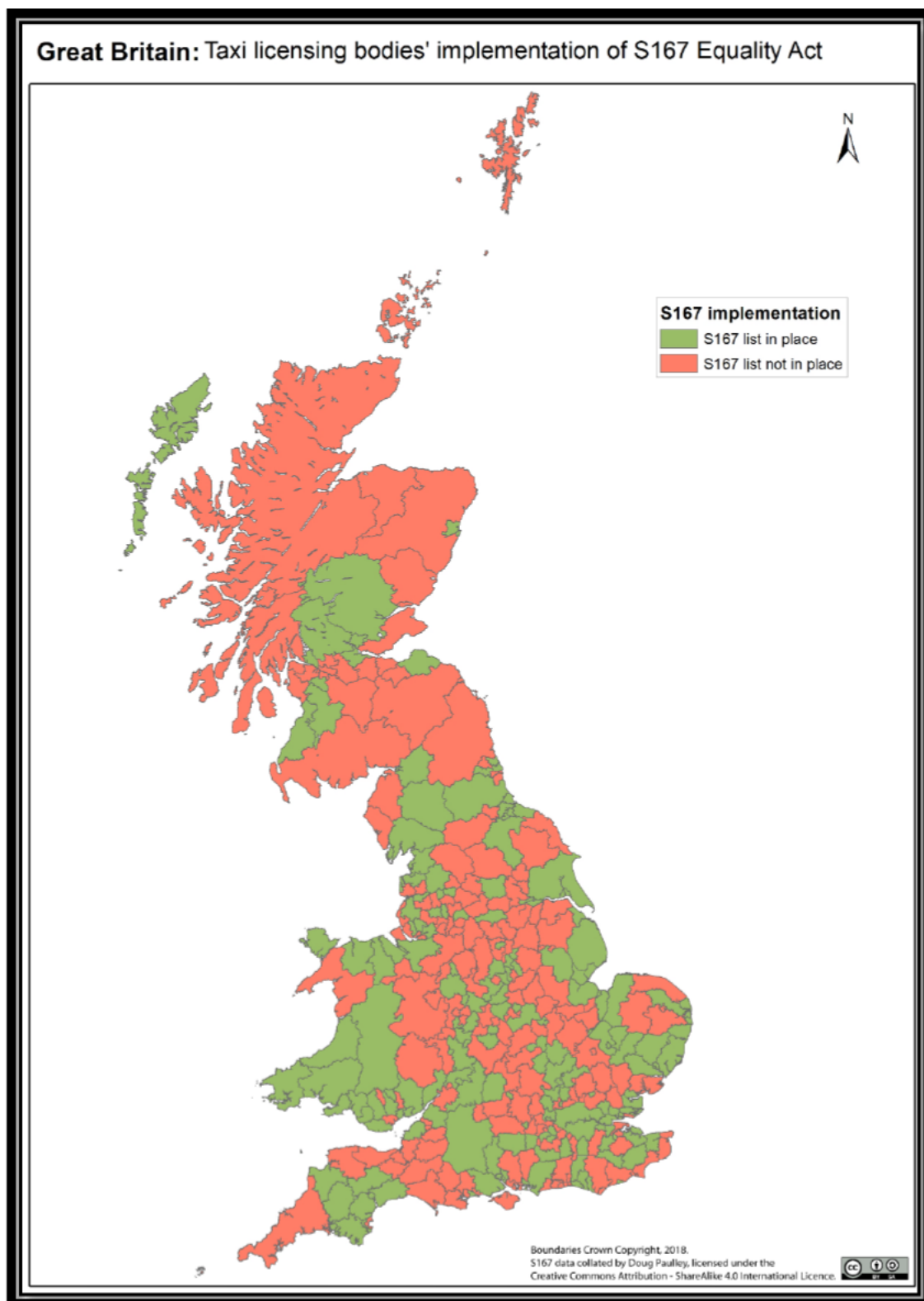


# Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination

Doug Paulley, September 2018

<https://www.kingqueen.org.uk/s167>



## 1. ABSTRACT

Section 165 of the Equality Act 2010 makes it illegal for taxi drivers to discriminate against wheelchair users. It was commenced in April 2017 but only takes effect in areas in which the taxi licensing authority has created a "designated list" of accessible vehicles under S167 of the Act. The Department for Transport's statutory guidance recommended authorities construct a list, and that authorities should be able to produce these lists by 6th October 2017.

A year after the legislation was commenced, only 48% of authorities have created a list. Many of those that have created lists have failed to follow the statutory guidance, bringing enforceability into question. There have been three successful prosecutions of taxi drivers for discriminatory treatment contrary to Section 165. This is a miniscule proportion of the total number of offences.

Licensing bodies' failure to consistently implement and enforce this legislation forms a large barrier to disabled people's transport rights and undermines the intent behind these provisions of the Act.

All licensing bodies have failed to comply with the Department for Transport's statutory guidance issued under Section 167; most to a significant degree.

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## 2. CONTENTS

1.	Abstract .....	1
3.	Introduction .....	4
	a) Legislative background .....	4
	b) S167 lists .....	4
	c) The issue in question .....	5
	d) Earlier reports .....	5
	July 2017 Report .....	5
	April 2018 Report .....	5
4.	Methods .....	6
	a) Licensing Bodies .....	6
	b) Freedom of Information (FOI) Requests.....	6
	c) Characteristics of licensing authorities .....	6
	Data for England, Scotland and Wales.....	6
	Data for England and Wales only.....	6
	Data for England only.....	7
	d) Classification of Authorities' Responses.....	7
	S167 grade .....	7
	e) Analysis.....	7
5.	Results .....	8
	a) Accompanying spreadsheet .....	8
	b) S167 take-up .....	8
	Overall .....	8
	c) S167 Grade .....	11
	d) Change in intent and grade .....	14
	e) Reasons for not implementing S165/S167.....	16
	f) Compliance with Department for Transport Guidance.....	17
	g) Medical Exemptions under S166 .....	18
	h) Statutory appeal mechanisms .....	20
	i) Enforcement .....	20
	j) Confusion over S167 .....	21
6.	Discussion.....	22
	a) Importance of Taxis.....	22
	b) S167 take-up .....	22

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

c)	Areas with poor provision .....	22
d)	Medical exemptions .....	23
e)	Compliance with technical specifications.....	23
f)	Prosecution for offences.....	23
g)	Existing regulation .....	23
h)	Inadequacy of Guidance .....	23
i)	Remedies .....	24
7.	Conclusion .....	25
8.	Recommendations.....	26
a)	To the Department for Transport .....	26
b)	To Local Authorities and TFL.....	26
c)	To disabled people, disabled people's organisations and allies.....	26
9.	Appendices .....	27
	Appendix 1 – Freedom of Information request sent to each authority.....	27
	Appendix 2: Acknowledgements.....	31
	Appendix 3: Licensing .....	31
	Appendix 4: Lists of Tables, Figures and Maps.....	32
	Tables .....	32
	Figures.....	32
	Maps.....	32
	Appendix 5: References.....	33

### 3. INTRODUCTION

#### ***a) Legislative background***

This research is to examine whether taxi licensing authorities have implemented the powers afforded to them under sections 165 and 167 of the Equality Act (the Act), that is to make it illegal for taxi and private hire drivers to discriminate against wheelchair users.

S165 of the Act places legal obligations on drivers of wheelchair accessible taxis and private hire vehicles (PHVs) to not discriminate against wheelchair users. Specifically, it obliges authorities:

- (a) to carry the passenger while in the wheelchair;
- (b) not to make any additional charge for doing so;
- (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- (e) to give the passenger such mobility assistance as is reasonably required<sup>i</sup>

This is a new duty. It has been on the statute books since 1995, but was only commenced on 6<sup>th</sup> April 2017, in the wake of pointed criticism by the Equality Act 2010 and Disability select committee.<sup>ii</sup> The Government said:

Having given careful consideration to the effects of commencing sections 165 and 167 of the Equality Act, including ensuring that drivers understand fully their responsibilities, we will now proceed to bring the measures into force, aiming for commencement by the end of 2016. This will provide wheelchair users with similar protection from discrimination as that already available to assistance dog owners – ensuring that they are provided with the assistance they need to access taxis and private hire vehicles, and that they can no longer be charged extra.

#### ***b) S167 lists***

The legislation, however, has an Achilles heel: it only takes effect in areas of the country where taxi and PHV licensing authorities have created a specific list of wheelchair accessible vehicles under s167 of the Act.

In February 2017, the Department for Transport issued statutory guidance to taxi licensing authorities<sup>iii</sup>, which states:

Section 167 of the Act permits, but does not require, LAs (Local Authorities) to maintain a designated list of wheelchair accessible taxis and PHVs.

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.

The guidance recommends licensing authorities work towards producing a S167 list by October 2017.

### ***c) The issue in question***

To the best of my knowledge, no body has comprehensively evaluated whether taxi and PHV licensing authorities have implemented this legislation.

My intent in this research is to look at the efficacy of this anti-discrimination legislation. I have looked at:

- whether authorities have implemented S167 lists, and which authorities have;
- why authorities have or have not implemented such lists;
- whether their implementation is compliant with the statutory guidance;
- the number of taxi drivers who have applied for medical exemption from the obligations;
- enforcement action taken against drivers who discriminate.

### ***d) Earlier reports***

I have produced two interim reports during this research. These are [available on my website](#). The interim reports address the following aspects not considered in this document:

#### **July 2017 Report**

- Analysis of S167 take-up and Number and Proportion of Accessible Taxis by Rural: Urban classification of authorities
- Variation in proportion of Accessible Taxis geographically and by S167 Status
- Enforcement Mechanisms of S165 compliance
- Local authorities' earlier "voluntary" S167 lists
- Authorities' policy of mandatory Disability Awareness Training or Wheelchair Accessible Taxi Licensing

#### **April 2018 Report**

- Change in Number and Proportion of Wheelchair Accessible Taxis, 2015-2017
- Change in Authorities' Policy on mandatory driver disability awareness training, and on licensing only wheelchair accessible taxis, 2015-2017

## 4. METHODS

### **a) Licensing Bodies**

I used the list of 315 licensing authorities in England and Wales provided in the Department for Transport's 2015 Taxi and Private Hire Vehicles statistics,<sup>iv</sup> and the list of 22 licensing authorities in Scotland from Transport Scotland's datasets.<sup>v</sup>

### **b) Freedom of Information (FOI) Requests**

I sent approximately 1,150 Freedom of Information Requests. This comprised three waves of 19 April 2017, 4 November 2017, and 2 May 2018. In each wave, I sent substantially the same FOI request to each of the 347 licensing bodies - see [Appendix 1](#) for a sample request. I used WhatDoTheyKnow.com to help with keeping track of the requests and to ensure that all responses are published online for any interested party to read.

