

**Equality Act 2010
Medical Exemption Criteria
Hackney Carriage and Private
Hire Drivers**

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1. INTRODUCTION

- 1.1** This criteria applies to all drivers who possess a current hackney carriage, private hire or dual hackney carriage/private hire drivers licence issued by Basildon Borough Council.
- 1.2** The criteria applies where a licensed driver is unable to fulfil the requirements placed upon them under the Equality Act 2010 with respect to the carriage of passengers in wheelchairs as a result of their physical conditions or for medical reasons.
- 1.3** The duties contained within sections 167 to 171 of the Equality Act 2010 (already in existence) in relation to the carriage of a passengers guide, hearing or assistance dog is already covered within the Basildon Borough Council's Suitability Criteria and Conditions of Licence pertaining to Hackney Carriage and Private Hire Drivers Combined Licences, including criteria for exemption.

2. EQUALITY ACT 2010 – RELEVANT SECTIONS

- 2.1** Section 165 places certain duties on drivers of designated wheelchair accessible hackney carriage and private hire vehicles. Those duties include:
 - To carry the passenger while 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; and
 - To give the passenger such mobility assistance as is reasonably required.
- 2.2** 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.

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** Section 165 (7) states:

“A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with the duty imposed on the driver by this section”

3.3 Section 165(9) states:

“It is a defence for a person charged with the offence 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.”*

3.4 Failure to comply with this section could result in further formal action, including prosecution having regard to the Basildon Council’s Regulatory Services Enforcement Policy.

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. A similar exemption is available under Sections 169 and 170 in relation to the carrying of assistance dogs.

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.

5. OBTAINING AN EXEMPTION

5.1 Drivers considering applying for an exemption in relation to Section 165 (carriage of passengers in wheelchairs) may wish to first determine whether the vehicle they drive (or may drive in the future) has been designated as wheelchair accessible. (Please also see the Medical Exemption Flowchart attached at Appendix A).

5.2 To check which vehicles have been designated as wheelchair accessible please refer to the published list on the Council’s website.

- 5.3** The licensed driver must obtain and supply a letter from their own General Practitioner (GP) explaining to the Council what duties the driver:
- Cannot undertake;
 - Why the duties cannot be undertaken; and
 - For how long the duties cannot be undertaken.
- 5.4** The letter must be accompanied by the application (Appendix B to this criteria) 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 GP must be paid for by the applicant.
- 5.5** If the driver's GP's letter states that the driver is unfit to carry passengers in wheelchairs for a specified period of time (up to a maximum of three months), a 'Temporary Exemption Notice' will be issued by the Licensing Team with an expiry date in line with the information provided on the GP's letter. If the applicants GP does not specify a period of time then the authority will reject the application.
- 5.6** The application will be rejected if the doctor's letter is not clear or is ambiguous in any way or lacks sufficient detail to enable an appropriate decision to be made.
- 5.7** Upon the expiry of the Notice the Licensing Team will deem drivers fit to undertake all duties and the Temporary Exemption Notice must be returned to the Licensing Team within 7 days.
- 5.8** If the Temporary 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 Sub-Committee for further consideration and determination.
- 5.9** If the driver expects that the Temporary Exemption Notice needs to be extended beyond the period of three months, then prior to the expiry date of the notice the driver must 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 Temporary Exemption Notice outside of this process. During the period of the Temporary Exemption Notice the driver will be required to contact their own GP to arrange for an in depth medical report to be compiled (the cost for which must be paid for by the driver). If appropriate confirmation of the continued exemption is received, a further Temporary Exemption Notice will be granted for a maximum period of 3 months. No further Temporary Exemption Notices will be granted after this time, without referral to the Council's approved medical practitioner for a "Statement of

Fitness” on the applicant’s capability to undertake the duties in terms of their medical grounds and/or physical condition.

- 5.10** If at any point in this process, as a result of the GP letter, **it is proposed that the driver will be permanently unfit to carry out the duties under S165, then the driver will be required to make an appointment with the Council’s approved medical practitioner to present the report from their own GP and to undergo an examination/consultation where the practitioner will complete the ‘Statement of Fitness’ on the applicant’s capability to undertake the duties in terms of their medical grounds and/or physical condition.** The driver will be required to pay for the statement of fitness supplied by the Council’s approved medical practitioner. Appendix C GP Letter, Appendix D Statement of Fitness.

The driver will need to submit the ‘Statement of Fitness’ to the Licensing Team for determination.

6. OUTCOME

When the driver attends the appointment with the approved medical practitioner, the following outcomes may be recorded:

6.1 Fit for work

If the statement confirms that the driver is able to undertake the duties and is fit for work, the Temporary Exemption Notice must be returned to the Licensing Team and the driver will be expected to resume normal duties. If the Temporary 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 Sub-Committee to consider further action.

