
Policy for Exemptions under the Equality Act 2010



MANCHESTER
CITY COUNCIL

Introduction

The Equality Act 2010 introduces a range of measures for employers, regulators and transport providers to ensure against discrimination. Sections 160 to 173 relate specifically to hackney carriage and private hire licences.

The Council has a clear vision to be an equitable, inclusive and accessible city. The Licensing Unit supports these strategic aims through continually striving towards the highest standards of equality and accessibility within its policies, procedures and the fleets it regulates. In this regard, any reports about driver's behaviour relating to discrimination against passengers with disabilities are taken very seriously and robust action will be taken where the evidence supports such action; this approach seeks to gain greater compliance from licensed drivers and encourage victims of these offences to report incidents.

This policy should be read in conjunction with the relevant sections of other MCC policies (set out in **Appendix A**).

1. General

- 1.1 Sections 160 to 173 of the Equality Act 2010 apply to Hackney Carriage and Private Hire drives, vehicles and operators.
- 1.2 The Council expects all licensed Hackney Carriage and Private Hire drivers (including those driving designated vehicles under the Equality Act 2010) and Operators, to carry out their statutory duties as outlined below;

Section 165 places the following duties on drivers of designated wheelchair accessible hackney carriages and private hire vehicles:

- a) to carry the passenger while in the wheelchair;
- b) not to make any 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.

Mobility assistance is defined as:

- i. to enable passengers to get into or out of the vehicle;

- ii. 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;
- iii. to load the passenger's luggage into or out of the vehicle;
- iv. if the passenger does not wish to remain in the wheelchair, to load the wheelchair into the vehicle.

Sections 168 & 170 place the following duties on drivers of hackney carriage and private hire drivers:

- a) to carry the passenger's assistance dog and allow it to remain with the passenger
- b) not to make an additional charge for doing so

Section 170 places a duty on private hire operators not to:

- a) fail or refuse to accept a booking for a vehicles if the booking is requested by or on behalf of a disabled person or person who wishes to be accompanied by a disabled person
- b) fail or refuse to accept a booking if a disabled person will be accompanied by an assistance dog
- c) make an additional charge for carrying an assistance dog which is accompanying a disabled person

1.3 The Council will produce and maintain (at least bi-annually) designated lists of wheelchair accessible vehicles in line with government guidance.

2 Exemption Certificates

- 2.1 Drivers may apply for a certificate exempting them from their duties as outlined above if they can demonstrate:
 - they have a medical condition; or a disability; or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require
- 2.2 Applications must be made using the form attached to this policy at **Appendix B**. The form must be completed and dated by the GP no more than 28 days prior to submission of the application.
- 2.3 The Applicant must submit any relevant additional information from their GP or Specialist reports as applicable. It will be expected that an independent medical assessor is used where a long term exemption is applied for.
- 2.4 The Council will not be responsible for any costs incurred by the applicant in this process.
- 2.5 Applications for Exemption certificates will be considered and determined by a Senior Licensing Officer and will conclude that the applicant is either:
 - Fit for work
 - Temporarily unfit to carry passengers in wheelchairs and/or with assistance dogs; or

- Permanently unfit to carry passengers in wheelchairs and/or with assistance dogs

A letter confirming the decision will be given to the driver.

- 2.6 Exemption certificates and notices will be issued as appropriate and will include a photograph of the driver who has been granted exemption. Where an exemption certificate has been granted, the notice must be displayed in a prominent position (as advised by Licensing Unit staff) at all times that the exempted driver is driving the licensed hackney carriage or private hire vehicle.
- 2.7 Upon the expiry of the exemption certificate, the Council will deem drivers fit to undertake all duties and the exemption notice must be returned to the Licensing Unit within 7 days of the date of expiry. If a driver requires an extension to the exemption period, they must submit a further medical assessment for consideration.
- 2.8 Where a driver fails to return an exemption notice without reasonable excuse, this will be recovered and noted on their driver record. Further action will be considered dependant on their licence history.
- 2.9 There is no exemption in relation to affording assistance with luggage.