I collated the responses and acted, where needed, to pressurise authorities into supplying the information. This involved much chasing of authorities and appeals through the Information Commissioners (UK and Scotland). Whilst public authorities are obliged by the Freedom of Information Act 2000 to respond to Freedom of Information Requests with the information required or a valid exemption "*promptly and in any event not later than the twentieth working day following the date of receipt,*"<sup>vi</sup> it is my experience that authorities' compliance with the Act is variable at best.

At the time of writing, I am still awaiting clear responses to my latest FOI request from 3 of the 347 authorities.

### **c) Characteristics of licensing authorities**

The datasets from the Department for Transport and from Transport Scotland include the following data, or data from which the following can be derived. This data may be of interest when finding characteristics of licensing authorities and their approach to S167 lists. I therefore incorporated this data in my analysis of the FOI responses.

When I began this research, the Department for Transport's statistics for England and Wales were as of March 2015. During my research, they released new statistics for March 2017. I therefore analysed the change.

#### **Data for England, Scotland and Wales**

- The number of accessible taxis licensed by each authority
- The proportion of taxis licensed by the authority that are wheelchair accessible
- The number of wheelchair accessible taxis per thousand population in the licensing authority's area

#### **Data for England and Wales only**

- Whether the licensing authority requires some or all licensed taxis to be wheelchair accessible
- Whether the licensing authority obliges taxi drivers to undertake disability awareness training

### Data for England only

- The Rural: Urban classification of each authority<sup>vii</sup>.

#### **d) Classification of Authorities' Responses**

To ease analysis, I classified each authority's approach to S167 as revealed by my FOI request using the following rubric.

##### S167 grade

<b>A</b>	<b>Authority has a valid S167 list</b>
<b>B</b>	<b>Authority intends to produce a S167 list by April 2018</b>
<b>C</b>	<b>Authority intends to produce S167 list but has no clear deadline</b>
<b>D</b>	<b>Authority currently undecided whether to produce a S167 list</b>
<b>E</b>	<b>Authority has no current plans to produce a S167 list</b>

*Table 1 - S167 grade*

Category B was not relevant to my FOI requests sent after April 2018, but I kept the same categories for consistency. The categorisation process is inevitably subjective and required me to exercise discretion.

For a coarse binary indication of authorities' approach to S167, I split councils as follows:

##### S167 status

<b>Yes</b>	<b>Authority has a current S167 list (S167 grade A)</b>
<b>No</b>	<b>Authority does not have a S167 list (S167 grades C, D or E)</b>

*Table 2 – S167 intent*

#### **e) Analysis**

I then undertook statistical analysis of the data collected via Freedom of Information requests, together with the data provided by the Department for Transport and by Transport Scotland, to show common trends.



## 5. RESULTS

### ***a) Accompanying spreadsheet***

The data tables, statistical analysis, charts and maps are available in the [accompanying spreadsheet](#)<sup>viii</sup>.

I am still awaiting full responses in 3 of the 1,100+ FOI requests. As the remaining data comes in, I shall update the accompanying spreadsheet, but not this report. For the full and up to date results, data and calculations, please examine the spreadsheet.

### ***b) S167 take-up***

Overall

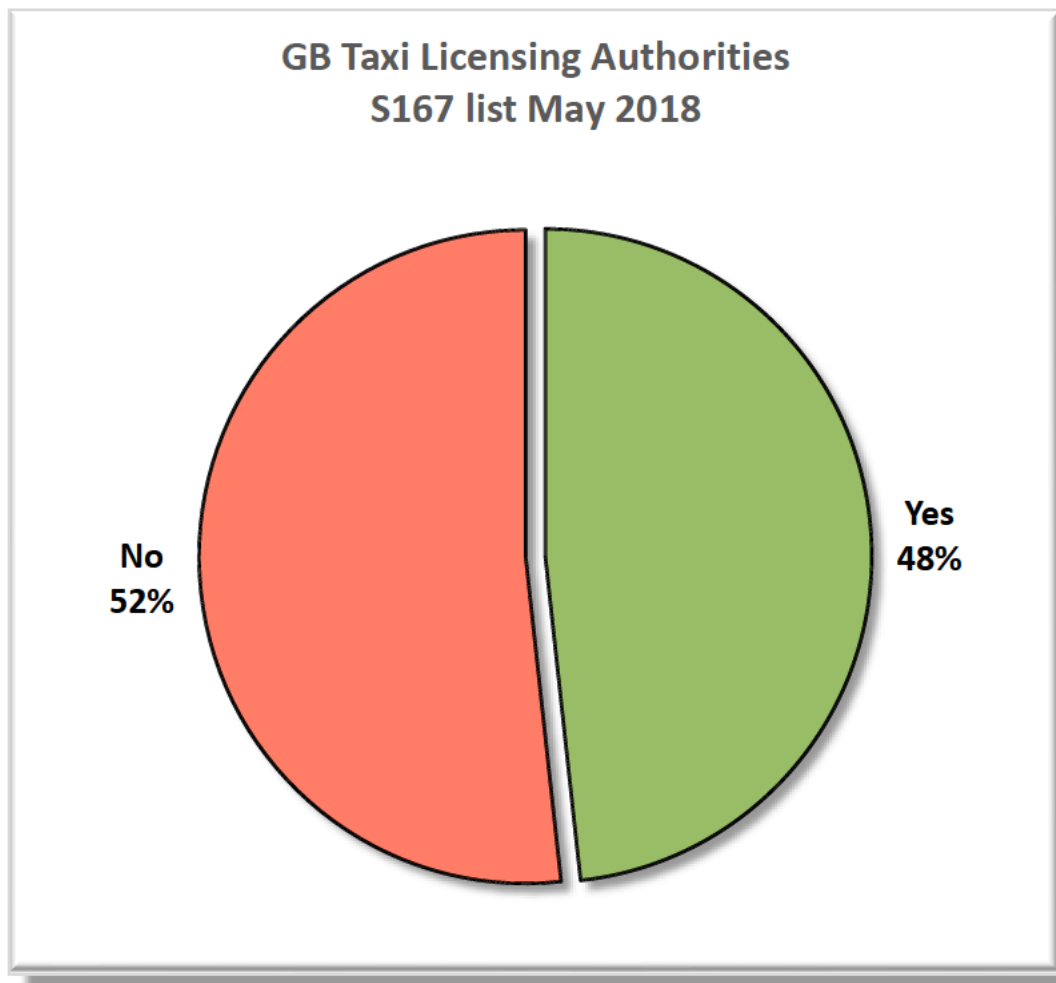
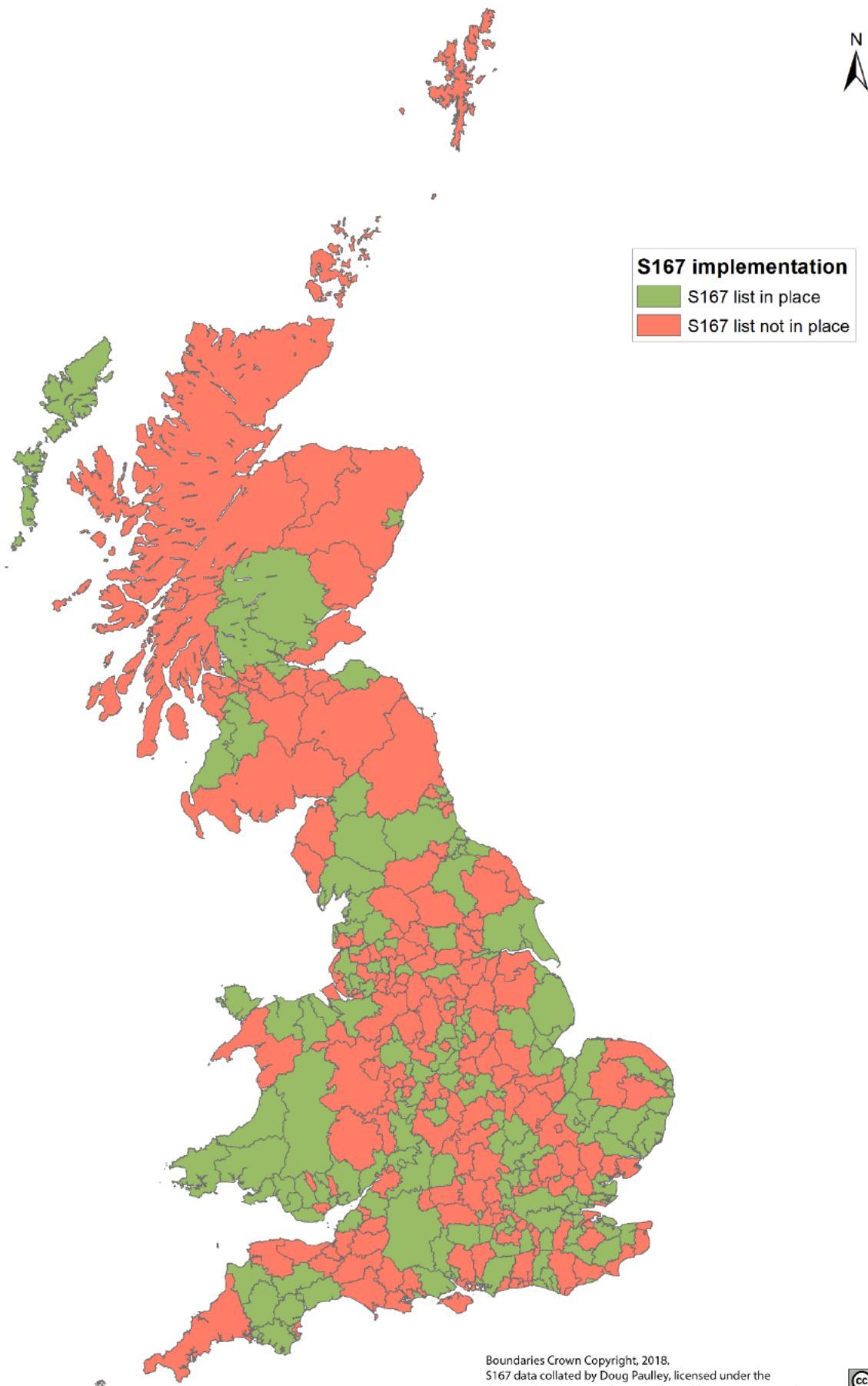


Figure 1 –GB S167 status

### Great Britain: Taxi licensing bodies' implementation of S167 Equality Act



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Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination

S167 status	# Authorities	% Authorities
Yes	167	48%
No	179	52%

Table 3 - GB S167 status

12 months after commencement, under half of authorities have created a S167 list. There are over 49,000 wheelchair accessible taxis in these authorities' areas. Authorities' approach to S167, and to taxi accessibility in general, varies considerably. At one end of the spectrum, authorities such as Bedford had a "voluntary" list for many years. All their licensed taxis are wheelchair accessible, they require drivers to undertake disability awareness training, and they implemented s167 on the day it was commenced. At the other extreme are authorities such as Arun, who despite being "urban with city and town" have no intent to implement S167 and have only three accessible taxis throughout their area.

