

AGENDA FOR

LICENSING AND SAFETY PANEL

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To: All Members of Licensing and Safety Panel

Councillors : P Adams, N Bayley, I Bevan, J Grimshaw,
R Hodgkinson, D Jones (Chair), G Keeley, O Kersh,
A McKay, Sarah Southworth, J Walker and S Wright

Dear Member/Colleague

Licensing and Safety Panel

You are invited to attend a meeting of the Licensing and Safety Panel which will be held as follows:-

Date:	Tuesday, 13 February 2018
Place:	Meeting Rooms A & B - Town Hall
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing and Safety Panel are asked to consider whether they have an interest in any of the matters on the agenda, and if so, to formally declare that interest.

3 MINUTES OF THE LAST MEETING *(Pages 1 - 8)*

To approve and sign as a correct record the minutes of the last meeting held on 11 January 2018. A copy of the minutes is attached.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters for which this Panel is responsible.

Approximately 30 minutes will be set aside for Public Question Time if required.

5 OPERATIONAL REPORT *(Pages 9 - 10)*

A report by the Assistant Director (Localities) is attached.

6 EQUALITY ACT 2010 - MEDICAL EXEMPTION POLICY *(Pages 11 - 30)*

A report by the Assistant Director (Localities) is attached.

7 URGENT BUSINESS

Any other business, which by reason of special circumstances, the Chair agrees may be considered as a matter of urgency.

8 EXCLUSION OF PRESS AND PUBLIC

To consider passing the appropriate resolution under section 100 (A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following item of business since it involves the likely disclosure of the exempt information stated.

9 APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE *(Pages 31 - 36)*

A report by the Assistant Director (Localities) is attached.

Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	11 January 2018
Present:	Councillor D Jones (in the Chair), Councillors: P Adams, N Bayley, I Bevan, R Hodgkinson, J Grimshaw, G Keeley, A McKay, O Kersh Sarah Southworth, J Walker and S Wright
Apologies for absence:	-
Public Attendance:	There were no members of the public in attendance

LSP XXX DECLARATIONS OF INTEREST

There were no declarations of interest raised in relation to any items on the agenda.

LSP XXX MINUTES**Delegated decision:**

That the Minutes of the Licensing and Safety Panel meeting held on 28 November 2017, be approved as a correct record and signed by the Chair.

LSP XXX PUBLIC QUESTION TIME

Mr Charles Oakes, of the Hackney Drivers' Association Ltd, submitted a written question to the Licensing and Safety Panel enquiring as to how someone who is unemployed would raise an amount of approximately £450 to apply for a taxi driver's licence.

The Licensing Unit Manager explained that the total cost of a licence would not reach £450, however, there were separate components contained within the fee including the 3 year licence, knowledge test, DBS check, English and Maths assessment and the driving assessment. Not all of the cost is taken up front only the DBS check and pre-assessment costs. It is a non-profit fee to cover the charges incurred, some of which are outside the Council's control.

It was also explained that there was a proposal to increase the fee by 3%. This proposal would be advertised in the press, which is a statutory obligation. The Licensing Unit Manager stated that a comparison of all the Greater Manchester Authority fees would be collated and put before the Licensing and Safety Panel for information.

It was agreed:

That the response be noted.

Licensing and Safety Panel, 11 January 2018

LSP XXX OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

- Pre-application assessments are continuing to be undertaken by the adult learning team. From 10 November 2017 until 8 December 2017 there have been 8 assessments carried out, of which 6 passed, 2 failed and none failed to attend.
- In relation to Licensing Hearings Panels, the Licensing Unit Manager reported the following:
 - The Licensing Service received an application to vary the Designated Premises Supervisor in respect of the Wellington Hotel, 338 Bolton Road, Bury and the hearing was convened for 6 December 2017, however, the representation was withdrawn prior to the hearing, following mediation with the Police, therefore this application was not heard by a Licensing Panel.
 - The Licensing Service received an application to review the premises licence in respect of the White Rooms, 254 Bury New Road, Whitefield, from Greater Manchester Police in their capacity as a Responsible Authority and two interested parties also made representations. The meeting was convened for 19 December 2017 and the Panel received evidence and considered all oral and written documentation before considering the merits of the case and agreed to vary the conditions of the licence in keeping with the licensing objectives; to prevent crime and disorder, to prevent public nuisance and ensure public safety. The Panel agreed it reasonable, balanced, appropriate and proportionate based on all the evidence, to vary the conditions and not revoke the licence.
 - The Licensing Service received an application to transfer the premises licence and vary the Designated Premises Supervisor in respect of Jason's Mini Mart. 36 Albion Street, Bury and the hearing was convened for 20 December 2017. Greater Manchester Police, in their capacity as a Responsible Authority gave notice that they were satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective. The Panel's decision was to refuse both applications.

