

Equality and Human Rights Impact Assessment - the Form

There are separate guidance notes to accompany this form – “Equality and Human Rights Impact Assessment – the Guide.” Please use these guidance notes as you complete this form. Throughout the form, **proposal** refers to policy, strategy, plan, procedure, report or business case, embracing a range of different actions such as setting budgets, developing high level strategies and organisational practices such as internal restructuring.

STEP 1: Identify essential information

1. Committee Report No.

2. Name of proposal.

3. Officer(s) completing this form.

Name	Designation	Service	Directorate
Paul Connolly	Solicitor	Legal and Democratic Services	Corporate Governance

4. Date of Impact Assessment.

5. When is the proposal next due for review?

6. Committee Name.

7. Date the Committee is due to meet.

8. Identify the Lead Council Service and who else is involved in delivering this proposal (for example other Council services or partner agencies).

9. Please summarise this Equality and Human Rights Impact Assessment (EHRIA). This must include any practical actions you intend to take or have taken to reduce, justify or remove any adverse negative impacts. **Please return to this question after completing the EHRIA.**

The Committee is considering whether or not to impose a taxi licence limit in conjunction with a move to a 100% wheelchair accessible fleet. The purpose of this Equality and Human Rights Impact Assessment is to outline to the Committee the Equalities and Human Rights issues it should take into account when reviewing its policy on wheelchair accessible taxi vehicles.

The background is that the Committee:

- 1) has been requested to place a limit on the number of taxi licences, which would have a direct impact on its wheelchair accessible taxi policy.
- 2) has permitted a number of exemptions to its current wheelchair accessible taxi policy; and
- 3) is receiving an increasing number of requests for exemption from that policy.

The wheelchair accessible vehicle policy is affected by the Committee's decisions on the above matters. It is therefore under a legal obligation to review the policy in terms of the public sector equality duty.

The Equality Act 2010 promotes positive action to advance equality of opportunity. Positive action means action which enables or encourages persons who share a protected characteristic (e.g. disability) to overcome or minimise that disadvantage and participate in the activity by meeting their needs. A wheelchair accessible vehicle policy is a proportionate and reasonable positive action to alleviate disadvantage experienced by wheelchair users in accessing taxis. Such a policy should facilitate hires from the street or from dedicated taxi ranks.

The Committee must also consider people who have restricted mobility and taxi drivers with disabilities.

Some people with restricted mobility advised that they prefer saloon cars over certain types of wheelchair accessible vehicles. The Committee has already taken action, which assists with the alleged disadvantage experienced by people with restricted mobility. In 2010 the Committee introduced a specification for wheelchair accessible vehicles, which permits as broad a range of wheelchair accessible vehicles as possible.

New vehicles are approved and added to the list regularly, which means that taxi licence holders have a range of WAVs available to purchase. The majority of these wheelchair accessible vehicles have sufficiently low floors and standard passenger seat layouts akin to saloon cars, and are therefore accessible to people with restricted mobility.

People with restricted mobility can also hire a saloon private hire car if they wish.

Taxi drivers with a disability can apply for a statutory medical exemption from carrying disabled passengers. It is reasonable for the Committee to approve these exemptions when provided with sufficient medical evidence. It is appropriate to make an adjustment for people with disabilities to enable them to continue to work as taxi drivers.

If drivers with disabilities also hold a taxi licence they should be required to provide a wheelchair accessible vehicle. It would not be reasonable and proportionate to the aim of the wheelchair accessible policy to prioritise the needs of a driver with e.g. a back problem over the needs of wheelchair users. Furthermore, all taxi licence holders should be required to provide a wheelchair accessible vehicle as they are not necessarily the only taxi driver who will drive the vehicle. For example, i) taxis can be double or triple shifted by various drivers and ii) drivers may retire but retain the plate and allow family members, who do not hold a medical exemption, to drive the vehicle.

As detailed above the Members will note that the Committee has had due regard to other disabilities, which may be impacted by its wheelchair accessible policy.

A) Option 1 (Recommended)- Limit & 100% WAV Fleet by Set Date

If the Committee approves Option 1 in the report to introduce a limit, in conjunction with a fixed date for a 100% WAV fleet, it will comply with the public sector equality duty.

