

## **Report to Environment & Licensing Committee**

**Subject:** Equality Act 2010: Assistance Dogs and Wheelchair Accessible Vehicles

**Date:** 3 April 2018

**Author:** Service Manager, Public Protection

### **Wards Affected**

All

### **Purpose of the Report**

To inform Members of the legal position regarding the carrying of assistance dogs by hackney carriages and private hire vehicles s.168 - s.172 Equalities Act 2010 ("the Act").

To seek Members' approval to introduce the Policy of the Carriage of Persons Accompanied by Assistance Dogs in Gedling Borough Licensed Hackney Carriages and Private Hire Vehicles found at Appendix 1 of this report including the process to apply for an exemption.

To inform Members of the legal position regarding wheelchair accessible vehicles by hackney carriages and private hire vehicles s.165 – s.167 and s.172 of the Act.

To seek Members' approval for the Council to implement s.167 of the Act, to maintain and publish a list of designated wheelchair accessible vehicles.

To seek Members' approval to introduce the Policy on the Carriage of Persons in Wheelchairs when Carried in a Designated Vehicle found at Appendix 2 of this report including the process to apply for an exemption.

To seek Members' approval to delegate all functions and responsibilities under the Act and any regulations made there under, to the Director for Health and Wellbeing.

To seek Members' approval to authorise the Director for Health and Wellbeing in consultation with the Director of Organisational Development and Democratic Services to authorise legal proceedings under the Act.

### **Background**

1.1 The Equality Act 2010 (the Act) brings together a number of existing laws into one place so that it is easier to use. The Act legally protects

people from discrimination in the workplace and in wider society.

- 1.2 Part 12 of the Act specifically relates to the use of taxis and private hire vehicles by disabled persons, and their rights when using such services provided by drivers of taxi and private hire vehicles.

1.3 Carriage of Assistance Dogs

Sections 168 and 170 of the Act place duties on taxi and private hire drivers and private hire operators to:

- accept bookings, carry out bookings and hires by disabled persons, or somebody who wishes to be accompanied by a disabled person and the disabled person is accompanied by an assistance dog,
- allow the assistance dog to remain with the disabled person,
- to carry the assistance dog at no extra cost.

It is a criminal offence if a driver (unless exempt) fails to comply with these duties.

- 1.4 Sections 169 and 171 of the Act allow drivers to apply for an exemption to the above duties. This is to be determined by the Licensing Authority. An exemption certificate will be granted if they are satisfied that it is appropriate to do so, on medical grounds.

Under the Act the Council is responsible for the enforcement of drivers' duties as detailed above, and the administration of any exemption requests received from any of its licensed drivers.

1.5 Carriage of Persons in Wheelchairs

Section 167 of the Act provides local authorities with the power to make a list of wheelchair accessible vehicles (i.e. designated vehicles). Section 165 of the Act then requires the drivers of those vehicles to:

- carry passengers while seated in the wheelchair,
- carry passengers who do not wish to remain in the wheelchair and to load the wheelchair into and out of the vehicle,
- provide assistance to those passengers,
- not charge those passengers extra for the service,
- provide mobility assistance as is reasonably required:
  - to enable the passenger to get into or out of the vehicle,
  - 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,
  - to load the passenger's luggage into or out of the vehicle,
  - if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

- 1.6 While local authorities are under no specific legal obligation to maintain a list under section 167, the Government strongly recommends that they do. Without such a list the requirements of section 165 of the Act do not apply.
- 1.7 It is for the local authority to assess which vehicles will be included on the list. This has already been completed by our licensing team and will be updated regularly.
- 1.8 It is proposed that if members agree to the implementation of the designated list, that drivers of the vehicles will be advised and made aware of their duties as well as the production of the policy at Appendix 2 of this report.

Once the designated list is published it will be a criminal offence for drivers of a designated vehicle (unless exempt) to fail to comply with the duties.

- 1.9 Section 166 of the Act allows drivers to apply for an exemption to the above duties. This is to be determined by the Licensing Authority. An exemption certificate will be granted if they are satisfied that it is appropriate to do so, on medical or physical grounds.

Under the Act the Council is responsible for the enforcement of drivers' duties as detailed above, the administration of any exemption requests received from any of its licensed drivers who drive a designated vehicle, and the maintenance of the Designated Vehicle List.