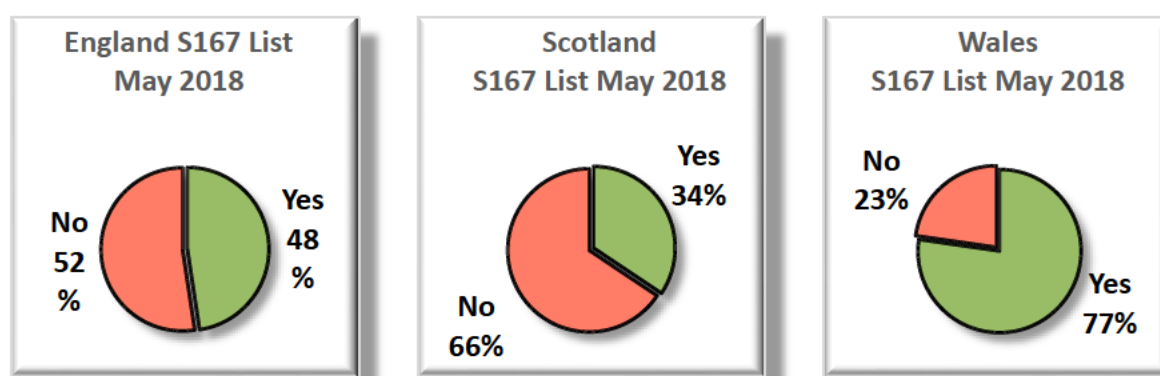


Figure 2 - Constituent countries S167 status

S167 status	English Authorities	% English Authorities	Scottish Authorities	% Scottish Authorities	Welsh Authorities	% Welsh Authorities
Yes	139	48%	11	34%	17	77%
No	253	52%	21	66%	5	23%
Total	292	100%	32	100%	22	100%

Table 4 - Constituent countries S167 status

Welsh authorities have a distinctly higher uptake of the legislation than English or Scottish ones.

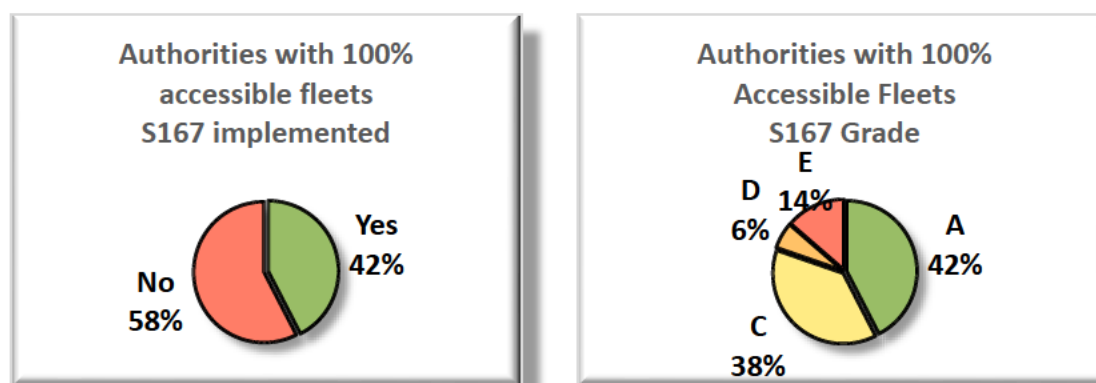


Figure 3 - Authorities with 100% accessible taxi fleets: approach to S167

Only 42% of authorities with 100% accessible taxi fleets have implemented S165-S167.

c) S167 Grade

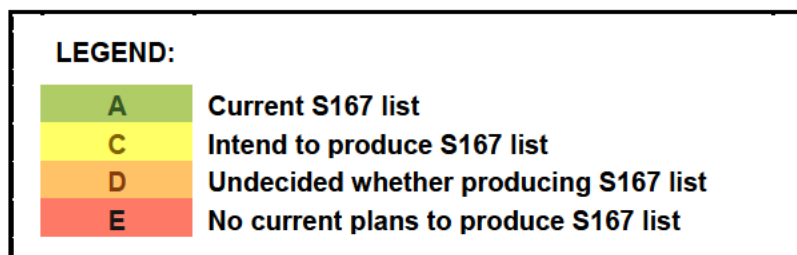
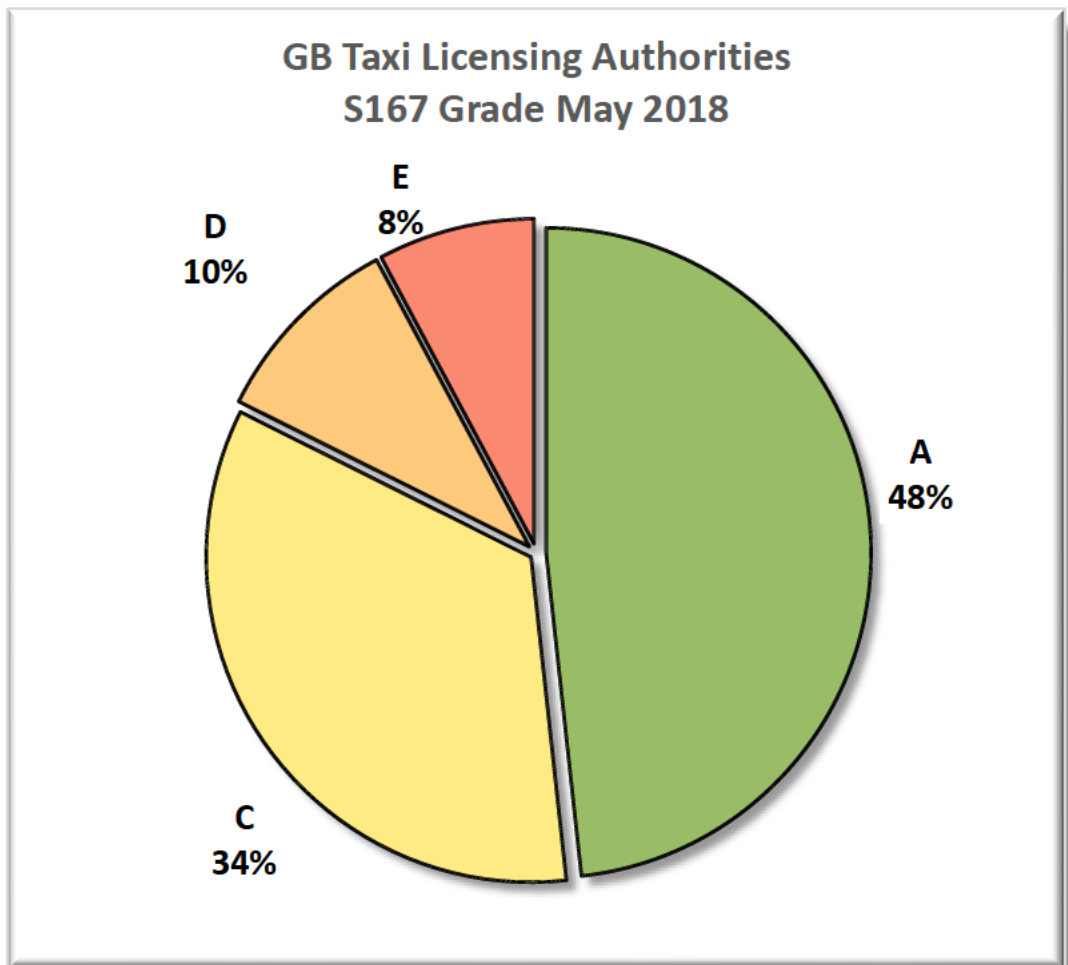


Figure 4 – GB S167 grades

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

S167 status	# Authorities	% Authorities
A	167	48%
C	118	34%
D	34	10%
E	27	8%
<b>Total</b>	<b>346</b>	<b>100%</b>

Table 5 – GB S167 grades

It is concerning that of the 52% of authorities that have not implemented S167, 18% are either undecided on the matter or have no intent to implement it at all.

