



TAXI AND PRIVATE HIRE MEDICAL EXEMPTION POLICY

2018

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1. Introduction

- 1.1 This policy applies to all drivers who possess a current hackney carriage, private hire or dual hackney carriage/private hire drivers Licence issued by Braintree District Council.
- 1.2 The policy applies where a licensed driver wishes to be exempt from the requirements placed upon them under the Equality Act 2010 with respect to the carriage of passengers in wheelchairs and/or assistance dogs.
- 1.3 The policy is to be read in conjunction with the Council's general requirements regards driver medicals. All drivers **MUST** meet DVLA group 2 medical standards and should be aware of this requirement before making an application to be exempt from their duties under the Equality Act 2010.

2. Equality Act 2010 – Relevant Sections

- 2.1 Section 165 places certain duties on drivers of designated wheelchair accessible hackney carriages and private hire vehicles. Those duties include:
 - To carry the passenger whilst in the wheelchair.
 - Not to make any charge for doing so.
 - Should the passenger choose to sit in a passenger seat, to carry their wheelchair.
 - To take such necessary steps to ensure that the passenger is carried in safety and reasonable comfort.
 - To give the passenger such mobility assistance as is reasonably required.
- 2.2 Sections 168 & 170 place the following duties on drivers of hackney carriage and private hire drivers:
 - To carry the passenger's (guide, hearing or assistance) dog
 - Allowing the dog to remain with the passenger
 - Not to make any additional charge for doing so.
- 2.3 Section 168 applies to all hackney carriage drivers or dual hackney carriage drivers (acting in the capacity of a hackney carriage driver)
- 2.4 Section 170 applies to all private hire drivers or dual private hire drivers (acting in the capacity of a private hire vehicle driver)
- 2.5 Section 166 of the Act allows The Council to exempt drivers from the duties under section 165 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.
- 2.6 Section 169 of the Act allows The Council to exempt hackney carriage drivers from the duties under Section 168 if satisfied that it is appropriate to do so, on medical grounds or because of the physical characteristics of the taxi which

the person drives or those of any kind of taxi in relation to which the person requires the certificate.

- 2.7 Section 171 of the Act allows The Council to exempt private hire vehicle drivers from the duties under Section 170 if satisfied that it is appropriate to do so, on medical grounds or because of the physical characteristics of the private hire vehicle which the person drives or those of any kind of private hire vehicle in relation to which the person requires the certificate.

3. Equality Act 2010 - Offences

- 3.1 Under Section 165 of the Act, it is an offence for a driver of a designated wheelchair accessible hackney carriage or private hire vehicle to refuse to carry a passenger in a wheelchair in the circumstances defined in paragraph 2.1 of this document.
- 3.2 Under Section 168 of the Act, It is an offence 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 and allow it to remain with that person or to make any additional charge for doing so, unless an exemption certificate has been issued by the Council and that certificate is displayed within the vehicle.
- 3.3 Under Section 170 of the Act, It is an offence 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.
- 3.4 Under Section 170, it is an offence 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.

4. Exemptions from the requirements

4.1 Medical

- 4.1.1 In some circumstances a driver of a hackney carriage or private hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, short or long term.

4.1.2 Section 166 allows The Council to grant an exemption to 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.

4.1.3 Sections 169 & 171 allows the Council to grant exemption to drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so, on medical grounds.

4.2 Other Exemptions

4.2.1 There are no exemptions, medical or otherwise, for a hackney carriage or private hire driver in respect of conveying a reasonable quantity of luggage or providing reasonable assistance in the loading and unloading of luggage.

4.2.2 Hackney carriage bye law 14 of 21st March 2003 states that "every driver of a hackney carriage vehicle, when requested by any person hiring or seeking to hire the carriage shall":

- "Convey a reasonable quantity of luggage".
- "Afford reasonable assistance in loading and unloading luggage".
- "Afford reasonable assistance in removing luggage to or from the entrance of any building, station, or place which he may take up or set down such person".

4.2.3 Private hire driver licence condition 3(j) states:

- "The licensed driver must, at all times, whilst driving or in attendance upon a private hire vehicle".
- "Assist in loading (and subsequently unloading) any and all luggage of a reasonable quantity that can be carried safely by the vehicle (any roof rack or box affixed to the vehicle for such use, must be in accordance with the vehicle licence conditions)".

