

# Licensing Committee

Monday, 24th July, 2017

at 2.00 pm

**PLEASE NOTE TIME OF MEETING**  
**Council Chamber - Civic Centre**

This meeting is open to the public

## **Members**

Councillor Mrs Blatchford (Chair)

Councillor J Baillie

Councillor Bogle

Councillor Furnell

Councillor B Harris

Councillor Letts

Councillor Lewzey

Councillor McEwing

Councillor Painton

Councillor Parnell

## **Contacts**

Democratic Support Officer

Pat Wood

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## **PUBLIC INFORMATION**

### **Role of this Committee**

The Committee publishes and implements a statement of licensing policy. It appoints Sub-Committees to deal with individual licensing applications and associated matters for which the Council as Licensing Authority is responsible.

### **Public Representations**

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

**Smoking policy** – The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

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Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

**Fire Procedure** – Should the fire alarm sound during the meeting leave the building by the nearest available exit and assemble in the Civic Centre forecourt car park.

**Access** – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

### **Dates of Meetings: Municipal Year 2017/18:**

Meetings of the Committee are held as and when required.

## CONDUCT OF MEETING

### TERMS OF REFERENCE

The terms of reference of the Licensing Committee are contained in Part 3 (Schedule 2) of the Council's Constitution.

### BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

### Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 4.

## DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

### **1 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in membership of the Committee made in accordance with Council Procedure Rule 4.3.

### **2 ELECTION OF VICE-CHAIR**

To elect the Vice Chair for the Municipal Year 2017/18.

### **3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **4 STATEMENT FROM THE CHAIR**

### **5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 2)**

To approve and sign as a correct record the Minutes of the meeting held on 5 October 2016 and to deal with any matters arising, attached.

### **6 POLICY FOR MEDICAL EXEMPTION FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS UNDER THE EQUALITY ACT 2010 (Pages 3 - 26)**

Report of the Service Director – Transactions and Universal Services detailing the policy for Medical Exemption for Hackney Carriages and Private Hire Drivers under the Equality Act 2010.

Friday, 14 July 2017

Service Director, Transactions and Universal Services

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SOUTHAMPTON CITY COUNCIL  
LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON 5 OCTOBER 2016

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Present: Councillors Mrs Blatchford (Chair), J Baillie, Bogle, Furnell, B Harris, Jordan, Painton and Parnell

Apologies: Councillors Lewzey and D Thomas

1. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Committee noted that apologies had been received from Councillors Lewzey and Thomas.

2. **ELECTION OF VICE-CHAIR**

The Committee elected Councillor Furnell as Vice-Chair for the remainder of this Municipal year.

3. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED** that the minutes of the meeting held on 22<sup>nd</sup> March 2016 be approved and signed as a correct record.

4. **POLICY ON THE APPLICATION OF THE FIT AND PROPER PERSON TEST FOR THE TAXI AND PRIVATE HIRE TRADES**

The Committee considered the report of the Licencing Manager proposing a new policy to assist in applying the fit and proper person test with regards to Licenses issued in accordance with the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Clive Johnson (Southampton Trade Association), Perry McMillan (Unite Cab Section), Ian Hall, Dave Beszant and Richard Drover (Southampton Hackney Association) were present and with the consent of the Chair, addressed the meeting.

**RESOLVED**

- (i) To approve the policy as detailed in Appendix 1 to replace the present General Policy Guidelines Relating to the Relevance of Convictions; and
- (ii) That the Licensing Manager provide a quarterly report to the Committee on Licences revoked or suspended under delegated authority.