The main purpose of the wheelchair accessible vehicle policy is to minimise disadvantage by enabling wheelchair users to hire taxis from the street. Option 1 appears that to meet that policy aim. It is also proportionate to set a fixed date by which the fleet must be 100% wheelchair accessible.

Option 1 is also supported by recent court decisions, which recommended setting a date by which the entire fleet should be wheelchair accessible.

B) Option 2- No Limit & Current WAV Policy (100% WAV Fleet, No Set Date)

Option 2 is also compliant with the public sector equality duty, provided exemptions are considered in the context of the public sector equality duty. This proposal has disadvantages in that it prolongs the period during which some disadvantage may be experienced by wheelchair users.

It also appears to meet with differing levels of support from the trade. There has been a marked increase in the number of exemptions sought from the policy, which could be seen as unfair by some members of the trade.

10. Where will you publish the results of the Equality and Human Rights Impact Assessment? Tick all that apply.

- Para 9 of EHRIA will be published in committee report in Section 6 "Impact"
- Full EHRIA will be attached to the committee report as an appendix
- Copied to Equalities Team to publish on the Council website

STEP 2: Outline the aims of the proposal

11. What are the main aims of the proposal?

The aim is to eliminate discrimination and remove or minimise disadvantages suffered by wheelchair users in accessing taxi services.

12. Who will benefit most from the proposal?

Wheelchair taxi passengers.

13. Tell us if and how the proposal will increase equality of opportunity by permitting positive action to redress disadvantage?

The requirement to provide wheelchair accessible vehicles is a specific and targeted policy, which takes positive action to alleviate disadvantage experienced by wheelchair users by making reasonable adjustments in the type of taxis permitted for use by taxi licence holders.

14. What impact will the proposal have on promoting good relations and wider community cohesion?

The policy (Option 1) promotes good relations between the taxi trade and wheelchair users. It also promotes equality in terms of access to taxi transport between wheelchair users and other persons who do not share their protected characteristic.

The policy should therefore positively impact on wheelchair users' participation in the community.

Option 2 would also achieve the above but to a lesser extent. It may not promote to the same extent good relations between the trade and the general public.

STEP 3: Gather and consider evidence

15. What **evidence** is there to identify any potential positive or negative impacts in terms of consultation, research, officer knowledge and experience, equality monitoring data, user feedback and other?

The Taxi Demand Survey (Nov. 2011) provided evidence from disability advisory groups, which explained that disabled persons in Aberdeen often prefer to pre-book taxi services to ensure they are provided with an accessible vehicle. The reason for pre-booking appears to be that it is sometimes still difficult to hire a wheelchair accessible taxi on the street, which could be as a result of less than half the taxi fleet being wheelchair accessible and also due to a number of exemptions from the requirement to carry wheelchair passengers on the grounds of taxi drivers' own medical conditions. The Survey evidence advised that around 50% of members of the public surveyed were of the view that they would use taxis more often if the fleet was entirely wheelchair accessible. This evidence suggests that a 100% wheelchair accessible fleet is required to minimise disadvantage.

Some taxi drivers have alleged that they cannot drive a wheelchair accessible vehicle due to their own disability, whereas they can drive a saloon vehicle. It is difficult to quantify the difference between a driver's seat in a wheelchair accessible vehicle and a saloon car. It appears logical that there are a variety of different seats, the quality of which is dependent on the vehicle manufacturer.

Taxi drivers anecdotally advise that wheelchair accessible vehicles are more expensive than saloon cars; therefore, the policy appears not to be supported by the taxi trade. Some drivers have requested exemptions from the WAV policy as they claim they have difficulty with the seats in all wheelchair accessible vehicles. There is also a consideration that some persons with reduced mobility prefer saloon cars.

Previous court decisions have supported the Committee's current policy, which is a gradual increase to a 100% WAV fleet, but suggested that a date be set by when all taxis must be wheelchair accessible.

The Taxi Consultation Group representatives and the Disability Advisory Group have been consulted but made few comments on the WAV policy.

Officers will again consult the Taxi Consultation Group representatives, the Disability Advisory Group and also include the Older People's Advisory Group.

STEP 4: Assess likely impacts on people with Protected Characteristics

16. Which, if any, people with protected characteristics and others could be affected positively or negatively by this proposal? Place the symbol in the relevant box. Be aware of cross-cutting issues, such as older women with a disability experiencing poverty and isolation.