4.3 Penalties

4.3.1 If a hackney carriage driver or a dual driver (working as a hackney carriage driver) offends against the Bye Law they shall be liable, upon conviction, to a fine not exceeding level 2 on the standard scale. In the case of a continuing offence to a further fine not exceeding two pounds for each day which the offence continues after conviction therefor.

4.3.2 If a private hire vehicle driver or a dual driver (working as a private hire driver) is unable to observe their driver licence conditions they shall be subject to the Council's penalty point scheme and/or may be referred to the Licensing Sub Committee.

5. Obtaining an exemption

5.1 The Council has produced a flow chart which can be found in appendix 1 of this policy document and summarises the process for drivers wishing to obtain an exemption under Sections 165, 169 & 171.

5.2 For those drivers considering applying for an Exemption under Section 165 (carriage of passengers in wheelchairs) you may wish to first determine whether the vehicle you drive (or may drive in the future) has been designated as wheelchair accessible?

5.3 To check which vehicles have been designated as wheelchair accessible click on the following link on The Council's website.

<https://www.braintree.gov.uk/wheelchairaccessiblevehicles>

5.4 If the vehicle you drive is not designated as wheelchair accessible then you do not need to apply for an exemption under Section 165. You can however choose to apply for an exemption regardless of whether the vehicle you drive or may drive in the future is going to be designated as wheelchair accessible.

5.5 The licensed driver must obtain and supply a letter from their own General Practitioner (G.P) explaining to the Council what duties the driver:

- Cannot undertake
- Why the duties cannot be undertaken
- For how long the duties cannot be undertaken for.

5.6 The letter must be accompanied by the application (appendix 2 to this policy) which must be submitted to the Licensing Team. There is no fee attached to this process however the cost (if any) of obtaining the letter from the drivers G.P must be paid for by the applicant.

5.7 If the driver's G.P letter states that the driver is unfit to carry passengers in wheelchairs and/or assistance dogs for a specified period of time (up to a maximum of three months), an 'Exemption Notice' (appendix 3/4) will be issued by the Licensing Team with an expiry date in line with the information provided on the G.P's letter. If the applicants G.P does not specify a period of time then the authority will reject the application.

5.8 If the G.P's letter is not clear or is ambiguous in any way, the matter will be referred to the Council's Licensing Sub-Committee for consideration. If a Committee is convened, the applicant will be invited to attend and explain the nature of the exemption request and the matter will be determined.

5.9 Upon the expiry of the 'Exemption Notice', the Council will deem drivers fit to undertake all duties and the 'Exemption Notice' must be returned to the Licensing Team within 7 days.

- 5.10 If the 'Exemption Notice' is not returned to the Licensing Team, within the specified period, the drivers licence could be suspended until such time as the Notice is returned and the matter will be referred to the Council's Licensing Sub-Committee.
- 5.11 If the driver expects that the 'Exemption Notice' to be extended beyond the period of 3 months, then prior to the expiry date of the notice the driver will need to contact the Licensing Team to discuss the next steps and timescales. The driver is strongly advised to make contact at the earliest opportunity; it will not be possible to extend the 'Exemption Notice' outside of this process.
- 5.12 In this situation, the driver will receive the following:
- A letter of notification (Appendix 5) advising that they will now be subject to a further medical referral.
 - A letter to present to their G.P (Appendix 6) which explains the exact requirements.
 - A letter to present to the Council's approved medical practitioner (Appendix 7) along with a template Statement of Fitness (Appendix 8).
- 5.13 The driver will be required to contact their own G.P to arrange for an in depth medical report to be compiled (the cost for which must be paid for by the driver). The medical report is to be submitted to the Council and will in the first instance be forwarded to the Council's approved medical practitioner for assessment. If the medical report is ambiguous in anyway the driver will be required to make an appointment with the Council's approved medical practitioner to present the report from their own G.P and to undergo an examination/ consultation. The Council's approved medical practitioner will then complete the 'Statement of Fitness' (Appendix 8) on the applicant's capability to undertake the duties in terms of their medical grounds and/ or physical condition, and for how long. The driver will not be required to pay for the statement of fitness supplied by the Council's approved medical practitioner.
- 5.14 The driver will need to submit the 'Statement of Fitness' to the Licensing Team for determination.

