


Licensing Panel

(Non Licensing Act 2003 Functions)

Title:	Licensing Panel (Non Licensing Act 2003 Functions)
Date:	13 May 2019
Time:	10.00am
Venue	Room G79
Members:	Councillors: O'Quinn, Deane and C Theobald
Contact:	Penny Jennings Democratic Services Officer 01273 291214 greg.weaver@brighton-hove.gov.uk

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AGENDA

Part One

Page

1 TO APPOINT A CHAIR FOR THE MEETING

2 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

3 APPLICATION FOR A NEW PRIVATE HIRE OPERATOR LICENCE

5 - 44

Report of the Executive Director, Neighbourhoods, Communities and Housing (copy attached)

Contact Officer: Alex Evans
Ward Affected: All Wards

Tel: 0127329

LICENSING PANEL (NON LICENSING ACT 2003 FUNCTIONS)

NOTE: *There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chair reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.*

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291214, email greg.weaver@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Friday, 3 May 2019

**LICENSING COMMITTEE
(NON - LICENSING ACT
PANEL)**

Agenda Item3

Brighton and Hove City Council

Applicant:		Application for a new Private Hire Operator Licence	
Date of Meeting:		Ola UK Private Ltd	
Report of:		13 May 2019	
Contact Officer:		Executive Director of Neighbourhoods Community and Housing	
		Name: Alex Evans, Licensing Enforcement Officer/ Jim Whitelegg, Regulatory Services Manager	
		Alex Evans@brighton-hove.gov.uk/ Jim Whitelegg@brighton-hove.gov.uk	
Ward(s) affected:		Email:	Tel: (01273) 296658/292438
		All	

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 To consider the application from Ola UK Private Limited of office Queensbury House 104 - 109 Queens 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).

1.2 Ola is a registered company. Their head office is located at Ola UK Private Limited, 1 Primrose Street, London, United Kingdom. EC2A 2EX.

1.3 Each licencing authority is empowered to set its own licensing objectives as long as they are reasonable. Brighton & Hove City Council's licensing objectives are 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.

1.4 In promoting these licensing objectives, the council will expect to see licence holders and applicants continuously demonstrate they can meet or exceed

specifications set by the council in the four licensing objectives and the objectives will be taken into account by the council when making decisions.'

2. RECOMMENDATIONS:

2.1 That the Sub-Committee determine an application for the Grant of a Private Hire Operators (PHO) Licence under the Taxi and Private Hire Vehicle (PHV) legislation: namely, Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act).

2.2 Options

The Sub-Committee 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 consider reasonably necessary.
- Refuse the application. This carries a Right of Appeal to Magistrates Court

If the Sub-Committee chooses option 4 they must be satisfied that OLA are not "fit and proper person" to hold an Operator's licence (as set out in s55 of the 1976 Act) and give their reasons for the decision reached.

3. BACKGROUND

3.1 The Council Standard Conditions, which are contained in the Blue Handbook for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators 5th Edition which was approved by the Licensing Committee on the 29 November 2018, provide a minimum standard of expectation of Private Hire Operators Licensed within the City of Brighton and Hove.

3.2 All operator licenses usually run for 5 years, this licence, if granted, would therefore expire in May 2024

3.3 The Taxi Licensing Office received an application for a Private Hire Operators Licence on 6 December 2018 a copy of the application can be found at **Appendix A**

- 3.4 OLA UK Private Limited intend 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 is a technology company providing an online platform for Taxi / Private Hire services based out of India. ANI Technologies operates under the brand name “OLA” and has a presence in more than 110 cities in India. OLA has successfully launched its operations in Australia and is desirous of expanding its operations in the UK. As of August 2018, OLA has begun its commercial operations in South Wales, Bristol area, Exeter and areas in the Midlands and Northern England.

OLA put forward on a voluntary basis a Memorandum of Understanding regarding out of town drivers. 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 is to avoid one way drop offs and to optimise driver earnings. The proposed Memorandum of Understanding is attached at **Appendix A**

- 3.5 The legislation does not mandate the need for consultation in relation to the application for a grant of a private hire operator’s licence. However, the Licensing Authority allowed for a period 4 weeks for written representations.

Supportive representations – None received

Opposing representations – 2 representation one being a joint representation was received,

- GMB Southern Region Brighton & Hove Taxi Section (Andy Peters), Unite Union SE Region (Cab Section) – Sean Ridley
- George Beresford

A copy of these representations can be found in **Appendix B**

4 Identity of the Applicant

- 4.1 Specific DBS checks were supplied for the listed directors for Ola UK Private LTD as well as certificate of good conduct in relation to one Director.

5.0 **Inspections and complaints**

5.1 The licensing service has inspected Ola's Brighton & Hove offices on one occasion in 2019, the office is in the early stages of being set up.

6.0 Relevant Legislation for grant / renewal of an Operator's Licence

Local Government (Miscellaneous Provisions) Act 1976 (The 1976 Act)

provides:-

6.1 s55. 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.'

6.2 The Council thus has a statutory duty to grant the licence unless it considers that the applicant is not a fit and proper person to hold a licence.

6.3 The licence should be granted for a five year period unless there are specific reasons in the particular circumstances of the case that justify granting the licence for a shorter period.

6.4 Section 80 of the 1976 Act defines "operate" as follows:- "Operate means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle"

- 6.5 Section 46(1)(d) makes it clear that anyone acting as an operator must have an operator's licence: "(d) no person shall in a controlled district operate any vehicle as a private hire vehicle without having a current licence under S55 of this Act" and a local authority cannot grant a licence (s55(1)) "unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence". Ola UK Private LTD
- 6.6 A private hire operator (PHO) is the person who takes a booking for a private hire vehicle (PHV) and then dispatches a PHV driven by a licenced private hire driver (PHD) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority.

COMMENTARY ON THE TAXI LICENSING POLICY

7.0 Fit and proper in the Context of an Operator

- 7.1 The underlying purpose of this regulatory regime is "... to provide protection to members of the public who wish to be conveyed as passengers in a motor car provided by a private hire organisation with a driver" (St Albans District Council v Taylor [1991] RTR 400 at page 403A-B per Russell LJ).

S55 of the 1976 Act (set out at paragraph 6.1 above) states that an operator must be fit and proper.

PHV operator responsibilities

- 7.2 PHV operators have a key role in ensuring that the drivers they employ are fit and proper persons, and are properly trained in their roles.
- 7.3 As a Licensing Authority, Brighton & Hove City Council requires operators to demonstrate what steps they are taking to ensure that their drivers are fit and proper persons, as well as appropriately trained.
- 7.4 The operators' role goes beyond simply taking bookings and despatching vehicles. In the course of making a booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information.
- 7.5 It is therefore vital that PHOs are as trustworthy and reliable as a driver.
- 7.6 Unlike hackney carriage and private hire drivers, the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 does not cover PHOs. This means that convictions become spent in relation to a PHO. However, the ruling of the High Court in Adamson v Waveney District Council means that local authorities can take spent convictions into account when determining the suitability for a licence. The fact that the role of the PHO is not an exempt occupation for the 1974 Act means that it is not possible to obtain an Enhanced DBS check, but they can be asked to obtain a Basic Disclosure. This can be combined with a statutory declaration as part of the application process requiring the applicant to list all previous convictions, together with other material information in a similar fashion to taxi drivers.

- 7.7 A working test of fitness and propriety for PHOs is “would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”
- 7.8 A licence is granted to the PHO on the basis of their fitness and propriety but there is no overt mechanism to consider the suitability of those who work for the PHO. There is no reason why a condition cannot be imposed on the PHO licence requiring them to undertake checks (for instance enhanced DBS checks and training) on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task, and retain that information that they obtain to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement or act upon information that they obtain (therefore allowing unsuitable staff to work in positions of trust) would then have serious implications on the continuing fitness and propriety of the PHO.

