

## **Taxis and Private Hire Drivers**

### **Equality Act 2010**

### **Medical Exemption Policy**

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## **1. Introduction**

To provide better services for disabled people, the Council endorses the provisions of the Equality Act 2010. We want to ensure that passengers with assistance dogs or wheelchair users receive lawful treatment and have the same access to public transport services, confident of receiving the assistance they need to travel safely.

This policy applies to all drivers who possess a current hackney carriage (taxi) or private hire driver's licence. The policy applies where a licensed driver wishes to be exempt from the requirements placed upon them under the Equality Act 2010 with respect to the carriage of passengers in wheelchairs and assistance dogs.

## **2. Published List of Designated Wheelchair Accessible Taxi and Private Hire Vehicles**

The Council wants to ensure that wheelchair passengers are better informed about the accessibility of the taxi and private hire vehicle fleet within the Burnley District. In order to do this, the Council provides a list of designated taxis or private hire vehicles which are able to take passengers in their wheelchairs should they prefer. To be placed on the designated list, vehicles must be capable of carrying some, but not necessarily all, types of occupied wheelchairs. Vehicles shall only be included if it is possible for a wheelchair passenger to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. There is a right of appeal against a decision to place a vehicle on the designated list to the magistrates' court within 28 days of being included in the list.

## **3. Equality Act 2010**

### **3.1 Wheelchair Users**

The Act places duties on drivers of designated wheelchair accessible taxis and private hire vehicles to:-

- carry the passenger while in the wheelchair;
- carry their wheelchair should the passenger choose to sit in a passenger seat;
- not make any additional charge for doing so;
- take such necessary steps to ensure that the passenger is carried in safety and reasonable comfort;
- give the passenger such mobility assistance as is reasonably required to:-
  - enable the passenger to get into or out of the vehicle, including in the wheelchair if they wish to remain in it;
  - load the passenger's luggage into or out of the vehicle;
  - load the wheelchair into or out of the vehicle if the passenger does not wish to remain in the wheelchair.

### **3.2 Assistance Dogs**

The Act places duties on drivers of taxis and private hire vehicles to:-

- carry a passenger's (guide, hearing or assistance) dog, allowing the dog to remain with the passenger;
- not make any additional charge for doing so.

### **3.3 Exemption Certificates and Notices**

If satisfied that it is appropriate to do so, the Act allows the Council to exempt taxi and private hire drivers from their duties on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

### **3.4 Offences**

It is an offence for a driver of a designated wheelchair accessible taxi or private hire vehicle to refuse to carry a passenger in a wheelchair if that taxi or private hire vehicle is on the Council's published designated list. It is also an offence not to comply with any of the duties placed upon them as set out in section 3.1 above.

It is an offence for a taxi driver hired by or on behalf of a disabled person who is accompanied by an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) to refuse to carry the assistance dog. It is also an offence not to comply with the duties placed upon them as set out in section 3.2 above.

It is an offence for the operator of a private hire vehicle to refuse to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person with an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) and the reason for the refusal is that the disabled person will be accompanied by an assistance dog. The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

It is an offence for the driver of a private hire vehicle to refuse to carry out a booking accepted by the operator if the booking is made by or on behalf of a disabled person (or by another person who wishes to be accompanied by a disabled person) and the reason for the refusal is that the disabled person is accompanied by an assistance dog.

### **3.5 Defences**

It is a defence if a driver has a valid exemption certificate and is displaying a valid exemption notice. It is also a defence if the vehicle can't carry larger or heavier wheelchairs safely. Religious or cultural beliefs cannot be cited as a reason for refusal to carry assistance dogs. If a complaint of discrimination is substantiated, the Council may suspend or revoke a driver's licence.

## **4. Exemption certificates**

### **4.1 Medical**

In some circumstances, a taxi or private hire driver may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons (in the short or long term).