- Following a decision of the Licensing and Safety Panel on 27 July 2017 to revoke a private hire driver's licence with immediate effect for failing to maintain his vehicle over a 2 year period, the driver appealed the Council's decision to Manchester and Salford Magistrates' Court. The hearing took place on 29 November 2017 and the Magistrates' decided to dismiss the appeal and the Council were granted costs of £1,570.

It was agreed:

That the report be noted.

LSP XXX URGENT BUSINESS

There was no urgent business reported.

LSP XXX EXCLUSION OF THE PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information relating to individuals who hold Licences granted by the Authority or Applicants for Licences provided by the Authority.

LSP XXX (E) SUSPENSION/REVOCAION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

Licence holder 30/2017 attended the meeting and was accompanied by Mr Ahmed, Solicitor.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Localities).

The report explained that the Licensing Service had received information from Greater Manchester Police on 19 December 2017 that the Licence Holder had received a conviction for the possession of a class 'A' drug on 21 November 2017 at Manchester Magistrates' Court and was fined £100 with costs of £85 and a victim surcharge of £30. This had not disclosed to the Licensing Service within 7 days as required under the private hire drivers' licence conditions.

Mr Ahmed stated that it was not the Licence Holder driving the vehicle but his uncle, which was accepted by the Licensing and Safety Panel. He explained that driving a taxi is all the Licence Holder knows and that he has worked as a taxi radio operator since he was 16 years old. He is the only financial provider in the household and his mother relies on him and that to lose his licence would be detrimental to the family.

Following questions from the members of the Panel, the Licence Holder explained that he had not been driving the vehicle but had been a

passenger and it was not his car. He acknowledged that there was a bag of a class 'A' drugs in the pocket of the door of the car and that when the Police stopped the car he automatically put this in his pocket as he didn't want his uncle to get into trouble.

When questioned as to why he had not disclosed this conviction to the Licensing Service, Mr Ahmed stated that the Licence Holder had not been aware he had to. He stated that he was young and naive at the time of the conviction and was very remorseful for his actions and stressed how important it was for him to keep his licence in order to provide for his Mother and family.

Delegated decision:

The Panel carefully considered the report and the oral representations provided by the Licence Holder 30/2017 and his Solicitor and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, unanimously, to revoke the driver's licence.**

The Panel noted the following:

1. That the conviction for possession of a class 'A' drug was a serious offence.
2. That the conviction date of 21 November 2017 was very recent and the conviction guidelines state that a conviction of less than 3 years old will generally be refused and there were no exceptional circumstances to depart from these guidelines.
3. The Licence Holder provided no reasonable explanation for not disclosing the conviction, as the requirements for disclosure are clear.
4. That the Licence Holder was not a fit and proper person to hold a Private Hire Driver's Licence issued by Bury Council.

The Licence Holder was informed of their right to appeal to the Magistrates' court within 21 days.

LSP XXX APPLICATION FOR PRIVATE HIRE DRIVERS' LICENCES

(E) The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding applications for Public/Private Hire Vehicles Drivers' Licences.

The Applicants were invited to attend the meeting for separate hearings and invited to address the Panel separately on their applications and any matters referred to in the Officer's report. The Chair outlined the procedure to be followed.

1. Applicant 27/2017 attended the meeting and was represented by Mr Ahmed, Solicitor. The Licensing Unit Manager read the report which was accepted by the Applicant and representative, which explained that the Applicant had been convicted at Greater Manchester Magistrates' Court on 14 March 2013 for an offence of driving a motor vehicle with excess

alcohol and sentenced to 12 months disqualification and fined £110 with costs of £350 and a victim surcharge of £20.