6. Outcome

- 6.1 If the statement confirms that the driver is able to undertake the duties and is fit for work, the 'Exemption Notice' must be returned to the Licensing Team and the driver will be expected to resume normal duties. If the 'Exemption Notice' is not returned to the Licensing Team, the drivers licence could be suspended until such time as the Notice is returned and driver will be referred to the Licensing Sub-Committee.
- 6.2 If the 'Statement of Fitness' confirms that the driver is able to undertake duties, with reasonable adjustments, a further 'Exemption Notice' of up to 3

months may be issued. It is expected that within those 3 months the driver will undertake the reasonable adjustments to allow a return to full duties. At the end of 3 months the 'Exemption Notice' must be returned to the Licensing Team and the driver will be expected to resume normal duties. If the 'Exemption Notice' is not returned to the Licensing Team, the drivers licence could be suspended until such time as the Notice is returned and the driver will be referred to the Licensing Sub-Committee.

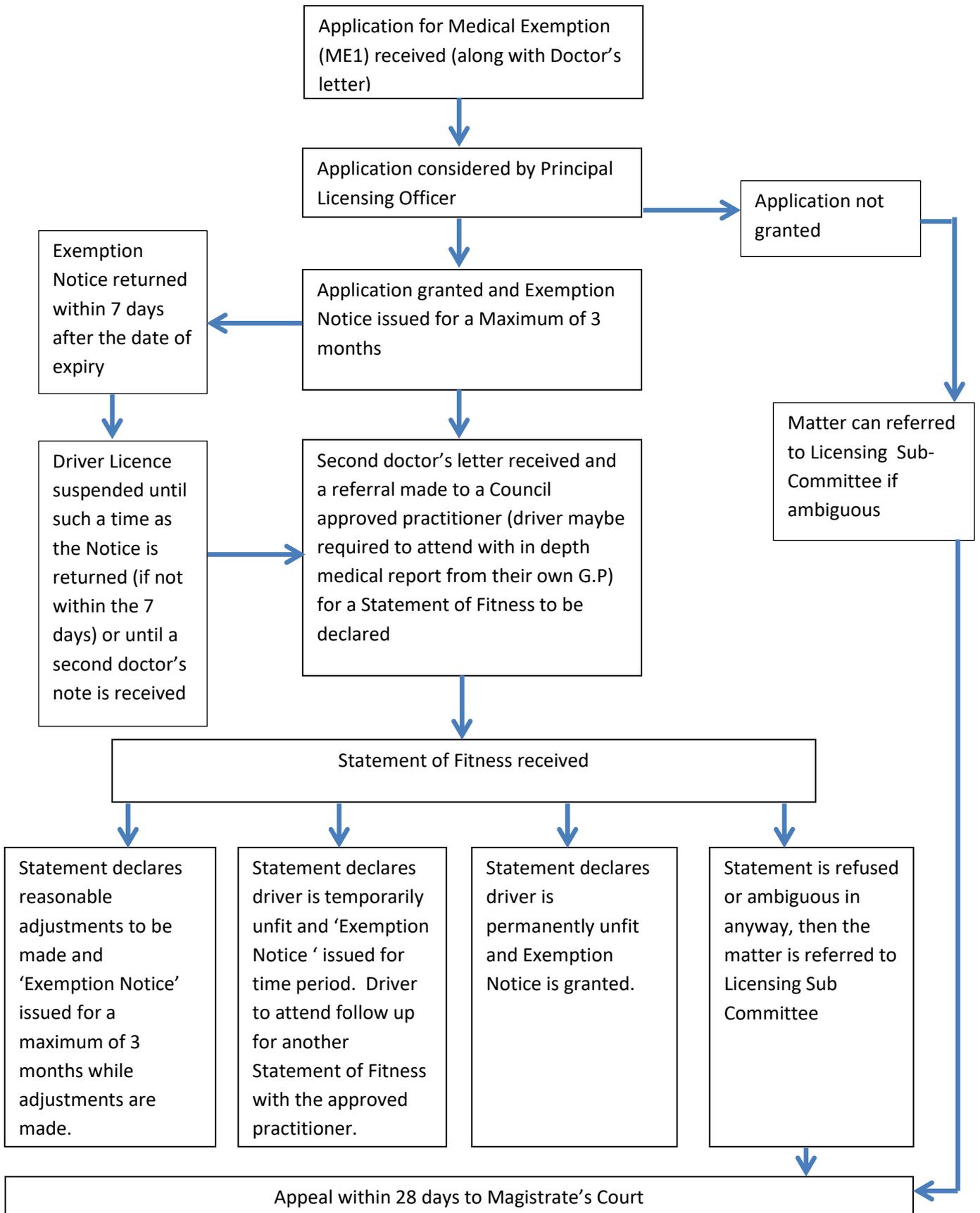
- 6.3 If the statement confirms that the driver is temporarily unfit to carry passengers in wheelchairs and/ or assistance dogs, an 'Exemption Notice' will be granted for the length of time as determined by the approved medical practitioner. The driver will then be expected to attend a further assessment/ consultation with the approved medical practitioner prior to the expiry date of the 'Exemption Notice'.
- 6.4 If the driver is declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Notice (Appendix 3/4) will be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every 5 years, with reference to expert medical evidence/ advice and each case will be determined on an individual basis. This could include a further referral to the approved practitioner.
- 6.5 If the driver disagrees with the medical recommendation and subsequent determination by the Licensing Team, the matter will be referred to the Licensing Sub- Committee for consideration.

