

PUBLIC PROTECTION AT RISK FROM ILLEGAL OPERATION OF LIMOUSINES

1.0 INTRODUCTION TO THE NATIONAL LIMOUSINE ASSOCIATION (UK)

The primary objective of the National Limousine Association UK (NLA) is to bring together professional chauffeured car services under a single organisation to establish a high standard of service and conduct throughout the industry for the benefit of the public.

We wish to ensure that the growth of the limousine industry is carried out in such a way that places trust in operators by the public. They should be secure in the knowledge that NLA membership means they are using a reputable service that abides by regulations, uses only rigorously maintained vehicles driven by a fully trained chauffeur.

When members join they are obliged to agree to NLA's standards. These include:

- To uphold NLA's standards of honesty, integrity and responsibility
- To provide a service of proved quality and reliability
- To abide by the code of practice, including conduct on referrals, cross-hires and 'ownership' of clients

Membership of the NLA currently stands at about 250, representing some 10% of the industry. This figure could quite easily be in the thousands if we were prepared to ignore the laws of the land. Our membership ceiling is restricted due to our strict code of ethics and the need for our members to comply with the law

The NLA is in the process of establishing a register of chauffeurs for members and their staff, to ensure the ability of individuals to drive different types and sizes of vehicles. The register will check that the chauffeur has been the subject of a Criminal Records Bureau (CRB) check, and establish renewal dates for future examinations.

The majority of operators who do not join the NLA do so because they are unwilling to be constrained by rules that reduce their earning potential - even if their customers' lives are put at risk in the process.

Given that NLA members abide by the law, they are aggrieved at the growing numbers of companies taking work away from the legal operators due to inefficient enforcement of outdated rules.

2.0 INDUSTRY BACKGROUND

A limousine is generally a luxury motorcar with an enclosed body and partition behind the driver - usually a chauffeur. Stretch limousines offer affordable entertainment for hundreds of thousands of people every year, seeking a touch of glamour to an important occasion, such as a wedding, a hen night, or formal balls. Increasingly they are also being used by children for events such as birthday parties and school proms.

There are currently around 10,000 stretch limousines operating in the country owned by between 4-5,000 companies. The large majority of these are owner-drivers with only one vehicle each. There are about 400 companies with a fleet of vehicles.

Growth in the industry is exponential. At the start of 2003 there were some 3,000 limousines, at the start of 2004, some 5,000 and at the start of this year some 7,000. It is estimated that by the end of this year there are likely to be about 11,000 with a 50% expansion rate per annum likely to continue over the coming five years. Once a minor market for use by the rich and famous only, the industry is now a major contributor to the leisure sector, worth around £200 million a year in turnover.

A recent tendency has seen the importation of large American limousines including the Jeep and Humvee types which can have a capacity of up to 28 people.

The result has been that very many operators now carry more than the legal limit of 8 passengers.

3.0 CURRENT REGULATORY BACKGROUND

At present limousines and chauffeur driven vehicles operate under a mixture of existing laws. Lack of uniformity re: legislation & regulation throughout the UK

3.1 Local Government Miscellaneous Provisions Act 1976

The current private hire licensing rules mainly emanate from the Local Government Miscellaneous Provisions Act 1976. These rules are now 29 years old and have to be used in a way never intended at the concept, and on a variety of vehicles that were virtually unheard of at that time.

The 1976 Act was designed to cover the area of private hire vehicles as the public knows and envisages them. The government of the day decided that each Local Licensing Authority should be given a relatively free hand in how they administered the rules and it allowed them to apply their own thoughts on suitability of models of cars, age, colours and badging.

Limousines carrying up to eight passengers may be licensed under the PHV regime. but only about half of the 404 local licensing authorities do. Currently, the rest will not licence limousines despite being urged to do so as a means of regulating the local trade.

3.2 Public Service vehicle (PSV) Licence and COIF

To carry more than eight passengers for hire, a vehicle has to have a PSV operator's licence and the driver must have passed the test to acquire a PSV licence.

A series of regulations regulate the construction of public service vehicles (PSVs) under which vehicles must have either:

- A certificate of initial fitness
- A certificate of conformity

A PSV with more than 8 passenger seats (excluding the driver) cannot legally be used for carrying passengers on the highway until it has been issued with a Certificate of Initial Fitness (COIF). This includes all buses, coaches and minibuses that carry passengers for hire and reward. The COIF is issued by a Vehicle and Operator Services Agency (VOSA) certifying officer when the vehicle meets all the relevant PSV requirements.