8 Comment on issues raised in representations

- 8.1 Ola have provided a working office landline which is 01273 862323 and officers have inspected the office on 29 March 2019.
- 8.2 “Operate”, for the purposes of section 55, has been considered in a series of cases, including Britain v ABC Cabs [1981] RTR 395, Windsor and Maidenhead Royal Borough Council v Khan [1994] RTR 87, Adur District Council v Fry [1997] RTR 257 and Bromsgrove District Council v Powers (Unreported) (16 July 1998). These cases establish that, in this context, “operate” does not have its common meaning. Rather, it is a term defined strictly by section 80(1) as meaning “in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle”. Therefore, as Dyson J said in Powers:

“... [T]he definition of the word ‘operate’ focuses on the arrangements pursuant to which a private hire vehicle is provided and not the provision of the vehicle itself.... [T]he word ‘operate’ is not to be equated with, or taken as including, the providing of the vehicle, but refers to the antecedent arrangements.”

In terms of the issue raised in the Joint GMB representation as to Ola’s terms of conditions, and the purpose of a private hire operation, this has been referred to Ola for comment. However the purpose, nature and requirements of an operator is set out in the Council’s Blue Book and in the legislation. It is not considered that Ola’s terms and conditions are incompatible with the Blue Book requirements as to operators.

Section 56 of the 1976 Act makes it clear that for the purposes of that part of the Act every contract for the hire of a private hire vehicle is deemed to be made

with the customer and operator who accepts the booking for that vehicle whether or not he himself provides the vehicle. Where relevant this provision cannot be overridden by Ola's terms and conditions. 14.3 of those terms and conditions are relevant in this respect.

Ola was asked to comment on the representation and they responded that they did not wish to lodge a formal response at this stage but they would welcome the opportunity to discuss the issues raised.

Financial Implications:

- 10 There are no direct financial implications arising from the recommendation made in this report.

Finance Officer Consulted Michael Bentley

Date:01.05.2019

Legal Implications:

- 10.1 These are dealt with in the body of the report

Lawyer Consulted: Rebecca Sidell

Date:01.05.2019

Equalities Implications:

- 10.2 The primary issue is in relation to disability. There does not appear to be any issues raised around the other protected characteristics as contained within the Equality Act 2010. The report contains specific references to the local authority's duties under the Act and the local requirements under the 'Blue Book' (wheelchair accessible vehicles and wider duties). It is for the members to ask for any such information that they consider would assist them to meet the duties as contained within the Act and the Blue Book in so far as they apply to the licensing requirements.

Sustainability Implications:

- 10.3 There are no direct sustainability implications

SUPPORTING DOCUMENTATION

Appendices:

Appendix A - Application for a Private Hire Operator Licence and Memorandum of Understanding
Appendix B- Representations

Documents in Members' Rooms

The Blue Handbook for Hackney Carriage and Private Hire Drivers, Vehicles and Operators (The Blue Book).

Background Documents

The Blue Handbook for Hackney Carriage and Private Hire Drivers, Vehicles and Operators (The Blue Book).

Reference 20___ / ___ / PHO___



APPLICATION FOR A PRIVATE HIRE OPERATOR LICENCE

Please write in Capital letters. Please complete all parts of this form. PLEASE ✓ YES/NO boxes.

1. Type of Licence Required

First Application ☒ Renewal ☐ Current Licence Number

Private Hire Operator Licence (1 or 2 vehicles) ☐

Private Hire Operator Licence (More than 2 vehicles) ☒

2. Trading, Person(s) or Limited Company and Telephone Number which it is intended to operate private hire vehicles. This may be made available to the public.

Trading, Person(s) or Limited Company Name **OLA UK PRIVATE LIMITED**

Address(s) from which it is intended to operate private hire vehicles. (Must be located within the City of Brighton & Hove)

**OFFICE 515, REGUS, QUEENSBERRY HOUSE,
106 QUEENS ROAD, BRIGHTON,
BN1 3XF**

Telephone Number (This must be a landline number which is answered within the City of Brighton & Hove) **SHALL BE PROVIDED UPON ACQUIRING A FUNCTIONAL TELEPHONE LINE**

3. Registered office or limited company if different from above

**ONE FETER LINE
LONDON, ECUA1BR**

4. Is there a waiting room for the use of the public at that/those address(es)?

YES ☐ NO ☒

5. How many private hire vehicles are you operating from your base which are:

- a) licensed by Brighton & Hove Council } **OLA IS A MOBILE APP-BASED SERVICE & ALL BOOKINGS ON OUR PLATFORM ARE FULLY AUTOMATED. THEREFORE NO VEHICLE SHALL ACTUALLY BE OPERATED FROM OUR BASE.**
- b) licensed by any other Council

6. Are the vehicles equipped with two way radio and/or data units?

YES ☐ NO ☒

FOR OFFICE USE ONLY

Disability Policies & Procedures YES ☐ NO ☐

Fee £

Licence number

Issued on

Valid from

Units

7. If the applicant is a partnership or limited company, give the full names, dates of birth, and addresses of all partners or directors and company secretary.

(1) **BENJAMIN GEORGE LEYH**
DoB: 28.05.1970
ADD: 17, QUEEN'S GATE MENUS
LONDON, SW7 5BJ

(2) **BALASUBRAMANYAM VIJAY JUTURI**
DoB: 28.12.1974
ADD: 12 SHEEP WALK, EMMER GREEN
READING, RG4 8NE

8. Has any person or company named above ever applied for an Operator's licence before, other than the existing licence which you are applying to renew, to this Council or to any other Council? YES ☒ NO ☐

If YES, when and where was that application made? **LICENCES WERE SUCCESSFULLY GRANTED AT: CARDIFF, NEWPORT, VALE OF GLAMORGAN, SALFORD, TAMESIDE, TRAFFORD, BRISTOL, DUDLEY, SOLIHULL, WOLVERHAMPTON, EXETER AND ROSSENDALE. FORMER DETAILS PLEASE REFER TO ANNEXURE -1**

9. Does any person or company named above hold any of the following licences issued by this Council or by any other Council - private hire driver licence; private hire vehicle licence; hackney carriage driver licence; hackney carriage vehicle licence? YES ☐ NO ☒

If YES give details:

10. Has any person or company named above ever been refused a private hire driver licence, private hire vehicle licence, private hire operator licence, hackney carriage driver licence, hackney carriage vehicle licence or had such a licence suspended or revoked? YES ☐ NO ☒

If YES give details, including the name of the Council, the date and the licence numbers:

11. What trade or business has each person named above carried on over the past two years prior to applying for this licence and where?
DIRECTOR LEYH HAS BEEN WORKING AS A MARKETING PROFESSIONAL IN USA.
DIRECTOR JUTURI HAS BEEN WORKING AS A TAX PROFESSIONAL IN THE UK.

12. Is or Has any person named above been a director or company secretary of any other limited company? YES ☐ NO ☒

If YES give the following information about each of those companies: Company name and registered office; trade or business carried on by each company; all convictions in relation to any offence recorded against any of those companies, whether any of those companies ever applied for a private hire operator licence to this or any other Council; any revocation or suspension of a private hire operator licence issued to any of those companies by this or any other Council.

13. Are all drivers of wheelchair accessible vehicles that are operated under this licence adequately trained in the safe carriage of passengers in wheelchairs and that drivers have passed the Driver and Vehicle Standards Agency (DVSA) taxi wheelchair exercise test or the Catsream Drivers Disability Awareness Training. **THIS REQUIREMENT IS CONFIRMED DURING ON-BOARDING** YES ☒ NO ☐

14. Have you made sure that all drivers operated under this licence are aware of their obligations under the Equality Act 2010? **THIS IS CONFIRMED DURING ON-BOARDING** YES ☒ NO ☐

15. Declarations

WARNING It is an offence knowingly or recklessly to make a false statement or to omit any material particular.
DISCLOSURE AND BARRING (DBS) Brighton and Hove City Council complies with the DBS Code of Practice. Available on request.