The Applicant addressed the Panel and explained the circumstances which had led to the conviction, which were that on 11 February 2013 the Applicant had visited a friend for a drink, which was a regular occurrence and he always booked a taxi home. On this occasion, he was at a female friend's house and they had an argument and she took his car keys and started to drive his car. She travelled up the road where she had stalled the car at a Give Way. The Applicant stated he opened the car door to stop the female from driving further, when she sounded the horn and started shouting and a neighbour called the Police. The Applicant had by this time reversed the car to a safer place and was stood outside the car but with the keys in his pocket. The female initially accused the Applicant of assault but these charges were later dropped.

Following questions from the members of the Licensing and Safety Panel, the Applicant stated that he only chased the female as he was worried for her safety, as she had also been drinking. He further stated he had only reversed the car a short distance to ensure the safety of others as well as his car, due to where the vehicle had been left. The Applicant also explained that since this incident he has suffered ill health and lost 4 stone. He has 5 children to support, 2 of which are at University and he felt that not only him but his whole family were suffering. The Applicant acknowledged that what he did was wrong, was very remorseful for his actions but stated that he had waited until the 5 years since the conviction time was almost complete, before applying for his licence.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 27/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place almost 5 years ago and there had been no further convictions since that time.

2. Applicant 28/2017 attended the meeting and was represented by Mr Ahmed, Solicitor.

The Licensing Unit Manager read the report, which was accepted by the Applicant which explained that the Applicant had been convicted at Bury Youth Court on 18 December 2014 for offences of driving otherwise than in accordance with a licence and using a vehicle uninsured. The Applicant was fined £290 and given 6 penalty points on his licence.

Mr Ahmed addressed the Panel on behalf of the Applicant and explained that the Applicant was only 16 years old at the time of the conviction and was very young and naïve. He had been driving his friend's car who was also with him in the vehicle but when the Police stopped the car he had been driving. He had voluntarily declared the convictions which were committed at the time, due to him time being too young to hold a driving licence.

The Applicant currently works as a taxi radio operator but wants to become a taxi driver with the firm he works for.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 28/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place over 3 years ago and there had been no further convictions since that time.

3. Applicant 29/2017 attended the meeting and was represented by Mr Ahmed, Solicitor.

The Licensing Unit Manager read the report which was accepted by the Applicant and which explained that the Applicant had held a hackney carriage and private hire driver licence until 9 December 2017 and as part of the renewal application process, the Applicant's driving licence was checked with the DVLA. At that time, it was discovered that the Applicant had been convicted on 6 July 2016 at Manchester Magistrates' Court of an offence of failing to give information as to identity of driver, for which the Applicant had received 6 penalty points. The Applicant had not disclosed this conviction.

Mr Ahmed explained that the Applicant had been a taxi driver with Bury since 2004 and always had a clean record until this offence. It had resulted from the Applicant's vehicle crossing going through a red traffic light. Although the vehicle in question was registered to the Applicant, it was not he who had been driving on that date. Unfortunately the circumstances were that his Mother was very ill in Pakistan and the Applicant was regularly visiting her. However, due to not being at home very much during his Mother's illness, the Applicant's post had not been opened and therefore the Applicant had no recollection of the offence, until a bailiff came to his house to collect a fine related to it.

Mr Ahmed stated that the Applicant was the head of a large household and the main financial support. He had not purposely done wrong and

had already paid a large fine and received 6 penalty points on his licence. He was very remorseful.

Delegated decision:

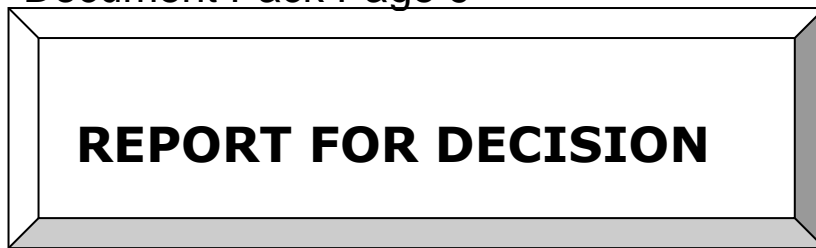
The Panel carefully considered the report and the oral representations by the Applicant and Mr Ahmed and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the applications for a Hackney Carriage Licence and a Private Hire Driver's Licence by Applicant 29/2017 be granted.**

The Panel noted that although a serious offence, the Applicant had shown remorse and understood the seriousness of the matter. He also had no other convictions or complaints registered against him during his previous 13 years as a Licence Holder.

