

Response to Request for Information

Reference FOI 001656
Date 06 November 2017

S167 List of Accessible Taxis

Request:

I have previously made a similar request to you in April 2017. 6+ months later, I am repeating the request with some variations. I am repeating because the Statutory Guidance states "We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provisions" - "these provisions" having been commenced on 6th April.

In response to my previous FOI request on similar matters in April 2017, you indicated that you did not have any Section 167 lists and did not at that time have any intent to create such a list.

- 1) The Government guidance states: "Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra." Please can you indicate whether you have changed your position since April, such that you do now have a list of wheelchair accessible taxis under your powers set out in Section 167 of the Equality Act 2010, and/or a list of wheelchair accessible private hire vehicles?
- 2) If you do now have such a list, please provide information in response to the following questions 2a) to 2j):
 - 2a) On what date was it put in place?
 - 2b) The statutory guidance states "The Government therefore recommends that a vehicle should only be included in the authority's (S167) 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."
Is this the definition you have used for a taxi or PHV to be considered wheelchair accessible for the purposes of the list?
 - 2c) The statutory guidance states: "Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'. LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers

are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator."

Have you published your list? Is it marked "designated for the purposes of Section 165 of the Act"? Is the make and model of each vehicle listed? Is each vehicle identified as a taxi or a private hire vehicle? Is the name of the operator of each vehicle given in the list? Have you made owners and drivers of vehicles on the list aware that their vehicle has been listed?

- 2d) The guidance states: "it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated."
Does your list include information on each vehicle as to the size and weight of wheelchair that can be accommodated, and whether wheelchairs larger than a "reference wheelchair" can be accommodated?
- 2e) The 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."
Have you provided non-exempt taxi/PHV drivers with such guidance?
- 2f) The guidance states: "We recommend that licensing authority rules for drivers are updated to make clear when a meter can and cannot be left running".
Have you updated such rules to make this clear?
- 2g) The guidance states: "Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list."
Please tell me how many such applications have been made to the Magistrates Court, and how many have been successful.
- 2h) How many drivers has the authority prosecuted for discriminatory behaviour contrary to S165 of the Act? How many such prosecutions were successful? What were the sentences?
- 2i) How many drivers licensed by yourselves have been prosecuted by other people or bodies for failure to comply with S165 of the Act? How many such prosecutions were successful? What were the sentences?
- 2j) Where drivers have been prosecuted under S165 of the Act, thus affecting their standing as a "fit and proper person", what resultant disciplinary action have you taken in respect of their taxi or private hire vehicle drivers' licenses?

- 3) If you do not have a S167 list or lists now, please indicate if you intend to produce such a list.
- 4) If you don't have a S167 list but do intend to produce one, please provide information in response to questions 4a) and 4b) below.
 - 4a) Please indicate when you intend to have the list in place.
 - 4b) Where you have already made relevant decisions, please indicate whether you intend to comply with the elements of the statutory guidance set out in 2b) to 2f) above.
- 5) Irrespective of whether you have created a list or not or indeed whether you intend to create such a list, since 2010 you have been obliged to process applications under Section 166 of the Equality Act for driver medical exemptions from the duty to transport and not discriminate against wheelchair users. The Guidance states; "the Act allows LAs to grant exemptions from the duties to individual drivers. These provisions are contained in section 166, and were commenced on 1st October 2010."
 - 5a) How many exemptions have you granted under S166 of the Equality Act 2010?
 - 5b) The guidance states: "We understand that some licensing authorities have already put in place procedures for accessing and exempting drivers, and as an absolute minimum, we think that the evidence provided should be in the form of a letter or report from a general practitioner."
Do you accept or require a letter or report from a GP to process applications for driver exemption under S166?
 - 5c) The guidance states: "The Government's view is that decisions on exemptions will be fairer and more objective if medical assessments are undertaken by professionals who have been specifically trained and who are independent of the applicant. We would recommend that independent medical assessors are used where a long-term exemption is to be issued, and that LAs use assessors who hold appropriate professional qualifications and who are not open to bias because of a personal or commercial connection to the applicant"
Have you appointed independent medical assessors to determine applications for medical exemption under S166?
 - 5d) Please provide a copy of your application form for driver exemption under S166.
 - 5e) The guidance states: "Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate. That appeal should be made to the Magistrate's Court, or a sheriff in Scotland, and must be made within 28 days beginning with the date of the refusal."
How many appeals against refusal to issue S166 exemptions have been heard?

- 5f) How many appeals against refusal to issue S166 exemptions were successful?
- 6) The guidance states: "We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance."

Section 1 of the Freedom of Information Act 2000 places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1)(a) is to confirm or deny whether the information specified in a request is held. The second duty at Section 1(1)(b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon, Section 17 of the Freedom of Information Act 2000 requires City of Wolverhampton Council, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states why the exemption applies.

I can confirm that City of Wolverhampton Council holds the information that you have requested, However, I can confirm that we are withholding the information since we consider that the following exemption applies to it.

We can confirm that the department holds information that you have asked for in relation to the above. However, the information is exempt under section 21 of the FOI Act because it is reasonably accessible to you, and I am pleased to inform you that you can access it on our website via the following link:

<http://www.wolverhampton.gov.uk/CHttpHandler.ashx?id=12867&p=0>

Section 21(1) of the Freedom of Information Act exempts disclosure of information that is reasonably accessible by other means, and the terms of the exemption mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

You can find out more about Section 21 by reading the extract from the Act, available at: <http://www.legislation.gov.uk/ukpga/2000/36/section/21>