Give details of all Convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Anti Social Behaviour Orders, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related) recorded against you and any Pending Proceedings.

Note: Failing to disclose cautions / convictions or any of the above will be regarded as a serious breach of the terms of the licence and action will normally take place. An applicant's failure to disclose any of the above will be taken into consideration when assessing their propriety to become a licenced driver. See guidance on page 5.

Criminal Convictions/Cautions

Please give details of all Criminal Convictions/Cautions (if none write none)

Date of Conviction	Court	Offence	Penalty
NONE			

Conditional Cautions, Community Resolutions, Anti Social Behaviour Orders, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related)

Please give details of all as above (if none write none)

Date	Court	Type of Record	Penalty / Action
NONE			

Pending Court/Criminal Proceedings

Please give details of all Pending Proceedings (if none write none)

Date of Conviction	Court	Offence	Penalty
NONE			

Motoring Convictions

Please give details of all Motoring Convictions accrued in last 4 years (if none write none)

Date of Conviction	Court	Offence	Penalty
NONE			

16. You are required to have a document setting out their policies and procedures in relation to those with a disability

Please provide a copy of your policies and procedures

YES ☒ NO ☐

Your Declaration, All applicants - read this section and sign the declaration below

"The information you have provided will be used for the purposes of licensing private hire operators licence, the details of which may be made public, but it may be used for other Council purposes where this is permitted by law. The Council is registered under the Data Protection Act 1998 for these purposes. This Authority is under a duty to protect the public funds it administers. We may check information that you provide, or information provided by a third party, with other information we hold, such as Council Tax and Housing Benefit, to check the accuracy of information; to prevent or detect crime; and to protect public funds in other ways as permitted by law. We may also share this information with other public bodies administering public funds for these purposes, the Police, Revenue and Customs, UK Border Agency and the Department for Work and Pensions (DWP). These may include government departments and other local authorities. We will not disclose information about you to anyone, unless the law permits us to. The Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about the information we have about you, or the way we use your information, please write to the Council's Data Protection Officer, King's House, Grand Avenue, Hove"

I hereby consent to the use of such material for such purposes.

Declaration Please issue me with the licence I have applied for on this form. I declare that to the best of my knowledge and belief the statements made on this form are true and correct and that no material particular has been omitted.

Signed

BGLP
Balk

Date 06 / 12 / 2018

Signed

Date 04 / 12 / 2018

Signed

Date / /

Signed

Date / /

WARNING: You will be liable to prosecution if you knowingly give false information in order to obtain a Licence.

If you require any help filling in this form please telephone (01273) 294429



**Brighton & Hove
City Council**

**GUIDELINES RELATING TO THE RELEVANCE OF CAUTIONS AND CONVICTIONS,
CRIMINAL BEHAVIOURAL ORDERS, INJUNCTIONS TO PREVENT NUISANCE AND
ANNOYANCE, COUNTY COURT AND HIGH COURT JUDGMENTS AND FIXED
PENALTY NOTICES WHEN DETERMINING APPLICATIONS FOR HACKNEY
CARRIAGE AND PRIVATE HIRE LICENCES.**

The council is empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a Hackney carriage or private hire vehicle, driver or operator licence so when submitting an application for such a licence an applicant is required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Criminal Behaviour Orders, County Court and High Court Injunctions, including injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings.

Note: Failing to disclose cautions / convictions or any of the above will be regarded as a serious breach of the terms of the licence and action will normally take place. An applicant's failure to disclose any of the above will be taken into consideration when assessing their propriety to become a licensed driver.

As the idea of what "Fit and Proper" means, has not been defined, it will be at the officers discretion to decide what is relevant information and from what source it can be obtained. To be relevant, evidence has to be more than mere suspicion or innuendo. Public protection is an important function and as such all information that may mean that a person or persons are not fit and proper will be considered.

Where there are aggravating factors such as hate crime (homophobic, racism and so on), this will be taken into account.

In making its decision the council will consider the nature of the information, its own guidelines on the relevance of Cautions, Convictions, Conditional Cautions, Community Resolutions Anti-Social Behaviour Orders, Criminal Behaviour Orders, Injunctions to prevent nuisance and annoyance, County Court and High Court Judgments and Fixed Penalty Notices (personally or business related), in the licensing process and any other factors which may be relevant. These guidelines will also be taken into account in relation to renewal applications, and decisions to suspend, revoke or not to renew a licence.

- Each case will be decided on its own merits with the overriding objective of protecting the public. • A person with a conviction for a crime need not be permanently barred from obtaining a licence but should be expected to remain free of any conviction for at least 3 to 5 years, before any application is entertained. The nature of the offence will be taken into account when deciding on the period that they should be offence free. However, persons with convictions for sexual offences of any nature or any offences related to children, vulnerable adults or other serious crime will not normally be issued with a licence. Persons subject to pending proceedings for such offences will be properly investigated and if appropriate will have any licence suspended pending the outcome of the hearing of the case at court. If they are subsequently convicted then the matter will be reviewed again.
- Some discretion may be appropriate if the serious offence is historic, isolated and there are exceptional mitigating circumstances. However, as stated above, the overriding consideration must be the protection of the public. Hackney carriage and private hire drivers are classed as 'regulated occupations' by the Rehabilitation of Offenders Act 1974 (exemption order as amended) which means that the Rehabilitation of Offenders Act 1974 does not apply to them (and thus their convictions are never spent). Furthermore, in respect of applications or renewals for Hackney Carriage Proprietor or Private Hire Operators Licences, the Council as a judicial authority under the Rehabilitation of Offenders Act 1974 may take into account spent convictions involving serious offences, (e.g. Death by Dangerous Driving, Drug Offences, Offences of Violence, Sexual offences, Dishonesty Offences or offences of an habitual nature).
- Cautions require an admission of guilt and are never spent. The Council must therefore treat a caution as an admission of guilt and cannot be required to go behind the decision of the police or enforcing body. The age and gravity of the offence for which the caution has been accepted be taken into account as for convictions.
- Fixed penalty notices and Community Resolutions are now used in relation to a range of offences and they will be taken into consideration depending upon their number, the nature of the offence and all the circumstances including the applicant's lack of compliance.
- Civil actions including injunctions are also a relevant factor where it has an impact on the driver being fit and proper. These will be assessed on a case by case basis.

Note: Suspension and Revocation

The authority has the power to use its discretion to suspend or revoke or refuse to renew a drivers' licence depending on the seriousness of any established misbehaviour. Since the 2012 case of *Singh v Cardiff City Council* it has been ruled that an Authority cannot impose an interim suspension so the decision to suspend, revoke or refuse to renew must be a final one made after a considered determination of all the facts in a particular case. This will include the driver having an opportunity to put their case in person to an officer in the spirit of natural justice.

Fresh case law and/or government guidance may change this position.

Immediate Suspension

The Council in determining its powers of immediate suspension or immediate revocation, will consider each case according to its merits. Where, after investigation, it is satisfied that the interests of public safety require such a course of action or an offence is considered of such a serious nature as to warrant such action, the decision will normally be to suspend or revoke with immediate effect. For the purpose of these guidelines, cautions will be treated as convictions.

Police Bail

Hackney Carriage and Private Hire Drivers are expected to adhere to this Policy's definition of "fit & proper" person. A person who already holds a licence with the Authority, is arrested for an alleged offence, and subsequently released by the Police on Bail, depending upon the nature of the alleged offence, can expect action to be a possibility. Where Suspension is put in place, normally the suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts. The matter will then be reviewed.