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# Agenda Item 6

<b>DECISION-MAKER:</b>	<b>LICENSING COMMITTEE</b>		
<b>SUBJECT:</b>	<b>POLICY FOR MEDICAL EXEMPTION FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS UNDER THE EQUALITY ACT 2010</b>		
<b>DATE OF DECISION:</b>	<b>24 July 2017</b>		
<b>REPORT OF:</b>	<b>SERVICE DIRECTOR – TRANSACTIONS AND UNIVERSAL SERVICES</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>Phil Bates</b>	<b>Tel: 023 8083 3523</b>
	<b>E-mail:</b>	<b>phil.bates@southampton.gov.uk</b>	
<b>Director</b>	<b>Name:</b>	<b>Mitch Sanders</b>	<b>Tel: 023 8083 3613</b>
	<b>E-mail:</b>	<b>mitch.sanders@southampton.gov.uk</b>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
Not applicable	
<b>BRIEF SUMMARY</b>	
<p>Sections 165 and 167 of the Equality Act 2010 have now come into effect as of 6<sup>th</sup> April 2017. The relevant statutory guidance strongly recommends the publication of a list of wheelchair accessible vehicles, the authority is bound to consider and take into account statutory guidance. The purpose of the list is to inform disabled passengers of available vehicles that are capable of assisting in meeting their travel needs. In order to lawfully implement a list the authority must have a policy regarding wheelchair accessible vehicles and provide for drivers of such vehicles to be exempt, where relevant, on medical grounds from the duties stipulated in this legislation.</p>	
<b>RECOMMENDATIONS:</b>	
	(i) That the Committee consider and approve the publication of a list of designated wheelchair accessible vehicles in accordance with Department for Transport’s Statutory Guidance on Access for wheelchair users to Taxis and Private Hire Vehicles as detailed in Appendix 1.
	(ii) That the Committee consider and approve the policy as shown in Appendix 2 – Exemption Procedure to enable compliance with the legislation.
	(iii) That the Committee delegates authority to the Licensing Manager to maintain / amend / re-publish the list as required in future and to amend or update the policy regarding exemptions if required in future.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	Statutory guidance strongly recommends adoption of a list. The provisions of the Equality Act 2010 require Licensing Authorities to exempt drivers that are medically unfit from duties stated in the Act however there is no current policy to permit this.

<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	Given the statutory nature of the function there are no alternative options.
<b>DETAIL (Including consultation carried out)</b>	
3.	The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers. Southampton City 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 accessible transport chain and it is important that people who use wheelchairs or assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.
4.	On 6 <sup>th</sup> April 2017 of the 283 licensed Hackney Carriages licensed by SCC, 71 have been identified as being wheelchair accessible and of 668 licensed Private Hire Vehicles, 23 are wheelchair accessible. It is proposed that these vehicles will be designated as such and included on the list of wheelchair accessible vehicles in accordance with section 167 of the Equality Act 2010 and as recommended by Department for Transport's Statutory Guidance on Access for wheelchair users to Taxis and Private Hire Vehicles (Appendix 1 – Department for Transport's Statutory Guidance).
5.	Section 172 of the Act enables vehicle owners to appeal against the decision to include their vehicles on the designated list. This appeal should be made to the Magistrates' Court and must be within 28 days of the vehicle in question being published on the Licensing Authority's published list. Proprietors of all vehicles included on the list will receive a letter detailing the new provisions of the Act and their right of appeal (Appendix 3 – Letter to Proprietors).
6.	<p>Once vehicles are designated as wheelchair accessible vehicles, the drivers of such vehicles are subject to duties under section 165 of the Act. The duties are:</p> <ol style="list-style-type: none"> <li>i. To carry the passenger while in the wheelchair;</li> <li>ii. Not to make any additional charge for doing so;</li> <li>iii. If the passenger chooses to sit in a passenger seat, to carry their wheelchair;</li> <li>iv. To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;</li> <li>v. To give the passenger such mobility assistance as is reasonably required.</li> </ol> <p>Mobility assistance is "assistance –</p> <ol style="list-style-type: none"> <li>(i) To enable the passenger to get into and out of the vehicle</li> <li>(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;</li> <li>(iii) To load the passenger's luggage into or out of the vehicle;</li> <li>(iv) If the passenger does not wish to remain in the wheelchair, to load</li> </ol>

