



TRANSPORTING A WHEELCHAIR USER

Guidance Note for Hackney Carriage Vehicle (Taxi) and Private Hire Vehicle Drivers

Introduction

East Lindsey District Council operates a mixed fleet of saloon and wheelchair accessible hackney carriage vehicles. The aim of this policy is to ensure that wheelchair users can reasonably access public transport, particularly where the use of a bus is not a realistic option.

At the time of drafting this guidance leaflet there were 128 hackney carriage vehicles licensed with the Council of which 38 were wheelchair accessible vehicles. There were also 2 wheelchair accessible private hire vehicles licensed with the Council.

You have an implicit duty of care when transporting any passenger in your vehicle and this is particularly important when that person is more vulnerable than a person without disabilities. This guidance note provides details on what factors must be considered to ensure that wheelchair users are transported safely and securely. It also summarises the law in relation to the transportation of wheelchair users in hackney carriages and private hire Vehicles.

The Equality Act 2010

Section 165 of the Equality Act 2010 places the following duties on drivers of designated wheelchair accessible taxis 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.

The 2010 Act then goes on to define mobility assistance as assistance:

- 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.

Depending on the weight of the wheelchair and the capability of the driver, reasonable mobility assistance will also include pushing a manual wheelchair or light electric wheelchair up a ramp, or stowing a light electric wheelchair in the luggage compartment.

It is this Council's view that the requirement not to charge a wheelchair user extra means that a taximeter should not be left running whilst the driver performs duties required by the 2010 Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment.

All hackney carriage drivers are reminded that they have an obligation under Section 53 of the Town Police Clauses Act 1847 to carry any person wishing to hire them within the licensing area. This also includes persons using wheelchairs. Under the Equality Act 2010, it is now a separate lawful requirement for all drivers of wheelchair accessible taxis or private hire vehicles to carry wheelchair users, unless they are in possession of an exemption certificate issued by the Council.

A licensed driver who fails to comply with any of the above Equality Act provisions (unless he/she holds a relevant exemption certificate) is guilty of an offence and may receive a fine if convicted.

Please note that it is a defence for a person charged with the offence, of refusing to carry a wheelchair, to show that at the time of the alleged offence:

- a) the vehicle conformed to the accessibility requirements which applied to it, but,
- b) it would not have been possible for the wheelchair to be carried safely in the vehicle.

As from 2 October 2017 this Council will publish a list of designated wheelchair accessible taxis and private hire vehicles licensed with this Authority. The designated list will be available to view on the licensing area of the Council's website (www.e-lindsey.gov.uk).

East Lindsey District Council

East Lindsey District Council is committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. Taxis and private hire vehicles are a vital link in the accessible transport chain. It is important that disabled people who use wheelchairs can have confidence that the taxi they find on a rank, or hail on the street, will accept them and carry them in their wheelchair at no extra charge. The same is true in relation to a wheelchair accessible private hire vehicle that they may seek to book in advance.

This Authority has stated that it will seek to promote the following objectives when undertaking the hackney carriage and private hire vehicle licensing function:

- the protection of the public;
- the establishment of professional and respected hackney carriage and private hire trades;
- access to an efficient and effective public transport service;
- the protection of the environment;
- improved disability access and awareness.

Medical Exemptions

Under the terms of Section 166 of the 2010 Act the Council may provide an exemption to the wheelchair duties, to drivers who have genuine medical conditions which are aggravated by assisting people in wheelchairs.

The Council is responsible for issuing exemption certificates and needs to be 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 their duties.

In those circumstances where a driver either has a temporary or permanent medical condition preventing the performance of their duty towards disabled passengers the driver may apply for a medical exemption certificate from the Council. Further on the exemption scheme is available on the licensing area of the Council's website (www.e-lindsey.gov.uk).

Please note that Sections 169 and 171 of the 2010 Act also allow the Council to exempt drivers from the duties to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds.

Transporting a Wheelchair User in a Wheelchair Accessible Vehicle

Licensed drivers are able to decline to carry a wheelchair user in a wheelchair accessible vehicle if it is not possible for the wheelchair to be carried safely in the vehicle. However, it will be the responsibility of the driver to explain and/or demonstrate why the wheelchair user cannot be carried safely.

The Council recognises that the physical characteristics of some larger wheelchairs may prevent access to a hackney carriage vehicle or private hire vehicle (particularly those licensed vehicles which are designed to accommodate nothing larger than the standard "reference wheelchair").