#### 1.10 Appeals

Section 172 of the Act enables vehicle owners to appeal against the decision of a Licensing Authority to include their vehicles on the designated list. That appeal should be made to the Magistrates' court and must be made within 28 days of the vehicle in question being included on the published list.

Section 172 also enables drivers to appeal against the decision not to issue an exemption certificate under section 166, 169 and 171, that appeal should be made to the Magistrates' court within 28 days beginning with the date of the refusal.

### **Proposal**

- 2.1 It is proposed that by introducing the Policy on the Carriage of Persons Accompanied by Assistance Dogs in Gedling Licensed Hackney Carriages and Private Hire Vehicles, implementing section 167 of the Act and introducing the Policy on the Carriage of Persons in wheelchairs when carried in a designated vehicle, clarity is provided, to both licensed drivers and service users, of the Council's roles and responsibilities with regards to the carriage of assistance dogs and persons in a wheelchair in its licensed vehicles.
- 2.2 It will also provide a clear application process and guidance to licensed drivers who wish to apply for exemption from either carrying assistance dogs or persons in wheelchairs.

The purpose of the legislation is to ensure that disabled people have equal access to services including public transport provision.

### **Financial Implications**

3.1 There are no financial implications

### **Recommendation(s)**

1. That Members approve the introduction of the Policy of the Carriage of Persons Accompanied by Assistance Dogs in Gedling Borough Licensed Hackney Carriages and Private Hire Vehicles found at Appendix 1 of this report including the process to apply for an exemption.
2. That Members approve that the Council implements s.167 of the Act, to maintain and publish a list of designated wheelchair accessible vehicles.
3. That Members approve the introduction of the Policy on the Carriage of Persons in Wheelchairs when Carried in a Designated Vehicle found at Appendix 2 of this report including the process to apply for an exemption.
4. That Members delegate all functions and responsibilities under the Act and any regulations made there under, to the Director for Health and Wellbeing.
5. That Members authorise the Director of Health and Wellbeing in consultation with the Director of Organisational Development and Democratic Services to authorise legal proceedings under the Act.



## Policy on the Carriage of Persons Accompanied by Assistance Dogs in Gedling Borough Licensed Hackney Carriages and Private Hire Vehicles

What responsibility does the Council have regarding persons accompanied by an Assistance dog and their use of taxis and private hire vehicles?

Gedling Borough Council is responsible for licensing taxi drivers (both private hire and hackney carriage drivers), their vehicles, and private hire operators within its area. The Council, under powers given to it by the Equality Act 2010 (the Act) is responsible for enforcement of drivers responsibilities with respect to the carriage of a person(s) accompanied by an assistance dog, and for exempting drivers from such responsibilities on medical grounds.

### What are Assistance Dogs?

Assistance dogs are dogs that have been trained to aid or assist people who may be physically or mentally disabled. The dogs can support either adults or children in their homes and in the community. As the dogs not only provide a specific service to their handlers, but also greatly enhance the quality of life of the handlers, the dogs are allowed, by law, to accompany their handler into public places such as shops, restaurants and also permitted to travel on public transport.

There are three types of assistance dog:

Guide Dogs – for the blind and visually impaired.

Hearing Dogs – for the deaf and the hard of hearing.

Service Dogs – for people with disabilities other than those related to vision or hearing.

## What responsibilities do drivers of licensed vehicles have when hired by or for a disabled person accompanied by an assistance dog?

A driver of any licensed vehicle must:

- carry the disabled person's dog and allow them to remain with that person,
- not make an additional charge for carrying a person accompanied by an assistance dog.

## Exempt Drivers

The Act allows the Council to exempt drivers from their responsibilities to carry a person accompanied by an assistance dog on medical grounds. The driver may submit to the Council an application for exemption by completing the prescribed application form accompanied by medical evidence in support of the exemption application.

Any driver who holds a valid exemption certificate is required to display the valid exemption notice in clear view within the licensed vehicle, until such time the exemption notice expires.

Until the driver has been issued with a valid exemption notice, the driver will continue to be recognised as a driver who must continue to carry persons accompanied by an assistance dog for fulfilling the responsibilities specified above.

## What do I do if I think a driver is not fulfilling their responsibilities as a driver of a licensed vehicle in relation to the carriage of a person accompanied by an assistance dog?

