

Taxi Licensing Policy

**Equality Act 2010 Licensed
Driver Medical Exemption Policy**

September 2018



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**CONTROL SHEET FOR EQUALITY ACT 2010 LICENSED DRIVER
MEDICAL EXEMPTION POLICY**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Equality Act 2010 Licensed Driver Medical exemption policy
Current status – i.e. first draft, version 2 or final version	Final Version
Policy author (post title only)	Solicitor
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Relevant Cabinet Member (if applicable)	Housing & Community Safety
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Final policy approval route i.e. Executive/ Council	Council
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Date policy forwarded to Improvement (to include on Intranet and Internet if applicable to the public)	At discretion of officers responsible for implementation

EQUALITY ACT 2010 LICENSED DRIVER MEDICAL EXEMPTION POLICY

1. INTRODUCTION

1.1 Background

Bolsover District Council has a responsibility for licensing hackney carriages and private hire vehicles, drivers and operators within the district of Bolsover.

NB. Any reference in this Policy to notifying, informing, or otherwise contacting, the Council means contacting the Council's Licensing Team.

1.2 Role of Hackney Carriage and Private Hire Vehicles

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties and accessibility needs.

1.3 Best Practice Guidance

The Department for Transport has produced statutory guidance on access for wheelchair users to Taxi and Private Hire Vehicles. The guidance has, therefore, been used as an aid in shaping this policy.

1.4 Consultation

There are a number of groups and organisations that have an interest in the provision of hackney carriage and private hire vehicle services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Council has consulted with the following (this list is not definitive): -

- Authorities who border Bolsover District Council
- Derbyshire County Council
- Other departments within Bolsover District Council
- Members of Bolsover District Council
- The hackney carriage and private hire trade including all licensed operators within the district
- Parish Councils
- Derbyshire Constabulary
- Derbyshire Police & Crime Commissioner
- Chief Fire Officer for Derbyshire
- Derbyshire County Council Trading Standards
- Derbyshire County Council Transport
- Social Services, Child Protection Office
- Local Equalities groups

1.5 Powers and Duties

This Licensed Driver Medical Exemption Policy has been produced pursuant to the powers conferred by the Equality Act 2010, which gives Local Authorities the power to publish a list of wheelchair accessible vehicles (known as the Section 167 list).

When published, additional duties are placed on the drivers of those vehicles in relation to the carriage of passengers in wheelchairs (Section 165).

Drivers of vehicles that are on the Section 167 list are able to apply for a medical exemption from any of the duties listed under Section 165. In order to process an application for a medical exemption, the Council is required to set out a policy for exempting drivers on medical grounds.

1.6 Status

In exercising its discretion in publishing a Section 167 list, the Council will have regard to this policy document and the objectives set out below.

Notwithstanding the existence of this policy and any other relevant Council policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart from its policy, reasons will be given for so doing.

2. SCOPE

In setting out its policy Bolsover District Council seeks to promote the following objectives: -

- the protection of public health and safety;
- the establishment of a professional and respected hackney carriage and private hire trade;
- access to an efficient, effective and accessible public transport service; and
- the protection of the environment.

The aim of this policy is to regulate the hackney carriage and private hire trade in order to promote the above objectives.

3. PRINCIPLES

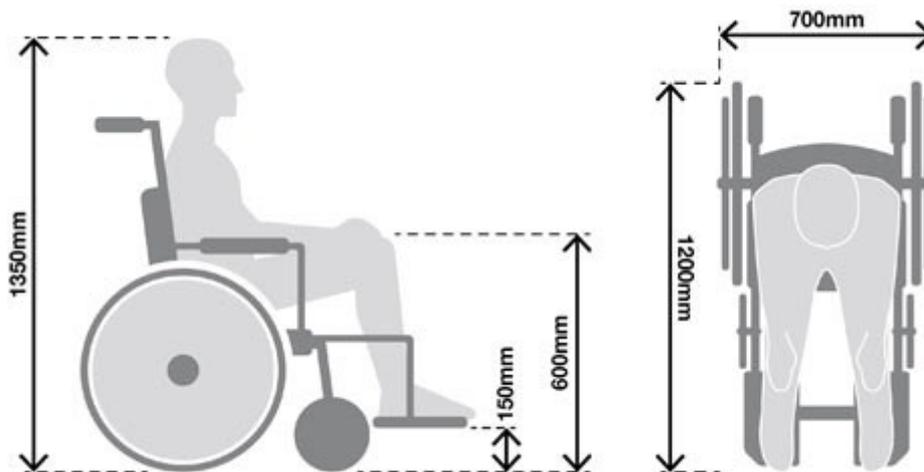
The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Bolsover District Council is committed to encouraging an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Hackney Carriages and Private Hire Vehicles are a vital link in the accessible transport chain and it is important that people who use wheelchairs or accredited assistance dogs can have confidence that drivers will accept them

and their wheelchair or accredited assistance dog and carry them at no extra charge.

