip were recorded on a pro-forma and without the intention of recording any evidence for enforcement purposes.
- 3.15 The full report is attached at appendix 1 and some of the key findings include:
- (1) passengers waited longer than average for wheelchair accessible vehicles (WAVs), despite around quarter of the hackney carriage fleet being WAV (and no private hire vehicles being WAV)
  - (2) drivers having loud discussions at the Watford Junction rank over who would take a passenger in a wheelchair
  - (3) a number of WAVs and non-WAVs drove past wheelchair users and a passenger with a guide dog who was trying to hail them
  - (4) the lay-out of the ranks was generally convenient for the passengers except at Watford Junction and Watford General Hospital (which are both ranks on private land)
  - (5) only two out of eleven passengers were properly secured or their wheelchairs properly secured during the journey

(6) three drivers did not secure the wheelchair properly and did not secure the passengers' seat belts at all – none of the drivers checked that passengers were using their seat belts. Although the law states passengers over the age of 14 are responsible for wearing their own seatbelts, drivers are reminded on the PSU course that council byelaws and conditions make them responsible for their passengers' safety

(7) there were some good examples of customer care, (such as returning an excess fare to a passenger with learning disabilities), but these were reported as being in the minority

(8) overcharging – in one case, £4 was showing on the meter when the taxi arrived, and in another the meter was not turned off until the wheelchair user had manoeuvred their wheelchair out of the taxi

(9) passengers paying more because the driver did not have the correct change to give

(10) only two out of the twenty-six trips could be classed as satisfactory.

3.16 It is important that the trade is able to provide a safe and effective service to people with disabilities, who often rely on licensed vehicles as their primary form of transport. This was recognised by the Law Commission in its report on Taxi and Private Hire Services<sup>4</sup> which said:

One of our key provisional proposals to promote equality and accessibility was that private hire and taxi drivers should be required to undergo recognised disability awareness training. This received unanimous support, and statistics published by the Department for Transport show that it is far from a universal requirement in current local licensing conditions. Lack of such training means that some drivers may be less likely to be aware of the needs and rights of disabled passengers; this can contribute to unacceptable practices, for example ignoring their attempts to hail a vehicle, carrying them in an unsafe manner, refusing to carry them at all or charging extra for the service.

3.17 Unfortunately all of the Law Commission's fears were found during this exercise.

3.18 The Council is under a duty to promote equalities, and at the same time has the opportunity to help a business sector it licenses fulfil their responsibilities under the Equalities Act.

3.19 The mystery shopping report contained four recommendations:

(1) training

(2) guidance for disabled taxi users

(3) improvements to ranks and drop-off points

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<sup>4</sup> *Taxi and Private Hire Services*, Law Com LC437 (2014), para 1.41  
([http://lawcommission.justice.gov.uk/docs/lc347\\_taxi-and-private-hire-services.pdf](http://lawcommission.justice.gov.uk/docs/lc347_taxi-and-private-hire-services.pdf))

(4) stakeholder consultation and monitoring.

#### 4 **Recommendations**

##### 4.1 Training

Officers would like to work with the trade to implement effective change, and would like to create a working party with representative drivers, proprietors, operators, passengers, officers and Councillors to consider the best way to do this. The working party's recommendations will be reported to a future meeting of the Committee for approval.

##### 4.2 Guidance and formal training for disabled passengers

Officers have previously prepared guidance for passengers on what to expect from licensed drivers (and equally what drivers expect from passengers). A working party can review this and consider whether it should be republished.

It is proposed that officers can train members of Disability Watford in their rights, and how to take action if they feel the service they are receiving is not adequate or legal. Members of Disability Watford may then want to cascade this knowledge to other disabled people, or request council officers to attend further meetings/events to promote awareness.

##### 4.3 Improvements to ranks and drop-off points

The comments about ranks and drop-off points have been passed to Hertfordshire County Council as the highways authority; London Midland (for the Watford Junction rank); Watford General Hospital and also the council's Transport and Infrastructure section.

##### 4.4 Stakeholder consultation and monitoring

A working party will allow all stakeholders the opportunity to develop proposals for improvements. Officers are committed to holding three informal drop-in sessions a year for licensed drivers to come and discuss matters with Members, officers and others. Disability Watford representatives can be invited to future drop-in sessions so that the trade and passengers can learn from each others' experiences.

#### 5.0 **IMPLICATIONS**

##### 5.1 **Financial**

5.1.1 There are no direct implications from this report, and any proposals by the working party will have to be costed once known.

##### 5.2 **Legal (Monitoring Officer)**

5.2.1 None identified in this report.

##### 5.3 **Potential risks**

<b>Potential risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall score</b>
No improvement in standards of service if no	3	3	9

training/advice provided to trade			
Reputational impact from low levels of service	3	3	9
Complaints (informal, formal or legal) to council about low levels of service	3	1	3

Appendices

Appendix 1 – Watford Mystery Shopping Survey Final Report

Background Papers

None used

File Reference