If you have a concern about a driver not fulfilling their responsibilities as a driver of a licensed vehicle licensed by the Council, in relation to the carriage of a person, accompanied by an assistance dog, we ask that you report your concerns to the Council as soon as you can. We need to be able to identify the driver, so information from you about the registration number, the licence number of the vehicle and/or the name of the driver/operator is essential. It will also help if you can give us the names and addresses of any other witnesses.

## What sort of things should I report to you?

We want to know about anything that may make a driver non-compliant with the responsibilities of a driver of a licensed vehicle. For instance:

- refusal to carry a person accompanied by an assistance dog,
- refusal to carry an assistance dog,

- reluctance by the driver to assist a person accompanied by an assistance dog,
- overcharging by way of adding an additional charge for the carriage of a person accompanied by an assistance dog,
- incorrectly displaying of an Exemption Notice within the vehicle, and
- displaying an expired, fake or counterfeit Exemption Notice.

## How do I make a complaint?

- By telephone – 0115 9013971
- Via our web site – [www.gedling.gov.uk/complaints/](http://www.gedling.gov.uk/complaints/)
- In person at Civic Centre Arnot Hill Park, Arnold Nottingham NG5 6LU
- Write to us at Licensing Section, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU

Whichever way you contact us, please make sure you give the information above.

## What will we do?

We will investigate every complaint made. If the complaint is upheld, we have the power to take action which, in very serious cases, may mean that the driver's licence is revoked.

## Any questions?

If you have any questions, or wish to have information about the investigation procedure, please contact us on 0115 9013971 or by email at [licensing@gedling.gov.uk](mailto:licensing@gedling.gov.uk)

## Process of Applying for Exemption from Carrying Persons Accompanied by Assistance Dogs in Gedling Borough Licensed Hackney Carriages and Private Hire vehicles

How do I make an application to be exempt from carrying  
persons accompanied by an assistance dog?

- Obtain a copy of the Council's policy on carrying persons accompanied by assistance dogs. Read and understand the Policy as this will assist your application.
- Obtain a 'Request for Exemption from Carrying Assistance Dogs' form from the Council.
- Take both the policy and the form to the doctor or medical professional who is assisting you with the medical condition.
- Complete the form and attach any medical evidence provided by the doctor or medical professional that relates to the request for exemption.
- Sign, date and submit the completed form and the accompanying medical evidence to the Council.

Please Note – A submitted application does not exempt you from the responsibilities of carrying persons accompanied by an assistance dog. Only when you are in receipt of an exemption certificate will you be deemed exempt from such responsibilities

### What happens to my application?

Upon receipt of the application and any accompanying medical evidence, the Council will consider all the information submitted. Officers will follow up where it is deemed necessary, to request additional information, or to seek further explanation from the doctor or medical professional who is named within the application.

## How will I be notified of the outcome of my application?

The Council will inform you of the decision in writing by way of a Decision Notice.

If an Exemption Certificate has been granted, the certificate will be attached to the decision notice, along with the conditions of the Exemption Certificate

If an Exemption Certificate is not granted, only the Decision Notice will be issued.

## Do I have a right of appeal against the decision?

Yes, you can appeal against the decision. You have 28 day from the date of the decision to make an appeal at the Magistrates' court. The decision notice will contain all the information on how to make an appeal against the decision.

## Request for Exemption from Carrying Assistance Dogs Form

| <b>1. Applicants Details</b>                                                                                                                                       |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Name:                                                                                                                                                              |                                 |
| Address:                                                                                                                                                           |                                 |
| Date of Birth:                                                                                                                                                     |                                 |
| Telephone No:                                                                                                                                                      |                                 |
| <b>2 Type of Licensed Vehicle</b>                                                                                                                                  |                                 |
|                                                                                                                                                                    | Please tick the appropriate box |
| Taxi or Private Hire vehicle with a fixed partition between driver and passenger compartment                                                                       | <input type="checkbox"/>        |
| Taxi or Private Hire Vehicle without a fixed partition between driver and passenger compartment                                                                    | <input type="checkbox"/>        |
| <b>3. Exemption Request</b>                                                                                                                                        |                                 |
| Please provide details of your circumstances and the reasons why you think it will prevent you from undertaking your responsibilities of carrying Assistance Dogs. |                                 |
|                                                                                                                                                                    |                                 |

Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist Consultant / Medical Practitioner. Your condition will need to be verified by a medical professional. Has a medical been conducted in connection with this application?