Section 167 of the Equality Act 2010 permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The Department for Transport's Statutory Guidance on Access for wheelchair users recommends that vehicles should only be included in the 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.

A reference wheelchair is illustrated below: -



4. STATEMENT OF POLICY

Section 167 of the Equality Act 2010 permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The vehicles identified as such shall be included on a list of designated vehicles.

4.1 Duties under the Act

The Equality Act 2010 (Section 165) places the following duties on drivers of designated wheelchair accessible Hackney Carriages 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 Hackney Carriages and Private Hire vehicles: -

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

Failure to comply with any of the above is an offence under the Act. A person that is found guilty of such an offence is liable, on conviction by the Magistrates' Court, to a fine of up to £1,000.

4.2 Exemptions and Appeals

In some circumstances a driver of a designated Hackney Carriage or Private Hire Vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer 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 driver's 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 passenger's accredited assistance dogs if they are satisfied, that it is appropriate to do so on medical grounds. Exemptions can *only* be granted on medical grounds; religious or cultural grounds are not exempt.

To apply for a medical exemption certificate a driver must submit an application form to the Licensing Team along with a medical report from their General Practitioner or an Independent Medical Assessor appointed by the Council. The medical report must be dated no more than 28 days prior to submission of the application, detailing exactly what duties cannot be undertaken, why they cannot be undertaken and for how long they cannot be undertaken. This assessment will be at the applicant's expense as part of the application process.

Upon receipt the Licensing Team Leader will consider the evidence and may request further independent medical assessment to decide if the driver is: -

- Fit for work
- Temporarily unfit to carry passengers in wheelchairs and / or assistance dogs
- Permanently unfit to carry passengers in wheelchairs and / or assistance dogs (see below regarding Independent Medical Assessor).

If the driver is declared fit for work, no exemption certificate will be issued and a letter explaining the decision will be given to the driver.

All decisions on whether an exception should be granted or not are delegated to the Licensing Team Leader (or in their absence, a more senior officer of the Council). There is no provision under this policy for decisions to be referred to the Licensing Committee (or Sub-Committee).

Exemption certificates will be issued for a period of up to 12 months on the basis of information provided by the driver's GP, these exemptions will be termed "temporary exemptions" and a driver with such an exemption would be given a temporary exemption certificate.

Drivers will only be issued with one temporary exemption per medical condition on the basis of information provided by their GP. A further temporary exemption may be issued if such an exemption is supported by medical evidence from an Independent Medical Assessor. Such an exemption will only be valid for a period of up to 12 months after the expiry of the preceding temporary exemption (unless the Independent Medical Examiner confirms that a permanent exemption would be appropriate).

Prior to the expiry of a temporary exemption certificate the driver must contact the Licensing Team to either: -

- Confirm that they are fit to return to normal duties and return the temporary exemption certificate; or
- Arrange for a further medical assessment to be submitted for the Licensing Team Leader to consider extending the exemption certificate (as described above).

In order to receive medical exemption for a period in excess of 12 months, drivers will normally be required to undergo a medical examination by an Independent Medical Assessor that has been appointed by the Council. This may lead to a certificate being issued for a defined period of time, or a permanent exemption certificate if the Medical Assessor is of the view that a permanent exemption is appropriate.

All costs charged by the Independent Medical Assessor must be met by the applicant.

If the driver does not agree with the decision to refuse the application for a medical exemption, Section 172 of the Act gives the driver a right to appeal the decision to the Magistrates' Court. The driver has 28 days from the date of refusal to appeal.

If the driver is declared permanently unfit to carry passengers in wheelchairs and / or accredited assistance dogs, an exemption certificate will be issued. The certificate will include a photograph of the driver who has been granted the exemption and must be displayed prominently in the vehicle for public viewing.

The exemption may be reviewed at any time with reference to expert medical evidence, and each case will be reviewed on its own merits. This may result in a further referral to independent medical assessors to determine if the driver remains medically unfit to carry passengers in wheelchairs and / or accredited assistance dogs.

4.3 Complaints

Any person wishing to make a complaint regarding any matter covered by this policy should address their concerns to the Licensing Team Leader using the contact details below: -

Address: Joint Environmental Health Service, Bolsover and North East Derbyshire District Councils, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG

Email: licensing@ne-derbyshire.gov.uk

Phone: 01246 217873

Complaints will be investigated in accordance with the Council's published enforcement policy and any other relevant guidance.

5. Responsibility for Implementation

This Policy will be implemented by, and at the discretion, the appropriate officers as determined by the Council's delegations scheme.

This and other policies set out the principles that govern the Council's licensing of hackney carriage and private hire vehicle drivers, operators and vehicles. Minor modifications to conditions, specifications or procedures may from time to time be modified by officers acting under delegated powers, except where not appropriate to do so.