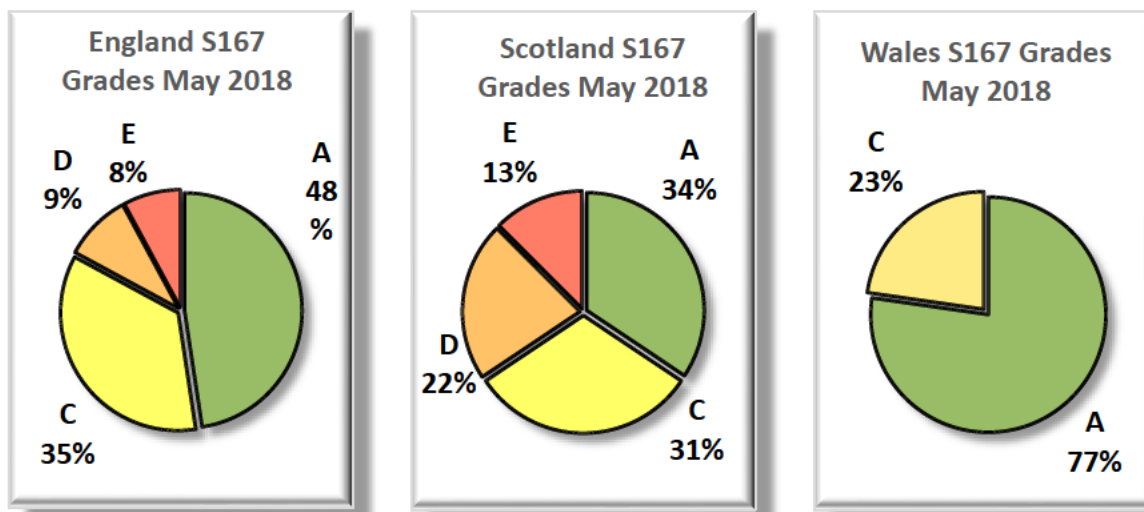


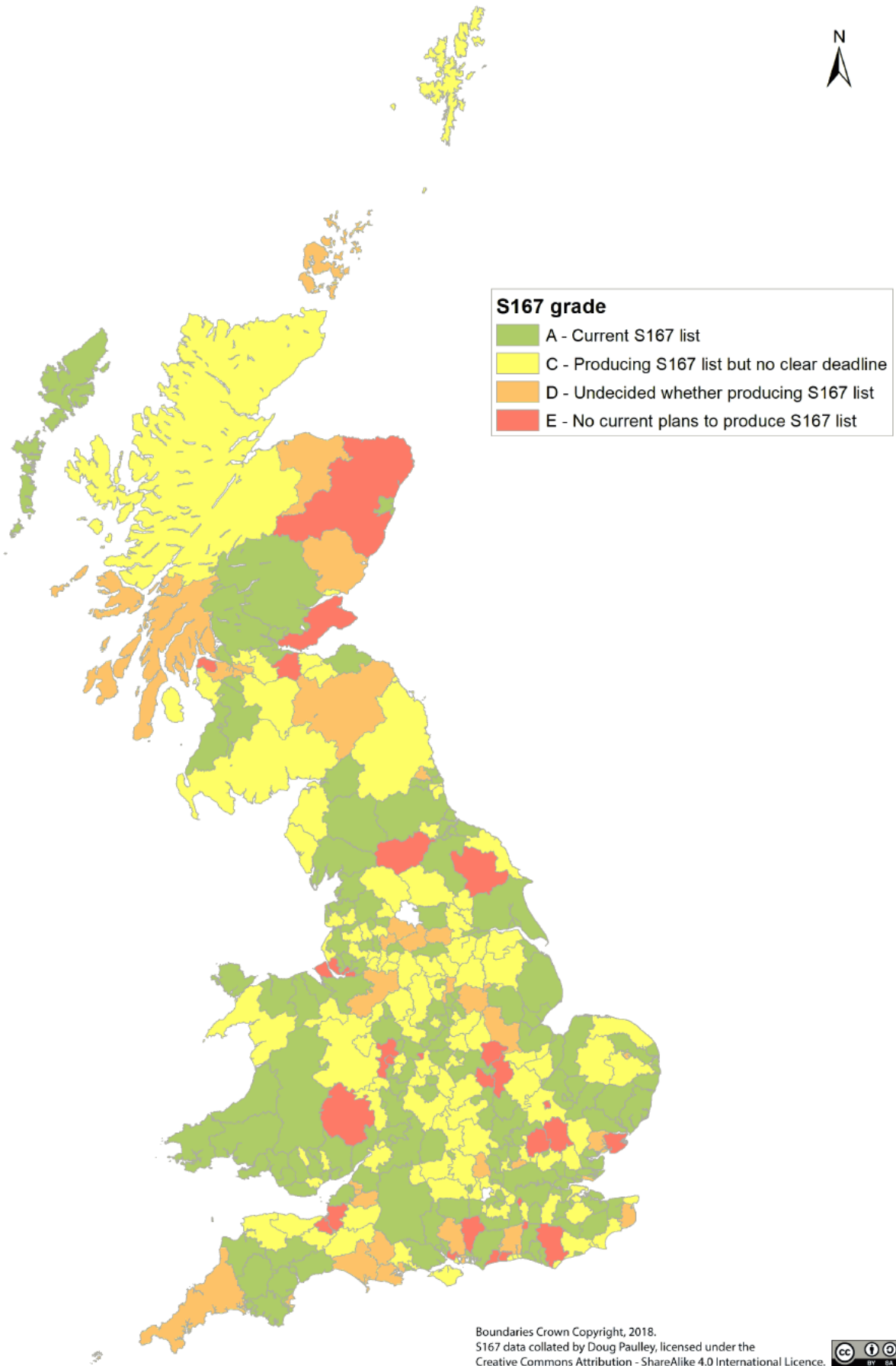
Figure 5 – Constituent countries S167 grades

S167 grade	English authorities	% English authorities	Scottish authorities	% Scottish authorities	Welsh authorities	% Welsh authorities
A	139	48%	11	34%	17	77%
C	103	35%	10	31%	5	23%
D	27	9%	7	22%	0	0%
E	23	8%	4	13%	0	0%
<b>Total</b>	<b>292</b>	<b>100%</b>	<b>32</b>	<b>100%</b>	<b>22</b>	<b>100%</b>

Table 6 – Constituent countries S167 grades

There is a marked difference in implementation across the countries. All Welsh councils have either implemented S167 or intend to do so; 83% of English authorities and only 65% of Scottish authorities.

## Great Britain: Taxi licensing authorities' approach to S167 Equality Act



**d) Change in intent and grade**

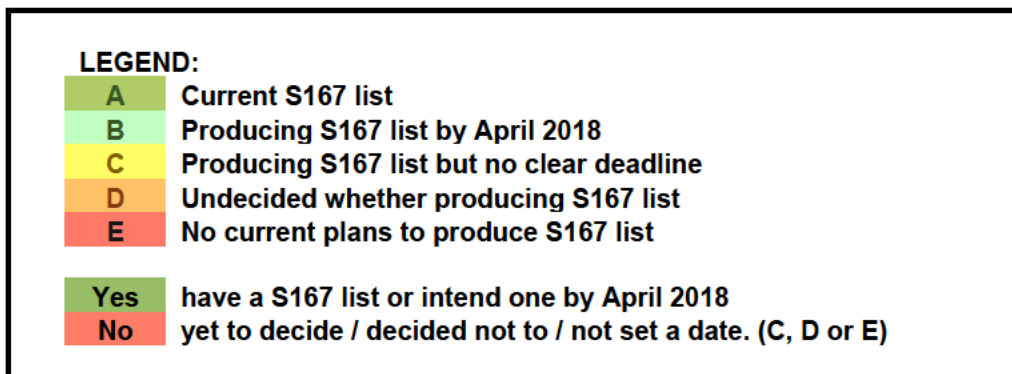
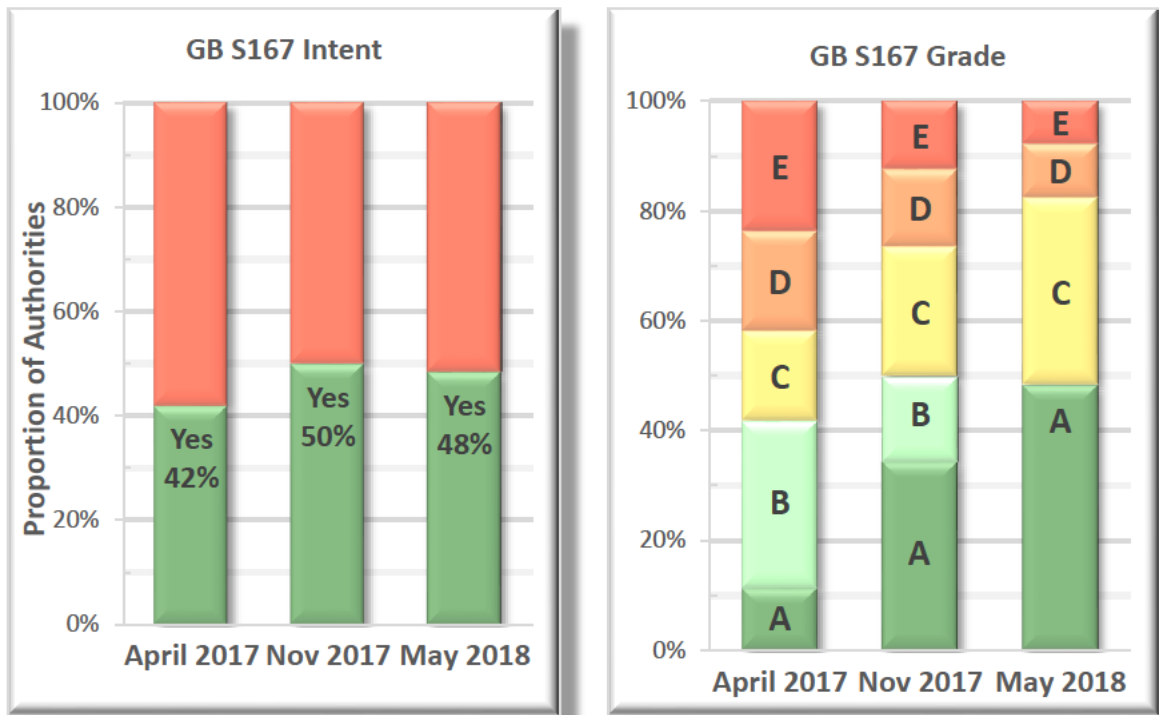


Figure 6 – Change in UK S167 implementation

Whilst the number of authorities that have implemented S167 has increased over the year, the overall proportion of councils with concrete plans to do so has not.

The difference between the nations, however, is striking. Whilst Scotland and England show comparatively minor change in approach to S167 over time, Wales showed drastic change from 32% of authorities with a concrete intent to implement S167, to 77% having implemented S167 a year later.

In response to my question to Welsh authorities and the Welsh government asking what had prompted the increase in uptake, they told me there was no set reason – each council had decided to do so without any overarching campaign or communication.



Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination

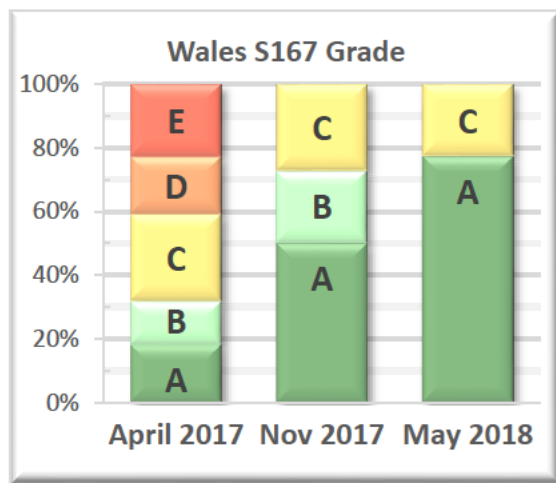
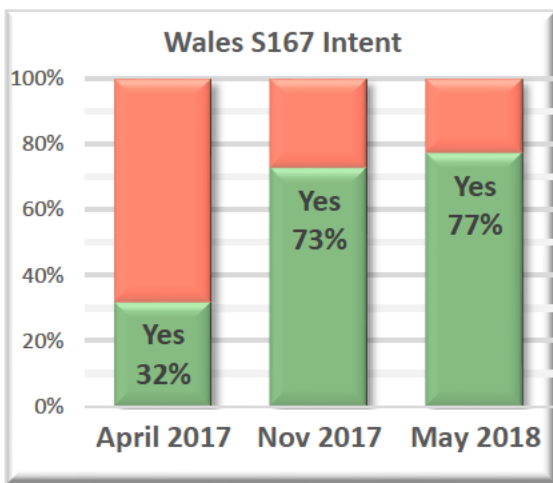
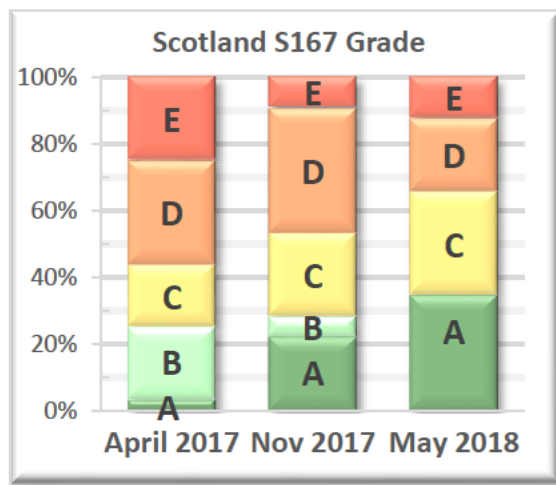
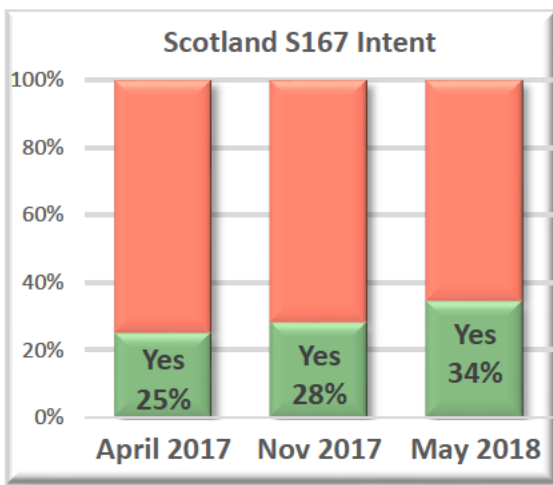
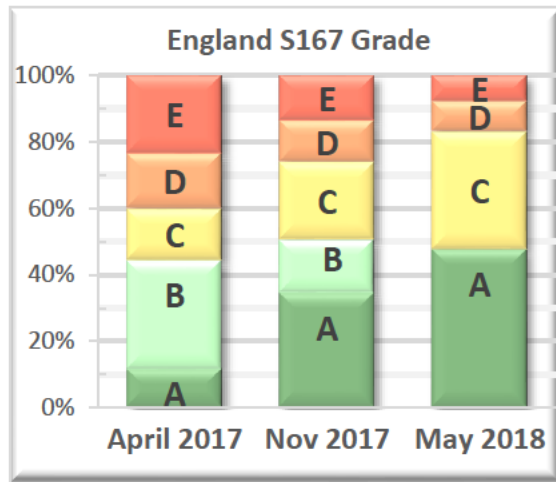
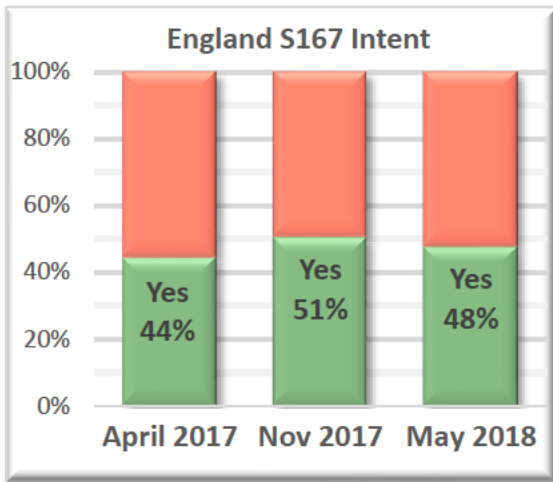
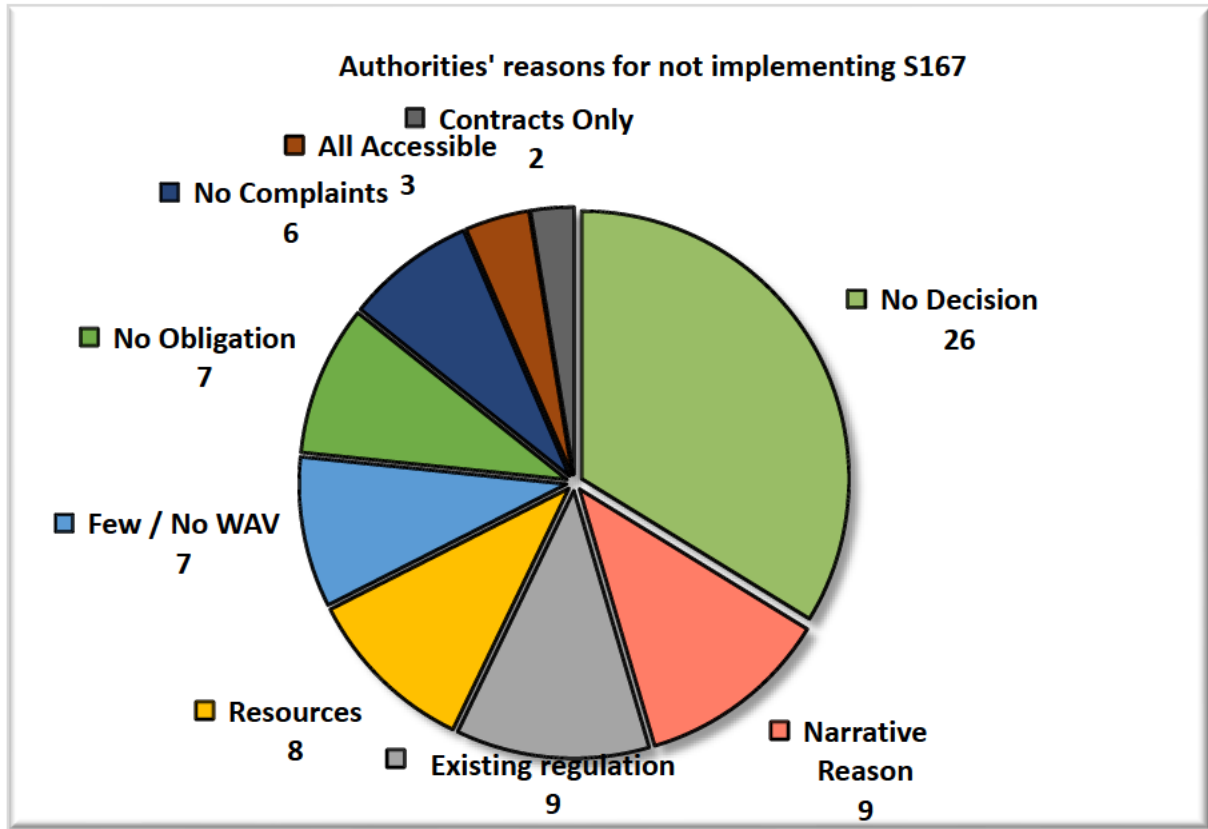


Figure 7 – Change in nations' S167 implementation



**e) Reasons for not implementing S165/S167**

The following chart lists the reasons volunteered by those councils who indicated reasons for failure to implement S167. NB: some councils gave more than one reason.



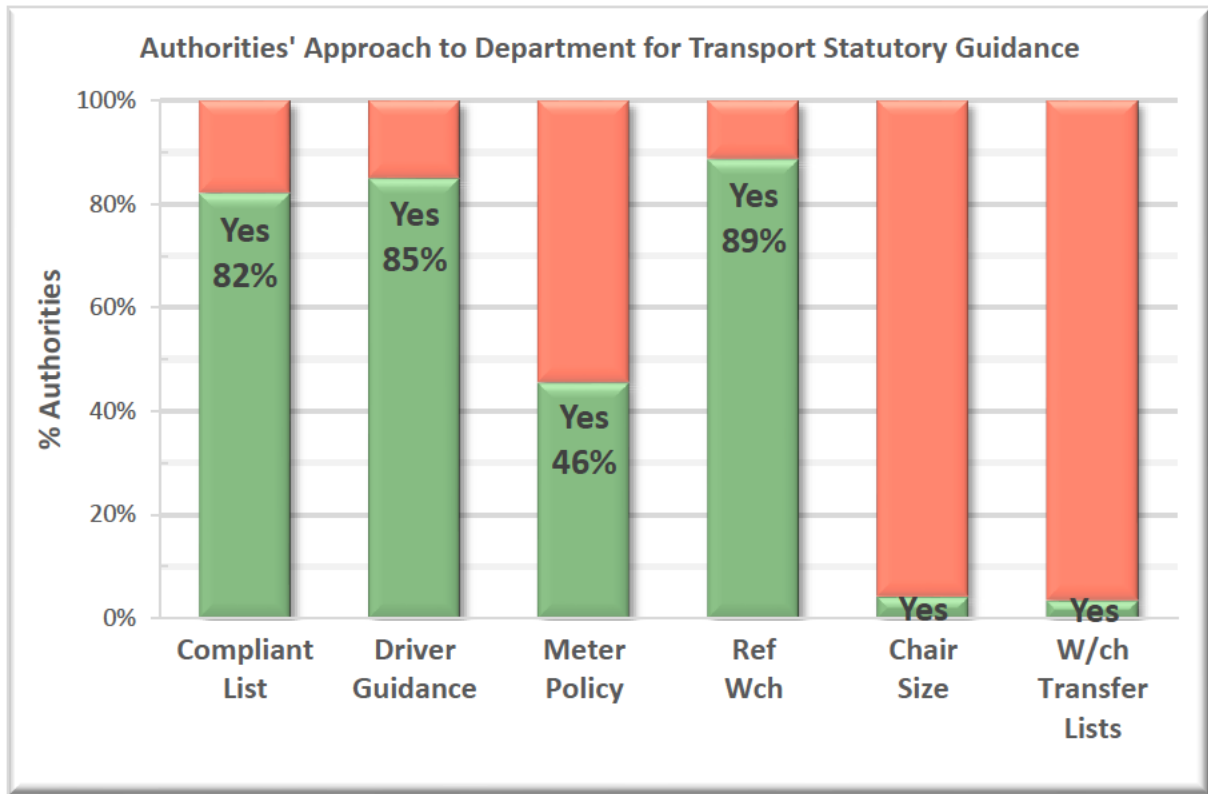
**LEGEND**

<b>No Decision</b>	Have not reached a decision as to whether to implement the legislation.
<b>Narrative Reason</b>	Gave complex or non-categorisable reasons.
<b>Existing Regulation</b>	Considers their existing taxi regulations sufficient to deal with discriminatory practice.
<b>Resources</b>	Unable to allocate sufficient staff time etc. to implement a list.
<b>Few / No WAV</b>	Has very few or no wheelchair accessible taxis
<b>No Obligation</b>	Not implementing the legislation because there is no legal obligation on them to do so.
<b>No Complaints</b>	Having received no complaints about taxi wheelchair user discrimination considers implementation unnecessary
<b>All Accessible</b>	Considers implementation unnecessary because all taxis are wheelchair accessible
<b>Contracts Only</b>	All wheelchair accessible taxis in the area are used for Council etc. contracts, unavailable to the public so considered unnecessary

Figure 8 – Reasons for failure to implement legislation

**f) Compliance with Department for Transport Guidance**

This shows whether licensing bodies have complied with the statutory guidance<sup>ix</sup> issued by the Department for Transport when implementing a list under Section 167.



