

# INSURANCE: ISSUES & IMPLICATIONS

**Tim Barnes-Clay**

**I**F YOU ARE A USER OF UBER OR OTHER ride-hailing apps, whether as a driver or customer, you should consider the insurance implications and whether you are adequately protected.

The Uber app allows passengers looking for a minicab to make their journey needs known, and drivers can then reply. It may sound just like a private hire business, but this description is one that Uber refuses to acknowledge. The enterprise places itself as a transport network firm delivering the technology to link up those in need of a ride with those offering one.

## OVERSIGHT

Drivers who use Uber's app are seen as self-governing contractors, meaning that the San Francisco-based company does not supervise their behaviour or the state of their vehicles. To register as a driver through Uber, the company asks for the appropriate documentation and it subjects its users to background checks. There is also a code of conduct in place and both drivers and passengers can be rated by other app users.

However, there has been much concern about Uber's systems. In June 2015, Uber said it would review its procedures after a London Uber driver had bogus insurance documents rubber-stamped for use. There's also a loophole whereby drivers have a "cooling off period" after buying insurance that allows them to cancel after a couple of weeks. During this period, it would be easy to submit the certificate to Uber or any other operator, and then cancel. The operator believes the driver is insured, but in fact the policy has been annulled.

The mobile ride hail firm later told the Guardian newspaper that it had "backstop" insurance prepared that would cover passengers if a driver was involved in a collision without insurance. Nonetheless, it acknowledged that drivers were duty-bound to have insurance cover by law and by the conditions of their private hire licence.

"Taxi drivers clearly need to have insurance that covers them to carry passengers for the purpose of 'Hire & Reward', says Ryan



Georgiades [pictured, above], managing director of Plan Insurance Brokers. "The onus is entirely on the driver to ensure that they have valid cover in place."

And that that's where Ryan believes the "wheels come off" with Uber. He says: "I'm not aware of companies such as Uber carrying out spot-checks to ensure valid cover remains in place."



This apparent lack of accountability has sparked the interest of the GMB trade union. It has warned that Uber should be taking more responsibility for drivers working through their app. Elly Baker, the national organiser for the GMB union, said. "Uber is willing to fund its huge and ongoing expansion from commission taken from drivers. However, it delegates almost all responsibility for safety and licensing down to individuals, as well as avoiding basic workers' rights."

She added: "We don't believe this is fair. It's opening up hard-working professional drivers, and the industry as a whole, to unfair criticism. If Uber succeeds in continuing to push down the money drivers manage to earn, this can only start to drive down standards and could lead to corners being cut across the board."

But this isn't just an Uber issue: "We've been lobbying both the regulators and the insurance industry to provide a system that empowers the authorities to rid our roads of uninsured taxi and private hire vehicles," explains Ryan Georgiades. "We estimate that the problem extends to 273,000 drivers, so it's a significant problem within the industry as a whole."

## RIGHT COVER

Barry Fehler, CEO of South Essex Insurance Brokers, doesn't think it's possible to keep a constant eye on drivers to check if they are insured. "You still need some insurance, otherwise you'd get stopped by the police after going through an Automatic Number Plate Recognition camera," he said. "It's really a matter of whether the driver has the right sort of cover or not. I suppose you could put the onus on the insurance company to contact the council if a policy is cancelled," he added. "But that would involve a whole lot of red-tape wouldn't it?"

Plan Insurance Brokers believes there is a way forward to blow the problem of uninsured drivers out of the water – and it's taking it upon itself to sort it out. "We are developing an online portal that will allow relevant agencies immediate access to live information regarding the validity of a driver's cover," says Ryan. "In this day and age, it shouldn't be that hard to implement. The largest obstacle will be getting the necessary parties on-board with it."

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## PUBLIC LIABILITY INSURANCE

■ PUBLIC LIABILITY INSURANCE IS AN IMPORTANT consideration for professional drivers. It will protect them should a customer, or member of the public, make a claim against them in regards to an injury or death that they allege is their fault.

Ryan Georgiades of Plan Insurance Brokers explains: "Having public liability cover in place means, as a driver, you'll be protected against both the costs of defending yourself and the potential pay-out for damages. If, for example, you were to slam a surgeon's hand in your vehicle's door then this could be a considerable sum," he said.

However, customers need to be aware of the potential complications should they ever need to claim for injuries sustained in an accident involving an uninsured driver. In these circumstances any claim would more than likely be more complicated and drawn out than an insured incident. The passenger would need to apply to the Motor Insurance Bureau (MIB), who will act on the Government's behalf in lieu of an insurance company.

The MIB's official guidance in terms of a time line for these claims states: "If you are eligible for compensation, a decision on the appropriate amount will usually take longer than three months". For most people a delay of this length would be less than ideal, especially if they've not been able to work due to their injuries.

Furthermore, drivers should consider taking out a policy that specifically covers the carrying of celebrities. "Doing so will make sure that any high profile clientele they might have is fully protected," said Ryan. "You might think that this cover would come as standard in a public or private hire insurance policy, but drivers need to specifically check that it is included with their policy. At Plan we can help do that," he added.

Barry Fehler, [pictured, right] of South Essex Insurance Brokers, backs that up. "If you have any contracts with any high net worth individuals or VIPs these will need to be disclosed at the quotation stage. Some insurers may not cover for this type of work, or an additional premium may be required," he said.





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## AUTONOMOUS VEHICLES

■ ANOTHER GROWING CONCERN FOR professional drivers is autonomous vehicles, with some manufacturers predicting the technology will be roadworthy by 2019.

But what are the issues they'll come across? There are still many stumbling blocks on the road to completely autonomous cars – and the public is just one hurdle to overcome.

"It seems hard to imagine; taxis, black cabs, lorries or delivery vans with no operators within them," says Plan's Ryan Georgiades. "Imagine excursions made in pods with no driver and no human being at the wheel to evaluate risks."

Recently, Plan Insurance Brokers asked business owners if they saw the future being driverless – and the result was a majority 'no'. "This seems to go against a lot of the hype out there in the tech industry," says Ryan.

But if computers were to ultimately conquer,

there's the question of the effect on the legions of people that work in the taxi and commercial motor transport industry. Would the eradication of The Knowledge, or donkey's years of taxi or chauffeur experience in place of a computer system be able to work in the real world? And, if so, would professional drivers be needed at all?

There are stories of satnavs leading drivers into one-way streets, or guiding trucks down unsuitably tight country lanes due to inadequate information or technical gremlins. Clearly this would steer the public into a nightmarish world, with vehicles not fully understanding the environment in the same way that a pair of eyes and good judgment would. And this is what skilled drivers do best.

And how will insurance claims be settled? Ryan is unconvinced that vehicle manufacturers have fully anticipated the list of complications relating to insurance that might prevent autonomous cars hitting British roads.

He says: "It shows confidence in their product,

and ultimately a manufacturer being held accountable is probably the simplest system for settling claims in the long term. It should be a straightforward case of analysing empirical data from the vehicle's on-board computer.

"However, if the tech is phased onto the UK's roads, and the autonomous vehicles are required to integrate with vehicles operated by humans, the claim settlement might not be so clear cut," he said.

Furthermore, attributing blame will be difficult. Was it down to a human error by the 3rd party human driver? Was it a glitch in the car's tech? Did a person in the autonomous vehicle intervene? Did a non-motorist road user, such as cyclist, contribute? Who will have the requisite time, knowledge and expertise to get to the bottom of that potential scenario?

"Attributing liability for potential claims could be a very difficult process, said Ryan. "We're not sure the insurance industry or the economy as whole are prepared for the full impact."