Police Recommendation

Hackney Carriage and Private Hire drivers maintain close contact with the public, often carrying unaccompanied and vulnerable passengers, and are therefore expected to adhere to this Policy's definition of a "fit and proper" person. Any person, who in the view of the Police Officer represents a threat to the safety and well-being of the public, should expect action by the Director of Public Health. Any suspension shall remain in force until (the licence expires or) such time as the case is resolved by either the Police or by the Courts.

Offences or allegations involving an element of sexual exploitation or violence against children or vulnerable persons

Except in the most exceptional of cases an existing driver or applicant that is charged, cautioned or convicted of offences that fall into the above category will have his/her licence suspended, revoked, refused or not renewed.

Child Protection and Safeguarding

When considering whether an applicant or driver is fit and proper and moreover what risk the driver presents to others, the authority will take into consideration all information that represents more than gossip, speculation and unsubstantiated innuendo.

In making its enquiries the authority will rely on all relevant information provided by other departments of the council. This will include information provided by Children's Services and the Local Authority Designated Officer (LADO) responsible for child protection. Issues raised on any DBS check will also be pursued and may be relevant evidence even where no charge follows. Enquiries will be made of the Police.

Where the authority has reasonable cause for concern based on the information from these and other relevant sources it will act appropriately to safeguard children and young persons. As the prevention of child sexual abuse is such an important issue, there will be a presumption in favour of protective measures. This also extends to other vulnerable groups who may be at risk of exploitation such as vulnerable adults. This may mean that based on this information an applicant will not be allowed to proceed or an existing driver may have his/her licence suspended, revoked or not renewed.

Drugs

An applicant or existing driver with a caution / conviction for a drug related offence should normally be required to show a period of at least three years free of any caution / convictions before any application is entertained or a minimum of three years after detoxification treatment if applicant was drug dependent. Where there is evidence of prohibited drug use the applicant or existing driver will be expected to produce medical evidence to confirm to the Council's satisfaction that they are free of illegal substances. The Council reserves the option to seek its own expert medical evidence where necessary.

Violence

As hackney carriage and private hire drivers maintain close contact with the public, a grave view will be taken with applicants who have cautions / convictions for grievous bodily harm, wounding, assault causing ABH, assault PC or common assault. Depending on the nature of the assault a minimum of three years free of cautions / convictions should be shown before an application is entertained and even then a strict warning will be administered. An existing licence holder could expect his licence to be suspended or revoked if convicted of these offences. The same applies where evidence of violent behaviour has been adduced before the civil courts.

Criminal Damage

As this offence covers a wide range of behaviours each case will be judged on its own merits. A serious view will be taken if the offence involves deliberate fire setting, the offence was committed in a group, the damage caused was of high value or the offence had a clear racial, religious or homophobic motivation. An applicant with this type of more serious conviction/caution should normally be required to show a period of at least three years free of any caution / convictions before any application is entertained. Existing drivers convicted or cautioned for these types of serious criminal damage offences could normally expect to have their licence revoked.

Dishonesty

License holders are expected to be person of trust. The widespread practice of deliveries for companies, taking children to school and families on holiday shows this trust. It is easy for dishonest drivers to defraud foreign visitors when giving change, or other customers by taking them by other than the shortest route. Lost property can be kept by unscrupulous drivers. For these reasons a serious view will be taken of any cautions / convictions involving dishonesty. In general, a period of at least three years free of any cautions / convictions will be required before entertaining an application for a hackney carriage or private hire drivers licence by the Council. Any existing driver convicted of offences involving dishonesty may expect any licence held to be suspended or revoked and a possible ban on holding a hackney carriage or private hire driver's licence for three year period at minimum after conviction. The same applies where evidence of dishonest behaviour is adduced before the civil courts.

Discrimination / Hate Offences

An applicant with a caution / conviction or legal findings against them in the civil courts for a discrimination related offence should be required to show a period of at least three years free of any caution / convictions before any application is entertained.

Minor Road Traffic Offences

Isolated convictions or fixed penalty notices for minor traffic offences should not prevent a person from proceeding with an application. Any new applicant must have held a full drivers licence as issued by DVLA for a period of twelve months without any period of suspension during those twelve months. Licence holders convicted during the period of licence of such an offence may be warned as to future conduct, and that any disqualification from holding a full DVLA licence will lead to revocation of any hackney carriage or private hire licence held with the Council.

Major Road Traffic Offences

Where there is an isolated historic conviction for reckless driving, dangerous driving or driving without due care and attention and similar offences, these will merit for new applicants at least a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers. However, for applicants with more serious offences such as convictions for causing death by dangerous/careless driving a licence will not normally be granted. Existing drivers can expect their licence to be revoked and no further application will normally be considered until a period of at least three years free from convictions has elapsed.

Drunkness

- With a motor vehicle.

A serious view will be taken of cautions / convictions for driving or being in charge of a vehicle whilst under the influence of drink or failing to provide an evidential specimen. An isolated and historic incident will not necessarily debar an applicant provided they have been at least three years free of cautions / convictions after the restoration of their full DVLA licence but strict warnings will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire drivers' licence. At least one year should elapse (after the restoration of the full DVLA driving licence), before an applicant is considered for a hackney carriage or private hire driver's licence. If the applicant is found to be alcohol dependent a minimum period of five years should elapse after treatment is completed before a licence application is considered.

- A driver found guilty of driving passengers for hire and reward whilst under the influence of alcohol will normally have his hackney carriage or private hire drivers licence revoked immediately and be banned from holding a hackney carriage or private hire drivers licence with the Council for a minimum period of three years after the restoration of their full DVLA licence.

- Drunk but not in a motor vehicle.

An isolated caution / conviction for drunkness need not debar an applicant from obtaining a licence, however, a number of cautions / convictions for drunkness could indicate alcohol dependency necessitating a medical examination.

Insurance Offences

- With a motor vehicle.

A serious view will be taken of any caution / convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily deter an applicant provided he has been three years free of any caution / conviction, but strict warning will be given as to future behaviour. More than one caution / conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire licence.

- A driver found guilty of driving passengers for hire and reward whilst without insurance will normally have his hackney carriage or private hire driver's licence revoked immediately and be banned from holding a hackney carriage or private hire driver's licence with the Council for a minimum of five years.
- Any applicant with three insurance offences or more will not normally be considered fit and proper to hold a hackney carriage or private hire licence with the Council.

Breaches of Licensing Conditions, other Local Authority Offences and Fire Authority Offences

Isolated convictions / cautions for breach of licensing conditions or other local authority offences should not prevent a person from proceeding with an application but these offences may be considered when determining if an applicant should be granted a licence. Licence holders committing offences during the period of licence may be warned as to future conduct and may lead to revocation of any hackney carriage or private hire licence held with the Council.

Criminal Behaviour Orders / Injunctions or any other order under the Anti-Social Behaviour and Policing Act 2014

Criminal Behaviour Orders / Injunctions to prevent nuisance and annoyance during their current term or within three years of their final date should not prevent any person from proceeding with an application, but it will be considered, taking into account all the circumstances, and severity of the behaviour, when determining if an applicant should be granted a licence.

County/High Court Injunctions

Any Court injunction and / or order relating to anti-social behaviour especially those for harassment or violence (including domestic violence) within the last three years should not prevent any applicant from proceeding with an application, but will be considered when determining if an applicant should be granted a licence, taking into consideration the nature and severity of the behaviour and all relevant circumstances.

Scanners

Anyone convicted of the use of a radio scanner will normally be banned from holding any licence for a minimum of a five-year period.

Notes

Any information disclosed to the Council will be kept in strict confidence and will only be taken into account in relation to the application and will be retained no longer than necessary. It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence, punishable by up to seven years imprisonment upon conviction.

Procedure for Licensing a Private Hire Operator.

1. General

1.1 Operators must be licensed in the same district as the district in which they have their office, and only make use of drivers and vehicles that are also licensed in the same district for which they hold a licence.