**COUNCILLOR D JONES
CHAIR**

Please note: The meeting started at 7.00 pm and finished at 8.40 pm

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DECISION OF:	LICENSING & SAFETY PANEL
DATE:	13 FEBRUARY 2018
SUBJECT:	OPERATIONAL REPORT
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	M BRIDGE
TYPE OF DECISION:	N/A – Report for information only
FREEDOM OF INFORMATION/STATUS:	This paper is in the public domain
SUMMARY:	A report to advise members on operational issues within the licensing service.
IMPLICATIONS:	
Wards Affected:	N/A
Scrutiny Interest:	Internal Scrutiny Panel

1.0 BACKGROUND

1.1 The report advises Members on operational issues within the licensing service.

2.0 PRE-APPLICATION ASSESSMENTS

2.1 Further to the last meeting of the Licensing and Safety Panel. The Licensing Service can confirm that the assessments are continuing to be undertaken by the adult learning team. From the 8th December 2017 until the 19th January 2018 there has been 16 assessments carried out. Of the 16 assessments that were booked, 13 passed, 3 failed and none failed to attend.

3.0 Taxi Liaison Meeting

A taxi liaison meeting was held on the 18th January with representatives from the Hackney and Private Hire trade. A copy of the minutes will be sent to members. A representative from the Councils Community Cohesion section attended to propose PREVENT training for all drivers which is part of the UK terrorism strategy to stop individuals becoming involved in extremist activity.

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REPORT FOR

Agenda

MEETING:	LICENSING & SAFETY PANEL
DATE:	13 FEBRUARY 2018
SUBJECT:	MEDICAL EXEMPTION POLICY UNDER THE EQUALITY ACT 2010
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	To introduce a medical exemption policy under the Equality Act 2010
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. To introduce a medical exemption policy under the Equality Act 2010 as outlined in the report 2. To consider alternative amendments determined by panel to the proposed policy 3. If the policy is approved, Members are requested to delegate the issuing of exemption certificates to the Head of Service for Trading Standards and Licensing, or the Licensing Unit Manager/Deputy Licensing Officer in consultation with the Chairperson of the Licensing and Safety Panel.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Director of Finance and E-Government:	The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Considered by Monitoring Officer:	Yes <input checked="" type="checkbox"/> Comments
Are there any legal implications?	Under the legislation the Council is required to determine applications. The report is in accordance with the appropriate legislation.
Staffing/ICT/Property:	None
Wards Affected:	All
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

1.1 The Equality Act 2010 means that service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Bury Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or assistance dogs can have confidence that drivers will carry them and their wheelchair or assistance dog and at no extra charge.

All Hackney Carriages licensed by Bury Council are wheelchair accessible vehicles. A list is also available of wheelchair accessible Private Hire vehicles.

The Equality Act 2010, section 165, places the following duties on drivers of designated wheelchair accessible taxis and private hire vehicles;

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required

In addition, sections 168 and 170 places the following duty on drivers of taxis and private hire vehicles;

- To carry the passenger's dog, allowing it to remain with the passenger and not make any additional charge for doing so.

A driver who fails to comply with any of the above may be guilty of an offence and is at risk of prosecution, subject to any prescribed exemptions

2.0 CURRENT ISSUES

- 2.1 Currently Bury Council does not have a policy which permits licensed hackney carriage/private hire drivers to apply for a medical exemption under the Equality Act 2010. Therefore the Licensing Service have drafted a policy to ensure that drivers who have allergies/medical conditions which do not allow them to comply with the requirements of the Act can apply for an exemption. The policy is attached at Appendix 1.
- 2.2 In January 2018, the Licensing Service consulted the hackney carriage / private hire trade liaison meeting on the policy and no comments were raised.
- 2.3 The costs relating to the application for exemption and a further exemption certificate should one be required are currently being finalised.

3.0 CONCLUSION

Members are requested to consider the options of this report on page 1.

