

# Appendix - Equality Act 2010 - Medical Exemption Policy

## 1. Background Information

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

Breckland 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 guide, hearing or other assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

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 is guilty of an offence and may receive a fine if convicted.

## 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 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 assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

### **3. How to apply for a Medical Exemption**

To apply for a Medical Exemption Certificate, a driver must submit an exemption application form that their own GP has filled out and signed detailing exactly what duties cannot be undertaken and why. Drivers might also be required to submit additional supporting documentation such as a letter from a consultant.

If the doctor's letter states that the driver is unfit to carry passengers in wheelchairs and/ or assistance dogs for a specified period of time, an exemption notice will be issued with an expiry date in line with the information provided on the doctor's note. Upon expiry, the licensing team will deem drivers fit to undertake all duties unless a second doctor's note is received. Upon receipt of a second doctor's note, the licensing team may either accept the doctor's note or require the driver for referral to a health centre for further assessment (driver to pay these expenses). This will be on a case-by-case basis.

Upon expiry of the exemption certificate, the certificate must be returned to licensing team. Failure to do so in a reasonable timeframe might result in the suspension of a driver's licence on the basis of being fit and proper.

If / when the referral process is initiated, the driver will receive further information from the Health Centre provider. The licensing section will contact the driver to discuss the outcome of the referral.

- If the driver is declared fit for work, the exemption certificate must be returned to the licensing team.
- In the event of a recommendation to make reasonable adjustments, the licensing section will consider an extension to the exemption certificate to allow the driver to make necessary reasonable adjustments.
- If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Certificate will be issued at each renewal of their Hackney Carriage/Private Hire Drivers Licence. The exemption may be reviewed every one to three years, with reference to expert medical evidence, and each case will be reviewed on its own merits.

### **4. Appeals Process**

If the driver does not agree with the decision to refuse the application for a medical exemption, they are able to appeal the decision to the magistrates' court. The driver has 28 days from the date of refusal to appeal.

### **5. Need to display the Exemption Certificate**

Once an exemption is granted, there is a requirement under the Equalities Act 2010 to display the exemption certificate in the vehicle being driven by the exempted driver. An exemption certificate will be provided to the driver for the vehicle he operates, this must be displayed when he is operating that vehicle.