

January 2016

Member Brief No. 149

Vehicle Insurance for Labour Providers

Introduction

This ALP Brief replaces Brief 105 and provides updated guidance to members regarding insurance of vehicles used for business purposes and the transport of workers.

What are the GLA Licensing Standards requirements?

The GLA Licensing Standards which apply to vehicle insurance are:

LS 1.1 Critical - Fit and Proper - The licence holder, Principal Authority and any person named or otherwise specified in the licence must at all times act in a fit and proper manner.

LS6.4 Critical – Transport - A vehicle used by the licence holder to transport workers must have appropriate insurance, including cover for all circumstances of hire or reward regardless of the size of the vehicle,

Following submissions by the ALP, the GLA in July 2012 updated its position on vehicle insurance in [GLA Brief 21](#) as follows:

“Licensing Standard 6.4 does not require insurance to expressly include cover for “hire or reward” rather it makes clear that vehicles used to transport workers must be appropriately insured for the way they are used.

Licence holders should notify their insurance provider in writing that the vehicle is used to transport workers. Keeping a copy will help prove compliance with Standard 6.4. Please be aware, the GLA may require written confirmation from an insurance provider that the policy coverage is appropriate.

If a licence holder misleads its insurance provider or uses a vehicle not in accordance with its insurance, Standard 6.4 is likely to be breached and the licence may be revoked. The GLA may also consider failing Standard 1.1 on the grounds the business is not fit and proper to hold a licence.”

This is a pragmatic position that focuses on the insurance provider being aware of how the vehicles are used and that passengers are covered in the event of injury.

What insurance is required?

As a labour provider you are responsible for ensuring that the correct cover is arranged for your vehicles. The ALP recommends that when buying insurance:

- Labour providers should make it clear to the insurance provider what they intend to use vehicles for and specifically the arrangements for transport of passengers.
- The labour provider should confirm this in writing to the insurance provider; and
- Vehicles should be used in accordance with this.

Generally where an employer transports his workers this is not considered to be “hire or reward”. However, the courts ruled in Regina v Angel Human Resources (Southampton Crown Court, 25 March 2003) that for labour providers the fee charged to labour users must be regarded as taking into account transport costs as follows: *“on the grounds that the fee charged to labour users must take into account transport costs. It makes no difference whether the workers are charged for the transport or not or indeed whether there is any differences in the charges made to those customers to whom workers are transported and those to whom workers are not transported.”*

Many insurance providers do not consider that hire or reward insurance is required for the transport service labour providers offer to their workers. In any regard under the Road Traffic Act there is a requirement to cover injury to passengers, whether work related use or not, due to the negligence of the driver/user of the vehicle. Therefore, a motor insurance policy would always provide cover to indemnify the policyholder in respect of third party injury to the passengers. This is a compulsory requirement of the Road Traffic Act and may, therefore not be specified on the insurance schedule.

The following table provides a number of scenarios regarding the use of vehicles by Labour Providers and considerations when describing their use to Insurance Providers:

Transport Arrangement	Potential Insurance Requirement
Agency worker uses own car to take workers to work with labour provider’s knowledge but without any involvement by labour provider.	Depends on charging arrangements and scope of work. Business use required. Possible Hire or Reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Agency worker uses own car to take workers to work according to labour providers instruction.	Possible Hire or Reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider loans cars free of charge to workers to take other workers to work.	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider hires cars at a charge to agency workers to take other workers to work.	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider’s staff member uses own car on labour provider business but not transporting workers.	Business use insurance is required. Advise staff member to contact their insurance broker to ensure appropriate motor insurance cover.
Labour provider’s staff member uses <u>own car</u> to take workers to work without labour provider’s knowledge or against instruction.	Business use insurance required. Confirm with insurance broker that employer’s liability provides appropriate cover.
Labour provider’s staff member uses <u>company car</u> to take workers to work without labour provider’s knowledge or against instruction.	Company should be aware of use of vehicle and is responsible to arrange adequate insurance. Possible Hire or Reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider’s staff member uses <u>own car / company car</u> to take workers to work with labour provider’s knowledge or according to labour provider’s instruction.	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider transports workers to work free of charge or at separate fares in own / hire cars / MPVs with 8 or less passenger seats.	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider transports workers to work free of charge or at separate fares in own/hire vans adapted to have 9 or more passenger seats	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.
Labour provider uses 3 rd party to transport workers at separate fares / free in own / hire cars / MPVs / minibus.	May be considered to be hire or reward. Confirm with insurance broker that motor insurance and employer’s liability provides appropriate cover.

What are the legal requirements?

Section 145 of the [Road Traffic Act 1988](#) states in respect of policies of insurance:

- (1) In order to comply with the requirements of this Part of this Act, a policy of insurance must satisfy the following conditions.
- (2) The policy must be issued by an authorised insurer.
- (3) Subject to subsection (4) below, the policy— (a) must insure such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person or damage to property caused by, or arising out of, the use of the vehicle on a road in Great Britain.

Section 1(5) of the [Public Passenger Vehicle Act 1981](#) defines “Hire or reward” and provides that:

- (a) a vehicle is to be treated as carrying passengers for hire or reward if payment is made for, or for matters which include, the carrying of passengers, irrespective of the person to whom the payment is made and in the case of a transaction effected by or on behalf of a member of any association of persons (whether incorporated or not) on the one hand and the association or another member thereof on the other hand notwithstanding any rule of law as to such transactions;
- (b) a payment made for the carrying of a passenger shall be treated as a fare notwithstanding that it is made in consideration of other matters in addition to the journey and irrespective of the person by or to whom it is made;
- (c) a payment shall be treated as made for the carrying of a passenger if made in consideration of a person’s being given a right to be carried whether for one or more journeys and whether or not the right is exercised.”

What can you do?

The ALP’s Insurance partner, AT&A offers a FREE Motor Insurance checking service. To take advantage of this service:

1. **Call 01473 727 800 or email: alp@ataib.co.uk** and ask for your FREE MOTOR INSURANCE VALIDITY CHECK.
2. Provide the details of your current insurance as requested.
3. AT&A will advise you whether or not you are correctly insured

Insurance partner Andrew Thompson & Associates (AT&A) works closely with the ALP to understand members’ specific business risk requirements under changing legislation and initiatives. AT&A will critique members’ current arrangements and will work hard to provide comprehensive cover at reasonable prices. AT&A can draw on a vastly experienced team to provide specialist insurance cover and risk management advice for ALP members.

AT&A’s motor insurance solution is geared to help ALP members purchase competitively priced fleet insurance which can be a mix of business vehicles including minibuses and personal cars. Fleet insurance will provide the correct business use for members including carriage of passengers for hire and reward and also delivers the benefits of consistency of pricing, excess, cover terms and conditions and a first class claims service.

Please note that this document is not exhaustive and is not intended to be used as a substitute for legal advice. To the fullest extent permissible by law, ALP and its advisors hereby exclude all liability for any claim, loss, demands or damages of any kind whatsoever (whether such claim, loss, demands or damages were foreseeable, known or otherwise) arising out of or in connection with the use of any of these documents and/or the information, content and/or advice included within these documents.