List of Background Papers:-

Equality Act 2010

Minutes of the Hackney Carriage / Private Hire Drivers Trade Liaison Meeting

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Document Pack Page 14

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Medical Exemption Policy

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Medical Exemption Policy

1. Background

The Equality Act 2010 means that service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Bury Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or assistance dogs can have confidence that drivers will carry them and their wheelchair or assistance dog and at no extra charge.

All Hackney Carriages licensed by Bury Council are wheelchair accessible vehicles. A list is also available of wheelchair accessible Private Hire vehicles.

The Equality Act 2010, section 165, places the following duties on drivers of designated wheelchair accessible taxis and private hire vehicles, (see appendix 1 for definition);

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required

In addition, sections 168 and 170 places the following duty on drivers of taxis and private hire vehicles (see appendix 1 for definition);

- To carry the passenger's dog, allowing it to remain with the passenger and not make any additional charge for doing so.

A driver who fails to comply with any of the above may be guilty of an offence and is at risk of prosecution, subject to any prescribed exemptions.

2. What is a medical exemption

In some circumstances a driver of a designated taxi or private hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or long term. Section 166 of the Act allows licensing authorities to exempt 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 drivers physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

Sections 169 and 171 of the Act allow licensing authorities to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

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Medical Exemption Policy

3. How to apply for a medical exemption

If a driver believes they have a medical condition which may affect them performing their duties under the Equality Act 2010 they should apply for a medical exemption. This can be done by obtaining from Bury Council; a letter to their GP, an application for a medical exemption and a statement of fitness for their GP to complete.

The application should be completed and returned directly to the Licensing Unit Manager, together with a comprehensive report from the drivers own GP together with medical evidence (e.g. test results, hospital records) where applicable and the statement of fitness.

On the basis of the GPs report, a decision will be made whether the driver will receive an exemption certificate or not, what the exemption will cover and for what length of time it will last. In the case of exemptions for a stated period of time, the driver will need to be re-assessed by their GP again before the exemption certificate can be withdrawn or extended. Any costs incurred from charges made by the GP or costs of obtaining hospital notes etc must be paid by the driver. A fee of £ ?? will be charged by the Licensing Section to cover the cost of processing the application and production of the exemption certificate.

4. Outcome of application

The GP will be asked to detail on the statement of fitness form provided which one of the following options they recommend;

- (i) That the driver is fit for work.
- (ii) That the driver is permanently unfit to carry passengers in wheelchairs and/or assistance dogs.
- (iii) That the driver is temporarily unfit to carry passengers in wheelchairs and/or assistance dogs.

If a driver is declared fit by their GP, an exemption certificate will not be granted.

If a driver is declared temporarily unfit, a temporary exemption certificate, for a period to be determined on the advice of the GP, will be issued. If the driver wishes to extend the exemption certificate past this expiry, a further assessment will be required at a cost to the driver of any charges incurred by the GP and the cost of a new exemption certificate being issued of £ ?.

If a driver is declared permanently unfit an exemption certificate will be issued.

When an application is received, the accompanying documents will be checked and further information may be requested of the GP. When the Licensing Section are satisfied that we are in receipt of sufficient information in order to consider the application this will be deemed as an accepted application. A decision will be made within 28 days of the date that the application is accepted and given to the driver in writing.

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Medical Exemption Policy

5. Right to appeal against decision

If a request for a medical exemption is refused the driver may appeal to the Magistrates Court within 28 days of the decision.

6. Display of an exemption

An exemption certificate will measure at least 10cm x 10cm and must be displayed on the nearside and immediately behind the windscreen of the vehicle so that its front is clearly visible from the outside of the vehicle and its back is clearly visible from the driver's seat of the vehicle. It will contain the driver's name and badge number and the date that the exemption certificate expires. The exemption certificate must be easily removable from the windscreen and should be handed to a customer if they ask to see it. The exemption only applies to the driver named on it. If other drivers use the same vehicle, it is the exemption holder's responsibility to ensure that it is removed from the vehicle and only displayed when the exemption holder is driving the vehicle. It is an offence for other drivers to display the notice of exemption.

