

Does operating cross border invalidate taxi and private hire insurance?

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Cross border hiring is having an impact on both private hire and public hire drivers across the United Kingdom. London black cab drivers insist they see Uber drivers from cities as far away as Manchester and Sheffield operating at weekends in the capital.

Donna Short from the National Private Hire Association (NPHA) claims it's a huge issue, "affecting most licence holders in the majority of licensing authorities". Many of her association's members have contacted the NPHA to ask if drivers are insured when carrying passengers outside the district their licence has been issued in.

We attempt to answer her questions and those of the drivers who have been in touch on social media regarding the intrusion.

THE DEREGULATION ACT 2015

It's worth pointing out that the issue began when the Deregulation Act came into force on October 1, 2015. The Act's original intention was to enable people to work more efficiently by sub-contracting work to drivers in other licencing areas close-by. This allowed for other companies' drivers to be used when they are closer to a booking request from further afield.

Instead of being a force for good, though, it has effectively allowed taxi and private hire vehicles to operate across the whole of England and Wales. Local council enforcement officers often have restricted powers to carry out spot checks on vehicles licensed elsewhere.

WHY DO PRIVATE HIRE & TAXI DRIVERS OPERATE ACROSS BORDERS?

The primary reason a driver will seek to operate across a border is to get a larger number of fares in busier areas for a higher rate of pay. For example, Uber regularly introduces surge charging in London during times of peak demand and when major incidents such as tube strikes occur.

London is easily the largest licencing area, but Transport for London (TfL) has no mandate to restrict the number of licences given out. This has greatly suppressed fares, and that, in turn, has done the same to the income of all drivers in London. Indeed, drivers who operate across licencing borders might well be attempting to avoid certain rules imposed by local councils to reduce their insurance costs.

If a private hire or taxi vehicle

is working wholly outside the district that granted the vehicle its licence, does this invalidate its insurance cover?

Following the Deregulation Act, insurers cannot endorse a policy that states a driver can't take a pre-booked job from an operator that is outside his or her area. So, the driver's insurance in this case would not be void. Providing the booking went through the appropriate channels, or authorities do not deem it as touting, then the driver's insurance would be enforced.

Many drivers get the benefits from this flexibility of cover when they collect a passenger in one area of jurisdiction and transport them to an address in another. The majority of drivers would regard this as a positive thing, and would not seek to restrict the market to prevent this happening.

Unfortunately, as it currently stands, even if a private hire or public hire taxi vehicle is being used for work wholly outside the district that granted the vehicle its licence, it would not be violating its insurance policy. However, if the driver did something which the authorities felt contradicted the rules and was deemed to be touting, then the policy could be voided.

HOW CAN THE INSURANCE INDUSTRY HELP STOP CROSS-BORDER HIRING?

One area that insurance can really influence is cost. With insurance, there are many factors which make up the cost of your insurance. Age, vehicle, home postcode, operating post code, licencing authority are the main essentials. A number of drivers operating solely or almost entirely outside their licenced areas have worked out that certain areas of the country pay less for insurance, and then fraudulently state that they are based in these areas.

Daniel Severin, sales manager at Plan Insurance, says: "Insurers attempt to combat this deception by asking where drivers live, where their licence is issued from, who they work for and where they get their bookings. He says Plan will then rate the policy based on these facts. However, we know a lot of our competitors do not obtain the full picture."

HOW WILL CROSS BORDER HIRING AFFECT PRIVATE HIRE AND TAXI DRIVERS' INSURANCE COSTS?

Plan Insurance claims that areas which have performed well in the past, with regards to low claim payouts, are now being corrupted by drivers from areas that have not per-



Daniel Severin

formed as well. Daniel Severin says if this trend continues; then these drivers operating across borders will end up increasing insurance prices across the board.

“For example, people working and living in or around the Lake District pay a lot less than people who live or work in nearby urban areas, such as Blackpool, Blackburn and Manchester. If drivers from these areas continue to obtain licenses in areas like Copeland but really, they work in Manchester, then Copeland will end up having the same claim statistics as Manchester. As a result, insurers will have to treat Copeland in the same way that they treat Manchester.”

IS A NATIONAL PRIVATE HIRE AND TAXI LICENCING BODY NEEDED?

With local councils often unable to assert authority over drivers and vehicles licensed elsewhere, perhaps a national regulatory body for the taxi and private hire industries is required?

We already have the Driver and Vehicle Safety Authority (DVSA, previously known as VOSA), which licences and carries out vehicle checks. Could the DVSA take on the responsibility for taxi and private hire regulation across the UK?

If it did, standardised rules could be enforced nationwide. There would still need to be some regional flexibility such as in London where the Black Cab trade is subject to much stricter regulations to maintain required standards. If this went ahead, there would be much less confusion over rules relating to: vehicle criteria, whether non-PH licenced drivers, such as spouses, are allowed to drive licenced vehicles: regulation of MoTs, licence costs, DBS checks and insurance requirements.

In addition to the DBS checks, a national body would be able to build a database of drivers. The intention of this would be to prevent drivers who have previously been deemed not to be fit and proper persons from requesting a licence in a different licencing area.