The Council can grant an exemption to drivers from the duties to assist passengers in wheelchairs or to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties. There are no exemptions, medical or otherwise, for a driver in respect of conveying a reasonable quantity of luggage or providing reasonable assistance in the loading and unloading of luggage.

#### **4.2 Obtaining an Exemption Certificate**

Drivers considering applying for an exemption in relation to the carriage of passengers in wheelchairs may wish to first determine whether the vehicle they drive (or may drive in the future) has been designated as wheelchair accessible. To check which vehicles have been designated as wheelchair accessible, please refer to the published list on the Council's website.

The licensed driver must obtain and supply a letter from their own General Practitioner (G.P) explaining what duties the driver:

- cannot undertake;
- why the duties cannot be undertaken; and
- for how long the duties cannot be undertaken for.

The letter must be accompanied by an application (Appendix 1) which must be submitted to the Council. There is no fee attached to this process, however, the cost (if any) of obtaining the letter from the driver's G.P. must be paid for by the applicant.

If the G.P.'s letter states that the driver is unfit to carry passengers in wheelchairs and / or assistance dogs for a specified period of time (up to a maximum of 3 months), a temporary 'Exemption Notice' will be issued by the Council with an expiry date in line with the information provided on the G.P.'s letter.

If the applicant's G.P. does not specify a period of time, then the Council will reject the application.

If the G.P.'s letter is not clear or is ambiguous in any way, the matter will be referred to the Council's Licensing Sub-Committee for consideration. If a Committee is convened, the applicant will be invited to attend and explain the nature of the exemption request and the matter will be determined.

Upon the expiry of the Exemption Notice, drivers will be deemed fit to undertake all duties and the Exemption Notice must be returned to the Council within 7 days. If it is not returned within this period, the driver's licence could be suspended until such time as the Notice is returned and the matter will be referred to the Council's Licensing Sub-Committee.

If the driver expects that the temporary Exemption Notice will be extended beyond 3 months, then prior to the expiry date of the notice, the driver will need to contact the Council to discuss the next steps and timescales. The driver is strongly advised to make contact at the earliest opportunity: it will not be possible to extend the temporary Exemption Notice outside of this process.

During the period of the temporary Exemption Notice, the driver will be required to contact their own G.P. to arrange for an in-depth medical report to be compiled (the cost for which must be paid for by the driver) and following receipt of this, will then be required to make an appointment with the Council's approved medical practitioner to present the report from their own G.P. and to undergo an examination / consultation where the practitioner will complete the 'Statement of Fitness' on the applicant's capability to undertake the duties in terms of their medical grounds and / or physical condition, and for how long. The driver will be required to pay for the statement of fitness supplied by the Council's approved medical practitioner. The driver will need to submit the 'Statement of Fitness' to the Council for determination.

## **5. Outcome**

If the statement confirms that the driver is able to undertake the duties and is fit for work, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is able to undertake duties, with reasonable adjustments, a further temporary Exemption Notice of up to 3 months may be issued. It is expected that within those 3 months, the driver will undertake the reasonable adjustments to allow a return to full duties. At the end of 3 months, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and the driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is temporarily unfit to carry passengers in wheelchairs and / or assistance dogs, a temporary Exemption Notice will be granted for the length of time as determined by the approved practitioner. The driver will then be expected to attend a further assessment / consultation with the approved practitioner prior to the expiry date of the temporary Exemption Notice.

If the driver is declared permanently unfit to carry passengers in wheelchairs and / or assistance dogs, an Exemption Notice will be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every 5 years, with reference to expert medical evidence / advice and each case will be determined on an individual basis. This could include a further referral to the approved practitioner.

If the driver disagrees with the medical recommendation and subsequent determination by the Council, the matter will be referred to the Licensing Sub-Committee for consideration.

## **6. Dispute Resolution**

If a driver does not agree with the decision of the Licensing Sub-Committee, he / she is able to appeal the decision through the Magistrates' Court. The driver has 28 days from the date of refusal to appeal