7. Expiry of an exemption

If an exemption is granted for a specified period of time, the exemption certificate must be returned to the Licensing Section upon its expiry. If the exemption certificate is not returned, the Private Hire / Hackney Carriage driver's licence will be suspended until such time as it is.

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Medical Exemption Policy

Appendix 1

Sections 165, 166, 168, 169, 170 and 171 of the Equality Act 2010

165 Passengers in wheelchairs

(1) This section imposes duties on the driver of a designated taxi which has been hired—

(a) by or for a disabled person who is in a wheelchair, or

(b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.

(2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph (a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.

(3) For the purposes of this section—

(a) a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167;

(b) “the passenger” means the disabled person concerned.

(4) The duties are—

(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;

(e) to give the passenger such mobility assistance as is reasonably required.

(5) Mobility assistance is assistance—

(a) to enable the passenger to get into or out of the vehicle;

(b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;

(c) to load the passenger's luggage into or out of the vehicle;

(d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

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Medical Exemption Policy

(6) This section does not require the driver—

(a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;

(b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.

(7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) It is a defence for a 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.

(10) In this section and sections 166 and 167 “private hire vehicle” means—

(a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;

(b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;

(c) a vehicle licensed under an equivalent provision of a local enactment;

(d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

166 Passengers in wheelchairs: exemption certificates

(1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an “exemption certificate”) if satisfied that it is appropriate to do so—

(a) on medical grounds, or

(b) on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.

(2) An exemption certificate is valid for such period as is specified in the certificate.

(3) The driver of a designated taxi is exempt from the duties imposed by section 165 if—

(a) an exemption certificate issued to the driver is in force, and

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- (b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.
- (4) The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—
 - (a) an exemption certificate issued to the driver is in force, and
 - (b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.
- (5) For the purposes of this section, a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167.
- (6) In this section and section 167 “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

167 Lists of wheelchair-accessible vehicles

- (1) For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).
- (2) A vehicle falls within this subsection if -
 - (a) it is either a taxi or private hire vehicle, and
 - (b) it conforms to such accessibility requirements as the licensing authority thinks fit
- (3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.
- (4) In subsection (3) “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).
- (5) “Accessibility requirements” are requirements for securing that it is possible for disabled persons in wheelchairs –
 - (a) to get into and out of vehicle in safety, and
 - (b) to travel in vehicles in safety and reasonable comfort,
- (7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

168 Assistance dogs in taxis

- (1) This section imposes duties on the driver of a taxi which has been hired—
 - (a) by or for a disabled person who is accompanied by an assistance dog, or
 - (b) by another person who wishes to be accompanied by a disabled person with an assistance dog.
- (2) The driver must—
 - (a) carry the disabled person's dog and allow it to remain with that person;

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(b) not make any additional charge for doing so.

(3) The driver of a taxi commits an offence by failing to comply with a duty imposed by this section.

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

169 Assistance dogs in taxis: exemption certificates

(1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 168 (an "exemption certificate") if satisfied that it is appropriate to do so on medical grounds.

(2) In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the taxi which the person drives or those of any kind of taxi in relation to which the person requires the certificate.

(3) An exemption certificate is valid—

(a) in respect of a specified taxi or a specified kind of taxi;

(b) for such period as is specified in the certificate.

(4) The driver of a taxi is exempt from the duties imposed by section 168 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.

The power to make regulations under paragraph (b) is exercisable by the Secretary of State.

(5) In this section "licensing authority" means—

(a) in relation to the area to which the Metropolitan Public Carriage Act 1869 applies, Transport for London;

(b) in relation to any other area in England and Wales, the authority responsible for licensing taxis in that area.

170 Assistance dogs in private hire vehicles

(1) The operator of a private hire vehicle commits an offence by failing or refusing to accept a booking for the vehicle—

(a) if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and

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(b) the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog.

(2) The operator commits an offence by making an additional charge for carrying an assistance dog which is accompanying a disabled person.

(3) The driver of a private hire vehicle commits an offence by failing or refusing to carry out a booking accepted by the operator—

(a) if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and

(b) the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog.