(Positive +, neutral 0, - negative)

Protected Characteristics					
Age - Younger Older	0	Disability	+	Gender Reassignment*	0
Marriage or Civil Partnership	0	Pregnancy and Maternity	0	Race**	0
Religion or Belief	0	Sex (gender)***	0	Sexual orientation****	0
Others e.g. poverty	0				

Notes:

* Gender Reassignment includes Transgender

** Race includes Gypsies/Travellers

*** Sex (gender) i.e. men, women

**** Sexual orientation includes LGB: Lesbian, Gay and Bisexual

17. Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above. Detail the impacts and describe those affected.

Positive impacts (describe protected characteristics affected)	Negative Impacts (describe protected characteristics affected)
<p>If the WAV policy is adjusted in terms of the recommendations it will positively address disadvantage suffered by wheelchair users (disability) in terms of access to taxi services.</p> <p>It appears it will have a neutral impact on persons with reduced mobility.</p>	

STEP 5: Human Rights - Apply the three key assessment tests for compliance assurance

18. Does this proposal/policy/procedure have the potential to interfere with an individual’s rights as set out in the Human Rights Act 1998? State which rights might be affected by ticking the appropriate box(es) and saying how. **If you answer “no”, go straight to question 22.**

- Article 3 – Right not to be subjected to torture, inhumane or degrading treatment or punishment
- Article 6 – Right to a fair and public hearing
- Article 8 – Right to respect for private and family life, home and correspondence
- Article 10 – freedom of expression
- Other article not listed above

Article 14 of the European Convention on Human Rights, Prohibition of discrimination, may be relevant in decisions of the Committee which could be interpreted as discriminatory against certain protected groups. In the circumstances, the report recommendations on the WAV policy comply with Article 14 as they are not discriminatory against protected groups.

Legality

19. Where there is a potential negative impact is there a legal basis in the relevant domestic law?

N/A

Legitimate aim

20. Is the aim of the policy identified in Steps 1 and 2 a legitimate aim being served in terms of the relevant equality legislation or the Human Rights Act?

Yes, it is a legitimate aim in terms of Section 149 and 158 of the Equality Act 2010. The proposed policy complies with the public sector equality duty.

Proportionality

21. Is the impact of the policy proportionate to the legitimate aim being pursued? Is it the minimum necessary interference to achieve the legitimate aim?

It appears that in the circumstances it is necessary and proportionate for the Committee to interfere and require a 100% WAV fleet in order to meet the aim of its policy.

The policy was tested in the Court of Session and the court advised that the current policy was only acceptable as it envisaged a 100% fleet at some stage. It was recommended that a date be determined by which all taxi licence holders are required to provide a wheelchair accessible vehicle.

If a limit is to be imposed Option 1 is the minimum necessary interference required to meet the policy aim.

STEP 6: Monitor and review

22. How will you monitor the implementation of the proposal? (For example, customer satisfaction questionnaires)

The policy will be subject to ongoing review. If the Committee so wish relevant interest groups will be consulted, e.g. the Disability Advisory Group, the Older People's Advisory Group and the Taxi Consultation Group.

23. How will the results of this impact assessment and any further monitoring be used to develop the proposal?

Members will have the opportunity to consider the impact assessment and main report.

The policy will be monitored on an ongoing basis by the Licensing Committee, its officers, the Disability Advisory Group, the Older People's Advisory Group and the Taxi Consultation Group.

STEP 7 SIGN OFF

The final stage of the EHRIA is formally to sign off the document as being a complete, rigorous and robust assessment.

Person(s) completing the impact assessment.

Name	Date	Signature

Paul Connolly	9 April 2012	
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Quality check: document has been checked by

Name	Date	Signature
Alyson Mollison		

Head of Service (Sign-off)

Name	Date	Signature
Jane MacEachran		

Now –

Please send an electronic copy of your completed EHRIA - without signatures - together with the proposal to:

Equalities Team
Customer Service and Performance
Corporate Governance
Aberdeen City Council
Business Hub 13
Second Floor North
Marischal College
Broad Street
Aberdeen
AB10 1AB

Telephone 01224 523039 Email sandrab@aberdeencity.gov.uk