

# Briefing Notes

Committee name: Licensing Committee

Date: 12 April

Responsible officer: Licensing Team Leader

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

This briefing note sets out details of new licensing legislation coming into force on 6 April 2017.

## Equality Act 2010

On 6 April 2017, sections 165 and 167 of the Equality Act 2010 will be enacted.

Section 167 of the Act provides Local Authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act requires the drivers of those vehicles to carry passengers in wheelchairs, to provide assistance to those passengers and prohibits drivers from charging extra.

The requirements of section 165 will not apply to drivers who have a valid exemption certificate. An exemption certificate can be issued under section 166 of the Act, which is already in force. This allows Local Authorities to exempt drivers from the duties under section 165 where it is appropriate to do so, on medical grounds or because the driver’s physical condition makes it impossible or unreasonably difficult for them to comply with those duties.

## Vehicles that can be designated

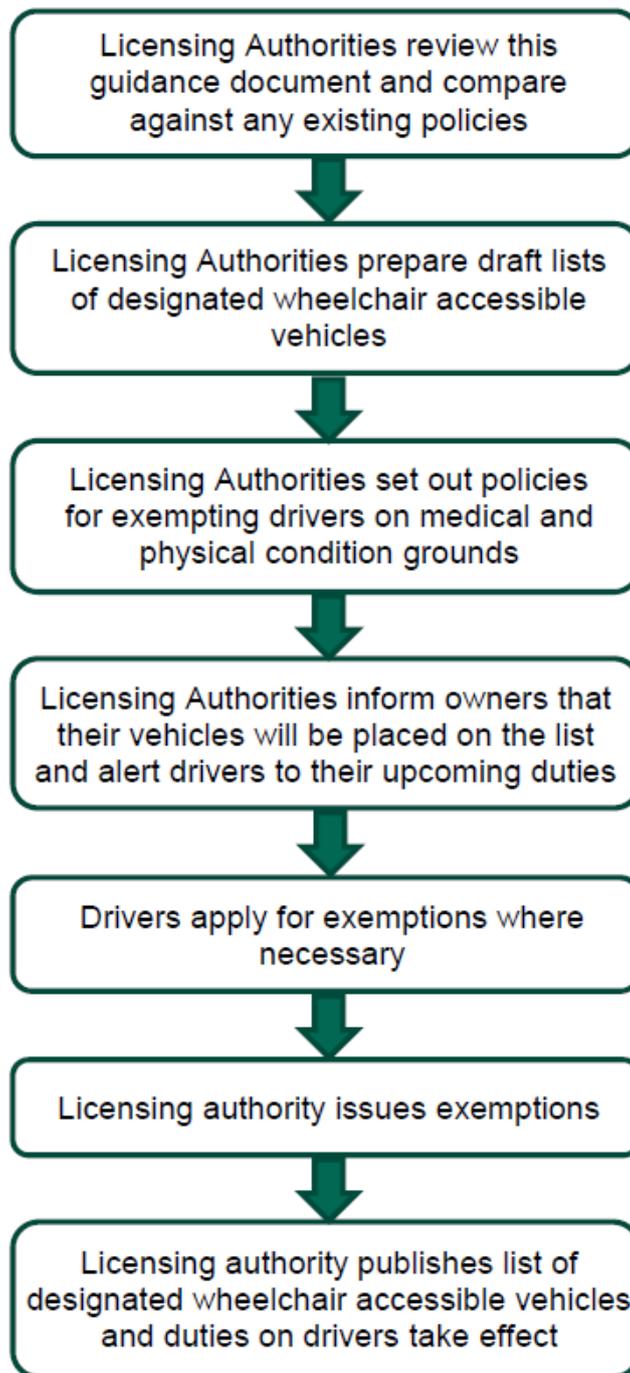
The Act states that a vehicle can be included on the designated vehicle list if it conforms to such accessibility requirements *as the licensing authority thinks fit*. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.

This means that to be placed on the designated vehicle list, a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government has recommended that a vehicle should only be included in the authority’s list if it would be possible for the user of a “reference wheelchair” to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

## Designating vehicles

Drawing up and maintaining a list of “designated vehicles” under section 167 is discretionary. In Cheltenham we have for a number of years “informally” maintained a list of wheelchair accessible vehicles.

The statutory guidance recommends the following procedure for drawing up a designated list:



It is recommended that the destination of vehicles be included in the scope of the policy review currently being undertaken with a view of adopting such a list when the revised policy is adopted later in 2017.

The statutory guidance published by the Department for Transport is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf)

## **Immigration Act 2016**

### **Taxi & PHV licensing**

The Immigration Act 2016 amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector.

From 1 December 2016, the provisions in the 2016 Act prohibit all licensing authorities across the UK from issuing a licence to anyone who is disqualified by reason of their immigration status.

From the above date, the Council is under a statutory obligation to undertake specific immigration checks on all applicants for a taxi or PHV licence.

The Government has issued guidance that is available here

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/574059/Guidance-for-licensing-authorities-to-prevent-illegal-working-in-the-taxi-and-private-hire-sector-in-England-and-Wales.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574059/Guidance-for-licensing-authorities-to-prevent-illegal-working-in-the-taxi-and-private-hire-sector-in-England-and-Wales.pdf)

### **Alcohol Licensing**

On 6 April 2017 schedule 4 of the Immigration Act comes in to force. Schedule 4 amends the Licensing Act 2003 so to:

1. Impose entitlement to work in the United Kingdom requirements on all licensed premises (i.e. those licensed to sell/supply alcohol, entertainment and provision of late night refreshment).
2. Makes the Secretary of State a responsible authority.
3. Adds a new licence eligibility criteria so that only persons eligible to work in the UK can apply for a licence.
4. Adds a new statutory provision to ensure that licences automatically lapse where a licence holder becomes ineligible to work or remain in the UK.
5. Gives the Secretary of State a new power to object to a licence application where it is necessary “for the prevention of illegal working in licensed premises”.
6. The list of relevant offences for personal licence holders have been updated to include immigration offences.

### **Policing and Crime Act 2017**

On 6 April 2017, the following provisions of the Policing & Crime Act 2017 will be enacted:

#### **1. Section 135**

Amends the meaning of “alcohol” to include alcohol in any state (i.e. powered or vapour)

#### **2. Section 136**

Limits the number of opportunities a licence holder can make representations to the licensing authority after it has made its determination on the interim steps. This section states that a licence holder can only make representation to the licensing authority where there has been a “material change in circumstances since the authority made its determination.”

**3. Section 137**

Formalises the process where a licensing authority imposes interim steps as part of a summary review but where there has not been a full review hearing.

**4. Section 138**

Empowers the council to review a personal licence in the event of a licence holder being convicted of a relevant offence. Previously, this power only existed for HMCS.

**5. Section 139**

Amends the Licensing Act 2003 to add further relevant offences for personal licence holders.

**6. Section 140**

This section simplifies the process of making and publishing new statutory guidance for licensing authorities.

There are two other sections of the Policing & Crime Act 2017 that the Government has not yet announced a commencement date for.

These relate to putting cumulative impact areas on a statutory footing and simplifying the late night levy.

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