

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Regulatory Committee

16 March 2022

|                                            |                                                                                  |                                                                                |
|--------------------------------------------|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| <b>Report title</b>                        | Update on Taxi & Private Hire Protected Characteristics Mystery Shopper Exercise |                                                                                |
| <b>Wards affected</b>                      | All                                                                              |                                                                                |
| <b>Accountable director</b>                | John Roseblade, Director of City Housing and Environment                         |                                                                                |
| <b>Originating service</b>                 | Licensing                                                                        |                                                                                |
| <b>Accountable employee</b>                | Glen Moseley<br>Tel<br>Email                                                     | Service Lead (Compliance)<br>01902 550711<br>Glen.Moseley@Wolverhampton.gov.uk |
| <b>Report to be/has been considered by</b> | None                                                                             |                                                                                |

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## Recommendations for noting:

1. The Regulatory Committee is asked to note the update on the mystery shopper exercise conducted to covertly assess licensed drivers' compliance with their duties under The Equalities Act.

## 1.0 Purpose

To update Councillors of the findings to date of mystery shopper exercises conducted around the operation, usage, accessibility, and equal access provided to individuals who identify as having a protected characteristic as defined under the Equality Act 2010 when using Hackney Carriages and Private Hire Vehicles.

## 2.0 Background

2.1 On 1 October 2010 the Equality Act 2010 came into force bringing together 116 separate pieces of legislation, including the Disability Discrimination Act 1995, which made it illegal to discriminate against any person because of:

- A. age
- B. gender reassignment
- C. being married or in a civil partnership
- D. being pregnant or on maternity leave
- E. disability
- F. race including colour, nationality, ethnic or national origin
- G. religion or belief
- H. sex
- I. sexual orientation

whether at work, in education, as a consumer, when using public services, when buying or renting property, as a member or guest of a private club or association.

2.2 The Council takes discrimination against passengers of its licensed vehicles very seriously. The Council's 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions' states,

### 5.1.16 Hate Crime

A hate crime is any criminal offence that is motivated by hostility or prejudice based upon the victim's disability, race, sexual orientation, transgender, religion or belief.

(a) First offence – will normally revoke or refuse to renew. A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.

(b) Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted.

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### **5.1.28 Disability and Discrimination Act - Breach of Licence Conditions / Byelaws**

Condition 11 of the Conditions Relating To The Issue Of A Licence To Drive A Private Hire Vehicle provides; The licence holder must carry guide or other assistance dogs accompanying passengers, free of charge, unless the driver has a proven medical condition that would preclude such action. The Council medical exemption certificate issued in accordance with Section 37A of Disability and Discrimination Act 1995 must be displayed at all times to the windscreen of the Private Hire Vehicle, facing outwards. Private Hire Vehicle Drivers have a responsibility to ensure that their operator is aware of such medical condition when they are first employed. Breach of this condition is deemed serious and therefore shall normally result in revocation.

(a) First instance - A new licence will not normally be granted for 7 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident or the outcome of any review hearing in relation to the incident, whichever is the later. The power to suspend or revoke immediately as set out in 2.2.2 may also be used in these circumstances if it is in the interests of public safety.

(b) Repeat offences - will normally revoke or refuse to renew. A new licence will not normally be granted.

- 2.3 Should a driver be found to have committed a hate crime or discriminated against a passenger, their licence would likely be reviewed in a hearing.
- 2.4 This exercise follows on from similar successful exercise conducted in 2020 which reported on report into the operation, usage, accessibility and equal access provided to people who are physically disabled when using Hackney Carriages and Private Hire Vehicles.
- 2.5 Previous successful mystery shopper exercises conducted in 2020 were aimed at testing provision made for disabled passengers and in particular wheelchair users. This exercise looked to extend that testing to other protected characteristics such as gender reassignment, sexual orientation and religion or belief.

### **3.0 Progress**

- 3.1 Since November 2021, the Council has carried out four mystery shopper exercises in Wolverhampton and Birmingham.
- 3.2 On 8 November 2021, the Council carried out an operation to test discrimination against individuals who have undergone gender reassignment in Wolverhampton. This was done with the help of a local volunteer. The volunteer booked four journeys with Private Hire Vehicle Operators: ABC, Go Carz and Uber. There were no reported issues, with the volunteer rating each operator as good or very good.
- 3.3 On 4 December 2021, an operation was conducted in Birmingham to test discrimination against sexual orientation, again with a volunteer and a police officer. Five Uber drivers

were checked during the operation. No issues were reported; each driver was rated as good or very good.

- 3.4 On 20 January 2022 in Birmingham an operation to test discrimination against disability, using a disabled volunteer with an assistance dog was conducted. Four journeys were undertaken with Uber and again the volunteer reported no issues and rated the drivers as good or very good.
- 3.5 On 22 February 2022 in Wolverhampton we carried out a religion or belief operation in Wolverhampton, The volunteer carried out journeys with four companies, Uber, ABC, Go Carz and Wednesfield radio Cars and all drivers were rated as very good or excellent and there were no reported issues.
- 3.6 As we have only tested four of the nine protected characteristics so far, this will be an ongoing operation ensuring we are fulfilling our obligations in protecting persons from discrimination.

#### **4.0 Financial implications**

- 4.1 The compliance operations have so far cost £100 in fares and 36 hours of a Grade 6 officer time. The budget for these operations is part of existing revenue funding received from licence fees. This will be monitored as part of the Council's routine quarterly revenue monitoring. [SB/21022022/1]

#### **5.0 Legal implications**

- 5.1 Should a driver treat someone with a protected characteristic less favourably than someone without that characteristic, they can be guilty of discrimination under The Equality Act (2010).
- 5.2 Chapter 1 of the Equality Act outlines drivers' responsibilities for those with wheelchairs or accessibility dogs.
- 5.3 The Council is empowered under sections 51 and 61 of The Local Government (Miscellaneous Provisions) Act 1976 to suspend, revoke or refuse to renew a driver's licence. [DA/07/03/2022/4]

#### **6.0 Equalities implications**

- 6.1 By undertaking this exercise, the Council is fulfilling its duties in protecting those with protected characteristics from discrimination.

#### **7.0 All other Implications**

- 7.1 There are no other direct implications arising from this report.

#### **8.0 Schedule of background papers**

- 8.1 28 April 2017 - Equalities Outcomes Service Plan - Statutory Licensing Committee

8.2 27 May 2020 - Evaluation of Taxi & Private Hire Services Mystery Shopper Exercise –  
Regulatory Committee

**9.0 Appendices**

9.1 None.