

11 October 2022

The Baroness Vere of Norbiton
House of Lords
London

SW1A 0PW

By email: verec@parliament.uk

Dear Lady Vere

You may recall that you had a meeting in April with myself, Sue Nelson and John Garforth from the Institute of Licensing.

I am now writing to draw your attention to an issue that causes uncertainty and complication in relation to hackney carriage and private hire drivers generally, and particularly to those who undertake home to school contract journeys.

The requirements for a normal hackney carriage or private hire driver are that there is an enhanced Disclosure and Barring Service (DBS) check which includes a check of both the adult and children barred lists. This check is undertaken using the terms “other workforce” and “taxi licensing” (see paragraph 6.2 of “Statutory Taxi & Private Hire Vehicle Standards” issued by the DfT in 2020).

For a licensed driver undertaking home to school contracts, a different DBS check is required to comply with the requirements of the Safeguarding Vulnerable Groups Act 2006. This Act defines such activity as “regulated activity” (see section 5 and Schedule 4 paragraphs 1(1), 2(1)(f) and 10(1)). This requires the check to be made using the term “child workforce”.

This results in the peculiar situation that a hackney carriage or private hire driver who will also undertake school contracts must have two DBS checks, which is both an added expense and inconvenience.

The DBS have confirmed that although it is rare for there to be a difference in disclosure in the two types of DBS, it is not unheard of. In those situations, whilst the driver would be prohibited from undertaking home to school contracts, they would be able to be a hackney carriage or private hire driver for general purposes.

This leads to the much more fundamental safeguarding issue which is that the law as it currently stands is based on the premise that only hackney carriage and private hire drivers undertaking school contracts are alone in the vehicle with unaccompanied children. This is patently incorrect as there are literally thousands of journeys undertaken by hackney carriage and private hire vehicles everyday carrying

children which are not under home-school contracts. These include journeys to school arranged by parents, journeys between separated parents, journeys to grandparents, etc.

Taking into account the issues that have been raised since this Act was passed in 2006, and the renewed emphasis on safeguarding contained in the 2020 DfT guidance, it seems essential that this approach is reconsidered.

I would suggest that the 2006 Act needs to be amended so that all hackney carriage and private hire drivers undertake regulated activity both when undertaking home to school contract work and when not. That would accord with the approach under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. This would also reduce the burden on those drivers that undertake school contracts and make the position much easier for education and licensing authorities to understand.

It is clear that many education authorities do not require the additional DBS check for home-school contract activity, a failure which places children at risk. It is not clear why this is not undertaken, but a lack of understanding of the legislation seems to play a part.

Extending regulated activity to include all hackney carriage and private hire drivers would benefit society as a whole by reducing the risk to unaccompanied children using hackney carriages and private hire vehicles, as well as increasing public confidence in the sector as a whole.

As all hackney carriage and private hire drivers require enhanced DBS checks anyway, it is difficult to see that this would be resisted by the industry; it will in fact be a deregulating measure.

I trust that you and your colleagues will look favourably on this suggestion. If you would like to discuss this, I would be delighted to do so.

Finally, I would like to extend an open invitation to you to consider attending IoL training events. In particular, we have our signature 3-day National Training Conference which is held in November each year (this year in Stratford-upon-Avon from 16th – 18th November) and we also have 2 specialist taxi conferences, usually held in April and October annually. We would be delighted to welcome you to any of these events so if they are of interest, please let us know.

I look forward to hearing from you.

Yours sincerely



James T H Button BA, Solicitor, CIOL
President