

Private Hire Licensing Law: The London Congestion Charge, Removal of Private Hire Vehicle Exemptions & Discrimination



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On the 10th July 2019 the High Court began hearing the case of **R (Independent Workers' Union of Great Britain & Others) v The Mayor of London & Transport for London [2019] EWHC 1997 (Admin)**.

It was tasked with reviewing a **decision to remove the congestion charge exemption for private hire vehicles** (excepting wheelchair accessible vehicles) in London. The decision was **given effect by Transport for London** on 29th June 2018 (*Greater London (Central Zone) Congestion Charging (Variation) Order 2018*) and **confirmed by the Mayor of London** on 19th December 2018 (*Greater London (Central Zone) Congestion Charging (Variation) Order 2018 & Greater London Low Emission Zone Charging (Variation) (No.2) Order 2018 Instrument of Confirmation 2018*). Implementation took place on **8th April 2019**.

The challenge was, primarily, brought on the grounds such a decision was contrary to the **Equality Act 2010** and **European Convention on Human Rights (ECHR)**. These, as discussed by Mr Justice Lewis (at para. 64), included alleged contravention of the:

- (1) **Protection from Indirect Discrimination** (section 19 Equality Act 2010);
- (2) **Right to Respect for Private & Family Life** (Article 8 ECHR);
- (3) **Protection from Discrimination** (Article 14 ECHR);
- (4) **Entitlement to Peaceful Enjoyment of Possessions** (Article 1 of First Protocol of ECHR).

It was submitted, and accepted, that a high percentage of private hire drivers are from **black, Asian or minority ethnic (BAME)**

backgrounds and that a similar proportion of part-time private hire drivers are **female**. Accordingly, it was contested the Mayor's decision had a **detrimental impact on the above rights, protections and freedoms** of those groups.

The court rejected, in a lengthy discussion (at paras. 65-123), the challenge and gave the following judgement (at para. 124)-

"The removal of the exemption from the congestion charge for private hire vehicles does not involve any discrimination within the meaning of section 19 of the 2010 Act as the defendant has shown that it is a proportionate means of achieving a legitimate aim, namely the reduction of traffic and congestion within the [congestion charge zone] without reducing the number of designated wheelchair-accessible vehicles. The amendments to the Scheme are compatible with, and involve no breach of, Articles 8, and 14 and [Article 1 of the First Protocol] ECHR. For those reasons, this claim is dismissed."

Mr Justice Lewis acknowledges (at para. 22) there may be scope for an appeal, on a different application of section 19 Equality Act 2010, and indeed, at least broadly speaking, this has been publicly stated as an intention by the Independent Workers' Union of Great Britain. The present decision is therefore **pending appeal** and, potentially, the final outcome remains in the future.

If you want to check how you are affected by the above issues or any other Licensing Law matters, please contact Travis Morley Associates now on 01159 724928 or visit their website at www.travismorley.co.uk.

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