

Medical Exemption Criteria for Drivers of Taxi and Private Hire Vehicles and Operators of Private Hire Vehicles

1 Requirements for Drivers of Designated Wheelchair Accessible Vehicles

- 1.1 The criteria applies to all drivers who possess a current hackney carriage, private hire or dual hackney carriage driver's licence issued by Southend-on-Sea Borough Council.
- 1.2 The criteria applies where a licensed driver is unable to fulfil the requirements placed upon them under the Equalities Act 2010 ('The Act') with respect to the carriage of passengers in wheelchairs as a result of their physical conditions or for medical reasons.
- 1.3 Section 165 of 'The Act' places certain duties on drivers of designated wheelchair accessible hackney carriage and private hire vehicles. Those duties include:
 - To carry the passenger while in the wheelchair;
 - Not to make any additional charges for doing so;
 - Should the passenger choose to sit in a passenger seat, to carry their wheelchair;
 - To take such necessary steps to ensure that the passenger is carried safely and reasonable comfort; and
 - To give the passenger such mobility assistance as is reasonably required.
- 1.4 Under section 165 of 'The Act' it is an offence for a driver of a designated wheelchair accessible hackney carriage or private hire vehicle to refuse to carry a passenger in a wheelchair in the circumstances defined in section 1.3 above.
- 1.5 Section 165 (7) of 'The Act' states:

'A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with the duty imposed on the driver by this section'.
- 1.6 Section 166 of 'The Act' allows the Council to exempt drivers from the duties under section 165 where 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.
- 1.7 Section 169(9) states:

'It is a defence for person charged with the offence to show that at the time of the alleged offence

 - a) The vehicle conformed to the accessibility requirements which applied to it, but*
 - b) It would not have been possible for the wheelchair to be carried safely in the vehicle'*
- 1.8 Failure to comply with Section 165 of 'The Act' could result in formal action, including prosecution having regard to the Regulatory Services Enforcement Policy.

2 Requirements for Assistance Dogs in Vehicles

- 2.1 This criteria applies to all drivers who possess a current hackney carriage, private hire or dual hackney carriage drivers licence issued by Southend-on-Sea Borough Council.
- 2.2 This criteria applies to all Operators who are licenced by Southend-on-Sea Borough Council.
- 2.3 The criteria applies where a licensed driver is unable to fulfil the requirements placed upon them under the Equalities Act 2010 with respect to the carriage of assistance dogs for medical reasons.
- 2.4 Section 168 and 170 of 'The Act' places certain duties on Operators of private hire vehicles and drivers of taxi and private hire vehicles with respect to the carriage of assistance dogs. Those duties include:
 - Operators of private hire vehicles to accept a booking for a vehicle to carry an assistance dog where an assistance dog is accompanying a disabled person;
 - Drivers of private hire vehicles and taxis to accept a booking for a vehicle to carry an assistance dog where an assistance dog is accompanying a disabled person;
 - Not to make any additional charges for doing so;
- 2.5 It is an offence under section 168 and 170 of 'The Act' to refuse to carry an assistance dog accompanying a disabled person as defined in section 2.3 above.
- 2.6 Section 169 and 171 of 'The Act' allows the Council to exempt drivers from the duties under sections 168 and 170 where it is appropriate to do so, on medical grounds.
- 2.7 Section 169 states:

'The driver of a taxi is exempt from the duties imposed by section 168 and 170 if-

(a) An exemption certificate issued to the driver is in force with respect to the taxi,
and
(b) The prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.
- 2.8 Failure to comply with Section 168 and 170 of 'The Act' could result in formal action, including prosecution having regard to the Regulatory Services Enforcement Policy.

3. Medical Exemptions

- 3.1 In some circumstances the driver of a hackney carriage or private hire vehicles which have been designated may be unable to fulfil the requirements of 'The Act' for medical reasons, short or long term.

- 3.2 Section 166 of 'The Act' allows the Council to grant an exemption to drivers from the duties to assist passengers in wheelchairs 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 the duties.
- 3.3 There are no exemptions, medical or otherwise, for a hackney carriage or private hire driver in respect of conveying a reasonable quantity of luggage or providing reasonable assistance in the loading or unloading of luggage.
- 3.4 Section 169 and 171 of 'The Act' allows the Council to grant an exemption to drivers from the duty to carry an assistance dog where they are satisfied that it is appropriate to do so, on medical grounds.
- 3.5 Drivers considering applying for an exemption in relation to section 165 (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.
- 3.6 To check which vehicles have been designated as wheelchair accessible please refer to the published list on the Council's website.
- 3.7 The licenced driver must obtain and supply a letter from their own General Practitioner (GP) explaining to the Council what duties the driver:
 - Cannot undertake;
 - Why the duties cannot be undertaken ; and
 - For how long the duties cannot be undertaken.
- 3.8 The letter provided by the GP must be submitted to Southend-on-Sea Borough Council's Licensing Team and accompanied by the Council's application for medical exemption form. There is no fee attached to this process. However, the cost (if any) of obtaining a letter from the driver's GP must be paid for by the applicant.
- 3.9 If the driver's GP letter states that the driver is unable to fulfil their duties under 'The Act' Section detailed in Sections 1 and 2 for a specified period of time (up to a maximum of three months), a Temporary Exemption Notice will be issued by the Council with an expiry date in line with the information provided in the GP's letter. If the applicant's GP does not specify a period of time then the authority will reject the application.
- 3.10 The application will be rejected if the GP's letter is not clear or is ambiguous in any way or lacks sufficient detail to enable an appropriate decision to be made.
- 3.11 A Notice will be issued for display in the Driver's designated vehicle, which must be returned to the Council within 7 days of the expiration of the Temporary Exemption Notice.
- 3.12 If the Temporary Exemption Notice is not returned to the Council within the specified period, the driver's licence could be suspended until such time as the Notice is returned. Any failure to return the Temporary Exemption Notice within the

specified period will be considered in line with the Council's Regulatory Services Enforcement Policy.

- 3.13 If the Exemption Notice is displayed beyond its expiry date, or after the driver is assessed as being fit to work, action may be considered in line with the Council's Regulatory Services Enforcement Policy.
- 3.14 If it is expected that the Temporary Exemption Notice needs to be extended beyond the period of three months, then prior to the expiry date of the notice the driver must contact the Council to discuss the next steps and timescales. The Council may arrange for a referral to the Council's approved medical practitioner for a 'statement of fitness on the applicant's capability to undertake the duties in terms of their medical grounds and / or physical condition.
- 3.15 If at any point in the process it is proposed that the driver will be permanently unfit to carry out the duties under section 165, 168 and 170 of 'The Act' then the driver will be required to make an appointment with the Council's approved medical practitioner to present the report from their own GP 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.
- 3.16 The following outcomes of the examination / consultation with the approved medical practitioner may be recorded:
 - Fit for work
 - Fit with reasonable adjustments (specified). It is anticipated that the reasonable adjustments will allow the driver to return to full duties within three months.
 - Temporarily or permanently unfit to carry assistance dogs
 - Temporarily unfit to carry passengers in wheelchairs for a length of time determined by the approved practitioner
 - Permanently unfit to carry passengers in wheelchairs. The Notice of Medical Exemption will be issued will include a photograph of the driver who has been granted exemption. The exemption will be reviewed every 5 years.
- 3.17 In all cases a Notice will be issued for display in the vehicle and the register on the Council's website will be updated.
- 3.18 If the driver disagrees with the medical recommendation and subsequent determination by the Council they have the right of appeal to Magistrates Court before the end of a period of 28 days beginning with the date of refusal.