

**BRIGHTON & HOVE CITY COUNCIL**  
**LICENSING PANEL (NON LICENSING ACT 2003 FUNCTIONS)**

**10.00am 13 MAY 2019**

**ROOM G91**

**MINUTES**

**Present:** Councillors; O'Quinn(Chair), Deane and C Theobald

**Officers:** Jim Whitelegg, Regulatory Services Manager; Alex Evans, Licensing Officer; Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer.

**PART ONE**

**1 TO APPOINT A CHAIR FOR THE MEETING**

1.1 **RESOLVED** - That Councillor O'Quinn be appointed as Chair for the purposes of the meeting.

**2 PROCEDURAL BUSINESS**

**2a Declaration of Substitutes**

2.1 There were none.

**2b Declarations of Interest**

2.2 There were none.

**2c Exclusion of Press and Public**

2.3 In accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2003, the Licensing Panel considered whether the public interest in excluding the public and press from all or any part of the hearing outweighed the public interest of the hearing taking place in public.

2.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

**3 APPLICATION FOR A NEW PRIVATE HIRE OPERATOR LICENCE - OLA UK PRIVATE LIMITED**

3.1 The Panel considered a report of the Executive Director, Neighbourhoods, Communities and Housing requesting that they consider and determine an application received from

Ola Private Limited with an office based at Queensbury House, 104-109 Queen's Road, Brighton BN1 3XF for the grant of a Private Hire Operator's Licence under the Taxi and Private Hire Vehicle (PHV) legislation: which had been made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 ( the 1976 Act). Ola was a registered company whose head office was located at 1 Primrose Street, London, United Kingdom EC2A 2EX. Mr Karl Lutzow, Operational Director of OLA was in attendance on behalf of the applicant's in order to respond to any questions or matters of clarification required by the Panel and to speak in support of their application.

### **Introduction from the Licensing Officer**

- 3.2 The Licensing Officer explained that each Licensing Authority was empowered to set its own licensing objectives as long as they were considered to be reasonable within the terms set by the legislation. Brighton and Hove City Council's licensing objectives were set out as follows:

"The council will adopt and carry out its Hackney Carriage and Private Hire Licensing functions with a view to promoting the following licensing objectives:-

- The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public.
- The safety and health of the public and drivers.
- Vehicle safety, comfort and access.
- Encouraging environmental sustainability.

In promoting these licensing objectives, the council would expect to see licence holders and applicants continuously demonstrate that they could meet or exceed specifications set by the council in the four licensing objectives, those objectives would need to be taken account of by the Panel when making its decision.

- 3.3 OLA UK Private Limited intended to operate an APP based booking platform for providing transportation services through private hire vehicles and hackney carriage vehicles on their platform. OLA UK Private Limited is one of the group companies on ANI Technologies Private Limited, which was a technology company providing an online platform for Taxi/Private Hire services based out of India. ANI Technologies operated under the brand name "OLA" and had a presence in more than 110 cities in India. OLA had successfully launched its operations in Australia and was desirous of expanding its operations in the UK. As of August 2018, OLA had begun its operations in South Wales, the Bristol area and across the Midlands and Northern England.
- 3.4 OLA had put forward a Memorandum of Understanding on a voluntary basis regarding out of town drivers, there had been issues across the city in consequence of out of town drivers working in the city who had not had to meet the same standards as drivers licensed in Brighton and Hove. As part of the Memorandum of Understanding they confirm that only Brighton and Hove licenced drivers and vehicles will be used under their Brighton and Hove Operators Licence, they have also stated that any out of town driver/vehicles that come into the City to drop off will only be permitted to complete a maximum of 2 pick-ups within a 24 hours period. The reason for this was to avoid one way drop offs and to optimise driver earnings. The proposed Memorandum of Understanding had been included with the papers submitted to the Panel. The Panel

were required to determine the application by the licence would be granted up to five years. If the Panel chose to refuse the licence, they needed to be satisfied that OLA were not a “fit and proper person” to hold an operator’s licence (as set out in s55 of the 1976 Act) and to give their reasons for the decision reached.