1.2 Anyone who makes provision for the invitation or acceptance of bookings for a private hire vehicle must hold an operator's licence, (with the exception of those who only operate vehicles covered by section 75 of the Act of 1976). This means that any individual (group or company) which advertises the services of any private hire vehicle with the services of a driver for hire and reward, or has a mobile telephone, smart phone app or pager which is carried within a licensed vehicle then that driver and vehicle have made provision for the acceptance of bookings for hire and reward and will be required to hold a private hire operator's licence.

1.3 Brighton and Hove City Council are subject to duties under the Equalities Act 2010 which includes the duties to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

In relation to the Hackney and Private Hire as the licensing authority we are wishing to ensure that the needs and requirements of those with a disability are being acknowledged and met.

Primary issues for the Council to take note of are:

- Mobility - this is being addressed by the introduction of wheelchair accessible cabs. It is noted that certain service users who may have mobility issues still prefer old style saloon cars. An Operator should be able to respond as appropriate where a particular type is requested.
- Visual impairment - drivers to be aware that greater assistance will be required. As per the detail already included in this document.
- Hearing impaired - note should be taken that those with hearing difficulties should wherever possible be provided with a text service.
- Awareness of those with mental health issues.
- Awareness of those with learning disabilities.
- Training for drivers on disability awareness for instance not assuming that because someone has slurred speech that they are drunk as opposed to having neurological disorder.

1.4 To ensure disabled passengers in wheelchairs receive an equal service any Operator operating 100 or more vehicles must ensure that at least 20% of their vehicles are wheelchair accessible.

1.5 It is a requirement that the operators can on request provide monitoring information. What is required are figures on the numbers of journeys undertaken by those with an obvious disability or where one has been declared - personal information is not required. In addition where there has been an issue around a disability the details of that issue and what if any steps were taken to address that and prevent its recurrence.

This information will be required to be provided annually. Failure to do so may result in an Operators Licence being suspended or revoked.

2. The Operator

2.1 The application form must be complete and returned to the Taxi Licensing Office.

2.2 Every applicant will be checked to ensure that they are a fit and proper person to hold a private hire operators licence.

2.3 The applicant is required to provide proof of holding a radio transmission licence (and planning permission for any aerial if required) if such radios are used by the operator.

2.4 In the case of operators who invite the public to make bookings in person at a premises, the prospective premises will be inspected to ensure compliance with the following:

2.4.1 Clean, adequately heated, ventilated and lit, both for bookings and waiting.

2.4.2 If required waiting area has adequate seating facilities.

2.5 The operator premises to be licensed must be situated within the district of Brighton & Hove.

2.6 The operator may only utilise drivers and vehicles also licensed by Brighton & Hove City Council.

2.7 All operators premises to which the public have access must be covered by public liability insurance to cover all risks.

2.8 Planning permission for operating purposes maybe required and it is the operator's responsibility to ensure any permission required is granted and produced to an authorised officer at the time of application.

2.9 All operators will be required to have a document setting out their policies and procedures in relation to those with a disability.

They will also be required to undertake monitoring of use of their service by those with a disability and provide a summary of monitoring in a format as required by the Director of Public Health annually. Failure to do so may result in the suspension or revocation of an Operators Licence.

2.10 All operators must ensure that all drivers of wheelchair accessible vehicles are trained and have passed the Driver and Vehicle Standards Agency (DVSA) taxi wheelchair exercise test or the Cotstream Drivers Disability Awareness Training.

2.11 All operators must ensure that all drivers do not work excessive hours and have adequate breaks between shifts.

2.12 All operators must ensure that all Brighton & Hove Vehicles operated under the licence comply with the current Brighton & Hove CCTV conditions.

2.13 No licence will be issued until all licence requirements are met to the satisfaction of the authorised officer and the appropriate fee has been paid.

3. Notes

Any requirements of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence. Case law has shown that anyone making provision for the acceptance of bookings for private hire must be licensed in the District where such provision is made (this includes such things as mobile telephones, pagers and redirected calls by any electronic means) and such bookings must be fulfilled by drivers and vehicles licensed in the same district as which the operator holds his licence. So if an operator accepts a booking a mobile telephone in a district other than the one in which he is licensed he will commit an offence of operating in an unlicensed manner.

Private Hire Vehicle Operators Licence conditions made under the Local Government (Miscellaneous Provisions) Act 1976.

1. Interpretation

1.1 In these conditions:

1.1.1 "the Council" means 'Brighton & Hove City Council'.

1.1.2 "the operator" means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership to each of the partners and in the case of a company to each of the company directors.

1.2 Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

1.3 Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

2. The records to be kept by the Operator

2.1 The records required to be kept by the operator under Section 36(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book, folder, computer system or other means approved by the Authorised Officer, and produced for his examination on demand.

2.2 The operator shall enter in the recording system (book folder or other means) before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him:

2.2.1 the time and date of the booking.

2.2.2 the name where possible and pick up point of the hire.

2.2.3 the time and date of pick up and call sign of the vehicle used.

2.2.4 how the booking was made (e.g. by telephone, personal call, or via a mobile app).

2.2.5 where any bookings are sub contracted either by the operator to another licensed operator or are accepted by the operator from another operator a full record of the booking and notes must be included including the name of the sub-contractor and contact information.

2.3 the records of bookings shall be maintained and kept up to date at all times and shall be made available for inspection at all reasonable times without notice by any duly Authorised Officer of the Council or any Police Officer. Such Officers shall be empowered to photograph and/or remove such records howsoever kept from the premises as so required.

2.4 The operator shall keep records of all private hire vehicles operated by him, which will include details of the owner, registration numbers and drivers of such vehicles, together with any radio call sign used.

2.5 The operator shall keep records of all driver training.

2.6 The operator shall keep all records for a period of not less than six months following the date of last entry.

3. The standard of service

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times, and for this purpose, shall in particular:

3.1 ensure that when a private hire vehicle has been booked that the driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause.

3.2 keep clean, adequately heated, ventilated and lit premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.

3.3 ensure that any waiting area provided has adequate seating facilities.

3.4 keep a summary of all complaints received regarding service provided or about drivers.

3.5 Must provide an equal service for differently abled passengers

3.6 Any operator operating more than 100 vehicles must ensure that 20% of their fleet is Wheelchair Accessible.

4. Provisions regulating signs on vehicles

The proprietor of a private hire business shall not cause any advertisement in respect of his business or the vehicles used for that purpose to include the words "taxi" or "cab", whether in the singular or plural, or those words of similar meaning or appearance to either of those words, whether alone or as part of another word.

5. Provisions regulating the conduct of the operator

5.1 The operator shall immediately upon receipt notify the Council in writing of any complaints concerning the cleanliness or condition of a vehicle.

5.2 The operator shall notify the Council in writing of any change of address during the period of the licence within seven days of such change.

5.3 The operator may change the address from which he operates without prior agreement in writing from the Council and all licence requirements being met.

5.4 The operator shall within seven days disclose to the Council in writing details of any convictions (motoring or otherwise) imposed upon him, or if the operator is a company or partnership, on any of the directors or partners) during the period of the licence.

5.5 the operator shall not, by him/herself, his agents, or any other person importune, or cause or permit to be importuned any person by calling out or by any other means whatsoever to hire any of the licensed vehicles under his control

5.6 the operator shall not cause or permit the private hire vehicle licence plate or any notices that are required to be displayed on the inside or outside of a private hire vehicle to be:-

- Concealed from public view
- Defaced
- Disfigured

The operator shall also ensure that the licence plate and notices are always legible and displayed in accordance with the conditions of the private hire vehicle licence

5.7 The operator must notify the Council as soon as practicable and in any case within 72 hours of the occurrence thereof, of any accident to any vehicles working for that company, causing damage

6. Provisions regulating the conduct of the operators drivers

6.1 The operator must inform the Council in writing within 7 days the details of any driver removed from the operator's circuit giving the reasons for removing that driver

6.2 The operator shall keep records of all driver training.

6.3 The operator must ensure that all drivers of wheelchair accessible vehicles that are operated under this licence are adequately trained in the safe carriage of passengers in wheelchairs and that drivers have passed the Driver and Vehicle Standards Agency (DVSA) taxi wheelchair exercise test.