7. Dispute resolution

- 7.1 If a driver does not agree with the decision of the Licensing Sub Committee they are able to appeal the decision to the Magistrates' court. The driver has 28 days from the date of refusal to appeal.

Appendix 1

MEDICAL EXEMPTION FLOW CHART



Appendix 2

MEDICAL EXEMPTION APPLICATION FORM



1. DRIVER DETAILS

FULL NAME OF DRIVER:

ADDRESS

CONTACT TELEPHONE NUMBER:

DATE OF BIRTH:

DRIVER LICENCE NUMBER:

EXPIRY DATE:

2. EXEMPTION REQUEST (✓ as appropriate)

I AM REQUESTING THAT BRAINTREE DISTRICT COUNCIL CONSIDER GRANTING ME AN EXEMPTION FROM THE FOLLOWING:

CARRYING WHEELCHAIR USERS

CARRYING ASSISTANCE DOGS

3. DOCTOR DETAILS

NAME OF GENERAL PRACTITIONER (G.P)

ADDRESS:

CONTACT TELEPHONE NUMBER:

4. BRIEF DETAIL OF REASONS/CIRCUMSTANCES WHY THE REQUEST FOR MEDICAL EXEMPTION IS BEING MADE

DECLARATIONS

I have read and understood Braintree District Council's Medical Exemption Policy and I understand the process in applying for a medical exemption.

1. I enclose a valid GP letter to accompany my application.
2. I understand that if, after consideration, my application for exemption is granted I will be issued with an 'Exemption Notice' for a maximum period of up to 3 months.
3. I confirm that upon expiry of the 'Exemption Notice' I will return the Notice to the Licensing Team within 7 days. I understand that if the 'Exemption Notice' is not returned, my driver licence could be suspended until such time as the Notice is returned or a further doctor's note is received.
4. I acknowledge that if I expect that the 'Exemption Notice' is to be extended, I will be referred on to a medical practitioner approved by the Council and I will be required to obtain an in depth medical report from my own G.P to support the Statement of Fitness regarding my capability to undertake the duties in terms of my medical fitness and/or physical condition.
5. I understand that the purpose of consultation with the approved medical practitioner will be to determine whether a further exemption should be granted, and for how long.
6. I understand that if during any part of the process, any doctor's note or statement of fitness recommends that the application for exemption is refused or if it is ambiguous in any way, the matter will be referred to the Licensing Sub-Committee for consideration.
7. I understand that all fees associated with this application are to be paid by myself.

The personal information that you give us will also be used in a confidential manner to help us monitor our processes.

We may also use the information if there is a complaint or legal challenge relevant to this process. We may check the information collected.

We may also use or pass to certain third parties information to prevent or detect crime, to protect public funds, or in other ways as permitted by law.

By signing the application form we will be assuming that you agree to the processing of sensitive personal data, in accordance with our registration with the Data Protection Commissioner.