LEGEND	
<b>Compliant List</b>	S167 list complies with the technical requirements set out in S3.10 of the guidance.
<b>Ref Wch</b>	List is of vehicles which can accept the standard "reference wheelchair"
<b>Chair Size</b>	List includes details on what sizes of chair each vehicle can take other than the "reference wheelchair"
<b>Driver Guidance</b>	Body issued drivers with guidance as to their legal obligations towards wheelchair users
<b>Meter Policy</b>	Body issued guidance on when to start the meter when loading a wheelchair user
<b>W/ch Transfer Lists</b>	Body has a list of vehicles accessible to wheelchair users able to transfer to a seat

Figure 9 – Authorities' Approach to Department for Transport Statutory Guidance

No licensing body has complied with all elements of the statutory guidance.

**g) Medical Exemptions under S166**

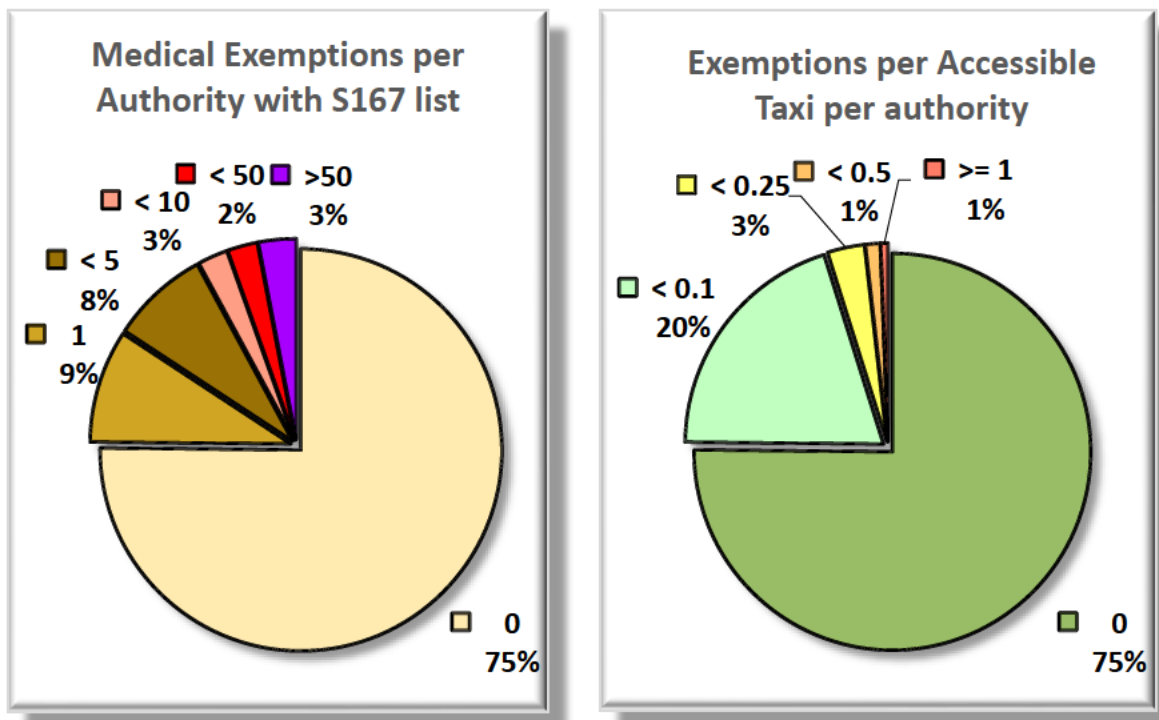


Figure 10 – Medical Exemptions per Authority and per Accessible Taxi

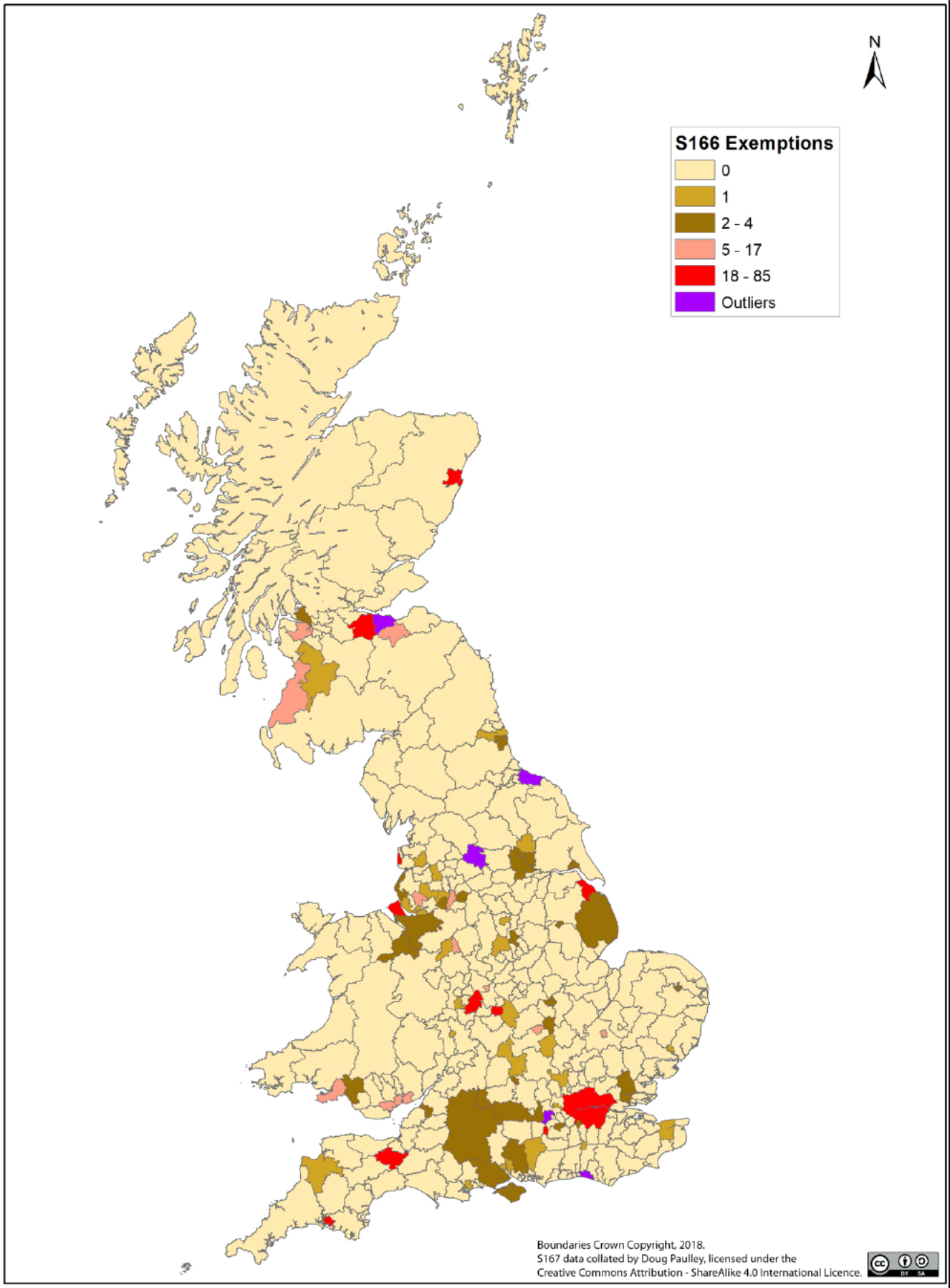
Most authorities with S167 lists have few drivers with a medical exemption from the requirements not to discriminate against wheelchair users. 95% have fewer than 10 such drivers. However, there are notable exceptions. Edinburgh has 417 exempted drivers; more than four times as many as the next prevalent authority (Plymouth, with 85.)

Edinburgh told me in response to my query about their large number that it "holds no recorded information that indicates why the number of exemptions granted by the Council would appear to be greater than other public authorities."<sup>x</sup> Taunton Deane<sup>xi</sup> and Plymouth<sup>xii</sup>, who both had over 50 exemptions, told me they are unaware as to why so many drivers apply for exemptions.

North East Lincolnshire council attribute their substantial number of exemptions to their policy of permitting drivers with a medical exemption, to apply to drive a saloon instead of a wheelchair accessible taxi.<sup>xiii</sup>

In nearly all licensing bodies' areas, there are exempted drivers in less than 10% of accessible taxis. Excepting North East Lincolnshire (whose exempted drivers are mostly no longer driving wheelchair accessible vehicles) and East Hampshire (who only have one accessible taxi, driven by an exempt driver,) four councils – Blackpool, Taunton Deane, City of Edinburgh and Torridge – have 25% of accessible taxis with exempted drivers.

