

# Private Hire Vehicle licensing should not extend to care workers' cars



## A UKHCA position statement

Care workers that use their own cars to transport service users should not be obliged to license their vehicles as Private Hire Vehicles, if this service is part of a wider package of homecare.

### Position Statement

UKHCA believes:

- User safety is paramount. Homecare providers and their staff should ensure their vehicles have appropriate insurance to cover the transport of service users as passengers, where they offer this service as part of a care package, and are properly taxed and MOT tested.
- Care workers who use their own cars to transport service users as part of a wider package of care should not have to license their vehicles as Private Hire Vehicles (PHVs) under Sections 53 and 54 of the Road Safety Act 2006. Such a legal interpretation may lead providers to restrict the provision of essential services, including taking service users shopping and to social events. This would undermine user choice, the main aim of the Government's personalisation policy for social care.
- Homecare providers that operate specific transport services that fall squarely within the remit of the Road Safety Act 2006 should license their vehicles as PHVs, as required by law.

### Recommendations

- DfT Guidance and if necessary the law should be amended to make it clear that care workers do not have to license their vehicles as PHVs. At present the guidance does not specifically exempt the domiciliary care sector, and given the scale and importance of the work of the sector, this is a regrettable omission.
- The amended guidance should be issued to local licensing authorities so there is clarity and consistency of approach to PHV licensing in different areas.

## The repeal of the PHV Contract Exemption

The repeal of the PHV Contract Exemption, under Sections 53 and 54 of the Road Safety Act 2006, means that more vehicles have to be licensed as private hire vehicles.

This has led some local licensing authority areas to require care workers either to license their vehicles as PHVs or use taxis and other forms of public transport to take service users out. This has a serious impact on service users, who comprise some of the least mobile and most socially isolated members of the community.

Local licensing authorities appear to be confused about their obligations. UKHCA has been contacted by several authorities asking what advice we are giving to our member organisations, as they are unclear whether or not to require domiciliary care workers to license.

### Why the repeal affects domiciliary care providers

The new PHV rules are summarised in the Department for Transport "Road Safety Act 2006: Private Hire Vehicles – Guidance Note"<sup>1</sup> (the DfT guidance). The DfT guidance anticipates that childminders may be caught by the extension of PHV licensing and says it considers it unlikely a court would consider that Parliament intended childminders taking children to school would need PHV licences. It is, however, silent on the position of care workers taking service users out in their cars.

UKHCA member organisations provide care both in service users' own homes and outside the home, if this forms part of an agreed 'package' of care. Typically care workers assist service users with normal daily activities, such as getting up and going to bed, washing and dressing, meals and medication. They may also take service users shopping or to social events in their (the care worker's) own car. Except where the package is specifically a transport service, the use of a private vehicle is incidental to the purpose of the service.

Some 5 million hours of care are bought each week either by the state or by users privately or with direct payments or personal budgets from local councils.

Where care workers take service users out in their own cars, they commonly make a mileage claim to their employer so they are reimbursed for the cost at an agreed rate. There is no profit element to the provision of transport. Usually there is only one service user in the car with the care worker, but occasionally there may be two or more where a couple are both service users, or where a user has children.

It is not usually a condition of the local authority contract that the care worker's own car be used – the package could be carried out alternatively by taxi or public transport if the user were sufficiently mobile.

Occasionally our member organisations offer a more specialised transport for people with disabilities, such as an accessible vehicle. However, these services are still aimed at fulfilling social needs for users, rather than a transport service per se.

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<sup>1</sup> Department for Transport - Road Safety Act 2006: Private Hire Vehicles - Guidance Note, [November 2007], <http://www.dft.gov.uk/pgr/regional/taxis/rsa06privatehirevehicles>

## **UKHCA's attempt to clarify the position**

We wrote to the Department for Transport to clarify whether PHV licensing applies to care workers using their own cars to drive service users as part of a care package. The DfT replied that this depends on the facts in any particular case - PHV licensing is less likely to be required where:

- (i) A normal car, rather than a specialist vehicle, is used;
- (ii) The transport forms part of a wider care package;
- (iii) The vehicles are only used for carrying disabled service users and not for other social purpose;
- (iv) The drivers have training and background checks in connection with the service they provide and their records are subject to the laws on patient confidentiality.