Signed _____

Dated: / /20

FOR OFFICE USE ONLY

DATE MEDICAL EXEMPTION APPLICATION RECEIVED:

Section A

EXEMPTION AGREED

EXEMPTION DECLINED

Section B

If exemption declined, give reasons and details of any further action taken:

Signed _____ Dated: / /

Section C

Date Temporary Exemption Notice Issued:

Date of Expiry:

Entered on to Uniform

By:

Appendix 3

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.

Ew

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.

Appendix 4

SECTION 37A DISABILITY DISCRIMINATION ACT 1995

NOTICE OF EXEMPTION

Name of private hire vehicle licensing authority _____

Driver's full name¹ _____

Licence No. _____

The person named above is exempt from carrying guide dogs, hearing dogs, or assistance dogs in the private hire vehicle specified at "A" below or in a kind of private hire vehicle specified at "B" below.

A Registration number of specified private hire vehicle* _____

B Kind of private hire vehicle* _____

(a) Private hire vehicle with fixed partition segregating the driver from the passenger compartment*

(b) Private hire vehicle without fixed partition segregating the driver from the passenger compartment*

This notice expires[†] _____ 20_____

¹Delete as appropriate
[†]To be completed

ED

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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.

Appendix 5



Our ref:
Dial: 01376 557790
E-mail: licensing@braintree.gov.uk
Date:

Licensing
Bocking End
Braintree
Essex CM7 9HB

www.braintree.gov.uk

Address

Dear Mr/Mrs/Miss (*delete as applicable*)

Medical exemptions under Sections 166, 169 & 171 EQUALITY ACT 2010 **Letter of Notification (Driver)**

You have advised the Council that you wish to obtain a continuation of your current medical exemption from your duties with respect to the carriage of wheelchair users or assistance dogs under *the Equality Act 2010*.

In order to obtain a further exemption you will now need to contact your own General Practitioner (G.P) and arrange for an in depth medical report to be compiled. The report should include information into the tasks you cannot undertake, why you are unable to undertake your duties and a realistic estimation into the length of time you will be unable to undertake your duties for (temporary or permanent) plus any other information that may be relevant to your application.

The report is to be submitted to the Council and will in the first instance be forwarded to the Council's approved medical practitioner for assessment. If the report is ambiguous in any way you will be required to make an appointment with the Council's approved medical practitioner to present the report from your own G.P and to undergo an examination/ consultation.

The Council's approved medical practitioner will then complete the 'Statement of Fitness' on your capability to undertake the duties in terms of your medical grounds and/ or physical condition, and for how long. You will not be required to pay for the consultation or the statement of fitness supplied by the Council's approved medical practitioner.

If the statement confirms that you are able to undertake the duties and are fit for work, your existing 'Exemption Notice' must be returned to the Licensing Team and you are expected to resume normal duties. If the 'Exemption Notice' is not returned to the Licensing Team, your licence could be suspended until such time as the Notice is returned and you will be referred to the Licensing Sub-Committee.

If the 'Statement of Fitness' confirms that you are able to undertake duties, with reasonable adjustments, a further 'Exemption Notice' of up to 3 months may be issued. It is expected that within those 3 months you will undertake the reasonable adjustments to allow a return to full duties. At the end of 3 months the 'Exemption Notice' must be returned to the Licensing Team and you will be expected to resume normal duties. If the 'Exemption Notice' is not returned to the Licensing Team, your licence could be suspended until such time as the Notice is returned and you will be referred to the Licensing Sub-Committee.

If the statement confirms that you are temporarily unfit to carry passengers in wheelchairs and/ or assistance dogs, an 'Exemption Notice' will be granted for the length of time as determined by the Council's approved medical practitioner. You will then be expected to attend a further assessment/ consultation with the Council's approved medical practitioner prior to the expiry date of the 'Exemption Notice'.

If you are declared permanently unfit to carry passengers in wheelchairs and/ or assistance dogs an Exemption Notice will be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every 5 years, with reference to expert medical evidence/ advice. This review could include a further referral to the Council's approved medical practitioner.

If you disagree with the Council's approved medical practitioner's recommendation and subsequent determination by the Licensing Team, the matter will be referred to the Licensing Sub- Committee for consideration.