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

(5) In this section—

“driver” means a person who holds a licence under—

(a) section 13 of the Private Hire Vehicles (London) Act 1998 (“the 1998 Act”),

(b) section 51 of the Local Government (Miscellaneous Provisions) Act 1976 (“the 1976 Act”), or

(c) an equivalent provision of a local enactment;

“licensing authority”, in relation to any area in England and Wales, means the authority responsible for licensing private hire vehicles in that area;

“operator” means a person who holds a licence under—

(a) section 3 of the 1998 Act,

(b) section 55 of the 1976 Act, or

(c) an equivalent provision of a local enactment;

“private hire vehicle” means a vehicle licensed under—

(a) section 6 of the 1998 Act,

(b) section 48 of the 1976 Act, or

(c) an equivalent provision of a local enactment.

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171 Assistance dogs in private hire vehicles: exemption certificates

(1) A licensing authority must issue a driver with a certificate exempting the driver from the offence under section 170(3) (an "exemption certificate") if satisfied that it is appropriate to do so on medical grounds.

(2) In deciding whether to issue an exemption certificate the authority must have regard, in particular, to the physical characteristics of the private hire vehicle which the person drives or those of any kind of private hire vehicle in relation to which the person requires the certificate.

(3) An exemption certificate is valid—

(a) in respect of a specified private hire vehicle or a specified kind of private hire vehicle;

(b) for such period as is specified in the certificate.

(4) A driver does not commit an offence under section 170(3) if—

(a) an exemption certificate issued to the driver is in force with respect to the private hire vehicle, and

(b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.

The power to make regulations under paragraph (b) is exercisable by the Secretary of State.

(5) In this section "driver", "licensing authority" and "private hire vehicle" have the same meaning as in section 170.

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Medical Exemption Policy

Appendix 2



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Application for Medical Exemption Certificate

To be completed by the driver and given to their GP

Full details of licensed driver seeking exemption

Full Name	
Home Address	
Date of Birth	
Telephone No	
Email	

Licence details of driver seeking exemption

Badge Number	
Registration of Vehicle driving	
Plate Number of Vehicle driving	
Operator	
Driving Licence Number	

I am requesting the Licensing Authority to consider granting a medical exemption from the following;

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- Carrying wheelchair users
- Carrying dogs

I am requesting the exemption on the grounds of

This application should be returned to the Licensing Unit Manager by your GP together with a comprehensive report from your own GP including evidence of the condition for which you are requesting the exemption.

On the basis of the GPS report, a decision will be made whether you will receive an exemption certificate or not, what the exemption will cover and for what length of time it will last.

In the case of exemptions for a stated period of time, you will need to be re-assessed by your GP again before your exemption certificate can be withdrawn or extended.

I agree to pay any costs incurred as a result of the consideration of this application and the issue of a medical exemption certificate.

Driver signature

Date

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Appendix 3

The licence holders General Practitioner

To be completed by the applicant

Drivers Full Name

Date of Birth

Address

The above named is a licensed private hire / hackney carriage driver with Bury Council and has requested an exemption from carrying disabled / wheelchair passengers and / or assistance dogs in a licensed vehicle on medical grounds.

He is a patient of yours and we have asked him to complete various forms which he should provide to you. He will need a comprehensive report from you which should be sent to the Licensing Unit Manager at the address below.

It would be helpful if you could provide a report regarding your patient, in particular with regard to existing musculoskeletal problems which would preclude them being able to provide assistance to a disabled or wheelchair using passenger, or allergies which would preclude them carrying assistance dogs.

If you have any relevant specialist reports, with your patients permission, it would be appreciated if you could also include these.

Your patient will be liable for any charges incurred relating to this request and should pay these directly to you.

If you require any further information please do not hesitate to contact me on the number or email above.

Yours sincerely

Michael Bridge
Licensing Unit Manager

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Appendix 4

Statement of Fitness for a licensed Hackney Carriage / Private Hire Driver

Details of Applicant

Full Name

Date of Birth

Address

The above named attended for assessment today regarding exemption from

Carrying disabled or wheelchair passengers

Carrying assistance dogs

Findings: (Please tick the appropriate box)

Fit for work

Permanently unfit to carry:

Passengers in wheelchairs

Assistance dogs

Reason why

Temporarily unfit to carry:

Passengers in wheelchairs

Assistance dogs

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Reason why

--

Recommended length of time driver will be unfit to;

