

### 5.73 Equality Act 2010

- 5.73a While it is not the Council's intention to replicate the Equality Act 2010 within this policy, certain information is included below at 5.74 to 5.87 and in appendices F & G for the information of drivers and operators to highlight this important area of legislation.
- 5.73b **It is the duty and responsibility of drivers and operators to make themselves familiar with their duties under the Equality Act 2010.**
- 5.73c Any driver or operator who has difficulty understanding the meaning of this act is welcome to contact the licensing section for advice.

### 5.74. Assistance Dogs (also see appendices F & G)

- 5.75. Under sections 168 and 170 the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make **any** additional charge for doing so

- 5.75a. Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed

### 5.76 Medical Exemption Certificates – assistance dogs (also see appendices F & G)

- 5.77 Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council (sections 169 and 171 the Equality Act 2010) for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs. The Licensing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.

## Appendix A

- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### 5.78. Wheelchair Accessible Vehicles (also see appendices F & G)

5.79. Section 164 -165 of the Equality 2010 Act sets out the duties placed on drivers of wheelchair accessible taxis and PHVs.

5.80. Drivers are subject the following duties :-

- a) to carry the passenger while in the wheelchair;
- b) 'if the passenger has with them any mobility aids, to carry the mobility aids'
- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.
- f) not to make, or propose to make, any additional charge for complying with any of the duties mentioned in a) to e) above

### The Act then goes on to define mobility assistance as, 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.
- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.

5.81. The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2010 to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).

## Appendix A

5.82. To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:

- a) Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
- b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with

**5.83. Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users** (also see appendices F & G)

**5.84** – Section 166 of the Equality Act 2010 allows the Licensing Authority 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 him or her to comply with the duties. For example musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.

5.85 Any driver of a hackney carriage or private hire vehicle may submit a request for an exemption from the Section 164a or 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.

5.86. To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).

5.87. **Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.

5.87a If a driver or operator fails to abide to the Equality Act 2010, it would be appropriate for the Council, as licensing authority, to review whether or not the driver remained a fit and proper person to hold a taxi or PHV drivers licence or PHV operators licence.

Appendices F & G contain the below information which has been amended in line with the above changes.

## Equality Act 2010

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5.73a While it is not the Councils intention to replicate the Equality Act 2010 within this policy, certain information is included below at 5.74 to 5.87 and in appendices F & G for the information of drivers and operators to highlight this important area of legislation.

5.73b **It is the duty and responsibility of drivers and operators to make themselves familiar with their duties under the Equality Act 2010.**

5.73c Any driver or operator who has difficulty understanding the meaning of this act is welcome to contact the licensing section for advice.

### 5.76. Assistance Dogs (also see appendices F & G)

5.77. Under sections 168 and 170 the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so

5.75a. Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed

### 5.76 Medical Exemption Certificates – assistance dogs (also see appendices F & G)

## Appendix A

- 5.77 Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council (sections 169 and 171 the Equality Act 2010 for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### **5.78. Wheelchair Accessible Vehicles** (also see appendices F & G)

- 5.79. Section 164 -165 of the Equality 2010 Act sets out the duties placed on drivers of wheelchair accessible taxis and PHVs.

- 5.80. Drivers are subject the following duties :-

- a) to carry the passenger while in the wheelchair;
- b) 'if the passenger has with them any mobility aids, to carry the mobility aids'
- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.
- f) not to make, or propose to make, any additional charge for complying with a duty mentioned in a) to e) above

### **The Act then goes on to define mobility assistance as, 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.

## Appendix A

- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.
- 5.81. The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2010 to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).
- 5.82. To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:
  - a) Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
  - b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with
- 5.83. Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users** (also see appendices F & G)
- 5.84** – Section 166 of the Equality Act 2010 allows the Licensing Authority 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 him or her to comply with the duties. For example musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.
- 5.85 Any driver of a hackney carriage or private hire vehicle may submit a request for an exemption from the Section 164a or 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.
- 5.86. To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).
- 5.87 Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.
- 5.87a If a driver or operator fails to abide to the Equality Act 2010, it would be appropriate for the Council, as licensing authority, to review whether or not the driver remained a fit and proper person to hold a taxi or PHV drivers licence or PHV operators licence.

Drivers are reminded of the law in relation to the carrying of assistance dogs and wheelchair accessible vehicles; this is legislated by the **Equality Act 2010**

### **Assistance Dogs**

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so.

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

### **Medical Exemption Certificates – assistance dogs**

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

### **Wheelchair Accessible Vehicles**

Section 165 of the Equality 2010 Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.

## Appendix A

The licensing authority maintains a 'designated vehicle' list in accordance with the section 167 of the Equality Act 2010, as such drivers are subject the following duties :-

- 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; and
- e) to give the passenger such mobility assistance as is reasonably required.

**The Act then goes on to define mobility assistance as 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.
- e) It is an offence for a driver of a wheelchair accessible vehicle on the designated list not to comply with the above duties. Any failure to comply with these duties will be treated seriously and may result in prosecution and/or referral to the Licensing Sub-Committee for consideration of their hackney carriage/ private hire driver's licence.

The High Court has confirmed that switching your taximeter or charging extra before you assist a disabled person – **even if you do not actually charge them** – is an offence under the Equality Act 2010. The case confirming this was McNutt v TfL on 13 Feb 2019. This confirms it is illegal, being an offence under the Equality Act 2003, to charge a wheelchair user extra. This means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act (above).

To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:

- a) Have a zero-tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
  
and may
- b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with



## Appendix A

### **Medical Exemption Certificates from the carriage of luggage and/or handling of wheelchair users**

Section 166 of the Equality Act 2010 allows the Licensing Authority 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 him or her to comply with the duties. For example, musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.

Any driver of a hackney carriage or private hire vehicle on the designated list may submit a request for an exemption from the Section 165 duties by completing the relevant application form. Medical evidence will be required in support of the application.

To ensure transparency and fairness, the licensing authority will normally grant an exemption certificate where the applicant driver can provide suitable medical evidence (at their own expense).

**Appeals** - A person who is aggrieved by the refusal of a licensing authority in England and Wales to issue an exemption certificate under section 166, 169 or 171 of the Equality Act 2010 may appeal to a Magistrates' Court before the end of the period of 28 days beginning with the date of the refusal.