

# Taxi and Private Hire Car Drivers and Operators

## Orkney Islands Council

### Duties required by Equality Act 2010 as Amended

1. The Equality Act 2010 has been amended by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 to reduce discrimination against disabled people and address the barriers they face when accessing taxi and private hire vehicles.
2. The 2010 Act as amended (the Act) contains new provisions requiring drivers of taxis and private hire cars (PHCs) to provide carriage for and assistance to disabled passengers.
3. Section 164A of the Act relates to the carriage of any disabled passenger, including wheelchair users, in any taxi or PHC (whether or not this is a designated wheelchair accessible vehicle) and requires drivers to provide mobility assistance. "Mobility assistance" for the purposes of this section means assistance:
  - To enable the passenger to get into or out of the vehicle.
  - To load the passenger's luggage, wheelchair or mobility aids into or out of the vehicle.
4. Section 165 of the Act relates only to designated wheelchair accessible vehicles – further information about designated vehicles is provided in paragraph 10 below – and requires drivers of such vehicles to provide "mobility assistance", which for the purposes of this section is defined to mean 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 or mobility aids 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.
5. Section 165A of the Act places duties on all drivers (whether or not they are drivers of a designated wheelchair accessible vehicle) to assist any disabled passenger to find or locate their prebooked taxi or PHC without making, or proposing to make, an additional charge for doing so. Further information about this is provided in paragraph 12 below.
6. A driver commits an offence by failing to comply with any of the duties imposed in terms of sections 164A, 165 and 165A of the Act above, unless the driver has a defence in terms of paragraphs 14.2, 15.2, 16.2 or 17.2 below. A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale – currently £1,000.

7. However, the specific duties to provide “mobility assistance” in terms of sections 164A and 165 of the Act above shall not apply if a notice of exemption from the duty has been issued by the Council. A notice of exemption may be granted on medical grounds or on the ground that the driver’s physical condition makes it impossible or unreasonably difficult for the driver to comply with those duties. A notice of exemption must be affixed in a prominent position on the dashboard facing upwards or the windscreen of the vehicle, facing outwards. The notice of exemption shall include an embossed “E” and the driver of the vehicle shall, on request, detach the notice and permit the disabled person to handle the notice.
8. The Department for Transport has published Guidance at <https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users>.
9. This document sets out the requirements for all taxi and PHC drivers and operators, based on the legislation and the DfT Guidance.
10. The Council will maintain and publish a List of designated wheelchair accessible taxis and PHCs, capable of carrying a specific minimum size of wheelchair with disabled passenger either in their wheelchair or in a passenger seat (depending on the wheelchair user preference), allowing passengers to get into and out of the vehicle in safety and travel in the vehicle in safety and reasonable comfort, in terms of section 167 of the Act. In this document, “designated wheelchair accessible” taxi or PHC means those specific vehicles satisfying the above criteria and which are therefore included in the Council’s List. “Non-designated wheelchair accessible” taxi or PHC means vehicles capable of carrying wheelchairs with seated disabled passengers, which are not included in the Council’s List.
11. The DfT Guidance recommends:
  - 11.1. That the driver or operator of any taxi or PHC asks every passenger whether they require assistance. For hired vehicles, this should be at the booking stage. For plying taxis, this should be when the vehicle is hailed or approached at the taxi rank or on the street.
  - 11.2. That drivers should provide assistance to passengers, including, but not limited to:
    - Opening the passenger door.
    - Folding manual wheelchairs and placing them in the luggage compartment.
    - Installing the boarding ramp.
    - Securing a mobility aid within the passenger compartment.
  - 11.3. Depending on the weight of the wheelchair or mobility aid and the capability of the driver, reasonable mobility assistance could also include (but may not be limited to) pushing a manual wheelchair or light electric wheelchair up a ramp or stowing a light electric wheelchair in the luggage compartment.
  - 11.4. A driver should, however, only touch a wheelchair or mobility aid or seek to provide physical assistance if the user gives permission for them to do so.

- 11.5. Drivers should communicate with passengers when providing assistance, as this will be key to understanding a disabled person's needs. Drivers should:
- Ask passengers what help they need.
  - Listen to and understand the response, and then
  - Act on what they have been asked to do, seeking clarification, if necessary, on how to provide what is needed.
- 11.6. Whilst access to the vehicle may be dependent on the wheelchair or mobility aid itself, drivers should not carry any unessential items in the boot of the vehicle which could prevent a wheelchair or mobility aid from being stowed there, or (in the case of designated vehicles) carry any unessential items in the passenger seating area which could prevent a wheelchair user from travelling while seated in their wheelchair.
- 11.6.1. Additionally, drivers of **designated** accessible taxis or PHCs should avoid carrying unessential items which would prevent a wheelchair or mobility aid from being carried in the passenger area of the vehicle.
12. Section 165A of the Act places duties on all drivers of taxis and PHCs (whether or not the vehicle is a designated accessible vehicle) to assist any disabled passenger to find or locate their prebooked taxi or PHC without making, or proposing to make, an additional charge for doing so.
- 12.1. The section 165A duties apply to any pre-booked taxi driver and any PHC driver, regardless of whether their vehicle is designated as being wheelchair accessible or not, provided:
- The vehicle has been hired by or for a disabled person, or by another person who intends to accompany a disabled person and
  - The driver of the PHC or pre-booked taxi has been made aware before the start of the journey that the passenger requires assistance to identify and/or find that vehicle.
- 12.2. Drivers and / or operators should ask every passenger at the booking stage whether (a) they require assistance and, if so, then (b) what form of assistance that should be.
- 12.2.1. Drivers and operators should not attempt to identify a person's impairment or disability, only what type of assistance the driver needs to provide in order for the passenger to board, travel in, and alight from the vehicle in safety and reasonable comfort.
- 12.3. In order to help fulfil the duties at section 165A, drivers should familiarise themselves with the most common communication methods a person may require in order to identify and/or find the vehicle. These communication methods include, but are not limited to:
- Giving audio directions for a visually impaired passenger (calling the passenger once at the pick-up point).
  - Giving visual directions (for example, the colour and registration of the vehicle) for a hearing impaired passenger.
  - Repeating key information for a passenger with mental or cognitive impairments.

