

FOI REQUEST - Lists of Accessible Taxis under S167 Equality Act 2010 Internal Review

Initial Request

A request was received by the Council on 20/4/17 under the Freedom of Information Act 2000 regarding wheelchair accessible hire vehicles:

Request of 20th April 2017

An application was made as follows:

Dear Rother District Council,

1) Please advise if you have produced, or currently intend to produce, a list of wheelchair accessible:

a) taxis

and

b) private hire vehicles

under the powers set out in S167 of the Equality Act 2010.

2) Please identify how many a) taxi and b) PHV drivers have applied for medical / physical impairment exemption under S166 of the Equality Act 2010 since S166 was commenced. If you've created a list under S167, please identify how many of the exemptions were in place before S167 and how many have been put in since.

3) Please state whether you voluntarily compiled a list of accessible taxis and private hire vehicles following the Department for Transport's guidance of 15th September 2010, which stated, in relation to section 167, "although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates". If you did produce such a voluntary list, please indicate when you did so, and provide the current list.

If you have produced a list of wheelchair accessible taxis and/or private hire vehicles under S167, or are going to, please tell me the following.

4) The date the list was instated or by which you intend to do so.

5) The accessibility requirements of a taxi for it to appear on the list.

6) How you intend to enforce drivers' compliance with S165.

7) The list.

A request was received by the Council on 6/9/16 under the Freedom of Information Act 2000 regarding waste collection and customer services.

Response of Council of 3rd October 2016

The Council responded as follows:

With reference to your request received on 20 April 2017 about accessible taxis, we would respond as follows:-

- 1) Please advise if you have produced, or currently intend to produce, a list of wheelchair accessible:

a) taxis

and

b) private hire vehicles

under the powers set out in S167 of the Equality Act 2010.

We have not produced a formal list, but details of wheelchair accessible vehicles can be (and have been) extracted from our database and given to customers upon request. Our current list is attached.

- 2) Please identify how many a) taxi and b) PHV drivers have applied for medical / physical impairment exemption under S166 of the Equality Act 2010 since S166 was commenced. If you've created a list under S167, please identify how many of the exemptions were in place before S167 and how many have been put in since.

None

- 3) Please state whether you voluntarily compiled a list of accessible taxis and private hire vehicles following the Department for Transport's guidance of 15th September 2010, which stated, in relation to section 167, "although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates". If you did produce such a voluntary list, please indicate when you did so, and provide the current list.

We have been happy to provide details of wheelchair accessible vehicles for at least the last four years, when our current taxi licensing officer came into post. However we have no record of when our first request was received or our first list produced. If you have produced a list of wheelchair accessible taxis and/or private hire vehicles under S167, or are going to, please tell me the following.

- 4) The date the list was instated or by which you intend to do so.

N/A please see our response to question 3

- 4) The accessibility requirements of a taxi for it to appear on the list.

5)

This information is already publically available on our website and I would direct you to the following:

- Our handbook, which can be found on

[1]<http://www.rother.gov.uk/article/7308/Ex...>

- Our VCT testing standards, which can be found at

[2]<http://www.rother.gov.uk/article/7311/Ve...>

6) How you intend to enforce drivers' compliance with S165.

We would take any complaints relating to this issue very seriously. Depending on the nature of the complaint we would consider either the issuing of penalty points on the grounds of unsatisfactory behaviour, or the driver may be asked to appear before our Licensing Sub-Committee with the view to suspension or revocation of their license.

7) The list.

Attached

Request for Internal Review

Following this, on 23rd May 2017 the applicant requested an internal review:

Dear Rother District Council,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Rother District Council's handling of my FOI request 'Lists of Accessible Taxis under S167 Equality Act 2010'.

You haven't provided the information I requested.

I asked:

"1) Please advise if you have produced, or currently intend to produce, a list of wheelchair accessible taxis and private hire vehicles under the powers set out in S167 of the Equality Act 2010."

You responded:

"We have not produced a formal list, but details of wheelchair accessible vehicles can be (and have been) extracted from our database and given to customers upon request. Our current list is attached."

That doesn't answer whether you currently intend to produce a S167 list, however. I assume you will be doing so in line with the strong guidance produced by the DFT, but please confirm?

The DFT's statutory guidance has this to say about S167:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf

"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."

"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."

I asked:

"If you have produced a list of wheelchair accessible taxis and/or private hire vehicles under S167, or are going to, please tell me the following. 4) The date the list was instated or by which you intend to do so."

You responded:

"N/A please see our response to question 3".

A S167 list is different from a voluntary list. Any list held before 6th April 2017 is a voluntary list, which may or may not have been converted into a S167 list after 6th April 2017, depending on whether it meets the above requirements (being clearly marked 'designated for the purposes of section 165 of the Act' and so on.) So your response doesn't make any sense. Please can you let me know by which date you intend to implement a S167 list?

In response to my question,

"6) How you intend to enforce drivers' compliance with S165"

you stated:

"We would take any complaints relating to this issue very seriously. Depending on the nature of the complaint we would consider either the issuing of penalty points on the grounds of unsatisfactory behaviour, or the driver may be asked to appear before our Licensing Sub-Committee with the view to suspension or revocation of their licence."

However unless and until you create a list in compliance with S167, drivers are not subject to the requirements set out in S165 and so you won't be able to enforce such.

Finally, the list you provided in response to Q7 is not your S167 list as requested.

A full history of my FOI request and all correspondence is available on the Internet at this address: https://www.whatdotheyknow.com/request/lists_of_accessible_taxis_under_206

Internal Review Consideration

On reviewing this request it would appear the following is the basis for this review:

The applicant wishes to question the responses given.

That the Internal Review asked for further information – essentially whether the Council intended to move ahead on the issues raised with the FOI.

Firstly FOI requests are for information we hold. They are not for matters about intentions (unless clearly there is information held on this).

It is apparent that the information the Council holds has been disclosed. That our future intentions are not stated or unclear are more by the way of questions, not requests for information. However we have asked the Service to respond to these points and their answers are given as follows:

"1) Please advise if you have produced, or currently intend to produce, a list of wheelchair accessible taxis and private hire vehicles under the powers set out in S167 of the Equality Act 2010."

RDC response - No, we intend to produce one in 6 months' time.

"If you have produced a list of wheelchair accessible taxis and/or private hire vehicles under S167, or are going to, please tell me the following.

RDC response - Not applicable.

4) The date the list was instated or by which you intend to do so."

RDC response - 6 months' time.

"6) How you intend to enforce drivers' compliance with S165"

RDC response - We would take any complaints relating to this issue very seriously. Depending on the nature of the complaint we would consider either the issuing of penalty points on the grounds of unsatisfactory behaviour, or the driver may be asked to appear before our Licensing Sub-Committee with the view to suspension or revocation of their licence."

Conclusion

On reviewing this request I consider the information requested has been provided. The above is provided by way of clarification.

Decision

Taking account of the above I am of the view that the Council's initial response was correct, and that information we hold has been provided. I hope some of the further clarification and answers provided are helpful.

If you are dissatisfied with this response, you have the right of appeal to the Information Commissioner's Office. The Office can be contacted by email at casework@ico.org.uk or by post at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Signed:



John Collins - Service Manager – Corporate Services and Human Resources