	<p>the wheelchair into or out of the vehicle”.</p> <p>In addition, Sections 168 and 170 places the following duty on drivers of Hackney Carriages and Private Hire vehicles;</p> <p>i. To carry the passenger’s dog, allowing it to remain with the passenger and not make any additional charge for doing so.</p> <p>A driver who fails to comply with any of the above is guilty of an offence and may receive a fine if convicted.</p>
7.	<p>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 short or longer term.</p> <p>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.</p> <p>Sections 169 and 171 of the Act allow Licensing Authorities to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.</p> <p>Drivers will receive a letter detailing the duties they are subject to and the process to apply for an exemption (Appendix 4 – Letter to Drivers).</p>
8.	<p>To apply for a Medical Exemption Certificate a driver must submit to the Licensing Team an application form (Appendix 5 – Application Form for Medical Exemption) along with evidence supporting their claim. This evidence shall be a report from their GP which must detail exactly what duties cannot be undertaken, why they cannot be undertaken and for how long they cannot be undertaken. This assessment will be at the applicant’s expense as part of the application process.</p>
9.	<p>The Licensing Manager will consider the evidence and may request further independent medical assessment to decide if the driver is:</p> <ul style="list-style-type: none"> <li>(i) Fit for work;</li> <li>(ii) Temporarily unfit to carry passengers in wheelchairs and/or assistance dogs; or</li> <li>(iii) Permanently unfit to carry passengers in wheelchairs and/or assistance dogs.</li> </ul>
10.	<p>If the driver is declared fit for work an exemption certificate will not be issued and a letter explaining this decision will be given to the driver. If the driver does not agree with the decision to refuse the application for a medical exemption, Section 172 of the Act gives the driver a right to appeal the decision to the Magistrates’ Court. The driver has 28 days from the date of refusal to appeal.</p>
12.	<p>If the driver is declared temporarily unfit, a temporary exemption certificate of</p>

	up to three months may be issued. Prior to the expiry of the temporary exemption certificate the driver will contact the Licensing Team to either; (i) declare themselves fit, return to normal duties and return the temporary exemption certificate; or (ii) arrange a further medical assessment to be submitted for the Licensing Manager to consider extending the exemption certificate.
13.	<p>If the driver is declared permanently unfit to carry passengers in wheelchairs and/or assistance dogs an exemption certificate and notice will be issued. The certificate will include a photograph of the driver who has been granted exemption and must be displayed prominently in the vehicle for public viewing (Appendix 6 – Exemption Certificate, Appendix 7 – Exemption Notice).</p> <p>The exemption may be reviewed at any time with reference to expert medical evidence, and each case will be reviewed on its own merits. This may result in a further referral to independent medical assessors to determine if the driver remains medically unfit to carry passengers in wheelchairs and/or assistance dogs.</p>
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
14.	None, medical assessment paid for by drivers as part of application process.
<b><u>Property/Other</u></b>	
15.	This function will be carried out within the Licensing Team within existing resource constraints.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
16.	Sections 165 and 167 of The Equality Act 2010 came into effect from 6 <sup>th</sup> April 2017. Sections 166, 169 and 171 of the Act provide for the exemption of drivers from the statutory duties set out in this report in certain circumstances.
17.	Section 37-68 Town Police Clauses Act 1847, Licensing of Hackney Carriages and Hackney Carriage Drivers.
18.	Sections 45-80 Local Government (Miscellaneous provisions) Act 1976, Licensing of Private Hire Vehicles, drivers and operators and provides powers and requirements with regards to Hackney Carriages and Hackney Carriage drivers.
19.	Section 149 of the Equality Act 2010 imposes a public sector equality duty (PSED). This duty requires the authority ( <i>inter-alia</i> ) to eliminate discrimination, advance equality of opportunity and foster good relations when exercising any of its functions.
<b><u>Other Legal Implications:</u></b>	

20.	<p>Human Rights Act 1998</p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in any way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality – the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p>
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
21.	None

<b>KEY DECISION?</b>	No
<b>WARDS/COMMUNITIES AFFECTED:</b>	Not applicable
<b><u>SUPPORTING DOCUMENTATION</u></b>	
<b>Appendices</b>	
1.	Appendix 1 – Department for Transport's Statutory Guidance on Access for Wheelchair Users to Taxis and Private Hire Vehicles
2.	Appendix 2 - Medical Exemption Policy for Hackney Carriage and Private Hire Drivers under The Equality Act 2010
3.	Appendix 3 – Letter to Proprietors
4.	Appendix 4 – Letter to Drivers
5.	Appendix 5 – Application Form for Medical Exemption
6.	Appendix 6 – Exemption Certificate
7.	Appendix 7 - Exemption Notice
<b>Documents In Members' Rooms</b>	
1.	
2.	
<b>Equality Impact Assessment</b>	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
<b>Privacy Impact Assessment</b>	

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
<b>Other Background Documents</b> <b>Equality Impact Assessment and Other Background documents available for inspection at:</b>		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.		
2.		



