

Equality Act 2010

Information for hire vehicle drivers and operators

The Equality Act 2010, includes provisions relating specifically to taxis and private hire vehicles (PHVs) and disability.

The 2010 Act replaced (and replicated) those parts of the Disability Discrimination Act 1995 requiring Private Hire Operators and drivers of hire vehicles (hackney carriage or private hire vehicles) to carry the passenger's guide, hearing or assistance dog, allowing it to remain with the passenger and not make any additional charge for doing so.

Parts of the Act relating to duties in connection with passengers in wheelchairs did not become law until **1 April 2017**. This note describes all of the Equality Act provisions that are specific to taxis and PHVs, and what the implications are for their drivers and operators.

Section 167 provides that a licensing authority may maintain a list of wheelchair accessible taxi or private hire vehicles which conform to such accessibility requirements as the licensing authority thinks fit. Wheelchair accessible vehicles on such a list are referred to as 'designated vehicles'.

Whilst Councils are under no specific legal obligation to maintain a list of wheelchair accessible taxi or private hire vehicles the Government recommends strongly that they do so.

Duties on drivers to assist passengers in wheelchairs.

The Equality Act places duties on the drivers of designated wheelchair accessible taxis and PHVs to provide physical assistance to passengers in wheelchairs.

The duties will apply to the driver of any wheelchair accessible taxi or PHV which is on the licensing authority's list of "designated vehicles".

Any drivers who suffer from a disability or a condition which would make it difficult for them to provide physical assistance can apply for an exemption from the duties to offer assistance.

What is WLDC doing?

West Lindsey District Council's Regulatory Committee has decided to maintain a list of designated vehicles.

If you operate or drive a wheelchair accessible vehicle which is included on the list, you will be legally required to carry out the duties to assist wheelchair users.

The Council recognises that the vast majority of drivers and operators already comply with these duties voluntarily as best practice.

What are the duties?

The duties placed on the drivers of designated wheelchair accessible taxis and PHVs are:

- to carry the passenger while in a wheelchair
- not to make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

It is illegal for drivers of 'designated vehicles' to discriminate against wheelchair users. Drivers of such vehicles face a fine of up to £1,000 if they refuse to transport wheelchair users or attempt to charge them extra.

Drivers of designated wheelchair accessible vehicles are under a legal duty to carry wheelchair users or another person who wishes to be accompanied by a disabled person who is in a wheelchair.

Assistance Dogs

Private Hire Operators and drivers of hackney carriage/private hire vehicles are already under a legal duty to carry the passenger's guide, hearing or assistance dog, allowing it to remain with the passenger and not make any additional charge for doing so.

It is illegal for the driver of a hackney carriage that has been hired by or for a disabled person who is accompanied by an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) to fail to carry the disabled person's dog or to allow it to remain with that person or to make any additional charge for doing so, unless an exemption certificate has been issued by West Lindsey District Council and that certificate is displayed within the vehicle.

It is illegal for the operator of a private hire vehicle to fail or refuse to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog. The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

It is illegal for the driver of a private hire vehicle to fail or refuse to carry out a booking accepted by the operator of the vehicle if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog, unless an exemption certificate from the requirement to carry assistance dogs has been issued by the Council and that certificate is displayed within the vehicle.

What does mobility assistance mean?

Mobility assistance essentially means helping passengers who use wheelchairs by providing physical assistance.

If the passenger wishes to remain in the wheelchair, the driver must help the passenger to get into and out of the vehicle.

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.

The driver must also offer to load the passenger's luggage into and out of the vehicle.

What if I have a back condition which makes it impossible for me to help a passenger in a wheelchair get into a cab?

The Act allows for exemptions from the duties on medical grounds or if the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with those duties.

It is the responsibility of drivers who require an exemption to apply for one from their licensing authority.

What if I think I should be exempt from carrying assistance dogs?

The Act allows for exemptions from the duties on medical grounds if it is medical opinion that you have a medical condition which is aggravated by exposure to dogs.

It is the responsibility of drivers who require an exemption to apply for one from their licensing authority.

Who decides if a driver is exempt?

Our Regulatory Committee or Head of Paid Service will decide if a driver should be exempt from the duties. The applicant's own medical practitioner should certify whether in his/her opinion the driver should qualify for exemption. Licensing Officers are able to issue short-term exemptions from the duties.

What if the licensing authority says that I am ok to carry out the duties and I disagree?

The legislation allows a driver to appeal to the magistrates' court within 28 days if the licensing authority decides not to issue an exemption certificate.

How will passengers know that I am exempt from the duties to assist passengers or carry assistance dogs?

We will issue Exemption Notices which exempted drivers must display on their vehicles in order that passengers will know that the driver is exempt from duties.

Appeals

Section 172 of the Equality Act 2010 Act enables vehicle owners to appeal against the decision of the Local Authority to include their vehicles on the Designated List of WAVs. That appeal should be made to the Magistrate's Court.

A driver may appeal to the Magistrate's Court against a decision by the Licensing Authority not to grant a medical exemption, the appeal must be made within 28 days beginning on the date of the refusal.

If you require any further information or advice, please do not hesitate to contact the Licensing Team on 01427 676676 or licensing@west-lindsey.gov.uk