Yes  No

Do you consent to relevant medical information being released to the Council?

Yes  No

**4. Consultant / Medical Specialist Contact Details** (To be completed by the Medical Professional)

Name:

Address:

Telephone No:

Patients Name:

Date of Birth:

**5. Medical Evidence** (To be completed by the Medical Professional)

In your opinion, does the person named above suffer from a medical condition that is aggravated by the exposure to dogs?

Yes  (if yes, please give details below) No

**Please provide details of the condition below, and attach any relevant reports / test results etc.**

## 6. Declaration

I have read and understand Gedling Borough Council's policy on the Carriage of Persons Accompanied by Assistance Dogs in Gedling Borough Licensed Hackney Carriages and Private Hire vehicles, and I understand the process in applying for a medical exemption.

- I enclose information from my medical practitioner and consent to Gedling Borough Council contacting them to verify this information and request further information regarding my medical condition if necessary
- I declare that all the information given in this application is true and accurate.
- I understand that the information I have provided, including personal data, may be used and/ or disclosed for the following purposes:
  - Assessing whether I am eligible for an Exemption Certificate (this means that your personal information may be released to third parties as part of the assessment process).
  - In response to valid requests for information from other bodies including local authorities, Medical Practitioner, the police, other law enforcement agencies and solicitors where the disclosure is permitted under the Data Protection Act or required by law.
- I understand that, if granted an Exemption Certificate, it is an offence to forge, alter or allow another to use that certificate.

Signed

Date:     /     /



## Policy on the Carriage of Persons in Wheelchairs when Carried in a Designated Vehicle

What responsibility does the Council have regarding the assistance of passengers in wheelchairs and their use of taxi and private hire vehicles?

Gedling Borough Council is responsible for licensing taxi drivers (both private hire and hackney carriage drivers), their vehicles, and private hire operators within its area. The Council, under powers given to it by the Equality Act 2010 (the Act), administers a list of licensed vehicles which are occupied wheelchair accessible. This list is referred to as the Designated Vehicles list. The Council is responsible for enforcement of the drivers' responsibilities with respect to the carriage of a person(s) in wheelchairs, and for exempting drivers from such responsibilities on medical grounds, or a physical condition making it impossible or unreasonably difficult.

### What is the Designated Vehicle List?

The Designated Vehicle list is the Council's record of all licensed vehicles which are capable of carrying, some – but not necessarily all – types of occupied wheelchairs. This means the wheelchair user is able to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in the wheelchair.

### What responsibilities do Drivers' of a designated vehicle have?

A driver of any designated vehicle must:

- carry passengers while seated in the wheelchair
- carry passengers who do not wish to remain in the wheelchair and to load the wheelchair into and out of the vehicle
- provide assistance to those passengers
- not charge those passenger extra for the service
- provide mobility assistance as is reasonably required
- load and unload the passengers luggage

## Exempt Drivers

The Act allows the Council to exempt drivers from the duties to carry passengers in wheelchairs, where it is appropriate to do so, on medical grounds or due to the drivers' physical condition making it impossible or unreasonably difficult for them to comply with those duties listed above. The driver may submit to the Council an application for exemption by completing the prescribed application form accompanied by any medical evidence in support of the exemption application.

Any driver of an occupied wheelchair accessible licensed vehicle listed on the Designated Vehicle list, which holds a valid exemption certificate is required to display the valid exemption notice in clear view within the designated vehicle, until such time the exemption notice expires.

Until the driver has been issued with a valid exemption notice, the driver will continue to be recognised as a driver of a designated vehicle, and must continue to carry on with the responsibilities as specified above.

### What do I do if I think a driver is not fulfilling their responsibilities as a driver of a Designated Vehicle?

If you have a concern about a driver not fulfilling their duties as a driver of a designated vehicle licensed by the Council, we ask that you report your concerns to the Council as soon as you can. We need to be able to identify the driver, so information from you about the registration number, the licence number of the vehicle and/or the name of the driver/operator is essential. It will also help if you can give us the names and addresses of any other witnesses.