3. Appeals

- 3.1 If any applicant wishes to appeal a decision to refuse exemption application they may:
- i. Request within 7 days to have the matter referred to the Licensing and Appeals Sub-Committee to be determined at the next available hearing date
 - ii. Appeal directly to the Magistrates' Court within 28 days of the date of refusal

If the applicant chooses to be referred to the Sub-Committee and the decision of that panel is to refuse, the applicant retains the statutory right to appeal to the Magistrates' Court (to be made within 28 days of the date of the Sub-Committee decision)

4. Enforcement

- 4.1 The Council will not tolerate discriminating against passengers with disabilities and additional needs, as such behaviour completely undermines the Council's vision for an equitable and inclusive City and accessible transport network, supporting people to live, work and contribute positively to the region. It is also important that passengers see a value in reporting such behaviour, having confidence that it will be challenged effectively.

- 4.2 Where a complaint is received relating to a failure of a driver or operator to carry out their duties under the Act, the Council will carry out an investigation with a view (where applicable) to the instigation of a prosecution.
- 4.3 Where a complaint is received relating to a failure of a private hire driver/operator or hackney carriage driver to carry out their duties under the Act, the Council will carry out an investigation with a view (where applicable) to the instigation of a prosecution.
- 4.4 Consideration will be given to referring cases of non-compliance with the Act, to the Licensing and Appeals Sub-Committee. Officers will also automatically refer any drivers or operators who have been successfully prosecuted for any such offences under the Act, to the Sub-Committee for a review of whether they remain a fit and proper person to hold a licence.

5. Changes to Policy

- 5.1 This policy will be reviewed every three years or as required (i.e. by a change in legislation) and will be amended accordingly.
- 5.2 The application process related to the policy will be changed as and when required at the discretion of the Licensing Unit Manager.

Relevant current byelaws and policies

16. Carriage of Personal Luggage and Animals

- a. The driver of a hackney carriage of such a size and construction as to be adapted for the conveyance of luggage on it or in it, shall, when requested by any person hiring the carriage, convey personal luggage in it or on it not exceeding in the aggregate 112lbs in weight, and shall afford all reasonable assistance in loading and unloading any such luggage conveyed in or on the carriage and belonging to or in charge of any person hiring or being conveyed in the carriage.
- b. Every such driver shall, when requested by the person hiring the carriage, afford all reasonable assistance in moving any such luggage to or from any gate, door or entrance at any house, station or place at which he may take up or set down any such person.
- c. Nothing in this byelaw shall compel any driver to permit the carrying in or on the carriage, or any article or animal which is of such bulk or amount or character that the carrying of it, or its placing in or on, its removal from the carriage, would be likely to cause damage to the carriage or its fittings.
- d. In this byelaw the expression "personal luggage" includes a perambulator, a child's mail cart and a package comprising all / any of the component parts of one bicycle.

Group II Medical Examination Report Form - Relevant extracts from Information notes

It is a requirement under Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 to provide a Medical Examination Report to the effect that you are physically fit to drive a Public, Private Hire or Contract vehicle.

This form is to be completed by the applicant's own General Practitioner (GP) or another GP within the same practice, or a GP at another practices, provided they have access to the applicant's full NHS records at the time of the examination. Upon reaching the age of 50, a Group II Medical Report Form is required every 5 years* until the age of 65, when an annual form is required.

*there are certain medical conditions that require an annual medical report.

1. Prior to carrying out the assessment ensure that you are fully aware of the Group II medical requirements. It may be helpful to consult the DVLA https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517268/Fitness_to_drive.pdf
This is available for download as a guide for medical professionals.
2. Arrange for the patient to be seen and examined. (GPs must ensure the identity of the individual they are carrying out the examination on.)
3. Applicants who may be asymptomatic at the time of the examination should be advised that,

- if in future they develop symptoms of a condition that could affect safe driving and they hold either a Hackney Carriage and/or Private Hire driver licence, they must inform the Taxi and Private Hire Licensing Section (email: taxi.licensing@manchester.gov.uk)

Licence Renewal

Licensed Drivers are required to complete a declaration on the occasion of each renewal that since they were licensed they have no new medical conditions or that a medical condition that they currently have has worsened.