## **DEPARTMENT FOR TRANSPORT ACCESS FOR WHEELCHAIR USERS TO TAXIS AND PRIVATE HIRE VEHICLES**

### **STATUTORY GUIDANCE**

#### 3. Vehicles

- 3.1 Section 167 of the Act permits, but does not require, Licensing Authorities to maintain a designated list of wheelchair accessible taxis and PHVs.
- 3.2 Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra.

#### Vehicles that can be designated

- 3.3 We want to ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.
- 3.4 The Act states that a vehicle can be included on a licensing authority's list of designated vehicles if it conforms to such accessibility requirements as the licensing authority thinks fit. However, it also goes on to explain that vehicles placed on the designated list should be able to carry passengers in their wheelchairs should they prefer.
- 3.5 This means that to be placed on a licensing authority's list a vehicle must be capable of carrying some – but not necessarily all – types of occupied wheelchairs. The Government therefore recommends that a vehicle should only be included in the authority's list if it would be possible for the user of a "reference wheelchair" (as defined in Schedule 1 of the Public Service Vehicle Accessibility Regulations 2000) to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.
- 3.6 Taking this approach allows the provisions of section 165 of the Act apply to a wider range of vehicles and more drivers than if LAs only included on the list vehicles capable of taking a larger type of wheelchair.

- 3.7 The Government recognises that this approach will mean that some types of wheelchair, particularly some powered wheelchairs, may be unable to access some of the vehicles included in the LA's list. The Act recognises this possibility, and section 165(9) provides a defence for the driver if it would not have been possible for the wheelchair to be carried safely in the vehicle. Paragraph 3.10 of this guidance below aims to ensure that users of larger wheelchairs have sufficient information about the vehicles that will be available to them to make informed choices about their journeys.

#### Preparing and publishing lists of designated vehicles

- 3.8 We want to ensure that passengers in wheelchairs have the information they need to make informed travel choices, and also that drivers and vehicle owners are clear about the duties and responsibilities placed on them.
- 3.9 Before drivers can be subject to the duties under section 165 of the Act, the LA must first publish their list of designated vehicles, and clearly mark it as 'designated for the purposes of section 165 of the Act'.
- 3.10 LAs should ensure that their designated lists are made easily available to passengers, and that vehicle owners and drivers are made aware. Lists should set out the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle, and stating the name of operator. Where possible it would also be helpful to include information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 3.11 However, we recognise that some passengers in wheelchairs may prefer to transfer from their wheelchair into the vehicle and stow their wheelchair in the boot. Although the legal requirement for drivers to provide assistance does not extend to the drivers of vehicles that cannot accommodate a passenger seated in their wheelchair, we want to ensure that these passengers are provided with as much information as possible about the accessibility of the taxi and PHV fleet in their area.
- 3.12 We would therefore recommend that LAs also publish a list of vehicles that are accessible to passengers in wheelchairs who are able to transfer from their wheelchair into a seat within the vehicle. It should be made clear however that this list of vehicles has not been published for the purposes of section 165 of the Act and drivers of those vehicles are therefore not subject to the legal duties to provide assistance. Authorities may however wish to use existing licensing powers to require such drivers to provide assistance, and impose licensing sanctions where this does not occur.

#### Appeals

- 3.13 Section 172 of the Act enables vehicle owners to appeal against the decision of a LA to include their vehicles on the designated list. That appeal should be made to the Magistrate's Court, or in Scotland the sheriff, and must be made within 28 days of the vehicle in question being included on the LA's published list.