13. The requirement not to charge a disabled person extra means that a meter should not be activated before, or left running, whilst the driver performs duties required by the Act.

**Duties on Drivers of Taxis and PHCs except for designated wheelchair accessible vehicles:**

14. Section 164A of the Act relates to any disabled passenger, including wheelchair users.

14.1. Driver duties:

- To carry the passenger.
- If the passenger is in or has with them a wheelchair, to carry the wheelchair.
- To carry their mobility aids.
- To take reasonable steps to carry the passenger in safety and reasonable comfort.
- To provide reasonable mobility assistance (as defined in paragraph 3 above).
- Not to make, or propose to make, any charge for carrying out the above duties.

14.2. Defences:

- That the driver could not reasonably have known that the passenger was disabled (in order to comply with the duties).
- It would not have been possible or reasonable for the wheelchair or mobility aids to be carried safely in the vehicle.
- It would not have been reasonable in all the circumstances for the wheelchair or mobility aids to be carried in the vehicle.
- The driver could not reasonably have known that the passenger required mobility assistance of the type required by the passenger.

**Duties on Drivers of designated wheelchair accessible vehicles:**

15. Section 165 of the Act relates to any disabled passenger who is a wheelchair user.

15.1. Duties:

- To carry the passenger while in the wheelchair.
- If the passenger chooses to sit in a passenger seat, to carry the wheelchair (for example, in the boot of the vehicle).
- To carry their mobility aids.
- To take necessary steps to carry the passenger in safety and reasonable comfort.
- To provide reasonable mobility assistance (as defined in paragraph 4 above).
- Not to make, or propose to make, any charge for carrying out the above duties.

15.2. Defences:

- It would not have been possible for the wheelchair or mobility aids to be carried safely in the vehicle.
- It would not have been reasonable in all the circumstances for the mobility aids to be carried in the vehicle.

**Duties on All Drivers – assistance to identify and find vehicle:**

16. Section 165A of the Act relates to any disabled passenger where:

- The vehicle has been booked by or for a disabled person or by another person who wishes to be accompanied by a disabled person and
- The driver of the vehicle has been made aware before the start of the passenger's journey in the vehicle that the passenger requires assistance to identify or find that vehicle.

16.1. Duties:

- To take such steps as are reasonable to assist the passenger to identify and find the vehicle which has been hired.
- Not to make, or propose to make, any additional charge for complying with the above duty.

16.2. Defences:

The driver had not been made aware before the start of the passenger's journey in the vehicle that the passenger required assistance to identify or find that vehicle.

**Duties of operators of PHCs:**

17. Section 167A of the Act relates to any disabled passenger, including wheelchair users:

17.1. Offences:

An operator commits an offence by:

17.1.1. Failing or refusing to accept a booking for the vehicle if:

- The booking is made by, on or behalf of, a disabled person.

17.1.1.1. The reason for the failure or refusal is:

- That the person is disabled or
- To prevent the driver from being made subject to a duty at sections 164A, 165, or 165A of the Act.

17.1.2. Making, or proposing to make, an additional charge for carrying out any duty of the driver under sections 164A, 165 or 165A of the Act.

17.2. Defences:

It was reasonable not to have accepted the booking due to a lack of suitable vehicles.

## **Assistance Dogs in Taxis and PHCs**

18. Separately, drivers and operators are reminded that, in Scotland, Regulations provide that where a taxi or PHC has been hired:
- By or for a disabled person who is accompanied by a guide dog, a hearing dog or an assistance dog of that person; or
  - By a hirer who wishes a disabled person accompanied by a dog such as detailed above to accompany the hirer in the vehicle,
- the driver of the vehicle is legally required to carry the disabled person's dog in the vehicle and allow it to remain with the disabled person and must not make any additional charge for doing so. Vehicle driver and operator licences issued by the Council contain conditions to this effect.
- 18.1. Drivers can apply for exemption from the duty to carry assistance dogs on medical grounds.
- 18.2. The duty to carry assistance dogs shall not apply if a notice of exemption has been issued by the Council – refer to paragraph 18.1 above – and affixed in a prominent position on the dashboard facing upwards or the windscreen of the vehicle, facing outwards. The notice of exemption shall include an embossed “E” and the driver of the vehicle shall, on request, detach the notice and permit the disabled person to handle the notice.

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