Response – Access Group – Michael Coggles

Mr Coggles’ representation sets out in detail a number of points which this paper sets out our response which has been prepared in conjunction with guidance sought from NALEO

NALEO is recognised by the Home Office, DIT, DBS, ACPO (and many more) and is regularly asked by government, statutory, legal and advisory bodies to comment on all licensing issues and consultation documents’.

(Para 1-2)

Mr Coggles makes reference to representing the views of the ‘National Federation of Wheelchair Users’ (NFWU) and ‘Disabled Motoring UK’ (DM-UK) and being “instructed to reply as follows”….. However, it was unclear in what capacity the representation was being made; therefore confirmation was sought from both organisations directly, to clarify the position.

NFWU indicated the response did represent their views.

DM-UK representative stated this did not represent their organisations views and they in fact disagreed with a number of Mr Coggles’ interpretations.

(Para 2, 3, 4, 5, 11, 21)

The UN Convention on the Rights of Disabled People [UNCRDP] was ratified by UK Govt in 2009, however:

"By ratifying, government agreed to be bound by the Convention’s terms. That means that all UK government departments need to consider what the Convention says when developing a policy or programme that affects disabled people.”

The Convention also expects government to involve disabled people in the development of policies that affect them. Government will be held to account on what it does.

Article 9 (1)(a) UNCRDP states:

“1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

   a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;”

Apart from Statutory Instruments (SI) 1616 & 1617 (2006) relating to carriage of assistance dogs in taxis and private hire vehicles the UK Government has not implemented any further requirement.
In fact under Regulation 3 of the Disability Discrimination (Transport Vehicles) Regulations [SI 3190 [2005] the requirements under S21 ZA(1) of the DDA 1995 are specifically disapplied in respect of taxis and private hire vehicles;

The relevant Sections 32-39 of the DDA 1995 relating to taxis/ phv’s (other than above) have never been made effective by a commencement order laid before Parliament – Therefore no offence know to law;

The “DDA Hackney Carriage & Hire Car Regulations 2000” do not exist on www.legislation.gov.uk therefore no offence;

The DDA 1995 was repealed by the Equality Act 2010 so references to the DDA are irrelevant as no longer valid legislation;

Section 160 of the Equality Act 2010 reproduced below (shown as “prospective”, i.e. not yet enacted, on Legislation.gov.uk) states that the Secretary of State may make regulations concerning taxi accessibility. No draft regulations concerning taxi accessibility are shown on Legislation.gov.uk which means that the matter is not even scheduled to be debated by Parliament. It is highly unlikely that any regulations concerning taxi accessibility will be made in advance of the law Commission's report; the latest publication from NALEO indicates this may be April 2014.

Until such time as the Secretary of State makes 'taxi accessibility regulations', there is no legal requirement for any hackney carriage to be wheelchair accessible or accessible to disabled persons.

160 Taxi accessibility regulations.

(1) The Secretary of State may make regulations (in this Chapter referred to as “taxi accessibility regulations”) for securing that it is possible for disabled persons— .

(a) to get into and out of taxis in safety; .

(b) to do so while in wheelchairs; .

(c) to travel in taxis in safety and reasonable comfort; .

(d) to do so while in wheelchairs. .

(2) The regulations may, in particular, require a regulated taxi to conform with provision as to— .

(a) the size of a door opening for the use of passengers; .

(b) the floor area of the passenger compartment; .

(c) the amount of headroom in the passenger compartment; .

(d) the fitting of restraining devices designed to ensure the stability of a wheelchair while the taxi is moving.
The regulations may also-

(a) require the driver of a regulated taxi which is plying for hire, or which has been hired, to comply with provisions as to the carrying of ramps or other devices designed to facilitate the loading and unloading of wheelchairs; 

(b) require the driver of a regulated taxi in which a disabled person is being carried while in a wheelchair to comply with provisions as to the position in which the wheelchair is to be secured. 

The driver of a regulated taxi which is plying for hire or has been hired commits an offence-

(a) by failing to comply with a requirement of the regulations, or 

(b) if the taxi fails to conform with any provision of the regulations with which it is required to conform. 

A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

In this section -

“passenger compartment” has such meaning as is specified in taxi accessibility regulations;

“regulated taxi” means a taxi to which taxi accessibility regulations are expressed to apply.

Law Commission Consultation:

As far as I am aware, the Law Commission have only produced their consultation document and an interim statement — see attached statement — Appendix E

In a statement made at the NALEO National Training Event held at the Puma Daventry Court Hotel, Daventry, Northants, Ms Jessica Uguccioni of the Law Commission outlined the methodology behind the Commission’s work on taxi and private hire services.

Jessica stated ‘that although a draft bill is being prepared hopefully to be published in April 2014 it will depend on Government whether it decides to implement the Law Commission’s recommendations, and even if they do, whether further changes may result during the parliamentary process.’

Only if the Government of the day decided to accept the proposals (and any amendments) could new legislation result. It is unlikely to occur in the immediate future.

Reference is made to the “Independent Equality & Human Rights Commission”. However, this organisation could not be found. The Equality and Human Rights Commission website has little to say regarding Independent Assessable Hackney Carriages.

Allocation of new Hackney Carriage plates – currently, no additional plates are to be issued over and above the limit, because the demand survey did not indicate any unmet demand.
“Tactile Guidance and DFT” – point noted

“More carriageway will be required to accommodate rear loading rank” – point noted

“Tariff charges should be published and accessible at all ranks” – officer currently undertaking work with the Senior Traffic Engineer to have them placed at the appropriate locations

“Better signage at Fiveways Rank” – current signage is in keeping with TWBC street furniture standards.

**ALLOCATION OF NEW HACKNEY CARRIAGE PLATES:**

(Para 17, 18, 19)

“A limit should be introduced on the number of plates held by an applicant, to ensure compliance with EU competition law”. It is unclear what EU competition law is being breached by allowing applicants to apply for and indeed own multiple plates, a concept which is entirely acceptable in UK Law.

Guidance from the Sharia Council (quasi-Islamic court that provides legal rulings and advice to Muslims in accordance with Islamic Sharia) in 2002 confirmed that trained assistance dogs may accompany disabled people in taxi and private hire vehicles managed or driven by Muslims. Drivers can seek exemptions from these duties only on medical grounds. Any evidence of discrimination by a driver or proprietor would result in appropriate action being taken against them.

**GENERAL COMMENT:**

(Para 3, 5, 12 & 20)

Equality standards are a method of assessing Local Government performance, and makes no reference to Taxis.

(Para 9, 22)

Following on from the DWP Disability Strategy, the recently published document produced by the DWP titled ‘Fulfilling potential next steps’ states in regards to promoting the development of inclusive accessible communities the following:

Awaiting the outcome of the Law Commission **review of legislation relating to taxi and private hire services**, including provisions relating to the safety of disabled passengers, with a view to considering their recommendations and legislating as appropriate.

**Conclusion:**

Whilst the British Government may be in breach of its agreed duties under the convention, we are not aware Tunbridge Wells Borough Council is in breach of any obligation imposed under Statute or Statutory Instruments. Legislative and regulation changes are monitored and kept under review and are reflected in the authority’s policies accordingly when relevant.