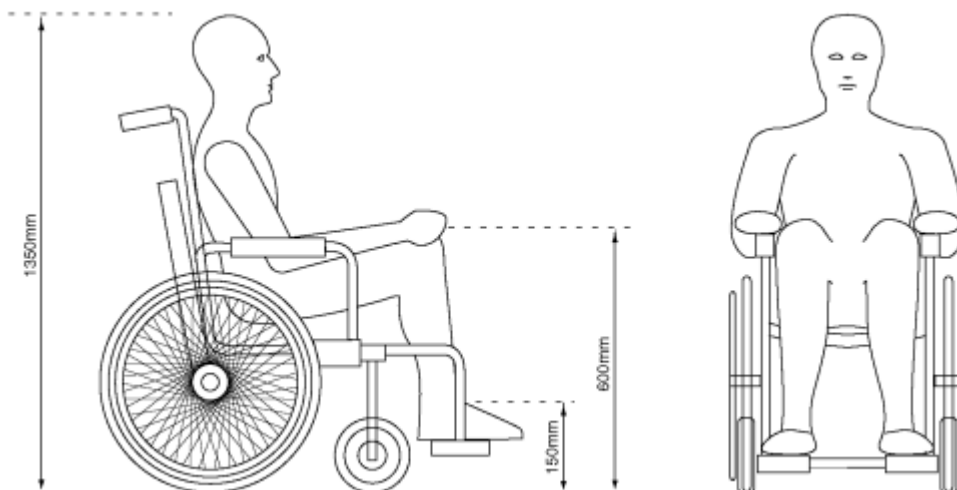


### **MEDICAL EXEMPTION POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS UNDER THE EQUALITY ACT 2010**

The Equality Act 2010 requires employers and service providers to make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Southampton City 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 accessible transport chain and it is important that people who use wheelchairs or assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

Section 167 of The Act permits the Licensing Authority to designate Hackney Carriages and Private Hire Vehicles as being wheelchair accessible. The Department for Transport's Statutory Guidance on Access for wheelchair users recommends that vehicles should only be included in the list it is would be possible for the user of a "reference wheelchair" to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair. A reference wheelchair is illustrated below:



Vehicles identified as such shall be included on a list of designated vehicles.

Inclusion of a vehicle on the designated list may be appealed under Section 172 to the Magistrates' Court within 28 days of the vehicles in question being published on the Licensing Authority's list. Proprietors of all vehicles included on the list will receive a letter detailing the new provisions of the Act and their right of appeal.

The Equality Act 2010 (Section 165) places the following duties on drivers of designated wheelchair accessible Hackney Carriages and Private Hire Vehicles;

- i. To carry the passenger while in the wheelchair;
- ii. Not to make any additional charge for doing so;
- iii. If the passenger chooses to sit in a passenger seat, to carry their wheelchair;
- iv. To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- v. To give the passenger such mobility assistance as is reasonably required

In addition, Sections 168 and 170 places the following duty on drivers of Hackney Carriages and Private Hire vehicles;

- i. To carry the passenger's 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.

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 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.

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

To apply for a Medical Exemption Certificate a driver must submit to the Licensing Team an application form along with a medical report from their GP, dated no more than 28 days prior to submission of the application, detailing exactly what duties cannot be undertaken, why they cannot be undertaken and for how long they cannot be undertaken. This assessment will be at the applicant's expense as part of the application process.

Upon receipt the Licensing Manager will consider the evidence and may request further independent medical assessment to decide if the driver is:

- (i) Fit for work
- (ii) Temporarily unfit to carry passengers in wheelchairs and/ or assistance dogs
- (iii) Permanently unfit to carry passengers in wheelchairs and/ or assistance dogs

If the driver is declared fit for work no exemption certificate will be issued and a letter explaining the decision will be given to the driver. If the driver does not agree with the decision to refuse the application for a medical exemption, Section 172 of the Act gives the driver a right to appeal the decision to the Magistrates Court. The driver has 28 days from the date of refusal to appeal.