6.4 The operator shall take all necessary measures including those of requested by an Authorised Officer of the Council or Police Officer to prevent vehicles in its employment from parking or congregating in such a manner as to cause a nuisance to any reasonable person

6.5 The Operator shall bring to the attention of all drivers their legal obligations regarding the use of seat belts by both adults and children under 14 years of age.

6.6 The operator shall bring to the attention of all drivers their legal obligation regarding no smoking in vehicles under the Health Act 2006

6.7 The Operator shall ensure that all licensed drivers who carry out work on behalf of their company have an up to date Enhanced Disclosure and Barring Service check Certificate.

6.8 The Operator shall ensure that all licensed drivers who carry out work on behalf of their company act in a civil and orderly manner both towards customers and any other member of the public

6.9 The Operator must ensure that all drivers who carry out work on behalf of the operator do not work excessive hours and have adequate breaks between shifts

6.10 The Operator shall ensure that all drivers are aware of their obligations under the Equalities Act 2010 which are:-

Section 165 - Duty on a driver of a designated wheelchair accessible vehicle to:-

- Carry the passenger whilst in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat to carry the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- To give the passenger such mobility assistance as is reasonably required

Unless a driver has an exemption under Section 166 which states that he/she is unable to assist passengers in wheelchairs on medical grounds or because the drivers physical condition makes it impossible or unreasonably difficult to comply.

Section 168 to 171 (previously Disability Discrimination Act 1995):-

Duty to carry Assistance Dogs unless an exemption is held on medical grounds.

7. Emergency call sign

All operators using a radio network must have in place an emergency call sign. When this call sign is used the operator and / or other cars will render all assistance possible to the caller. The use of the call sign in a frivolous manner could result in suspension of licence. On hearing the call sign all other vehicles will maintain radio silence until advised that the situation is resolved. The call sign should only be used when a person is at risk, (e.g. need for police, fire or ambulance assistance). The call should be changed at regular intervals to avoid misuse. All drivers must be aware of the call sign currently in use by the operator. Each operator is responsible to ensure compliance. Whilst this will complement the "Police Link" it is not voluntary but a condition of the operators licence in the interests of the safety of drivers and passengers.

8. Operator office location

The office must be located within Brighton & Hove City to enable any Authorized Officer access to the premises or any records as required by statutes or conditions. If unable to fulfill a booking they may only pass these to another licensed operator whose drivers who carry out work on behalf of that operator have an up to date Enhanced Disclosure and Barring Service check Certificate.

9. Deposit of driver and vehicle licences

9.1 Any operator who employs or permits anyone to drive any licensed vehicle owned by them will ensure that a copy of the drivers licence is deposited with them during the period that the driver is employed or permitted to drive, the licence must be returned to the driver at the end of that period.

9.2 Any vehicle employed or used by an operator must be licensed and the proprietor of the vehicle shall deposit his vehicle licence with the operator during the period that his vehicle is so employed. The operator must return the licence to the vehicle proprietor at the end of the period.

9.3 The Operator must ensure that every proprietor of a Private Hire Vehicle operating under the licence is acquainted with, understands and observes the conditions attached to a Private Hire Vehicle Licence.

10. Private Hire Operator Association

10.1 Operators may form an association and must give a copy of the constitution of that Association to the Licensing Officer.

10.2 The Association must keep the Authorised Officer informed in writing of the offices and members of the Association.

10.3 Only vehicles being operated through members of the Association may display signs as approved by an Authorised Officer.

11. Confidentiality

Due the nature of enforcement work undertaken by authorised officers, operators are expected not to disclose/broadcast to drivers or proprietors the whereabouts of authorised officers or any other enforcement agencies as this may jeopardise any enforcement actions being undertaken at the time. Failure to comply with this requirement may result in suspension of licence.

12. Police Safety Schemes

All operators and drivers should assist in any schemes that assist the police. The main purposes are:

12.1 To alert radio controlled vehicles as to missing or suspicious persons or vehicles etc.

12.2 To alert Sussex Police of any criminal activities observed.

12.3 To create a safer environment for all hackney carriage and private hire drivers.

Drivers should report through the operator to the police and the police will use the scheme to advise drivers of incidents or help required.

13. Appeals

13.1 The applicant / licence holder may appeal against all or any of these conditions.

13.2 Any appeals must be made within 21 days of the grant of the licence.

13.3 Appeals must be made to the Magistrates Court - contact: the Clerk to the Justices, The Law Courts, Edward Street Brighton

Ola UK Disability Policy

1. About this Policy

- 1.1 Ola and each of its drivers are "service-providers" under Section 29 of the Equality Act 2010 ("**Act**"). "Service-providers" have a duty to comply with the requirements of the Act, including but not limited to making reasonable adjustments and not discriminating against persons by not providing the service.
- 1.2 Ola expects its drivers to comply with all applicable laws in the United Kingdom including, but not limited to, the Equality Act 2010, and the related Equality Act 2010 (Disability) Regulations 2010 ("2010 Regulations") and Equality Act 2010 (Taxis and Private Vehicles) (Passengers in Wheelchairs – notices of exemptions) Regulations 2017 ("2017 Regulations"). Ola also expects its drivers to comply with all relevant requirements issued by local licensing authorities that are designed to prevent persons with a disability in the UK from being discriminated against.
- 1.3 Accordingly, it is our policy that all passengers (including those with a disability) are able to book rides, benefit from our transportation services and receive reasonable assistance at all times.

2. Statutory Duties of Ola and Drivers

2.1 Passengers with Wheelchairs

Our drivers are required to comply with Section 165 of the Act by:

- (a) carrying passengers in wheelchairs or allowing them to sit in the passenger seat while separately carrying their wheelchairs;
- (b) not making any additional charge for doing so;
- (c) taking other steps to ensure passengers are carried safely and in reasonable comfort; and
- (d) to give the passenger such mobility assistance as is reasonably required.

Mobility assistance to passengers in a wheelchair (as referred to in paragraph (d) above), comprises of:

- (a) enabling passengers to get into or out of a vehicle (whether in the wheelchair or not);
- (b) if passengers do not wish to remain in their wheelchair, loading and unloading their wheelchairs; and

- (c) loading the passengers' luggage into and out of the vehicle.

Drivers are not required, however, to carry more than one person in a wheelchair, or more than one wheelchair on any one journey. They are also not required to comply with the duties if it is otherwise lawful for them to refuse to carry the person.

2.2 Passengers Accompanied by Assistance Dogs

Ola and its drivers do not and must not discriminate against passengers when they are accompanied by any assistance dogs or service animals or pets. Further, under Section 168 of the Act, drivers must carry the disabled person's dog and allow it to remain with the disabled person and not make any additional charge for doing so. Under Section 170 of the Act, the operator of a private hire vehicle should not deny rides to disabled persons because they are accompanied by assistance dogs.

2.3 Exceptions to the Above

Under the Act, drivers are exempted from the above statutory duties on medical grounds or based on their physical condition provided they hold a relevant exemption certificate granted by their local licensing authority. Ola will require all drivers with an exemption certificate to provide that certificate to it and may corroborate its authenticity with the drivers' local authority. Drivers should also make sure they display the exemption certificate in the appropriate manner as required by the 2017 Regulations. Without a relevant exemption certificate, Ola will expect all its drivers to fulfil their statutory duties.