This shows that they have been built to specified public service vehicle standards. There are two sets of rules, one for minibuses with between 9-16 seats, and one for larger vehicles that have more than 16 seats.

Vehicles must be maintained in a mechanically sound condition. They must be tested annually at a VOSA testing station to make sure they still comply with the specified standards. There is a special MOT test for PSVs.

The Public Service Vehicles Accessibility Regulations 2000 require PSVs with more than 22 seats to comply with certain accessibility measures and must comply with strict Euro 3 emission standards the more stringent Euro 4 by 2006.

3.3 Restricted PSV Licence

Many limousine owners operate under a restricted PSV licence granted by the Traffic Commissioners for vehicles carrying up to eight people. The vehicles have to be checked for safety every ten weeks and maintain up to date service records. Limousine companies can only hold two restricted PSV badges and for owners, this should be only a part time occupation.

3.4 15 Mile Rule

Limousines holding a PSV licence are covered for hire under section 265 of the Transport Act (2000) intended to prevent PSV vehicles competing with local private hire vehicles. However, to be able to operate for hire the current minimum journey for a single limousine party is set at 15 miles from the start to first stopping or dropping off point.

This rule often makes it impractical to operate a limousine properly, and often forces limousine owners to make unnecessary detours, damaging industry profitability together with the environment. More often the regulation is openly flouted as recognised by the Traffic Commissioners who do not enforce it.

3.5 Contracts

Under an exemption clause in the Local Government Miscellaneous Provisions Act 1976 vehicles may operate for hire under a contract between the customer and the hirer. Many owners use this facility where the local authority does not licence limousines as a means of staying within licensing regulations. The contracts have never been tested in law despite having been challenged on a few occasions.

4.0 FAILURE OF REGULATIONS

Only five years ago, nearly all limousines abided by regulations. However, as the number of large stretch style limousines has increased, so has the percentage of operators who are willing to flout the law. It is now estimated that about 50% of the limousines currently in use operate illegally.

The current and common easily identified breaches of the law include: -

4.1 Carrying More Than Eight Passengers

Under the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981, no vehicle is currently allowed to carry more than 8 passengers unless it has either a certificate of conformity, or a Certificate of Initial Fitness. Local authority licensing only applies to vehicles carrying up to eight people.

To contravene the PSV regulations is a schedule 3 offence and carries a fine of up to £3,000. More seriously, it exposes the service user to financial as well as physical danger, as such vehicles are uninsurable.

At present there is not a single American manufactured, stretched limousine over a capacity of eight that complies with this rule, as they have not been issued with a COIF. As a result many of these regularly carry more than eight people and it is not at all uncommon for them to carry 16 or more people. Some have the capacity to carry up to 28 people.

Because the public are unaware of the 8 passenger rule, undue pressure is often placed on limousine owners by customers who have a party of 9 or more and who want to keep it complete.

Law abiding operators have to explain the law and more often than not lose the custom to a competitor who is happy to flout regulations. A number of unscrupulous operators will happily blind the public to the law and not inform them of the regulation and the implications for insurance that this also carries.

4.2 Inadequate Insurance Cover

Some limousines and unusual vehicles may only be covered for wedding hire and are being used outside the terms of insurance.

4.3 Poorly Maintained Vehicles

A number of the imported American stretched limousines are built to a high safety specification, such as those built in conjunction with Ford's QVM (Quality Vehicle Manufacturer), and Cadillac's CMC (Cadillac Master Coach) programmes.

However, there are other vehicles that are either not built to these standards, or were built before the advent of the schemes. This does not automatically mean that they are poorly constructed; but these vehicles are not checked on arrival in the country and go straight onto the roads. In theory, and probably practice in some cases, they could be vehicles that have been welded together. Many of them do not have seat belts for all the occupants either as many sit sideways.

In all cases, American stretched limousines are highly stressed because of their dramatically increased weight when compared with traditional limousines. Particular care and regular maintenance are needed to ensure safety standards are maintained in steering, brakes and the suspension. The current yearly MOT test is not thorough enough.

4.4 PHV Licences Not Appropriate

Where local authorities do licence limousines, sometimes the stipulations they impose make it difficult for them to operate as they should do and therefore do make it an attractive option and encourage operators to operate without a licence. For example, local regulations may stipulate that luxury or stretch limousines have to be covered in unsightly private hire badges, plates and door stickers. Such material is not conducive to business. These are usually required to prevent PHV cars plying for trade on the streets, something that limousines are unlikely to do.