### **Representation by/on Behalf of the Applicants**

- 3.5 There were no questions on matters of clarification to the licensing officer and Mr Lutzow was therefore invited to make representations on behalf of the applicants and to respond to questions put by the Panel.
- 3.6 In answer to questions put by the Chair, Councillor O’Quinn, Mr Lutzow explained that Ola had been set up in India in 2011 and was now operating across the UK having established its operations in India and Australia. Currently Ola were operating in Glamorgan, Newport, Bristol, across Gloucestershire and in Liverpool. A licence had also been granted to operate in Birmingham in the last month. Councillor O’Quinn stated that Ola appeared to have been licensed by a number of authorities and sought clarification regarding the arrangements that had been entered into with those authority’s, for example had they entered into a Memorandum of Understanding with all of them.
- 3.7 Mr Lutzow stated that he did not have details of the specific arrangements entered into with each authority to hand although he was aware that in a number of instances Ola had entered into a Memorandum of Understanding where this had been required by any given authority. He explained in answer to further questions that none of the applications made by Ola had been refused. Stringent conditions had been required by Reading Council and Ola had been happy to meet them, had been granted a licence and were now operating there. Mr Lutzow confirmed that an application had been made to the area controlled by Transport for London (TfL), that application was currently being processed and the outcome of that application was awaited.
- 3.8 Councillor O’Quinn referred to the fact that a number of issues had been experienced in consequence of drivers who had been licensed elsewhere operating in the city and who had not needed to meet the requirements of the Brighton and Hove “Blue Book” operating manual. There had been particular problems in relation to TfL licensed vehicles which had operated in the city in the past and which had not needed to meet the same standards as vehicles licensed by this city council. Mr Lutzow confirmed that he had been made aware of this problem and on that basis the Memorandum of Understanding had been volunteered. In answer to further questions it was explained that licence applications had yet to be made to Lewes or Adur District Councils but that these were being actively considered.
- 3.9 Mr Lutzow further explained that their drivers tended to be licensed and to operate within the immediate area where they were licensed rather than to operate further afield or cross-border. The requirements of each individual licensing authority were met and in the case of vehicles operating in Brighton and Hove, they were likely to be locally based drivers and would be required to meet the requirements of the “Blue Book”.
- 3.10 In answer to questions by Councillor Deane the arrangements for passengers and drivers to be tracked were explained. Vehicles were also fitted with “safety” buttons

which would connect directly with the Police at need. These arrangements were very robust and had operated successfully in the Ola's other areas of operation. Clause 7 of the "Blue Book" was referred to and in respect of use of out of town drivers it was explained that the number of journeys would be limited to two and clarification of how/whether that could be effected in practice was discussed. The Legal Adviser to the Committee referred to the Memorandum of Understanding and the purpose behind it which was to seek to ensure that their driver's met the rigorous standards required by Brighton and Hove licensed vehicles.

- 3.11 Councillor Theobald referred to the other local authorities in the UK where Ola had been licensed and enquired regarding the period for which the licenses had been granted, whether they had been for the full five years or whether they had been for a shorter period. Mr Lutzow stated that in some instances these had been for 5 years in others it had been for a shorter period. Ola had no figure in mind currently as to their intended coverage across the UK but their intention was to grow to meet demand. Their operations in Australia and New Zealand were now established and as yet they had not made any other in-roads in Europe.
- 3.12 Councillor Deane asked regarding Ola's intention to use Wheelchair Accessible Vehicles (WAV's) and Mr Lutzow explained that they in they would meet the Council's "Blue Book" requirements in that respect. Councillor Deane also enquired regarding use of CC tv. Mr Lutzow outlined the arrangements for checking that drivers were suitable and had no convictions. It was explained that it was a requirement of the Brighton and Hove "Blue Book" that drivers had CC tv fitted and Mr Lutzow confirmed that Ola would comply with that.
- 3.13 Councillor Deane enquired regarding training provided to drivers and the regularity at which it was updated. It was explained this was currently by means of a video tutorial and that update training would be provided regularly. As/when the scale of operation had grown sufficiently trainers could be hired in. Councillor Deane referred to the number of students and other young people studying in the city and others who were vulnerable and the need for drivers to be sensitive to their needs. It was explained that the applicants were prepared to examine the content of this with council officers to ensure all necessary areas were covered.
- 3.14 Councillor O' Quinn referred to the Memorandum of Understanding regarding out of town drivers. As part of the Memorandum of Understanding Ola had confirmed that only Brighton and Hove licenced drivers and vehicles would be used under their Brighton and Hove Operators Licence, they had also stated that any out of town driver/vehicles that come into the City to drop off will only be permitted to complete a maximum of 2 pick-ups within a 24 hours period. The reason for that was to avoid one way drop offs and to optimise driver earnings.
- 3.15 Councillor O'Quinn, referred to the initiatives in place to encourage the use of electric powered vehicles and to the fact that charging points were being provided across the city. Councillor O'Quinn asked whether the applicants had any experience of electrical vehicle use and Mr Lutzow stated that these were widely used in India. Whilst this would be a matter be for individual drivers their use was likely to increase as such vehicles became more widely available and therefore cheaper to purchase.

