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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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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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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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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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(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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Appendix 2



Licensing
3 Knowsley Place
Duke Street
Bury
BL9 0EJ

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	<input type="text"/>
Home Address	<input type="text"/>
	<input type="text"/>
Date of Birth	<input type="text"/>
Telephone No	<input type="text"/>
Email	<input type="text"/>

Licence details of driver seeking exemption

Badge Number	<input type="text"/>
Registration of Vehicle driving	<input type="text"/>
Plate Number of Vehicle driving	<input type="text"/>
Operator	<input type="text"/>
Driving Licence Number	<input type="text"/>

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

Bury Council
Licensing
3 Knowsley Place
Duke Street
Bury, BL9 0EJ
Email: licensing@bury.gov.uk
Phone: 0161 253 5208
Web: www.bury.gov.uk



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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