The diversity in the regulations applied by councils produces a myriad of rules which limousine owners have to comply with to obtain a PHV licence. Limousines will operate across local authority boundaries and may not be required to have a plate in the authority where they are based but may pick up passengers in another area where a licence is required.

If local authorities will not licence a limousine for any reason, there is no right of appeal

4.5 PSV Licences Not Granted

Imported, stretch limousines may be awarded PSV licences but in effect most will not comply with the requirements for vehicle safety due to design features such as the lack of gangways, lack of fire exits, not meeting minimum headroom and the range of electrical items and glass present in many vehicles. Consequently VOSA refuses to grant them COIFs. This means that limousines carrying more than eight people are not covered by any regulatory or licensing regime, and are in effect operating outside the law.

4.6 Lack of Chauffeur Regulation

Allied to the issues surrounding the capability and capacity of limousines is the blossoming business of chauffeur driven vehicles of all types. These provide an altogether different sort of service to taxis and private hires, ranging from stretch limousines, through exotic cars to corporate travel.

The suitability of an individual to drive a limousine in terms of training, experience and personal record, is taken for granted by the customers. Unless they have been on a chauffeur's course or acquired a recognised advanced driving qualification (such as through IAM or ROSPA) there is nothing to attest to their abilities to drive a large vehicle, other than a regular driving licence

Chauffeurs who carry out all types of work from children's parties to hen nights, to aiding the elderly, should be the subject of proper scrutiny. For the industry's sake it is necessary to reassure the paying public that the vehicle they travel in is being driven by a decent member of society and preferably one competent to drive an unusual type of vehicle.

The establishment of the NLA chauffeur register has not been assisted by the body governing criminal records, which stated that it was not necessary for chauffeurs to undergo checks, unless it was proven that they would be working with vulnerable groups.

As the chauffeur driven trade increases rapidly, it is now the time to address any workforce problems, before they get out of hand and lead to a serious incident taking place due to a driver-led accident or due to a vulnerable person being endangered.

5.0 ENFORCEMENT OF CURRENT LAWS

Although regulations exist to prevent illegal operation of limousines, the fact that they are so routinely flouted is because of lack of enforcement and mild penalties where offenders are caught.

With the lack of consistency in the application of PHV licensing by local authorities and PSVs generally being enforced through VOSA it is not surprising that police officers are unsure of the rules governing limousines and chauffeur driven cars, leading them generally to shy away from confronting and charging drivers operating illegally. This means that the majority of limousines operating outside the regulations will never be stopped by the police.

The police need educating about current regulations and be urged to pro-actively enforce them as a deterrent to those breaking the regulations and putting the public at risk.

The staff of the Vehicle Inspectorate, part of VOSA, are responsible for the enforcement of the PSV licence. Unfortunately, VOSA staff generally only work Monday to Friday during the daytime, unless there is a specific case warranting overtime. This means cover is fatally weakened when the majority of limousines are in use, during evenings and weekends. As effective prosecutions can only be

brought when offences are identified with the vehicle in use, this means that there is very little enforcement of the regulations. The presence of VOSA on weekends has been increased, but additional funding is needed to provide effective cover and a disincentive to break the law.

The minority of local authorities that do licence limousines generally do not enforce them and they should be more active in doing this.

5.1 The Courts Need to Send a Message to Offenders

The courts need to deal sternly with offenders. Only when magistrates treat the offences as serious breaches, especially considering lives are at risk, and deal out serious punishments such as heavy fines or disqualification, will companies reconsider their operation policy. At present, minimal fines are handed down which do little to deter unscrupulous operators who will risk these in the interest of making greater profits.

5.2 Spotting Defective Vehicles

Identifying defective vehicles is best left to the Vehicle Inspectorate, as the majority of police officers would not be expected to have the specialist knowledge needed to spot a dangerous limousine or chauffeur-driven car.

The Inspectorate needs to carry out more random checks on limousine fleets, with advice being made available to the police and service-users on how to check a vehicle is roadworthy.

5.3 Insurance

Although limousines will carry an insurance policy, in effect it is likely that insurers would argue against paying out any claims where a vehicle was working without an appropriate licence and was overloaded. This means that probably in about half the usage of stretch limousines passengers are not covered and neither is the driver nor any third party involved. Given the government's recent moves to crack down on uninsured drivers this is an area that urgently needs addressing.