Carry wheelchair passengers

--

Carry Assistance dogs

--

Review recommended Yes / No

If yes the review should be in weeks / months (delete as applicable)

Name of General Practitioner

--

Signature of General Practitioner

--

Date of Assessment

--

Address of Medical Centre

--

Contact Telephone Number

--

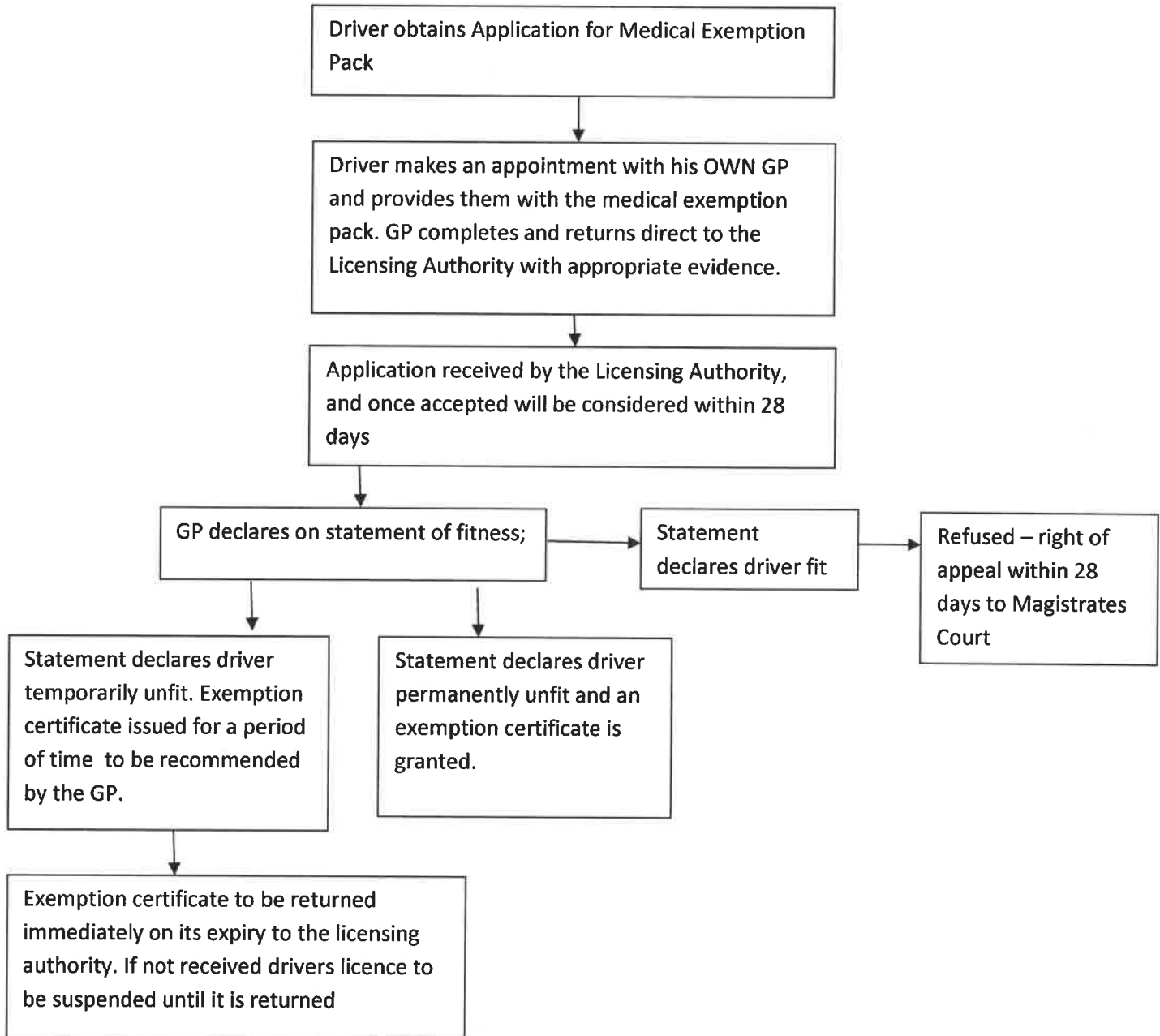
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Appendix 5 Medical Exemption Process Flow Chart



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