The DfT stressed it is for the licensing authority to make a decision in the first instance as to whether a particular service must be licensed as a PHV, ultimately it is for the courts to decide.

This reply has not been formalised in DfT guidance and has not, so far as we are aware, been communicated formally to local licensing authorities.

The anomaly remains that childminders receive specific mention in the DfT guidance but not domiciliary care workers, despite the similarity in their role ie both carry clients in their own vehicles as part of their wider caring duties.

## **UKHCA believes the DfT guidance should be amended**

DfT's Guidance should be amended to exempt care workers specifically, in the same way as childminders.

The amended guidance should then be issued to local licensing authorities so there is clarity and consistency of approach to PHV licensing.

We have no wish for homecare providers to avoid the requirement to license vehicles as PHVs, if they provide services that fall squarely within the Road Safety Act 2006. Nor would we wish user safety to be compromised. We expect homecare providers to ensure their staff use vehicles that are properly insured, taxed and MOT-tested.

We cannot agree that care workers who use vehicles to transport service users as part of a wider package of care should have to license their vehicles as PHVs.

Such an interpretation of the law would lead providers to restrict the provision of essential services like taking service users shopping and to social events, which would undermine user choice, the main aim of the Government's current personalisation policy for social care, and lead to social isolation of users.

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## UKHCA Position Statements

UKHCA position statements address the issues facing homecare providers today. Researched by the Association's Policy and Communication Team, they are available to everyone with an interest in domiciliary care.

### Manifesto for Sustainable Homecare

Local and central government needs to act now to ensure high quality homecare can continue in the future. Our manifesto calls on councils to stop damaging the sector by inappropriate cost-savings and central government to act on councils' commissioning practices that damage care worker pay.

### Fair Price for Care

It is vital homecare organisations receive a fair price for care for the services they provide. We examine the background to the current state of the market and provide recommendations to local authority commissioners on adequate payment.

### Short Care Episodes

We highlight the dangers of using 15-minute visits to provide personal care to increasingly dependent service users and recommend local authority commissioners use them only for monitoring and prompting activities.

### Managing Working Time in Live-in Care

We argue that "live-in" care is "unmeasured work" for the purposes of the Working Time Regulations 1998 and the National Minimum Wage Regulations 1999.

## About UKHCA

UKHCA is the representative association for organisations that provide domiciliary care, home nursing and allied services.

The Association's primary aims are to promote the highest standards of care through training, information sharing and membership services.

### Professional Representation

UKHCA represents the views of homecare providers with national policy makers and the media.

### Advice and support

UKHCA is the first point of contact for professional advice about the sector, with a telephone helpline service for legal, employment and practice-based enquiries.

### Conferences and Events

A programme of conferences, workshops and events runs in the four nations of the UK. Member organisations receive preferential rates on all events.

### Training and learning

UKHCA helps organisations access available training funds and runs a Training and Assessment Centre for vocational qualifications and qualified assessors.

### Updates and publications

Regular e-mail alerts, mailings and a member-only website complement our bi-monthly magazine, *Homecarer*, for breaking news and guidance on key practice issues.

### Commitment to Quality

The UKHCA Code of Practice, revised in January 2007, enables member organisations to demonstrate their commitment to quality and to use the UKHCA logo, which is recognised throughout the social care sector.

### Membership Services

UKHCA enables organisations to access criminal record disclosures and provides an optional insurance scheme designed specifically for homecare providers.

Additional copies of this position statement can be ordered from UKHCA at the address below. Copies can be downloaded without charge from [www.ukhca.co.uk/positionstatements.aspx](http://www.ukhca.co.uk/positionstatements.aspx).

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