

Warwick District Council's policy on the repeal of contract exemption for private hire operators

Background

In January 2008, Section 53 of the Road Safety Act 2006 repeals section 75(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 which is commonly known as the "contract exemption". This currently exempts vehicles engaged on contracts lasting not less than seven days from private hire vehicle (PHV) licensing requirements.

Many operations are affected by this, including chauffeur services, some school contracts and some National Health Service (NHS) transportation services. Clearly, the type of vehicles used by the NHS which are designed to carry stretchers and can be used as emergency vehicles are not intended to be licensed as PHVs. However the ordinary cars that transport passengers with a degree of infirmity in a more routine manner may be considered as PHVs.

The Department for Transport's view is that it is not a relevant consideration whether a service is provided by the NHS or a private contractor. The NHS competes for transportation contracts and is, therefore, in the same market place as operators and vehicles which are fully licensed under PHV legislation. The vehicles are, therefore, hired in the accepted sense, and used in exactly the same manner.

The definition of a private hire vehicle in the 1976 Act is, "a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers"

It is important to note that the word "hire" is used, not "hire and reward"

Exemptions after January 2008

The current exemption for funerals and weddings remains unchanged.

The Department for Transport feel that both childminders and mothers transporting groups of children to and from school, and the services provided by genuine volunteers who receive no recompense save their expenses will not need to be licensed. This view is shared by the Council.

Proposed actions

It is the Council's view that each case should be judged on its own merits within the scope allowed by the framework of PHV licensing.

The Council believes that, for public safety reasons, it is the Government's intention in the repealing of section 53 of the 1976 Act, to ensure that all vehicles that carry out duties that fall within the framework of PHV legislation are properly licensed and have all of the relevant tests and checks carried out on both the vehicles and the drivers using them.

It is the Council's belief that vehicles (that have less than nine passenger seats) such as none emergency, none specialised "ambulances" (whoever operates them), chauffeur operations, airport transportation specialists, school contract vehicles, limousines and all similar vehicles will have to be fully licensed under PHV legislation after January 2008.

Logistics

The Council accepts that a there is insufficient time for all of the vehicles and drivers that now require licensing to go through the necessary processes. To alleviate the perceived problem, no action will be taken against operators and drivers after January 2008, provided that the driver/vehicle/operator can show that they have applied for all the relevant licences before that date.

Policy changes

Much of the Council's policy is based on advice and guidance from The Department for Transport. If this advice changes or is amplified in any way, changes to this policy may be necessary.