

**iL**

### Taxi Licensing Update

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@instotlicensing  
#NTC2022

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### Case Law

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**R (app United Trade Action Group Ltd) v Transport for London** [2022] WLR 2043 Admin Crt

Confirms that the contract for a private hire journey is between the passenger and the private hire operator.

TfL (and all licensing authorities) must review the contractual arrangements between operators and drivers.

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**R (app United Trade Action Group Ltd) v Transport for London** [2022] RTR 32 CA

Confirms the High Court decision in **Reading BC v Ali** [2019] RTR 31 Admin Crt

Leaves a question open relating to clearly marked PHV, and does not answer the question of proximity to hackney carriage stands

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**Taxis and Private Hire Vehicles (Disabled Persons) Act 2022**

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**Taxis and Private Hire Vehicles (Disabled Persons) Act 2022**

Equality Act 2010 Section 6 **Disability**

(1) A person (P) has a disability if—

- (a) P has a physical or mental impairment, and
- (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities

All sections came into force on 28<sup>th</sup> June 2022

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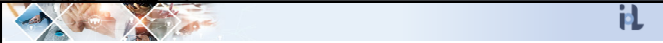
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**Taxis and Private Hire Vehicles (Disabled Persons) Act 2022**

- Extends the duty to carry disabled passengers to all HC and PH drivers, not just those driving a designated vehicle (section 1 inserting section 164A into the Equality Act 2010)
- Places pre-booked HC and PH drivers who are aware that a passenger is disabled, under a duty to assist the passenger to identify the vehicle (section 1 inserting section 165A into the Equality Act 2010)

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**Taxis and Private Hire Vehicles (Disabled Persons) Act 2022**

- Alters exemption certificates for disable people to make it clear the exemption is only for providing mobility assistance, not an exemption for carrying a disabled passenger (section 2 amending section 166 Equality Act 2010)

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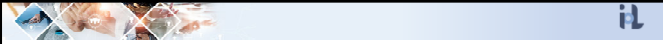
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**Taxis and Private Hire Vehicles (Disabled Persons) Act 2022**

- Makes it a criminal offence for a PH operator to refuse to accept a booking or make any additional charge because the passenger is disabled (section 4 inserting section 167A into the Equality Act 2010)
- Places local authorities under a duty to make a list of wheelchair accessible HC and PHV that they licence (section 3 amending section 167 of the Equality Act 2010)

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## Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

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## Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

- Introduces 2 distinct elements:
  - i. the ability of the Government to identify a database, and once that has been identified, duties are placed on English licensing authorities to record information on, and search the database; and
  - ii. a duty placed on English licensing authorities to report concerns about drivers working in their area to the licensing authority (in England, Wales or Scotland) that licensed the driver where those 2 authorities are not the same.

Both relate to “relevant information”, defined in S1

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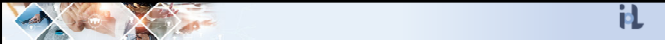
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## Relevant Information – Section 1(1)

- (a) has committed a sexual offence (whether or not the person was charged with, prosecuted for or convicted of the offence);
- (b) has harassed another person;
- (c) has caused physical or psychological harm to another person;
- (d) has committed an offence that involves a risk of causing physical or psychological harm to another person (whether or not the person was charged with, prosecuted for or convicted of the offence);

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**Relevant Information – Section 1(1)**

(e) has committed an offence under section 165, 168 or 170 of the Equality Act 2010 (whether or not the person was charged with, prosecuted for or convicted of the offence);

(f) has done anything that, for the purposes of the Equality Act 2010, constitutes unlawful discrimination or victimisation against another person;

(g) has threatened, abused or insulted another person;

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**Relevant Information – Section 1(1)**

(h) poses a risk to road safety when driving;

(i) may be unsuitable to hold a driver’s licence for other reasons relating to—

- (i) the safeguarding of passengers, or
- (ii) road safety.

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**Relevant Information – Section 1(1)**

Also includes attempts, conspiracy, aiding, abetting counselling or procuring, incitement or encouraging or assisting with any of these crimes (s1(2))

Also conduct elsewhere which would be one of those crimes in England and Wales (s1(3))

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**Sexual Offences – Section 1(4)**

- a) an offence under any of sections 1 to 12 and 14 to 17 of the Sexual Offences Act 1956 (**rape, unlawful intercourse, indecent assault, forcible abduction etc**);
- b) an offence under section 128 of the Mental Health Act 1959 (**unlawful intercourse with person receiving treatment for mental disorder by member of hospital staff etc**);
- c) an offence under section 1 of the Indecency with Children Act 1960 (**indecent conduct towards child under 14**);

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**Sexual Offences – Section 1(4)**

- e) an offence under section 9 of the Theft Act 1968 of **burglary with intent to rape**;
- f) an offence under section 54 of the Criminal Law Act 1977 (**incitement of child under 16 to commit incest**);
- g) an offence under Part 1 of the **Sexual Offences Act 2003**;
- h) an offence under section 2 of the Modern Slavery Act 2015 (**human trafficking**) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (**sexual exploitation**).

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**Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022**

- The use of the database does not come into effect until the Government identifies the database in regulations (*made under s4*) – currently no indication of when that might occur.
- Once it does, whenever a drivers licence (and only drivers) is refused, suspended or revoked on the basis of relevant information the English authority must enter that information on the database (*S2(1)*)
- It must be kept up to date, and remains on the database for 11 years (*S2(2)*)

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**Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022**

- The information is (S2(4)):
  - a) the person's full name, date of birth, home address and national insurance number;
  - b) if the person holds a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988, the driver number shown on the licence;
  - c) if the person holds a Northern Ireland driving licence, the driver number shown on the licence;
  - d) if the person holds a Community licence, the number of the licence;

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**Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022**

- Whenever an English licensing authority receives application for a new or renewed driver licence, it must search the database before making a decision. (s3(1))
- If the name is on the database the authority must request the relevant information from the authority that entered it on the database. (s3(2))
- The authority must then have regard to that when deciding whether to grant the licence. (3(3))

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**Taxis & Private Hire Vehicles (Safeguarding and Road Safety) Act 2022**

- HOWEVER from 31<sup>st</sup> May 2022 the duty on English authorities to report concerns about drivers, and act on concerns received (sections 5 and 6) came into effect.
- Council systems should incorporate this.

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### Duty to report concerns about drivers licensed in other areas – section 5

- Where council becomes aware of “relevant information” about a driver licensed elsewhere, but who has driven in the district, they must inform “home” authority within 10 working days

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### Duty as regards reported concerns about drivers licensed in other areas – section 6

- Within 20 working days of receiving the information, the “home” authority must consider whether to suspend or revoke the drivers’ licence on the basis of the information received, and then inform the reporting authority of the outcome.
- This means either emergency sub-committee meetings, or delegation to officers – if suspend or revoke, suggest in consultation with Chair or Deputy of Committee.

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