If the driver is declared temporarily unfit, a temporary exemption certificate of up to three months may be issued. Prior to the expiry of the temporary exemption certificate the driver will contact the Licensing Team to either;

- (i) declare themselves fit, return to normal duties and return the temporary exemption certificate; or
- (ii) arrange a further medical assessment to be submitted for the Licensing Manager to consider extending the exemption certificate.

If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Certificate will be issued. The certificate will include a photograph of the driver who has been granted exemption and must be displayed prominently in the vehicle for public viewing.

The exemption may be reviewed at any time with reference to expert medical evidence, and each case will be reviewed on its own merits. This may result in a further referral to independent medical assessors to determine if the driver remains medically unfit to carry passengers in wheelchairs and/or assistance dogs.

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## LICENSING TEAM

### Southampton and Eastleigh Licensing Partnership

Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

Licensing Team,  
Southampton & Eastleigh Licensing  
Partnership  
PO Box 1767, Southampton SO18 9LA



Direct dial: 023 8083 3002  
Our ref: Reference

E-mail: [licensing@southampton.gov.uk](mailto:licensing@southampton.gov.uk)  
Please ask for: Taxi Licensing

Name  
Address 1  
Address 2  
Address 3  
Address 4  
Address 5

Date

Dear Name,

### **EQUALITY ACT 2010**

Since the commencement of the Equality Act 2010 your vehicle (Vehicle Registration) has been included on a list of wheelchair accessible vehicles published on our website. We now write to advise you, as the proprietor of a wheelchair accessible vehicle, that sections 165 and 167 of the Equality Act 2010 have come into effect.

These provisions allow a Licensing Authority to create a list of "designated vehicles" which are capable of carrying passengers in wheelchairs (s.167). It is possible to appeal to the Magistrates' Court against the Licensing Authority's decision to include your vehicle on the list. Any appeal must be within 28 days.

Once vehicles are designated as being wheelchair accessible, the drivers of such vehicles are subject to duties under section 165 of the Act. Please ensure your drivers are made aware that the duties imposed by the legislation on them are:

- (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;
- (e) To give the passenger such mobility assistance as is reasonably required.

And mobility assistance:

"is assistance-

- (a) To enable to passenger to get into or out of the vehicle;
- (b) If the passenger wishes to remain in the wheelchair, to enable to 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.

Failure to provide mobility assistance or to carry the passenger or discharge any of the other duties contained in s.165(4) is a criminal offence by virtue of subsection (8).

**If you require this letter or future correspondence from us in a different format (e.g. tape, Braille or disc) please do not hesitate to let us know.**

The legislation does contain an exemption provision in Section 166. If drivers have a medical condition, disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require, they may apply for an exemption, please contact Licensing.

Sections 168 - 171 of the Equality Act 2010 relate to the carriage of guide dogs and other assistance dogs. Where exemptions to carry guide dogs etc. have already been made by us under previous legislation they will continue to have effect as though they had been made under the Equality Act 2010.

Yours sincerely,

Phil Bates  
**Licensing Manager**

**If you require this letter or future correspondence from us in a different format (e.g. tape, Braille or disc) please do not hesitate to let us know.**

## LICENSING TEAM

### Southampton and Eastleigh Licensing Partnership

Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

Licensing Team,  
Southampton & Eastleigh Licensing  
Partnership  
PO Box 1767, Southampton SO18 9LA



Direct dial: 023 8083 3002  
Our ref: Reference

E-mail: [licensing@southampton.gov.uk](mailto:licensing@southampton.gov.uk)  
Please ask for: Taxi Licensing

Name  
Address Line 1  
Address Line 2  
Address Line 3  
Address Line 4  
Address Line 5

Date

Dear Name,

### **EQUALITY ACT 2010**

Since the commencement of the Equality Act 2010 a list of wheelchair accessible vehicles has been published on our website. We now write to advise you that if you drive a wheelchair accessible vehicle, sections 165 and 167 of the Equality Act 2010 have come into effect.

These provisions allow a Licensing Authority to create a list of “designated vehicles” which are capable to carrying passengers in wheelchairs (s.167). Once vehicles are designated as being wheelchair accessible, the drivers of such vehicles are subject to duties under section 165 of the Act.