### Great Britain: Taxi driver medical exemptions issued under S166



Map 3 – Taxi driver medical exemptions issued under S166

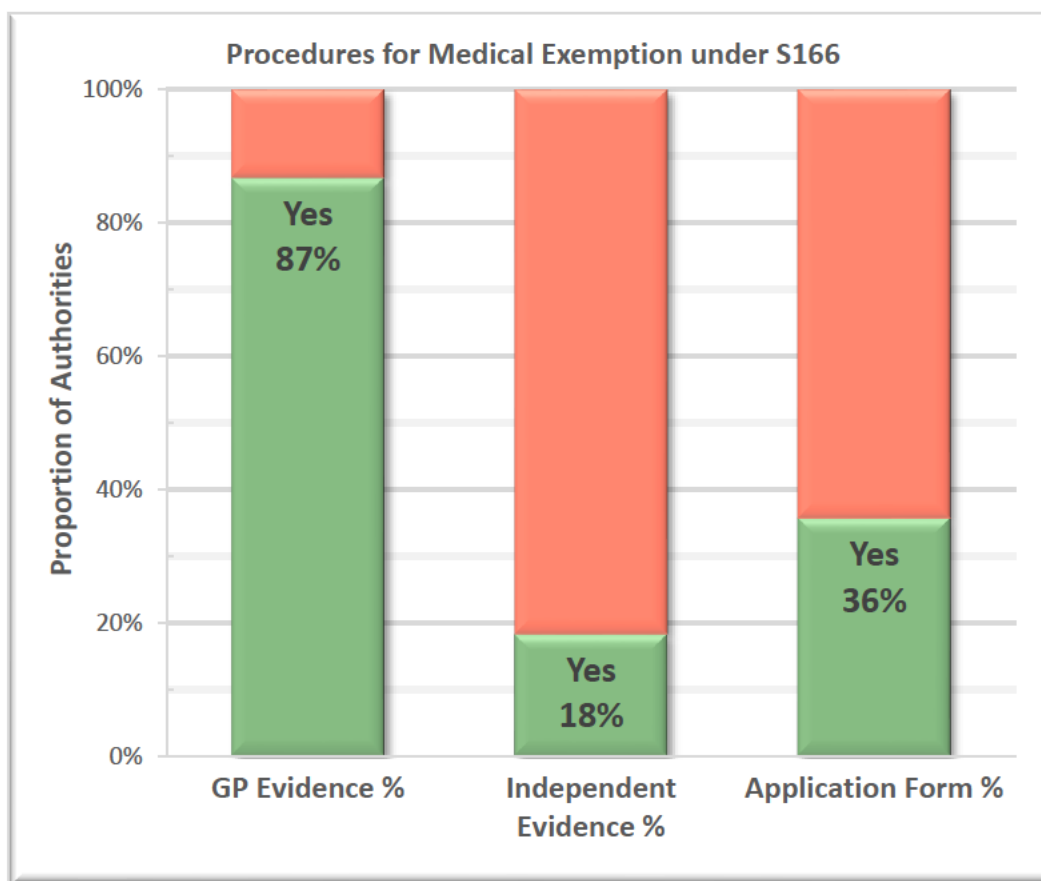


Figure 11 – Procedures for Medical Exemption under S166

Only 36% of authorities have an application form by which taxi drivers may apply for medical exemption under S166; and only 18% have complied with the statutory guidance recommending that authorities appoint an independent medical examiner to consider applications. Most authorities would accept GP evidence alone in support of a driver's application.

#### ***h) Statutory appeal mechanisms***

No drivers have appealed against the inclusion of their vehicle on a S167 list. No drivers have appealed against a decision not to grant a medical exemption.

#### ***i) Enforcement***

In the first two rounds of this research, no taxi driver had faced prosecution under S165 of the Equality Act since its commencement. (Peterborough council erroneously prosecuted one driver under S165 in June 2013, over 3 years before the legislation was commenced<sup>xiv</sup>. The courts found him guilty of failing to ensure a wheelchair user was clamped in, fined him £250 and ordered him to pay £400 in costs and a £15 victim surcharge.)

As of May 2018, i.e. over a year after the legislation was commenced, four drivers have been prosecuted under S165, in three authorities, resulting in three convictions.

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

Bolton borough council prosecuted two drivers. The court acquitted one and sentenced the other to a conditional discharge. The impact on that driver's licence was still to be determined.

Bury borough council prosecuted one driver. He was fined, and his licence was later suspended for four months.

Transport for London had successfully prosecuted one driver. The court imposed a conditional discharge and ordered him to pay compensation of £150 and £1050 in costs. TFL had yet to determine the impact on his licence.

Hastings Borough Council conducted one PACE interview with a taxi driver and issued a simple caution.<sup>xv</sup>

There had been no other prosecutions under S165 anywhere in Great Britain.

***j) Confusion over S167***

Whilst in general authorities showed an improved understanding of their role in implementing the legislation compared to a year ago, this was not universally the case.

Some authorities that had previously informed me that they had a S167 list and thus contributed towards the statistics in my interim reports, later turned out to not have one.

Ashfield district council is under the impression that a S167 list includes vehicles that can only accommodate a wheelchair user if they transfer onto a seat.

## 6. DISCUSSION

### ***a) Importance of Taxis***

The availability of wheelchair accessible taxis and private hire vehicles is of key importance to wheelchair users.

As Andrew Jones MP, the Parliamentary Under Secretary of State at the Department for Transport, told the Equality Act 2010 and Disability committee:

I fully recognise that taxis, private hire vehicles and buses are of fundamental importance for disabled people. There is no question about that.<sup>xvi</sup>

### ***b) S167 take-up***

Authorities' approaches to S167 of the Equality Act vary with a substantial proportion having no intent to implement S167 at all.

As the Department for Transport put it,

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.

They said:

We would expect these arrangements to take no more than a maximum of six months to put in place, following the commencement of these provision

Despite this, one year on from the commencement of these provisions, only 48% of authorities have a S167 list. 18% of authorities either have no plans to create a S167 list or have yet to decide whether to do so.

Whole areas of the country are comparative "no go" zones for wheelchair users needing taxis.

### ***c) Areas with poor provision***

Several authorities said there is little point in creating a S167 list because they have so few wheelchair accessible taxis, or because statutory bodies fully occupy most or all the area's wheelchair accessible taxis.

Provision of wheelchair accessible taxis varies across the country. Many areas of the country are wheelchair "no go" areas, that have distressingly low S167 take-up. The postcode lottery is rife. Wheelchair users in Scotland are particularly poorly served.

***d) Medical exemptions***

Some areas of the country have wildly disproportionate numbers of drivers with medical exemptions from duties towards wheelchair users. It is not clear why some areas or councils attract and approve this. Wheelchair users in such areas are likely to be disadvantaged.

***e) Compliance with technical specifications***

30 authorities (18%) have produced "S167 lists" which do not comply with the specification set out in the statutory guidance. This risks the possibility that it would be impossible to enforce compliance in these areas.

***f) Prosecution for offences***

There have only been three successful prosecutions of taxi drivers for discrimination against wheelchair users under this legislation. This is not a reflection of the number of such incidents.

There are 1.2 million wheelchair users in the UK; 0.8 million of whom are regular wheelchair users.<sup>xvii</sup> There are over 49,000 wheelchair accessible taxis in areas where the anti-discrimination legislation is in force. It is simply not credible to suggest that the number of prosecutions is anything other than a miniscule fraction of the number of breaches.

I have personally experienced taxi drivers discriminating against me at least 8 times over the past year. This has included drivers leaving the meter running whilst loading me, and drivers not restraining my wheelchair or fit a seatbelt. I experience such on most of my taxi journeys. Where this has occurred in areas with S167 lists, this constitutes direct breaches of S165 of the Equality Act. I have reported each incident to both the Police and the Licensing Authority. No driver has faced prosecution because of these incidents. Drivers who have put my life at risk through not restraining my wheelchair or to fit a seatbelt have had no action taken on their licence other than a simple warning.

***g) Existing regulation***

Some authorities claim that their existing enforcement mechanisms are enough to prevent and punish taxi drivers' discrimination against wheelchair users. My experience is to the contrary.

An example: Renfrewshire council have not implemented S167 and have not included equivalent requirements in their taxi licensing conditions. As a result, a driver's failure to restrain my wheelchair or to strap me in was not an offence under S165 Equality Act 2010 or the Civic Government (Scotland) Act 1982. Achieving redress in such circumstances is exceedingly difficult.

***h) Inadequacy of Guidance***

I posit that the poor take-up of S167 shows that recommendations and guidance are of limited use in making public authorities take the actions necessary to implement and safeguard disabled peoples' rights.

As celebrated stalwart disability rights champion Baroness Jane Campbell put it (in relation to analogous bus access regulations):



I am not a fan of guidance at this stage in our disability equality history ... Guidance will not cut the mustard ... (New guidance would) never deliver the result that we need – that is, full, guaranteed access for disabled people

Guidance without statutory backing or any enforcement behind it can be ignored with impunity – and, let us face it, we have plenty of experience of public services doing just that. Guidance is fine, but we know that it can be left on the shelf and ignored. People may start with good intentions but, in reality, other priorities invariably get in the way.”<sup>xviii</sup>

The statutory guidance recommends authorities with S167 lists to issue instructions to drivers about when they should start or stop the taxi meter. This is important as loading and unloading wheelchair users takes significantly longer than ambulant people, so starting the meter before loading a wheelchair user results in an increased fare. Yet most authorities with S167 lists (54%) have not issued said instructions.

Only 4% (7) authorities with S167 lists have followed the statutory recommendation to include on their lists details as to the size of wheelchair each taxi can accommodate. This will cause a substantial barrier to people with outsize wheelchairs. Only 3% (12) of authorities have produced the recommended (separate) list of taxis which will accept wheelchair users who transfer into a seat.

No authority has followed all elements of the statutory guidance.

### ***i) Remedies***

The problems that I have showed with the taxi anti-discrimination legislation are a result of poor drafting of the Act. Relying on local licensing bodies to do the necessary work to implement the legislation in their area was a fundamental error. To correct this problem will take primary legislation.

Wheelchair users need effective and uniform rights of access to taxis. This can only be achieved by legislation placing all UK drivers of wheelchair accessible taxis under the duties not to discriminate against wheelchair users, instead of the Government relying on local licensing bodies undertaking action to implement it in their area.

Where the Government or local authorities have taken action to bring this anti-discrimination legislation into force, either through S167 lists or new legislation, there needs to be effective mechanisms to detect and report offences and to prosecute drivers. Legislation without effective enforcement is of little benefit.

## **7. CONCLUSION**

In the main, taxi licensing authorities have not engaged with their power to outlaw taxi drivers' discrimination against wheelchair users. As a result, the legislation is still not in force in most areas of the UK.

Even where licensing bodies have implemented the legislation, there has been virtually no enforcement or punishment of offenders.

There are serious flaws in the taxi anti-discrimination provisions in the Equality Act, that make the provisions of little benefit to wheelchair users across the country.

Primary legislation is needed to remedy this.