If you do not agree with the decision of the Licensing Sub Committee; you are able to appeal the decision to the Magistrates' court within 28 days from the date of refusal.

Yours sincerely

Licensing

Appendix 6



Our ref:
Dial: 01376 557790
E-mail: licensing@braintree.gov.uk
Date:

Licensing
Bocking End
Braintree
Essex CM7 9HB

www.braintree.gov.uk

Address

Dear Mr/Mrs/Miss (*delete as applicable*)

Medical exemptions under Sections 166, 169 & 171 EQUALITY ACT 2010
Letter of Notification (G.P)

The Local Authority has received a request from a licensed driver, to continue to be exempt from their duties under the Equality Act 2010 with respect to the carriage of wheelchair users and/ or assistance dogs on medical grounds.

In order to obtain a further exemption, the driver requires an in depth medical report to be compiled. The report should include information into the tasks the driver is unable to take, why they are unable to undertake these duties and a realistic estimation into the length of time they are unable to undertake their duties for (temporary or permanent).

The report is to be submitted to the Council and will in the first instance be forwarded to the Council's approved medical practitioner for assessment. If the report is ambiguous in any way the driver will be required to make an appointment with the Council's approved medical practitioner to present your medical report and to undergo an examination/ consultation.

The Council's approved medical practitioner will then complete the 'Statement of Fitness' on the driver's capability to undertake their duties on medical grounds and/ or physical condition, and for how long.

If you require further advice or information regards the exemption process, please do not hesitate to contact a member of the Licensing Team on 01376 557790.

Yours sincerely

Licensing

Appendix 7



Our ref:
Dial: 01376 557790
E-mail: licensing@braintree.gov.uk
Date:

Licensing
Bocking End
Braintree
Essex CM7 9HB

www.braintree.gov.uk

Address

Dear Sirs

Medical exemptions under Sections 166, 169 & 171 Equality Act 2010
Statement of Fitness

A request has been received from a licensed driver, to continue to be exempt from their duties under the Equality Act 2010 with respect to the carriage of wheelchair users and/ or assistance dogs on medical grounds.

I attach a report supplied by the applicant's General Practitioner which details the nature and extent of the driver's medical condition(s) which prevent them fulfilling their duties. An estimation of the relevant time frames the exemption should apply for has also been provided.

I would be grateful if in the first instance if you could undertake a desk assessment of the report and advise the Council whether in your opinion whether a further exemption should be granted and for how long.

If you feel the report is ambiguous in any way or you wish to see the applicant in person please contact the applicant and make an appointment to undertake your own medical assessment. I include the applicant's contact details for your use should you need them. Once you have completed your assessment, please complete the enclosed Statement of fitness and return to the Council.

If you require further advice or information regards the exemption process, please do not hesitate to contact a member of the Licensing Team on 01376 557790.

Yours sincerely

Licensing

Appendix 8

MEDICAL STATEMENT OF FITNESS



5. DRIVER DETAILS

FULL NAME OF DRIVER:

ADDRESS:

CONTACT TELEPHONE NUMBER:

DATE OF BIRTH:

The above named attended for assessment today regarding exemption from carrying disabled or wheelchair using passengers and/or assistance dogs

2. FINDINGS (Please tick appropriate box)

Fit for work:

Fit for work with reasonable adjustments:

Please specify reasonable adjustments:

Permanently unfit to carry:

Passengers in Wheelchairs

Assistance Dogs

Temporarily unfit to carry:

Passengers in Wheelchairs

Assistance Dogs

Review of case recommended Yes / No

If yes the review should be in Weeks/Months/Years (delete as required)

(The maximum period between reviews is 5 years)

3. Examining Medical Practitioner's details

To be completed by the doctor carrying out the examination. Please ensure all sections of the form have been completed. Failure to do so will result in the form being returned to you.

Please print name and address in capital letters

Name:

Address:

Phone:

E-mail:

I confirm that this statement of fitness was completed by me at examination and that I am currently GMC registered and licensed to practice in the UK or I am a doctor who is medically registered within the EU, if the report was completed outside in the UK.

Signature of practitioner

Date of Signature

D	D	M	M	Y	Y
---	---	---	---	---	---

GMC Registration number

--	--	--	--	--	--	--	--	--	--

Doctors stamp