3. Beyond the Statutory Duties

Ola recognises that there are a range of disabilities beyond those that the UK government have chosen to legislate for. Ola will support all local authorities in taking such steps as they consider necessary in their region, and will require Ola's licensed drivers to attend necessary disability awareness and handling training.

4. How Ola is committed to reducing discrimination

- 4.1 Ola's decision to use hackney carriages in the UK is borne from a desire to make full use of the fact that in many localities, these purpose-built vehicles are wheelchair accessible and more suitable to persons with mobility issues but not generally easy to pre-book. By operating hackney carriages, Ola will

be able to improve transport connections for persons with a disability in the UK.

- 4.2 The common private hire model that operates in the UK puts some passengers with learning difficulties or other mental health issues at risk of being overcharged due the traditional nature of cash payments. Due to the way that the Ola system operates, by providing a fare estimate and facilitating electronic payments, these risks are reduced and make it much easier for Ola, complainants and local authorities to identify and investigate such issues.
- 4.3 The Ola app can provide real time updates to passengers as to the expected pick up time highlighting where the vehicle currently is. This facility helps parents or carers of those with conditions such as autism to manage any appropriate routines to reduce stress and anxiety.

5.0 Complaints

Ola takes all complaints about disability discrimination seriously and has a specific complaints procedure for all complaints, including those relating to disability discrimination.



Ola UK Private Limited
1 Primrose Street
London
United Kingdom
EC2A 2EX

29th March 2019

Taxi Licensing Office
Brighton & Hove Council

Dear Sir/Madam,

I hereby confirm that Ola will only use Brighton and Hove licensed drivers and vehicles under the PVH Operator Licence that we have applied for with Brighton and Hove Council. Out of town drivers will be permitted a total of two pickups only within a 24 hour period after which they must return to their licensed area of work. The reason for this being in order to avoid one way drop offs and to optimise driver earnings.

Yours faithfully,

A handwritten signature in black ink, appearing to read "BELEG" with a stylized flourish at the end.

Benjamin Legg
Managing Director



Brighton & Hove City Council
Taxi Licensing
Town Hall
Hove

April 15 2019

OLA Private Hire Operator Licence Application

The GMB Brighton & Hove Taxi Section and Unite the Union welcomes competition within the trade in Brighton & Hove providing that such competition is fair and equal and adherence of legislation and local bylaws is applied.

We note the following on OLA Application Form:

Question 2: Telephone Number: (This must be a landline number which is answered within the City of Brighton & Hove)

Ola Response: "Shall be provided upon acquiring a functional telephone line."

GMB/Unite Comment: It must be made very clear to Ola that the following conditions of licensing states:

76.8 An operator must provide a phone number for customers to have voice contact during the Operators hours of business and at all times during a journey if passengers want to make a complaint or discuss other matters relating to their booking.

Additionally on the 'Application Form' it distinctly states:

"This must be a landline number which is answered within the City of Brighton & Hove"

Question 5: How many private hire vehicles are you operating from your base which are:

A: Licensed by Brighton & Hove City Council

B: Licensed by any other Council

OLA Response: "Ola is a mobile app based service and all bookings on our platform are fully automated – Therefore no vehicle shall actually be operated from our base."

GMB/Unite Comment: It is noted that OLA did not actually address the main question about: "How many private hire vehicle are you operating from your base".

This referred to A) about how many vehicles licensed by Brighton & Hove City Council and B) and more importantly... by any other Council.

OLA did state: that it was a "...mobile app based service.." and that "... all bookings on our platform are fully automated".

For many years now the local taxi companies have had systems that are 'Fully Automated' so the response from OLA is quite strange?

Just because OLA has an 'Automated System' does not mean that it should be excluded from 'Operating vehicles from its base/office' as all local Operators currently do. See **"OLA Office"** further down

It is appreciated that this a new application.. but the concern here is that if OLA is unable to at least show the details to the council of how Brighton & Hove licensed vehicles will be brought onto its platform and indeed 'operate' from the named office then we will then see vehicles that are currently on its platform brought in from places where Ola holds a licence for Cardiff.. Newport, Vale of Glamorgan, Salford, Tameside, Trafford, Bristol, Dudley, Solihull, Exeter and Rossendale.

It would not be an understatement to make it clear to the council that when another national cab app started up in the city there were very few Brighton & Hove licensed drivers/vehicles on its platform and the city was flooded with TfL PHV's and other such vehicles from other areas... which continues today.

More importantly as OLA holds an Operator Licence in Wolverhampton all councils in the vicinity have been complaining about the very heavy presence of Wolverhampton PHV's that predominantly work in those respective areas under another national App. It was only very recently that we saw such Wolverhampton PHV's predominantly working in Brighton & Hove and effectively living in their vehicles day in and night out.

Additionally we are aware of the intention of OLA to obtain a TfL Operator Licence at some point and we have concerns of TfL vehicles operating in the city under very different PHV licensing conditions should the OLA platform function in this way.

Cross Border Hiring:

Whilst we appreciate that under current Legislation cross-border hiring is legal the council and the trade will be very aware of the trouble that such Private Hire Apps have caused where local councils have no power to control PHV's that are not locally licensed. This was the main objection recently raised regarding another similar App type service.

OLA Office:

The council has to consider whether the address stated as "Office 515, Regus, Queensberry House, 106 Queens Road, Brighton, BN1 8XF" is only in place as a convenience to circumvent the requirement for a Brighton & Hove Operator to have a local address.

It would not be unreasonable to ask OLA as to what the office hours are which is linked to the requirement to have a landline telephone number as stated as on the Application Form "*..which is answered within the City of Brighton and Hove..*" which again relates to Section 76.8 of the Brighton & Hove Blue Book:

76.8 An operator must provide a phone number for customers to have voice contact during the Operators hours of business and at all times during a journey if passengers want to make a complaint or discuss other matters relating to their booking.

Council Access:

It has always been understood that the Licensing Officers and police must have immediate access to any booking system to check records of driver activity for public safety. Therefore it is imperative that the OLA Office must provide provision for this which would not necessarily be on an appointment basis and for the purposes of 'Public Safety' locally must be "on demand".

We would not like to see the watering down of the expectations of a Brighton & Hove Licensed Operator.

In addition it is not unreasonable for an Operator to make provision for drivers on their platform to have access to local information such when the HCO sends out notices asking for help on various matters for such things from lost wallets to missing vulnerable people.

Importantly a responsible licensed Operator should have the facility to check for such items as: Insurance.. Vehicle Compliance Certificates. and Driver DVLA licences and Council Issued Driver Licences and for the important responsibility of 'on the spot' visual checking of vehicles.

Legislation:

There may be the argument that App type bookings are currently outside the scope of the traditional taxi office/call centre type of organisation.

However the local Operators have adapted to 'App type' bookings whilst also still adhering to and complying with all conditions as required under the Local Government Misc Provisions Act 1976 and the Brighton & Hove Blue Book thus keeping the standards as expected by the council.

However until legislation is changed then the council must be conscious of not granting Operator Licences because of any grey areas and that any grant of such a licence meets the Local Government Misc Provisions Act 1976 along with the Brighton & Hove Blue Book.

OLA Customer Terms of Conditions 4.8:

When granting an Operator Licence the council must take into consideration the 'Conditions of Licensing' that apply to the responsibility(s) of a Licensed Private Hire Operator.

We draw the attention of the council to the following condition of service that OLA applies to its service.

OLA Terms of Conditions 4.8. Neither OLA NL nor OLA UK provides transportation services. Transportation services are provided under a contract (the "Transportation Contract") between you and the Driver for the provision of a specific Ride by the Driver to You. Neither OLA UK nor OLA NL is a party to the Transportation Contract. At no time will OLA UK or OLA NL have any obligations or liabilities in respect of the Transportation Contract.