## 8. RECOMMENDATIONS

### ***a) To the Department for Transport***

- Compel local authorities to create S167 lists and effective enforcement procedures; through means of judicial review if necessary
- Create and disseminate model enforcement policies and procedures

### ***b) To Local Authorities and TFL***

- Implement a s167 list for taxis and private hire vehicles in your area
- Do so even if all taxis licensed by yourselves are accessible, if you have very few accessible taxis, or such taxis are used predominantly or exclusively for council and NHS contracts
- Develop and implement proactive enforcement policies and procedures to ensure taxi drivers comply with their obligations towards wheelchair users

### ***c) To disabled people, disabled people's organisations and allies***

(including me!)

- Continue campaigning to raise the profile of the inadequacy of this law
- Educate taxi licensing authorities in your area about sections 165 and 167 of the Act
- Pressurise your licensing authorities to create a S167 list and to enforce drivers' compliance with S165
- Document and report every incident you experience and insist the licensing body acts against the driver.

## 9. APPENDICES

### ***Appendix 1 – Freedom of Information request sent to each authority***

Dear Northumberland County Council,

I am writing this Freedom of Information Request in relation to your Council's compliance or otherwise with the Government's statutory guidance on implementation of S165-167 of the Equality Act, relating to taxi services for wheelchair users. All taxi licensing bodies are obliged under S167(6) to have "due regard" to the document "Access for wheelchair users to taxis and private hire vehicles: statutory guidance" at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf) . The questions I raise below should be interpreted as requests for recorded information under the Freedom of Information Act.

I have previously made two similar requests to you, one in April 2017 and one in November 2017. I am now requesting an update to assess the impact of implementing this legislation, 12 months after it was commenced. Please note: this request is not identical to my previous requests and in any case asks for updated information as of the time of sending the request. It is therefore not appropriate to respond simply "see previous answer" or "situation unchanged".

In response to my previous FOI request on similar matters in November 2017, you indicated that you intended to implement a S167 list by now (May 2018.)

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 now implemented 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):

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

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?

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

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 still intend to produce such a list.

4) 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."

4a) How many exemptions have you granted under S166 of the Equality Act 2010?

4b) 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."

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

Do you accept or require a letter or report from a GP to process applications for driver exemption under S166?

4c) 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?

4d) Please provide a copy of your application form for driver exemption under S166.

4e) 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?

4f) How many appeals against refusal to issue S166 exemptions were successful?

5) 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."

Do you currently publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchairs into a seat within the vehicle?

Yours faithfully,

Doug Paulley

## ***Appendix 2: Acknowledgements***

Dick Fowler supplied the information and the prompt that equipped and caused me to undertake this research.

WhatDoTheyKnow.com supplied the means to send and track the 1,100+ Freedom of Information requests sent in this study. (Full disclosure: I am an administrator of WhatDoTheyKnow.)

Freedom of Information Officers and Taxi Licensing Officers up and down the country supplied the information on which this study is based, on top of all their other work. I am grateful.

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Andrew Mickel of Muscular Dystrophy UK, and John Pring of the Disability News Service, covered earlier results from this study, as did journalists at the One Show and You and Yours.

Stuart Paulley proofread this report.

Jeff Harvey brought the results to life on my website with an amazing interactive map. Hats off to your skills.

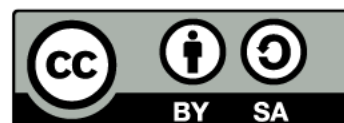
The Equality Act 2010 and Disability committee browbeat the Department for Transport into commencing sections 165-167 of the Equality Act in the first place and have expressed an interest in the results of this study.

The Department for Transport, Transport Scotland and the Office for National Statistics published data used in this study.

I am grateful to them all.

## ***Appendix 3: Licensing***

Except for the public-sector information as below, this work "Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination" by Doug Paulley is licensed under the Creative Commons Attribution-ShareAlike 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-sa/4.0/>.



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## ***Appendix 4: Lists of Tables, Figures and Maps***

### **Tables**

Table 1 - S167 grade.....	7
Table 2 – S167 intent.....	7
Table 3 - GB S167 status .....	10
Table 4 – Constituent countries S167 status .....	10
Table 5 – GB S167 grades.....	12
Table 6 – Constituent countries S167 grades .....	12

### **Figures**

Figure 1 –GB S167 status .....	8
Figure 2 – Constituent countries S167 status .....	10
Figure 3 – Authorities with 100% accessible taxi fleets: approach to S167 .....	10
Figure 4 – GB S167 grades .....	11
Figure 5 – Constituent countries S167 grades .....	12
Figure 6 – Change in UK S167 implementation .....	14
Figure 7 –Change in nations' S167 implementation.....	15
Figure 8 – Reasons for failure to implement legislation .....	16
Figure 9 – Authorities' Approach to Department for Transport Statutory Guidance.....	17
Figure 10 – Medical Exemptions per Authority and per Accessible Taxi.....	18
Figure 11 – Procedures for Medical Exemption under S166 .....	20

### **Maps**

Map 1 - Map of S167 intent .....	9
Map 2 – S167 grades.....	13
Map 3 – Taxi driver medical exemptions issued under S166 .....	19

## Appendix 5: References

- <sup>i</sup> *Equality Act 2010 c.15*, available at <http://www.legislation.gov.uk/ukpga/2010/15> [Accessed: 10 July 2017]
- <sup>ii</sup> Hansard. (2015) *Equality Act 2010 and Disability Select Committee proceedings for Tuesday 15 December 2015*, video available at <http://parliamentlive.tv/event/index/ae6b6foc-71fb-4385-889b-5275f94fba81?in=15:59:52> [Accessed: 10 July 2017]
- <sup>iii</sup> Department for Transport. (2017) *Access for wheelchair users to Taxis and Private Hire Vehicles: Statutory Guidance* [pdf] Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/593350/access-for-wheelchair-users-taxis-and-private-hire-vehicles.pdf) [Accessed: 10 July 2017]
- <sup>iv</sup> Department for Transport (2017): *Taxi and private hire vehicles statistics, England: 2017*. Available at: <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017> [Accessed: 13 July 2017] (Confusingly: includes statistics for licensing in Wales.)
- <sup>v</sup> Transport Scotland (2017): *Scottish Transport Statistics No 35 – Datasets*. Available at: <https://www.transport.gov.scot/publication/scottish-transport-statistics-no-35-datasets/> [Accessed: 13 July 2017]
- <sup>vi</sup> *Freedom of Information Act 2000 c.36 sections 1, 10 and 17*, available at <http://www.legislation.gov.uk/ukpga/2000/36/contents> [Accessed: 13th July 2017]
- <sup>vii</sup> Department for Environment, Food & Rural Affairs (2011): *Rural-Urban Classification of Local Authority Districts and other higher-level geographies for statistical purposes*. Available at: <https://www.gov.uk/government/statistics/2011-rural-urban-classification-of-local-authority-and-other-higher-level-geographies-for-statistical-purposes> [Accessed: 13 July 2017]
- <sup>viii</sup> Doug Paulley (2017) *Licensing authorities' approach to the Equality Act 2010 provisions on taxi wheelchair discrimination*. [xlsx] Available at: <https://www.kingqueen.org.uk/s167> [Accessed: 13 July 2017]
- <sup>ix</sup> Department for Transport (2017): *Access for wheelchair users to Taxis and Private Hire Vehicles: Statutory Guidance*. Available at: <https://www.gov.uk/government/publications/access-for-wheelchair-users-to-taxis-and-private-hire-vehicles> [Accessed: 20 September 2018]
- <sup>x</sup> City of Edinburgh Council (2018): *Response to Freedom of Information Request: "Large number of exemptions under S166"*. Available at: [https://www.whatdotheyknow.com/request/large\\_number\\_of\\_exemptions\\_under](https://www.whatdotheyknow.com/request/large_number_of_exemptions_under) [Accessed: 20 September 2018]
- <sup>xi</sup> Taunton Deane Borough Council (2018): *Response to Freedom of Information Request: "Large number of exemptions under S166"*. Available at: [https://www.whatdotheyknow.com/request/large\\_numbers\\_of\\_taxi\\_drivers\\_me\\_2](https://www.whatdotheyknow.com/request/large_numbers_of_taxi_drivers_me_2) [Accessed: 20 September 2018]
- <sup>xii</sup> Plymouth Council (2018): *Response to Freedom of Information Request: "Large number of exemptions under S166"*. Available at: [https://www.whatdotheyknow.com/request/large\\_numbers\\_of\\_taxi\\_drivers\\_me\\_3](https://www.whatdotheyknow.com/request/large_numbers_of_taxi_drivers_me_3) [Accessed: 20 September 2018]

Licensing authorities' approach to the Equality Act  
2010 provisions on taxi wheelchair discrimination

<sup>xiii</sup> North East Lincolnshire Council (2018): *Response to Freedom of Information Request: "Large number of exemptions under S166"*. Available at: [https://www.whatdotheyknow.com/request/large\\_numbers\\_of\\_taxi\\_drivers\\_me](https://www.whatdotheyknow.com/request/large_numbers_of_taxi_drivers_me) [Accessed: 20 September 2018]

<sup>xiv</sup> Peterborough Telegraph (2013) *Taxi driver fined for not properly securing disabled passenger* Available at: <https://www.peterboroughtoday.co.uk/news/crime/taxi-driver-fined-for-not-properly-securing-disabled-passenger-1-5187900> [Accessed: 20 September 2018]

<sup>xv</sup> Hastings Borough Council (2018) *Response to Freedom of Information Request: "Prosecution under S165 of the Equality Act"* Available at: [https://www.whatdotheyknow.com/request/prosecution\\_under\\_s165\\_of\\_the\\_eq](https://www.whatdotheyknow.com/request/prosecution_under_s165_of_the_eq) [Accessed: 20 September 2018]

<sup>xvi</sup> Andrew Jones MP (2015) *Oral evidence - Equality Act 2010 and Disability - 15 Dec 2015*. Available at: [http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/equality-act-2010-and-disability-committee/equality-act-2010-and-disability-oral/26351.html](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/equality-act-2010-and-disability-committee/equality-act-2010-and-disability-committee/equality-act-2010-and-disability-oral/26351.html) [Accessed: 15 July 2017]

<sup>xvii</sup> NHS England (2018) *Improving Wheelchair Services* Available at: <https://www.england.nhs.uk/wheelchair-services/> [Accessed: 20 September 2018]

<sup>xviii</sup> Baroness Jane Campbell (2016), quoted in Disability News Service (2016)'s articles *Ministers face twin attack over bus accessibility failures* and *Baroness Campbell vows to fight on over access to buses*. Available at <https://www.disabilitynewsservice.com/ministers-face-twin-attack-over-bus-accessibility-failures/> and <https://www.disabilitynewsservice.com/baroness-campbell-vows-to-fight-on-over-access-to-buses/> [Accessed: 15<sup>th</sup> July 2017]