An example of this is when two drivers, Nasser Hussain and Nisar Abbas, received custodial sentences



Barry James

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for perverting the course of justice by operating a ring in which drivers shared driving convictions to avoid being banned. Subsequently, their private hire licences were revoked by the local council.

Another area affected by cross border issues is Bristol, where drivers are obtaining private hire vehicle licences to dodge their obligation to complete the council's driving and topography tests.

UNINSURED DRIVERS ALSO AFFECT INSURANCE COSTS

Plan Insurance's Daniel Severin believes more needs to be done about those drivers who don't have appropriate insurance. “The regulators and local authorities need to be prioritising tackling this issue. There are thousands of drivers ‘acting’ as private hire that are not insured and this is having a massive inflationary effect on the cost of insurance for the industry.”

Meanwhile, Barry James, commercial director of insurance consultants Osborne & Sons, sym-

phatises with operators and the frustrations they may be experiencing with regards to cross-border hires. “From an insurance perspective, it is not for us to regulate the Private/Public hire industry,” he says.

“Although, over the years, I have been lobbied to try and enforce regulation through soft means using insurance as the backdrop for this. There is no legislation at present preventing insuring a vehicle and then using it cross-border, nor to my knowledge are there any insurers/brokers utilising specific wordings or endorsements to prevent cross-border working,” adds Barry.

“Even if there were such wordings/endorsements in themselves, they could easily be challenged and unenforceable. Indeed, in the current legislative regime, the Road Traffic Act would mean an insurer would at least still pick up liabilities to a Third Party in any event, thus only part of a claim (if a client was insured for Third Party, Fire, and Theft or Comprehensive) could potentially be avoided. From a ‘treat-

ing customers fairly’ point of view, this would not meet the current Financial Conduct Authority directive either.”

He continued: “In my view, and the approach we take here at Osborne & Sons after consultation with our insurer partners, is we do not actively wish to insure persons/businesses openly operating outside their licencing authority, and, yes, we do check.”

He concluded: “My staff are well trained and there is normally a common answer to one of our particular questions which is a good indicator if persons/businesses intend to work outside their licencing area. If we do choose to insure a driver/business who openly admits they, for example, are licenced in London but operate in Portsmouth, then we must understand in which area they wish to operate and why. If we are happy, then we will insure them on a Third Party Only basis. However, over the forthcoming weeks/months I can foresee this will change to a total refusal to arrange cover for risks operating outside their licencing authority.”

Paul Wilson, Client Services Manager at SEIB Insurance, says his firm checks policyholders' information to ensure the location and drivers' details are in line with the advised address.

“We rate taxi/private hire business on the policyholders' address, but we also enquire as to the licencing authority, obtaining copies of badges to support this. Then we cross reference the policyholder's address against the licencing district,” says Paul.

He adds: “As long as the policyholder adheres to the local licencing laws, both where licenced and where operating and irrespective of where they are operating, i.e. cross border, they should not be contravening an insurance policy, and cover would therefore be in place.”

However, Paul believes that a national Private Hire & Taxi licencing body would standardise the requirements. He also says it would give local enforcement officers equal authority over drivers, irrespective of where they are licenced, and would therefore control the sector to a greater degree.



Don't hold insurers accountable for hikes in premiums

New government taxes and rates are pushing up pay-outs, and these have to be passed on in the form of higher premiums. Due to changes in the law, insurance premiums will be increasing over the next year.

The government has implemented two huge changes that have left insurers with a deficit to make up. The rate of Insurance Premium Tax has been raised, therefore any claim for serious personal injuries will now cost insurance companies more than ever before.

Because of this, insurers will need to put aside sizeable lump sums to cover the cost of seriously injured people who have been awarded large amounts of money for damages.

Most of us must purchase insurance of some sort, whether it is for business or personal use. There is an element of liability in a lot of policies, and this is where you'll see new costs being added, in addition to the already hiked insurance premium tax.

Insurance Premium Tax is a levy applied by the government. Think of it as being like VAT but specifically for the insurance industry. In 2010, the levy stood at 5%, but in the past seven years this tax has doubled to 10%. The latest rise takes it up again to 12% per cent. This kicked in this month (June 1, 2017), and is being added to every insurance premium charged.

The Personal Injury Discount Rate (known as Ogden Tables) also changed on March 20, 2017. This isn't a tax, but the way in which large personal injury claims are calculated. The government uses this process to ensure there is enough money to pay for the care of a seriously injured person for the rest of their life.

Obviously, this is a rather complex process, but the rate has for some years stood steady at 2.75%, but it has now been adjusted to minus 0.75%. This is a calculation at which large payments are made and will add many millions of pounds to claim settlements.

This change will result in substantial increases in personal injury pay-outs. An injured party who would have received a £5m pay-out prior to the changes to the rate, will now receive just under £10m to ensure their lifetime care is fully covered.

While it can't be denied that the changes are good news for those that are injured, it will mean an average increase of 10-15 per cent in all insurance premiums with policies that contain cover for personal injury, such as motor insurance.

It is quite possible that there will be similar price hikes on policies that contain liability cover - so expect to see increases in household, employers, and public liability covers.