### What sort of things should I report to you?

We want to know about anything that may make a driver non-compliant with the duties of a driver of a designated vehicle. For instance:

- refusal to carry a wheelchair user,
- refusal or reluctance by the driver to assist a wheelchair user,
- overcharging by way of adding an additional charge for the carriage of, and or the assisting a wheelchair user,
- incorrectly displaying of an Exemption Notice within the vehicle,
- displaying an expired, fake or counterfeit Exemption Notice.

### How do I make a complaint?

- By telephone – 0115 9013971
- Via our web site – [www.gedling.gov.uk/complaints/](http://www.gedling.gov.uk/complaints/)
- In person at Civic Centre Arnot Hill Park, Arnold Nottingham NG5 6LU
- Write to us at Licensing Section, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU

Whichever way you contact us, please make sure you give the information above.

## What will you do?

We will investigate every complaint made. If the complaint is upheld, we have the power to take action which, in very serious cases, may mean that the driver's licence is revoked.

## Any questions?

If you have any questions, or wish to have information about the investigation procedure, please contact us on 0115 9013971 or by email at [licensing@gedling.gov.uk](mailto:licensing@gedling.gov.uk)

## Process of Applying for Exemption from Carrying Persons in Wheelchairs when Driving a Designated Vehicle

How do I make an application to be exempt from carrying persons in a wheelchair?

- Obtain a copy of the Council's policy on the 'Carriage of Persons in Wheelchairs when carried in a Designated Vehicle'. Read and understand the Policy as this will assist your application.
- Obtain a Request for Exemption from Carrying Passengers in Wheelchairs in a Designated Vehicle form from the Council.
- Take both the policy and the form to the doctor or medical professional who is assisting you with the medical condition.
- Complete the form and attach any medical evidence provided by the doctor or medical professional that relates to the request for exemption.
- Sign, date and submit the completed form and the accompanying medical evidence to the Council.

Please Note – A submitted application does not exempt you from the responsibilities of carrying persons in wheelchairs in a designated vehicle. Only when you are in receipt of an exemption certificate will you be deemed exempt from such responsibilities.

### What happens to my application?

Upon receipt of the application and any accompanying medical evidence, the Council will consider all the information submitted. Officers will follow up where it is deemed necessary, to request additional information, or to seek further explanation from the doctor or medical professional who is named within the application.

## How will I be notified of the outcome of my application?

The Council will inform you of the decision in writing by way of a Decision Notice.

If an Exemption Certificate has been granted, the certificate will be attached to the decision notice, along with the conditions of the Exemption Certificate.

If an Exemption Certificate is not granted, only the Decision Notice will be issued.

## Do I have a right of appeal against the decision?

Yes, you can appeal against the decision. You have 28 days from the date of the decision to make an appeal at the Magistrates' court. The decision notice will contain all the information on how to make an appeal against the decision.



Are you providing any medical evidence from your doctor or medical specialist to support the application?

Yes  (if yes, please attach the medical evidence to the form before submitting)

No

**3. Doctor / Medical Specialist Contact Details** (To be completed by the Medical Professional)

Name:

Address:

Telephone No:

Patients Name:

Date of Birth:

**5. Medical Evidence** (To be completed by the Medical Professional)

In your opinion, does the person named above suffer from a medical or physical condition that would prevent them from undertaking their responsibilities of carrying passengers in wheelchairs?

Yes  (if yes, please give details below)

No

**Please provide details of the condition below, and attach any relevant reports / test results etc.**

## 5. Declaration

I have read and understand Gedling Borough Council's policy on Wheelchair Users having access to services provided by Gedling Licensed Taxis, Private Hire Vehicles and their Drivers, and I understand the process in applying for a medical exemption.

- I enclose information from my medical practitioner and consent to Gedling Borough Council contacting them to verify this information and request further information regarding my medical condition if necessary.
- I declare that all the information given in this application is true and accurate.
- I understand that the information I have provided, including personal data, may be used and/ or disclosed for the following purposes:
  - Assessing whether I am eligible for an Exemption Certificate (this means that your personal information may be released to third parties as part of the assessment process).
  - In response to valid requests for information from other bodies including local authorities, medical practitioner, the police, other law enforcement agencies and solicitors where the disclosure is permitted under the Data Protection Act or required by law.
- I understand that, if granted an Exemption Certificate, it is an offence to forge, alter or allow another to use that certificate.

Signed

Date:     /     /