6.2 Fit with reasonable adjustments (specified)

If the statement of fitness confirms that the driver is able to undertake duties with reasonable adjustments, a further Temporary Exemption Notice of up to three months may be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. It is expected that within those three months the driver will undertake the reasonable adjustments to allow a return to full duties. At the end of the three months the Temporary Exemption Notice must be returned to the Licensing Team and the driver will be expected to resume normal duties. If the Temporary 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 Sub-Committee to consider further action.

6.3 Temporarily unfit to carry passengers in wheelchairs

If the statement confirms that the driver is temporarily unfit to carry passengers in wheelchairs, a Temporary Exemption Notice will be granted for the length of time as determined by the approved practitioner. At the end of the determined period, the Temporary Exemption Notice must be returned to the Licensing Team and the Driver will be expected to resume normal duties. If the Temporary Exemption Notice is not returned to the Licensing Team, the drivers licence could be suspended until such time the Notice is returned and the driver will be referred to the Sub-Committee for consideration and determination. The Exemption Notice must be displayed prominently in the vehicle for public viewing.

6.4 Permanently unfit to carry passengers in wheelchairs

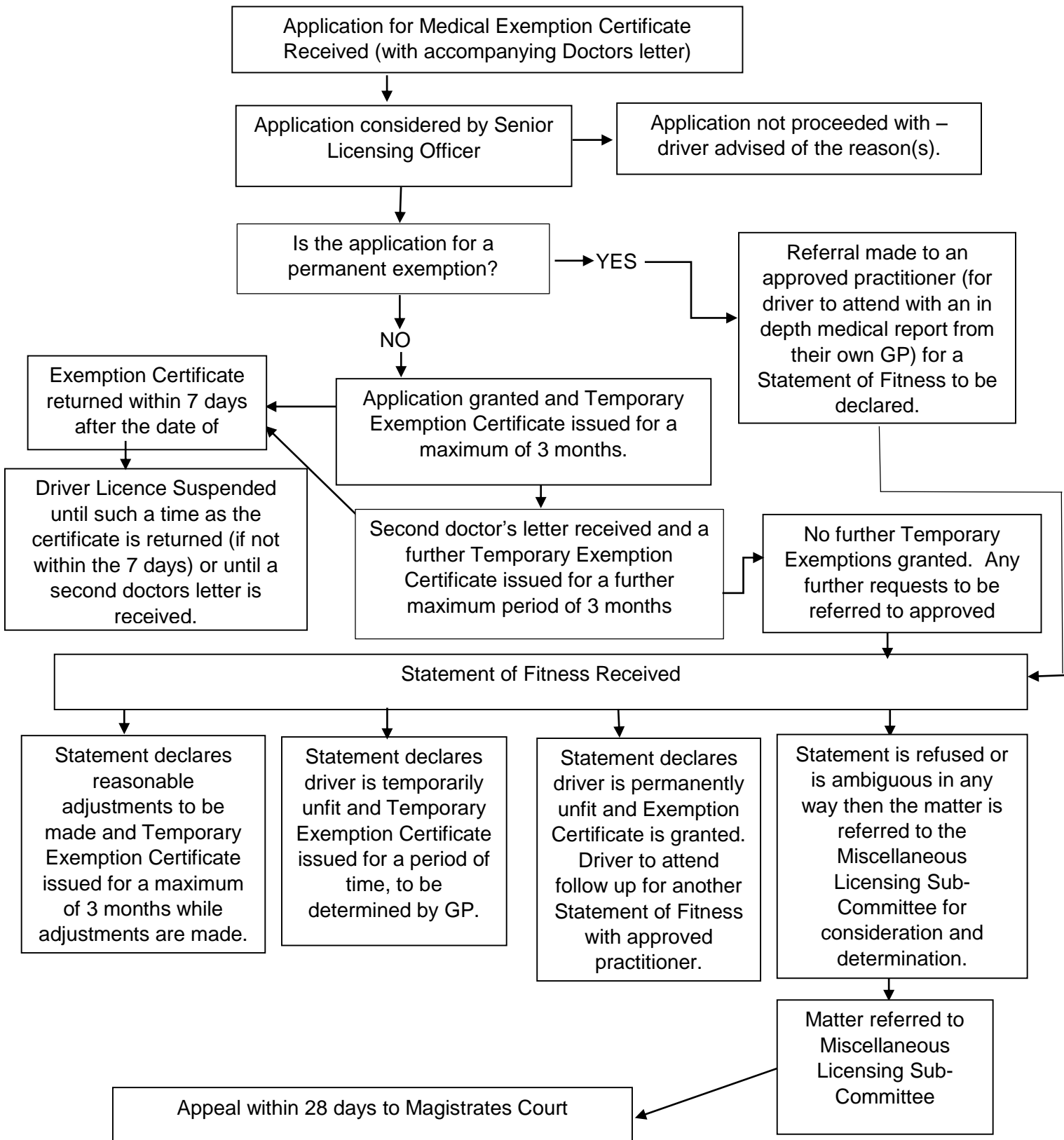
If the driver is declared permanently unfit to carry passengers in wheelchairs, an Exemption Notice will be issued. The certificate will include a photograph of the driver who has been granted exemption. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every five 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 medical practitioner. This could also include a further referral to the Sub-Committee to consider the drivers continued suitability to hold a licence issued by Basildon Council.