Please be aware of the duties imposed on you by the legislation are:

- (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;
- (e) To give the passenger such mobility assistance as is reasonably required.

And mobility assistance:

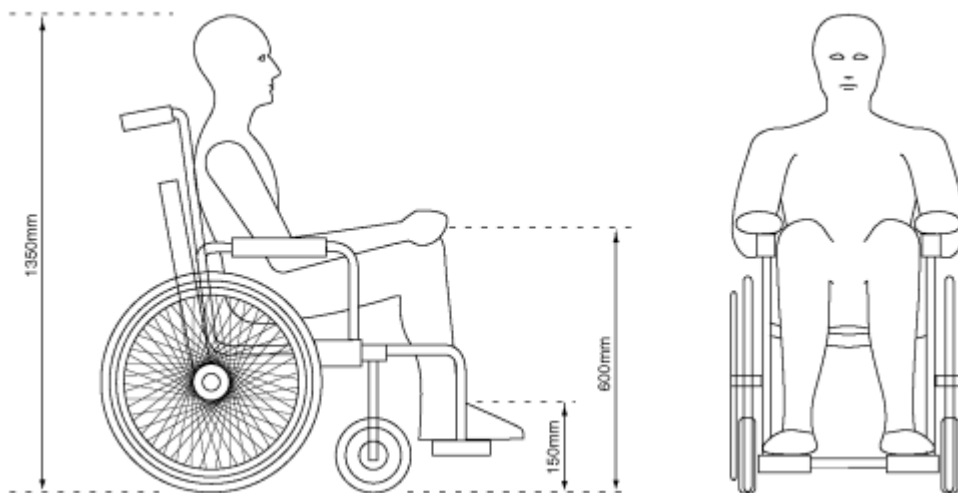
“is assistance-

- (a) To enable to passenger to get into or out of the vehicle;
- (b) If the passenger wishes to remain in the wheelchair, to enable to 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.

Failure to provide mobility assistance or to carry the passenger or discharge any of the other duties contained in s.165(4) is a criminal offence by virtue if subsection (8).

The legislation does contain an exemption provision in Section 166. If you have a medical condition, disability or physical condition which makes it impossible or unreasonably difficult for you to provide the sort of physical assistance which these duties require, you may apply for an exemption. Please note the guidance is to accommodate a wheelchair as shown in the diagram overleaf.

**If you require this letter or future correspondence from us in a different format (e.g. tape, Braille or disc) please do not hesitate to let us know.**



Please contact Licensing if you wish to apply for such an exemption.

Sections 168 - 171 of the Equality Act 2010 relate to the carriage of guide dogs and other assistance dogs. Where exemptions to carry guide dogs etc. have already been made by us under previous legislation they will continue to have effect as though they had been made under the Equality Act 2010.

Yours sincerely,

Phil Bates  
**Licensing Manager**

If you require this letter or future correspondence from us in a different format (e.g. tape, Braille or disc) please do not hesitate to let us know.



## **EQUALITY ACT 2010**

### ***Application for Medical Exemption Certificate***



#### **Background**

Southampton City 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 accessible transport chain and it is important that people who use wheelchairs or guide, hearing or other assistance dogs can have confidence that the Hackney Carriage or Private Hire Vehicle they hire will accept them and their wheelchair or assistance dog and carry them at no extra charge.

However, to enable drivers with certain medical conditions, which prevent them from providing mobility assistance to others or have severe allergies to dogs, to continue to drive licensed vehicles, the law includes provisions for drivers to be exempted from these duties on medical grounds.

The Licensing Authority is responsible for issuing Certificates of Exemption and needs to be satisfied that it is appropriate to do so on medical grounds.

