



## **TAXI AND GENERAL COMMITTEE – 13TH JULY 2017**

**SUBJECT: HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER  
MEDICAL EXEMPTION POLICY**

**REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES**

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### **1. PURPOSE OF REPORT**

- 1.1 To seek approval for the implementation of a policy in respect of exempting hackney carriage and private hire vehicle drivers from legal requirements on medical grounds.

### **2. SUMMARY**

- 2.1 Drivers of hackney carriages and private hire vehicles are required to be licensed to transport the fare paying public. They are under legal obligations to carry assistance dogs and / or passengers in wheelchairs (if driving a wheelchair accessible vehicle).

### **3. LINKS TO STRATEGY**

- 3.1 The policy in respect of exempting hackney carriage and private hire drivers from legal obligations on medical grounds will contribute to the Well-being Goals within the Well-being of Future Generations Act (Wales) 2016. The policy strives to address the licensing of drivers to ensure they are fit and proper persons. Adoption of the policy will contribute to the following Well-being Goals:

- *A prosperous Wales*
- *A healthier Wales*
- *A globally responsible Wales*
- *A more equal Wales.*

### **4. THE REPORT**

- 4.1 This report recommends the implementation of a policy which sets out the requirements and procedure to be observed when exempting licensed drivers from obligations to carry assistance dogs and / or passengers in wheelchairs.
- 4.2 The Equality Act 2010 (The Act) (sections 168-171) specifically requires drivers to carry guide dogs (and other assistance dogs) at no extra cost and to allow the dog to remain with its owner. Individual drivers may apply to the Council for an exemption certificate where they have specific medical conditions either in the short or longer term. Exemptions are not permitted on religious or cultural beliefs. Assistance dog owners have a responsibility to ensure that the dog is clearly identifiable as an assistance dog through the use of appropriate harnesses and / or identification cards.

- 4.3 Sections 165 of the Act has recently been enacted which requires drivers of licensed wheelchair accessible vehicles to carry passengers in wheelchairs and provide assistance to those passengers. The requirements of this section do not apply to drivers who have a valid exemption certificate (issued under section 166 of the Act) and are displaying a valid exemption notice in the prescribed manner.
- 4.4 Councils can exempt drivers where 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 those duties.
- 4.5 The policy in Appendix A sets out the legal obligations and the procedures to be followed in respect of any requests for exemptions received from licensed drivers.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report and associated proposals contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle of the Act. The policy is integrated in that it contributes to a number of the Well-being goals and supports the objectives of other stakeholders. The Council has a mandatory obligation to licence those persons who seek to drive hackney carriages or private hire vehicles and to ensure that those drivers are fit and proper persons to do so, that they comply with all regulations, conditions and byelaws which may have an effect on them or the public. The prime focus for the Council is to ensure public safety and to address all aspects of the licensing of drivers and to promote them as professional individuals.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 The Council ensures that it treats all individuals and organisations who are applying for or who hold driving licences, with equal respect both when corresponding with those individuals and organisations during any licensing process. The policy if approved will give clarity for passengers and drivers on the exemptions that are available on medical grounds.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 There are no financial implications associated with this report or the proposed policy.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 There are no personnel implications associated with this report or the proposed policy.

## **9. CONSULTATIONS**

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

## **10. RECOMMENDATIONS**

- 10.1 That Members approve the implementation of:
- (a) the Drivers Exemptions Policy attached at Appendix A.

## **11. REASONS FOR THE RECOMMENDATIONS**

- 11.1 To provide a clear policy regarding the obligations placed on hackney carriage and private hire drivers in respect of the carriage of assistance dogs and the transport of wheelchair passengers.
- 11.2 To ensure that any request by hackney carriage and private hire vehicle drivers for exemption from the obligations of the relevant sections of the Equality Act 2010 are considered fairly and consistently.

## **12. STATUTORY POWER**

- 12.1 Part II of the Local Government (Miscellaneous Provisions) Act 1976, Equality Act 2010.

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Consultees: Cllr Denver Preece Chair, Licensing Committee  
Cllr Julian Simmonds Vice Chair, Licensing Committee  
Cllr Eluned Stenner Cabinet Member for Environment and Public Protection  
Dave Street, Corporate Director, Social Services  
Robert Hartshorn, Head of Public Protection  
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Mike Eedy, Finance Manager  
Sue Ead, Solicitor, Legal Services  
Anwen Rees, Senior Policy Officer (Equalities and Welsh Language)  
Shaun Watkins, HR Manager

Appendices:  
Appendix A Proposed policy in respect of hackney carriage and private hire driver's exemptions regarding the carriage of wheelchair passengers and assistance dogs.

**PROPOSED POLICY**

**APPENDIX A**

# **Caerphilly County Borough Council**

## **POLICY – EQUALITY ACT 2010, EXEMPTION FROM REQUIREMENTS TO CARRY WHEELCHAIR PASSENGERS OR ASSISTANCE DOGS**

The Policy was approved by the Licensing Committee on XXX.

**Further information can be obtained from:**

**Licensing Section, Penallta House, Tredomen Park, Ystrad Mynach, Hengoed**

**Email: [licensing@caerphilly.gov.uk](mailto:licensing@caerphilly.gov.uk)**

**Website: [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)**

## **Introduction**

Caerphilly County Borough Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Hackney Carriages and Private Hire vehicles are a vital link in the transport chain and 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 (The Act) requires that employers and service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Section 165 of the Act, places the following duties on drivers of designated wheelchair accessible Hackney Carriages 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 to 171 place the following duty on drivers of Hackney Carriages and Private Hire vehicles;

- To carry the passenger's assistance 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.

## **Medical Exemption**

In some circumstances a driver of a designated Hackney Carriage or Private Hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either in the 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.

Exemptions are not permitted on religious or cultural beliefs.

## Medical Exemption Certificate

An application form for medical exemption must be submitted by a licensed driver to the Council with a statement of fitness completed by their physician / GP.

Upon the receipt and consideration of the application and statement of fitness a senior Licensing Officer will consider the information provided. A medical exemption certificate will be issued where in the opinion of the officer there is clearly a sound medical reason to do so. In the event that the senior officer is not of the opinion that there is a sound medical reason the matter will be referred to the relevant licensing sub-committee. Please refer to the Appeals Process set out below.

Dependant on the Doctor's findings a medical exemption certificate may be issued on a temporary or permanent basis. The cost of obtaining a Statement of Fitness from a Doctor shall be borne by the driver.

Where the Doctor has indicated that the medical condition is of a temporary nature, on expiry of the certificate a further doctor's statement of fitness will be required if the conditions persists.

## Medical Exemption Notice

Where a medical exemption certificate has been issued to a driver he shall also be issued with a medical exemption notice. The notice is not transferable between drivers and shall only be displayed in the vehicle being driven by the subject of the notice.

The notice shall be displayed:

- a) On the nearside of and immediately behind the windscreen of the taxi facing outwards; and
- b) In a manner that readily permits its removal

So that

- c) Its front is clearly visible from the outside of the taxi; and
- d) Its back is clearly visible from the driver's seat of the taxi.

A clear plastic adhesive pouch will be provided for the display of the notice and it is recommended that it shall be displayed in the interior of the vehicle in the bottom passenger-side of the windscreen in order that it can be clearly seen by any potential passenger approaching the vehicle.

## Appeals Process

Where an application has been referred to the relevant licensing sub-committee for consideration and the committee find that there is no sound medical reason to issue a medical exemption the driver would have the right of appeal to a Magistrate's Court within 21 days from the date of refusal.