The standard reference wheelchair is defined as:

- total length of 1200mm, including extra-long footplates
- total width of 700mm
- sitting height (from ground to top of head) of 1350mm
- height of footrest above floor of 150mm

At the time of the drafting of this guidance leaflet all the wheelchair accessible vehicles, licensed with this Authority, had been classified by the Council as being suitable to carry a reference wheelchair.

Where possible we will include on our designated list of wheelchair accessible vehicles information about whether wheelchairs, that are larger than a reference wheelchair, can be accommodated within the vehicle. However, at the time of the drafting of this guidance leaflet we had not indicated that any wheelchair accessible vehicle, licensed with this Authority, was able to normally accommodate anything larger than a reference wheelchair.

Experienced hackney carriage and private hire licensed drivers are knowledgeable and skilled in transporting wheelchair users and the vast majority of fares are unlikely to present any difficulty or risk of injury to the driver. However, as is typical with pushing and pulling tasks, a much greater risk of injury, to you as the driver or your wheelchair user, can arise if one or more risk factors are mismanaged.

Prior to accepting a fare you need to consider the following questions when deciding whether you can transport the wheelchair user safely;

- Is my vehicle designed to transport this type of wheelchair? (*manufacturer's specifications*)
- Is the wheelchair larger than the reference wheelchair and if so can the vehicle safely accommodate a wheelchair of this large size?
- Are there any obstacles and other restrictions that may prevent safety in loading and travel?
- Due to the size and nature of the wheelchair do I need to adjust my driving style? (*stopping distances, cornering and braking distances*)

Depending on the weight of the wheelchair and the capability of the driver a judgement will need to be made as to whether it is reasonable to require the driver to push the wheelchair up a ramp. Also, in exceptional circumstances there may be concerns regarding abnormal weather conditions that could compromise safe loading (e.g. snow and/or ice) or uneven surfaces that could compromise safe loading (e.g. slopes, cobbles).

In the majority of cases the driver will carry out this risk assessment in his/her head, as a matter of routine, during his/her initial discussions with the passenger.

Passenger Care

For any passenger you should behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of any person conveyed in or entering or alighting from the vehicle.

We believe that in order to meet your legal obligations in respect to wheelchair users you should aim to comply with the following guidance;

- A wheelchair must be positioned in the designated space allotted by the vehicle manufacturer.
- A wheelchair must not be secured facing sideways or at an angle.
- A wheelchair must be secured as specified and using the equipment supplied by the vehicle manufacturer.
- A wheelchair must have the brakes applied or electric wheelchairs must have the power off and the brakes on.
- The driver must offer assistance to load the wheelchair and use the ramps or equipment supplied by the vehicle manufacturer.
- All wheelchair ramps, straps, etc. supplied by the manufacturer must be carried on the vehicle and be in good working order

Please note – when purchasing a second hand wheelchair accessible vehicle check to establish that all the appropriate equipment is included as part of the sale.

In addition;

- Wheelchair users who wish to travel out of the wheelchair should be assisted where ever possible to do so. In which case the wheelchair must be stowed securely as luggage.
- The driver should offer all reasonable assistance to the wheelchair user to ensure that the passenger is carried safely and in reasonable comfort.
- No additional charge should be made for carrying the wheelchair or user.

If you believe you cannot convey a wheelchair safely you should explain the reasons why and try and direct the passenger to a more suitable make of vehicle.

Conclusions

In conclusion hackney carriages and private hire vehicles form part of the public transport system required to transport people with or without disabilities. A hackney carriage or private hire vehicle is frequently the preferred mode of transport for many wheelchair users as you can deliver the passenger direct to their home.

It is imperative that all passengers are safe and secure within the vehicle for the duration of the journey.

It is not reasonable to expect that a hackney carriage or private hire fleet will be able to accommodate every type of wheelchair and it is acknowledged that for some wheelchair users specialized transportation will be required.

This guidance equally applies to both hackney carriages and private hire vehicles that have the capacity to carry wheelchair users.

Should any further best practice advice or good information be made available the Council will consider and update this guidance note, as appropriate.

Further Information:

Licensing Team
East Lindsey District Council
Tedder Hall
Manby Park
LOUTH LN11 8UP

Email: licensing@e-lindsey.gov.uk
Tel. 01507 601111
www.e-lindsey.gov.uk

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