Please complete the following and send to:

By post:

Southampton & Eastleigh Licensing Partnership  
PO Box 1767  
Southampton  
SO18 9LA

In person (Monday-Friday 09:00-12:00 and between 14:00-16:00)

Licensing  
Civic Centre  
Southampton  
SO14 7LY



**For completion by a Medical Practitioner who has full access to the patient's medical history.**

Medical Practitioner Name	
Medical Practitioner Address	
Post Code	
Official Practice Stamp	

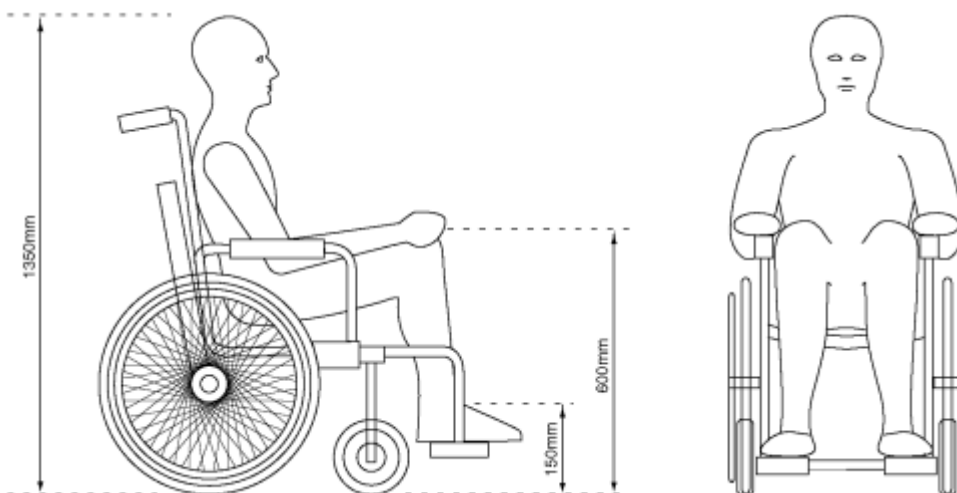
In your opinion, does this person have a medical condition or disability which would make it difficult for them to provide physical assistance to passengers in wheelchairs?

*The types of assistance that may be required are;*

*If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get in and out of the vehicle and secure the wheelchair in accordance to the vehicle specification.*

*If the passenger wants to transfer to a seat, the driver must help him or her to get out of the wheelchair and into a seat and back into the wheelchair; the driver must also load the wheelchair into the vehicle together with any luggage.*

*As there are numerous shapes and sizes of wheelchair this assessment should be based on the applicant's ability to perform the above with a 'reference wheel chair'. The Department for Transport consider a reference wheelchair to be as illustrated below.*



Yes / No

If "Yes", please give details of the condition/disability and detail what duties cannot be undertaken and for how long they cannot be undertaken. Please attach any relevant medical reports.

Does this person have a medical condition which would make it difficult for them to carry assistance dogs in their vehicle?

Yes / No

If "Yes" please give details and detail what duties cannot be undertaken and for how long they cannot be undertaken. Please attach any relevant medical reports.

Is this a permanent condition?

Yes / No

Is this a temporary condition?

Yes / No

If 'Yes' please give date that Temporary Exemption should be granted until

/ /20

Signature:

Date:



**HCD/PHD 123**

## EQUALITY ACT 2010 MEDICAL EXEMPTION CERTIFICATE

SOUTHAMPTON CITY COUNCIL in pursuance of **Section 166/Section 169/Section 171** of the Equality Act 2010

HEREBY EXEMPTS **DRIVER NAME**

of: **DRIVER ADDRESS**

From **CARRYING PASSENGERS IN WHEELCHAIRS/CARRYING ASSISTANCE DOGS**

until **DATE**

Dated this **DATE**



Licensing Manager  
for and on behalf of  
Southampton City Council

**DRIVER NAME**  
**DRIVER ADDRESS**



**PHOTO OF DRIVER**



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Section 166 Equality Act 2010

# Notice Of Exemption

Name of licensing authority

\_\_\_\_\_  
Driver's name

\_\_\_\_\_  
Licence No.

**The person named above is exempt from the duties required by section 165 of the Equality Act 2010.**

This notice expires \_\_\_\_\_ 20 \_\_\_\_\_



# Attention

Only the driver named overleaf may display this notice when driving the vehicle. The notice may also remain on display when the vehicle is parked provided it has been driven by, and is to be driven by, the named driver. Otherwise the named driver must remove the notice.