

## **EAST LINDSEY DISTRICT COUNCIL**

### **Equality Act 2010**

#### **Policy in Relation to Hackney Carriage Drivers and Private Hire Vehicle Drivers - Applications for Wheelchair Exemptions**

#### **The Equality Act 2010**

Section 165 of the Equality Act 2010 places the following duties on drivers of designated wheelchair accessible hackney carriage (taxi) 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.

All hackney carriage drivers have an obligation under Section 53 of the Town Police Clauses Act 1847 to carry any person wishing to hire them within the licensing area. This also includes persons using wheelchairs. Under the Equality Act 2010, it is now a separate lawful requirement for all drivers of wheelchair accessible taxis or private hire vehicles to carry wheelchair users, unless they are in possession of an exemption certificate issued by the Council in accordance with that Act.

A licensed driver who fails to comply with any of the above Equality Act provisions (unless he/she holds a relevant exemption certificate) is guilty of an offence and may receive a fine if convicted.

#### **East Lindsey District Council**

East Lindsey District Council is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the accessible transport chain. It is important that disabled people who use wheelchairs can have confidence that the taxi they find on a rank, or hail on the street, will accept them and carry them in their wheelchair at no extra charge. The same is true in relation to a wheelchair accessible private hire vehicle that they may seek to book in advance.

#### **Medical Exemptions**

Under the terms of Section 166 of the 2010 Act the Council may provide an exemption to these wheelchair duties, to drivers who have genuine medical conditions which are aggravated by assisting people in wheelchairs.

The Council is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do so on medical grounds.

In circumstances where a driver either has a temporary or permanent medical condition preventing the performance of their duty towards disabled passengers the driver may apply for a medical exemption certificate from the Council.

However, at the same time drivers are reminded that the Authority reserves the right to review the status of a driver's licence if the medical condition detailed on the exemption application indicates that it may not be appropriate for the individual to continue to hold a driver's licence with the Authority.

All applicants for a long term medical exemption certificate will be required to have their application determined by the Council's Licensing Committee (consisting of Councillors). Such long term applications will not be determined by Council Officers acting under delegated powers.

In exempting drivers from the duties to assist passengers in wheelchairs the Council needs to be 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 their duties.

Sections 169 and 171 of the 2010 Act also allow the Council to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

### **How to Apply for a Medical Exemption**

The Council will consider two types of exemption – a temporary exemption or a lifetime exemption. Lifetime exemptions will only be granted in exceptional circumstances.

To apply for a Medical Exemption Certificate, a driver must obtain information from his/her Doctor detailing exactly what duties cannot be undertaken and why.

The process undertaken by applicants for an exemption is that they complete an application form (available from the Council's Licensing Team) and their Medical Practitioner completes a separate part of the same form which outlines the medical condition.

The cost of the certification from the Doctor must be borne by the applicant.

#### Temporary Exemption Certificate for Less Than 3 Months

Where the Doctor indicates that a temporary exemption certificate should be issued for no more than 3 months then the following procedure will apply.

Upon receipt of the application with the Doctor's note, and where appropriate, the Council's Licensing Team, acting under delegated powers, will provide a temporary exemption certificate which will cover the driver for a period of up to three months.

Upon expiry of the three month exemption, this Authority will deem the driver fit to undertake all duties unless a second application for exemption and Doctor's note is received. Upon receipt of a second Doctor's note, the matter will be referred to the Council's Licensing Committee (consisting of Councillors) for determination.

If upon expiry the temporary exemption certificate is not returned to the Council's Licensing Team, then suspension of the driver's licence will be considered until such time as the certificate is returned or a further application for exemption and Doctor's note is received.

Where the Doctor states that the driver is unfit to carry passengers for a specified period of time, of less than three months (e.g. one month), a temporary exemption notice will be issued with an expiry date in line with the information provided on the Doctors note.

### Temporary Exemption Certificate for More Than 3 Months

Where the Doctor indicates that a temporary exemption certificate for more than 3 months should be issued then the following procedure will apply.

Upon receipt of the application with the Doctor's note, and where appropriate, the Council's Licensing Team, acting under delegated powers, will provide a temporary exemption certificate which will cover the driver for a period of up to three months.

Before the expiration of the three month period the matter will be referred to the Council's Licensing Committee (consisting of Councillors) for determination.

The applicant for the temporary exemption will be expected to attend the licensing hearing and respond to any relevant questions from the Committee Members.

The Licensing Committee will decide whether to:

- Issue a temporary certificate for more than 3 months (the expiry date to be determined by the Licensing Committee)
- Refuse to issue an exemption going beyond the 3 month date already granted

Upon expiry of the temporary exemption, this Authority will deem the driver fit to undertake all duties unless a second application for exemption and Doctor's note is received. Upon receipt of a second Doctor's note, the matter will be referred to the Council's Licensing Committee (consisting of Councillors) for determination.

If upon expiry the temporary exemption certificate is not returned to the Council's Licensing Team, then suspension of the driver's licence will be considered until such time as the certificate is returned or a further application for exemption and Doctor's note is received.

### Lifetime Exemption

Applicants are advised that any lifetime exemption from the requirement to carry disabled persons will be issued by this Authority in exceptional circumstances only.

Where the Doctor indicates that a lifetime exemption certificate should be issued then the following procedure will apply.

Upon receipt of the application with the Doctor's note, and where appropriate, the Council's Licensing Team, acting under delegated powers, will provide a temporary exemption certificate which will cover the driver for a period of up to three months.

Before the expiration of the three month period the matter will be referred to the Council's Licensing Committee (consisting of Councillors) for determination.

The applicant for the lifetime exemption will be expected to attend the licensing hearing and respond to any relevant questions from the Committee Members.

The Licensing Committee will decide whether to:

- Issue a lifetime exemption
- Issue a temporary certificate for more than 3 months (the expiry date to be determined by the Licensing Committee)
- Refuse to issue an exemption going beyond the 3 month date already granted.

### **Notice of Exemption**

Following a grant of an exemption, the driver will be sent a letter informing them of the grant and an official vehicle notice will be issued to them. By law this notice must be put on public view in the vehicle to inform wheelchair users that the driver has an exemption.

In addition this Authority has decided that the driver will be issued with an A5 sized laminated card carrying a photo of the driver plus their licence number and other relevant information. The driver will be asked to carry this A5 sized card in order to prevent the exemption being fraudulently transferred, and for other relevant compliance purposes.

### **Occupational Health Provider**

Where appropriate the Licensing Committee may initiate a driver referral to East Lindsey District Council's preferred, authorised Occupational Health provider, the cost of which must be borne by the applicant.

### **Physical Characteristics of Some Wheelchairs**

The Council recognises that the physical characteristics of some wheelchairs may prevent access to a hackney carriage vehicle or private hire vehicle.

### **Medical Certificates**

The Council will not normally accept a Doctor's medical certificate that, at the time of the submission to the Licensing Authority, is more than two months old and will as a consequence require new medical certificates where a medical condition continues for an extended period. Any individual holding a temporary exemption will need to submit a new medical certificate when applying for an extension of the exemption period.

The Council will not accept a medical certificate unless it has been completed by a Medical Practitioner who has full knowledge of the applicant's medical history.

In summary, hackney carriage drivers and private hire vehicle drivers are not permitted to refuse disabled persons, unless the driver holds a medical exemption certificate (issued by the Council) excusing him/her from such duties.

Policy Adopted 11 September 2017