- 6.5** If the driver disagrees with the medical recommendation and subsequent determination by the Licensing Team, the matter will be referred to the Sub-Committee for consideration.

7. DISPUTE RESOLUTION

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

Medical Exemption Flow Chart





**SECTION 165 AND 166 - EQUALITY ACT 2010
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 REQUESTED (X AS APPROPRIATE)
I AM REQUESTING THAT BASILDON BOROUGH COUNCIL CONSIDER GRANTING ME AN EXEMPTION FROM THE DUTIES CONTAINED WITHIN S165 OF THE EQUALITY ACT 2010 IN RELATION TO THE CARRIAGE OF WHEELCHAIR USERS.
3. DOCTOR DETAILS
NAME OF 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 Basildon Borough Council's Medical Exemption Criteria and I understand the process in applying for a medical exemption.

- 1. I enclose a valid GP certificate to accompany my application**
- 2. I understand that if, after consideration, my application for exemption is granted I will be issued with a Temporary Exemption Notice for a maximum period of up to 3 months.**
- 3. I confirm that upon expiry of the Temporary Exemption Notice I will return the Notice to the Licensing Team, within 7 days. I understand that if the Temporary Exemption Notice is not returned, my driver licence could be suspended until such time as the Notice is returned or a further doctor's notice is received.**
- 4. I acknowledge that, I will be referred on to one of the medical practitioners 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 be refused or if it is ambiguous in any way, the matter will be referred to the 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 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 OFFICIAL 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: / / 20

SECTION C

DATE TEMPORARY EXEMPTION NOTICE ISSUED:

DATE OF EXPIRY:

ENTERED ON TO DATABASE BY:

GP Letter

Basildon Council

BASILDON • BILLERICAY • WICKFORD

Date

Please ask for Taxi Licensing

Department LICENSING AUTHORITY

Tel. No 01268 206925

E-Mail licensing@basildon.gov.uk

Driver Name:

Licence Number:

The above named has requested an exemption from carrying disables/wheelchair passengers and/or assistance dogs in their taxi and/or private hire vehicle on medical grounds.

You have already supplied a doctor's letter to support a temporary exemption. We have asked your patient to request a more comprehensive report from you to be supplied to Basildon Borough Council's Licensing Service.

It would be helpful if you could provide a report regarding your patient. In particular with regard to existing musculoskeletal problems which would preclude them being able to provide assistance to a disabled or wheelchair using passenger, or allergies which would preclude them carrying assistance dogs.

If you have any relevant specialist reports, with your patient's permission, it would be appreciated if you could also include these. Your patient has agreed to pay the necessary fees for such a report.

The report should be sent to:

The Senior Licensing Officer
Basildon Council
St. Matins Square,
Basildon, Essex
SS14 1DL

Statement of Fitness

Basildon Council

BASILDON • BILLERICAY • WICKFORD

Date

Please ask for Taxi Licensing

Department LICENSING AUTHORITY

Tel. No 01268 206925

E-Mail licensing@basildon.gov.uk

Statement of Fitness for a licensed Hackney Carriage and/or Private Hire Vehicle Driver

Name:	DOB:
Address:	

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

Findings: (Please tick the appropriate box)	
Fit for work:	<input type="checkbox"/>
Fit with reasonable adjustments	<input type="checkbox"/>
Please specify	
Permanently unfit to carry:	
Passengers in wheelchairs	<input type="checkbox"/>
Assistance dogs	<input type="checkbox"/>
Temporarily unfit to carry:	
Passengers in wheelchairs	<input type="checkbox"/>
Assistance dogs	<input type="checkbox"/>
Occupational review recommended	Yes / No
If yes:	
The review should be in Weeks / months (delete as required)	
Signature of Physician	
Name of Physician	

Qualifications.....

Date of assessment