

Welcome to the latest edition of Licensing News

Please read this update carefully – it contains important information for GLA licence holders

This issue covers:

- Use of vehicles to transport workers
- Identifying GLA Inspectors
- Rolled-up holiday pay

Use of vehicles to transport workers

The GLA is concerned the licensing standards relating to transporting workers are not fully understood or are not being followed accurately, particularly in relation to the driving licences required, insurance and types of vehicles used (especially where panel vans are used). Following advice from the Vehicle Operator Standards Agency (VOSA), the GLA would like to make clear that:

Licensing standard 6.11

GLA licensing standard 6.11 requires “documentary evidence that vehicles with nine or more passenger seats used for hire or reward are registered as Public Service Vehicles (PSV) and that drivers have Passenger Carrying Vehicle (PCV) entitlement”. Please note:

- Where workers are being transported as part of the business of the labour provider or user, “hire and reward” does apply. The driver of the vehicle **must** have the correct licence.
- From **immediate effect**, where workers are transported in panel vans, rather than minibuses, and where the vehicle is adapted to carry nine or more passengers, the vehicle must meet all the requirements of a PSV. If the vehicles are adapted to carry nine or more passengers then they should comply with schedule 6 and 7 of the Road Vehicles (Construction and Use) Regulations 1986. Side facing seats are permitted but the seats should be at least 40cm wide (that is across the cushion).

If the GLA identifies non-compliance with this standard on inspection, then the transportation of workers must stop immediately unless a suitable vehicle and / or driver is used instead. Please note, if the GLA is accompanied by the Police or VOSA, then they may also issue a prohibition notice or other restrictions on the vehicle.

Licensing standard 6.9

Licensing standard 6.9 requires “documentary evidence that all vehicles used by the labour provider for transporting workers are appropriately registered with the DVLA or the country of origin, have a valid vehicle licence (tax disc), MOT certificate (if required) and insurance”.

Vehicles classified as “for hire and reward” **must** have valid insurance. We have identified a number of cases where the insurance specifically excludes use for hire and reward. In such cases, workers cannot be transported as there will be no valid insurance cover.

Licensing standard 6.8

Licensing standard 6.8 states “labour provider’s vehicles are being maintained and that there are no obvious / identifiable serious safety defects”. As set out in the last edition of Licensing News (February 2008), we apply two common sense tests when looking for obvious and identifiable defects:

- Is there evidence through MOT and maintenance records that the vehicle is maintained? Vehicles without proper insurance or MOT cover will be considered a danger to workers.
- Would you feel safe travelling in the vehicle? For example, there must be no obvious problems such as no seatbelts or unsafe seats / doors.

We have uncovered unacceptable practices: loose or unfixed seating, rear doors welded shut or otherwise impeded from being opened from inside or out, no seat belts, seats removed or no seats at all so that it becomes unclear whether the vehicle should be treated as a Public Service vehicle. Enforcement agencies (Police, VOSA) accompanying GLA officers on joint operations, may in such cases choose to issue prohibition or inspection notices. In any event, GLA officers will insist that any faults are immediately rectified or that the vehicle is decommissioned immediately from use for transporting workers. Non compliance with this standard means your GLA licence may be revoked with immediate effect.

These photos show the types of vehicle the GLA considers to be unacceptable for transporting workers:



For further guidance, please see VOSA’s website: www.vosa.gov.uk. Alternatively, please contact the GLA on 0845 602 5020.

Identifying GLA Inspectors

Please note all GLA Inspectors carry identification and will show it at the start of any visit. If you would like further confirmation, please ring the **GLA Helpline on 0845 602 5020**.

Rolled-up holiday pay

Following a European Court of Justice (ECJ) judgment on 16 March 2006 and more recent judgments in UK courts, Rolled-Up Holiday Pay (RHP) is considered unlawful and payment for statutory annual leave should be made at the time when leave is taken. From immediate effect, the GLA will fail licensing standard 2.9 if we identify evidence of RHP.

For further information, please see BERR’s website: www.berr.gov.uk/employment/employment-legislation/employment-guidance/page28979.html#paid_annual