The Government should intervene to forbid the granting of insurance policies for limousines carrying more than 8 passengers without the requisite authorisation. This would be a simple and effective way of dramatically cutting the number of unlicensed and overloaded limousines on the roads, as operators would be concerned about the financial and criminal implications of any accident.

Where owners of exotic or luxury cars are operating them outside of their declared usage, such as for wedding hire) they equally will be uninsured and a yearly check on the type and validity of insurance on all vehicles carrying paying passengers must be introduced to negate this occurrence.

Otherwise, this issue will only come to light when there is a serious accident involving fatalities.

5.4 Public Education

Not surprisingly, the public are completely ignorant of the rules. Individuals cannot make informed decisions on limousine use unless they are well informed, and a media campaign needs to be undertaken which facilitates customer being able to ask appropriate questions when booking a limousine.

6.0 NEW LEGISLATION NEEDED TO ADDRESS PROBLEMS

Given the significant growth in the industry, the time has come for new, specific legislation that addresses the requirements and problems of today's diverse range and use of vehicles. Changes and new regulations are needed now before the market becomes swamped with larger unregulated limousines, and before legal operators either cease trading, or are forced by market pressures to join the unauthorised ranks.

Whilst we accept that local authorities keep control of traditional taxi and Private Hire licensing, there is a need for a new set of standard rules to apply across the country to ensure simplicity, understanding and compliance.

6.1 Working Party

To ensure there is no knee-jerk reaction, a working party needs to be established with representatives from VOSA, the Police, the NLA and the Traffic Commissioners, to recommend new, workable regulations in a considered manner and having gone out to consultation.

Reviews are already underway on private hire vehicles in both England and Scotland, so now is as an appropriate time to strengthen chauffeur trade rules.

6.2 Single, Clear Licensing Regime for Limousines

The NLA is not seeking to change the Local Government Miscellaneous Provisions Act 1976 or to alter the provisions for Weddings, Funerals or written contracts.

We are simply requesting the establishment of a new set of rules to accommodate the types of vehicles and services provided.

Consideration needs to be given to the following businesses, and how a new set of rules could most appropriately deal with them:

- American stretch limousines
- Chauffeur driven executive cars
- Fire engine limousine
- Classic cars used for special occasions (excluding weddings or funerals) e.g. hen nights and proms.

We would ask that consideration be given to the establishment of two new categories for the American stretch limousines.

- The first for up to and including 8 passengers
- The second with a revised set of requirements for a COIF (Certificate of Initial Fitness) for up to 16 passengers, acknowledging that the vehicles will not conform with existing rules, but also bringing them within the framework of the law.

We would also request a clear and simple form of national licensing for chauffeur driven executive cars along the same lines. This is seen as being of paramount importance in view of the conflicting requirements of local authorities, and the problems of cross border hires.

6.3 Chauffeurs - Criminal Checks, Training and Driver Hours

The NLA supports the need for all chauffeurs to be subject to CRB checks for the protection of the passengers, and in particular the more vulnerable groups such as young children and unaccompanied females.

We would also support the legal requirement for chauffeurs to undergo formal training in both driving and customer skills to ensure that the service to be provided would be of the requisite level and that core competence was established.

There should also be a limit set for driver hours, in the same way that PSV bus drivers are governed. Tired drivers are unsafe drivers in any form of transport.

New legislation should be vested in the hands of regional Traffic Commissioners under PCV (Passenger Carrying Vehicle) rules to ensure clarity and effective redress where appropriate, instead of further empowering local authorities, which will add to confusion.

7.0 CONCLUSION

The key dangers with illegal and un-policed limousines are: -

- Overloading
- Inadequate insurance
- Poor maintenance
- Unregistered drivers
- Lack of adequate driving skills
- No CRB checks
- A poor understanding of the rules by the public and the police

Meetings have been held by NLA with many of the Traffic Commissioner areas, including notable high profile ones in Benfleet in 2002, and in Bristol in 2005. Despite these, nothing tangible has arisen as yet regarding changes to the current situation.

It is in the interest of the Government, the industry, the legislative authorities and, not least, the protection of the public, that this matter is treated seriously by producing a new and workable set of rules that would be applied nationally.

The worry is that we wait until the day arrives when an overloaded, poorly maintained, and inadequately insured vehicle is involved in a serious accident, possibly including children. If this is the case, it is likely we will end up with a hastily and ill-conceived set of rules based on a knee jerk reaction.

Instead, the process to prepare new regulations needs to start now so that they can be implemented as soon as possible and in the meantime action must be taken to strengthen enforcement of current regulations.