- 3.16 The Chair thanked Mr Lutzow for his contribution and stated that the standards under which drivers operated in the city were stringent. The Licensing Authority and Members were anxious to avoid any diminution of those standards and needed to be persuaded that any applicant met the spirit of those as well as the letter. As part of that process it was possible that if an applicant had no operating history in the city the Panel might grant a licence for less than 5 years initially in order to enable that to be established.

### Summaries

- 3.17 Having listened to all of the points raised by the applicants in support of their application and the responses given to questions asked by the Panel and there being no further questions the Chair invited all to make their closing submissions. The Licensing Officer gave the following summary:

In reiterating that the Panel (Sub Committee) were being asked to determine this application they may:

Grant the Operator's licence for a 5 year period;  
 Grant the Operator's licence for a limited duration up to 5 years;  
 Grant the Operator's licence with such additional conditions as the Panel considered were reasonably necessary; or  
 Refuse the application which carried a Right of Appeal to the Magistrates Court.

It was noted that in order for the Panel chose to refuse the licence they needed to be satisfied that Ola were not "fit and proper person" to hold an operator's licence (as set out s 55 of the 1976 Act) and to give their reasons for the decision reached.

- 3.18 Mr Lutzow gave the closing submission on behalf of the applicants stating that they were willing to meet all of the condition required of them in meeting the requirements of the Council's Blue Book including those relating to wheelchair accessible vehicles once their fleet reached the trigger number and safeguarding training and any conditions as required.
- 3.19 Having read the submitted paperwork and having listened to the representations made by all parties and the responses given to any questions asked or matters on which clarification was sought the Panel then made their deliberations and took their decision.
- 3.20 The Panel's decision was as follows:

The Panel had read the report and the documents appended to it including written representations and the additional information provided by the applicants in advance of the hearing and had considered the legislative framework in respect of which the application by Ola had been made and which is set out below.

Legislative framework: Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act")

The Act states as follows:

**55. Licensing of operators of private hire vehicles.**

*(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:*

*Provided that a district council shall not grant a licence unless they are satisfied [-]*

*(a) that the applicant is a fit and proper person to hold an operator's licence; and*

*(b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.*

*(2) [Subject to section 55ZA, every] licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.*

*(3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.*

*(4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.'*

The key consideration for the Panel is therefore whether Ola are 'fit and proper' to hold an operator's licence. The principal aim of the test is to ensure that public safety is paramount.

The Panel has looked at this application on its own merits taking into account the specific facts and circumstances which relate to this application, and the particular circumstances prevailing in Brighton & Hove. In addition the Panel has considered the legislation outlined above and the objectives contained within the Blue Handbook for Hackney Carriage and Private Hire Drivers, Vehicles and Operators (The 'Blue Book') referred to below. The Panel has been able to question Ola regarding its operation and has taken into account issues raised in the 2 written representations.

Ola has put forward a memorandum of understanding concerning the use of out of town drivers and vehicles i.e. those licensed elsewhere and not by Brighton & Hove City Council. The panel and officers were able to question Ola about this memorandum and gain an understanding of how it would work in practice. Ola explained that the App would be configured in such a way as to ensure that no out of town driver could pick up more than twice in Brighton & Hove within a 24 hour period – the taxi would simply not be shown as available on the App and it would be possible to check this if necessary.

The Panel were reassured as to the office provision and telephone number, and other matters raised in the representations. The importance of CCTV as a mandatory condition was highlighted. The Panel canvassed with Ola a shorter licence period in order to monitor their progress and the working of the memorandum of understanding.

Ola were not opposed to this but requested that such period commence from the date they had actually launched their operation in Brighton & Hove.

### The Decision

The Panel considers that Ola meets the statutory definition of an operator and are a fit and proper person to hold an operator's licence pursuant to the 1976 Act. The decision of the Panel is to grant an operator's licence to Ola for the period of one year from the date that Ola launch their operation in Brighton & Hove. Ola are to notify the Regulatory Services Manager when this date is known. The shorter licence period is in view of the fact that Ola is a new global operator in the UK and in Brighton & Hove, and in order to monitor their operation and the working of the memorandum of understanding.

- 3.21 **RESOLVED** – That for the reasons set out above the application by Ola UK Private Limited based at Queensbury House, 104-109 Queen's Road, Brighton BN1 3XF for the grant of a Private Hire Operator's Licence under the Taxi and Private Hire Vehicle (PHV) legislation: which has been made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act) be approved and permission granted. The permission granted is to be initially for one year from the date at which Ola launch their operation in Brighton and Hove. Ola are to notify the Regulatory Services Manager when this date is known. The shorter licence period is in view of the fact that Ola is a new global operator in the UK and in Brighton & Hove, and in order to monitor their operation and the working of the memorandum of understanding.

The meeting concluded at 11.45am

Signed

Chairman

Dated this

day of