

Taxi Licensing Law: The Uber Mobile Application, Private Hire Drivers & Plying for Hire

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On the 24th January 2019 the High Court considered the case of **Reading Borough Council v Ali [2019] EWHC 200 (Admin)**.

It was tasked with answering a question which has been broadly banded around since Uber, and similar intermediaries, first entered the private hire UK market in 2012. Namely, **do mobile applications ‘ply for hire’?** If they do, without overstatement, any private hire drivers using it would be open to prosecution. Indeed this is the very situation Mr Ali faced when he was charged with the offence of ‘plying for hire without a licence’ (contrary to section 45 Town Police Clauses Act 1847) by Reading Borough Council (“Reading BC”).

Mr Ali, a licensed private hire driver with Transport for London (“TfL”), had been awaiting notification of a new booking through the Uber mobile application. He was parked lawfully, the vehicle did not have any markings indicating it was for hire nor did Mr Ali seek to attract attention. Despite these circumstances, Reading BC alleged the **visible display of his vehicle as an icon on the mobile application constituted, in effect, ‘plying for hire’**. This view was rejected by the Magistrates Court and Mr Ali was acquitted. Reading BC appealed to the High Court.

The High Court, agreeing with the earlier decision, decided it did **not** amount to ‘plying for hire’. Lord Justice Flaux, in giving judgement, cited three key reasons:

- (1) No **exhibition of the vehicle** had occurred which, expressly or implicitly, invited members of the public to hire the vehicle (at paras. 33-34).
- (2) No relevance is given to the **contractual relationship**, as stated in Uber’s terms and conditions, of Mr Ali acting as principal to a given passenger. The booking is received and processed through Uber, a licensed private hire operator, prior to Mr Ali (at paras. 35-37).
- (3) No question arose of Mr Ali soliciting custom whilst he was waiting for a booking. The **character of the waiting** was therefore not consistent with plying for hire (at paras. 38-39).

In dismissing the appeal, Lord Justice Flaux further stated it could not be ‘plying for hire’ because (a) the **“...identity of the vehicle could not be seen from the App...”**, (b) **“...the specific vehicle could not be booked...”** and (c) **“...the App merely informed Uber customers who wished to book a private hire vehicle that there were such vehicles in the vicinity...”** (at para. 41). The High Court also refused permission for an appeal to the Supreme Court.

Undoubtedly, this decision sheds some light on a contentious issue. It suggests showing vehicles on such mobile applications cannot amount to ‘plying for hire’. The decision in this matter is however, narrow in its consideration of the facts. What if, for example, a vehicle was parked close to a rank or the signage displayed contact details? Would the court decide differently? Its possible. For that reason, in the absence of statutory reforms, further case law may be needed.