It is very clear that any party that holds a 'Private Hire Operator Licence' does so for the provision of supplying a vehicle to the customer for a journey.

OLA states that it does not provide a 'transportation service' which is quite ironic as this is exactly the full purpose of what a private hire operator does otherwise a private hire operator licence would not exist in legislation under the LGMP Act 1976. A fair question may be if OLA believe and assert that the contract is between the passenger and the driver then where does OLA appear contractually and who (for the purposes of the legislation) is "operating" the vehicle(s) and driver(s)? Further if OLA does not consider itself to have '...any obligations or liabilities...' then why is OLA applying for a licence to operate Private Hire vehicles at all?

The term 'Transport Services' has been used in the past for the purpose of adding confusion along with terms such as 'Riders' for customers/passengers and 'Partners' for drivers.

Question 1 to the council: The GMB and Unite Unions request that the council defines by reply as to what the purpose is of a 'Private Hire Operator Licence'

If the function of a Private Hire Operator is not as a 'Transportation Service' then this needs to be defined by the council as to what is the point of holding such a 'Private Hire Operator Licence' ?

It is considered that the OLA 'Terms of Conditions' contradicts the Brighton & Hove 'Conditions of Licensing' and purposely distances itself from the full responsibility as expected by the council.

Those conditions may be valid in OLA's country of origin but cannot be acceptable when being licensed as an Operator in the UK. It is appreciated that OLA does currently Operator Licences in other areas but that does not necessarily mean that other councils have asked the correct question.

The argument could be that it is the responsibility for the customer to agree to the OLA 'Terms and Conditions'.

However the counter argument is that a customer would expect a Brighton & Hove Licensed Operator to meet or indeed exceed the conditions of its licence as granted by the council otherwise it would not be licensed to operate in the city in the first place.

If OLA excludes itself from being "... party to the contract.." by stating *"Neither OLA UK nor OLA NL is a party to the Transportation Contract."* and incredibly goes even further to state: *"At no time will OLA UK or OLA NL have any obligations or liabilities in respect of the Transportation Contract."* Then the council must consider that with this clause in its service as to whether OLA is 'Fit and Proper' to be licensed by the council to have the responsibility that is expected from all of its licensed operators.

Question 2 to the council: The GMB and Unite Unions request that the council defines by reply whether it considers that the OLA 'Terms of Conditions' contradict the **Part F 'Procedure for Licensing a Private Hire Operator'** in the Brighton & Hove Council Blue Book of Conditions and Part G of the **'Private Hire Vehicle Operators Licence conditions made under the Local Government (Miscellaneous Provisions) Act 1976'**

For clarity and to avoid uncertainty the two sections are enclosed at Annex 1

We would like to make it clear that this joint submission is not an objection to OLA being granted an Operator Licence other than questioning specific aspects of its operational practices and their legality.

However we would certainly like to ensure that the council takes every caution possible to ensure that OLA... as would be applied to any prospective and currently licensed Operator.... is considered 'fit and proper' for the requirements needed for the responsibilities of holding a Brighton & Hove Operator Licence and as such, is required to trade in a legal, fair and equitable manner and in accordance with the Local Government Miscellaneous Provisions Act 1976, the 'Brighton & Hove 'Blue Book for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators' and any other relevant local and national legislation, as amended.

Andrew Peters
GMB Brighton & Hove Taxi Section

Sean Ridley
Secretary Unite the Union – South-East Region (Cab Section).



ANNEX 1**Part F****Procedure for Licensing a Private Hire Operator**

A private hire operator ('an operator') does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the vehicle (except where they are also the licensed driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and must not be improperly or accidentally not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes. Any person with a management and Governance role of an operator is subject to the same duties as a driver in relation to criminal conviction, caution and any other court order

65. General

Operators must be licensed in the same district as the district in which they have their office, and only make use of drivers and vehicles that are also licensed in the same district for which they hold a licence.

Anyone who makes provision for the invitation or acceptance of bookings for a private hire vehicle must hold an operator's licence, (with the exception of those who only operate vehicles covered by section 75 of the Act of 1976). This means that any individual (group or company) which advertises the services of any private hire vehicle with the services of a driver for hire and reward, or has a mobile telephone, smart phone app or pager which is carried within a licensed vehicle then that driver and vehicle have made provision for the acceptance of bookings for hire and reward and will be required to hold a private hire operator's licence.

Brighton and Hove City Council are subject to duties under the Equalities Act 2010 which includes the duties to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act. In relation to the Hackney and Private Hire as the licensing authority we are wishing to ensure that the needs and requirements of those with a disability are being acknowledged and met.

Primary issues for the Council to take note of are:

- Mobility – this is being addressed by the introduction of wheelchair accessible cabs. It is noted that certain service users who may have mobility issues still prefer old style saloon cars. An Operator should be able to respond as appropriate where a particular type is requested
- Visual impairment - drivers to be aware that greater assistance will be required. As per the detail already included in this document.
- Hearing impaired – note should be taken that those with hearing difficulties should wherever possible be provided with a text service.
- Awareness of those with mental health issues.
- Awareness of those with learning disabilities.
- Training for drivers on disability awareness for instance not assuming that because someone has slurred speech that they are drunk as opposed to having neurological disorder.

To ensure disabled passengers in wheelchairs receive an equal service any Operator operating 100 or more vehicles must ensure that at least 20% of their vehicles are wheelchair accessible.

It is a requirement that the operators can on request provide monitoring information. What is required are figures on the numbers of journeys undertaken by those with an obvious disability or where one has been declared – personal information is not required. In addition where there has been an issue around a disability the details of that issue and what if any steps were taken to address that and prevent its reoccurrence.

This information will be required to be provided annually. Failure to do so may result in an Operators Licence being suspended or revoked

66. Advice to Operators

Any operator is subject to the same consideration as a driver in relation to criminal convictions, cautions and other court orders.

Within the Conditions of your licence you are responsible for many items in relation to your business, the drivers working through your circuit and the vehicles used. You may be required to display or produce various items to various Officers, visiting your premises, on demand.

These include;

D.T.I. Radio licence. Company

Register Certificate Planning
 Permission
 Public Liability Insurance. Health
 and Safety Policy. Health and
 Safety Notices.
 Shops and Factories Offices Notice. Advice
 on Lifting Notice.
 Fire Evacuation Notice.
 Accident Book.
 First Aid Kit.
 Fire Extinguishers.
 Operators Licence.
 Adequate Lighting
 Booking Records.
 Diary of Advanced Bookings Vehicle Licences. Copy of
 Vehicle Licences.
 List of Vehicles with details. List
 of Drivers with details.
 Company policy & procedures document in relation to those with a disability Monitoring
 records of the use of your service by those with a disability

The Records of Bookings MUST show;

Date and Time made.
 Name and Address where possible of hirer.
 Personal, Telephone, Web or App booking.
 Destination where possible
 Time of Pick-Up.
 Point of Pick-Up.
 Time Allocated to Driver.
 Allocated to which Vehicle.

The Records of Vehicles MUST show;

Registration of Vehicle.
 Council Plate Number.
 Name and Address of Owner. Any
 Radio Call Sign.
 Number Licensed to Carry.
 Name and Address of ALL Drivers. Date
 Commenced Using Vehicle. Date Ceased
 Using Vehicle.

The Standards expected of an Operator include;

Punctual Attendance for Bookings. Clean
 Premises with Public Access. Premises
 Heated to standard.
 Premises Ventilated to standard.
 Premises well lit.
 Seating if Public Access.
 Radio Equipment in Working Order
 Correct Radio Procedures used
 Only use the services of drivers and vehicles licensed by Brighton & Hove City Council
 Check Private Hire Driver Licences are valid.
 Ensure Only Licensed Drivers are used to drive licensed Vehicles
 Any staff employed should be trustworthy and honest. A Disclosure & Barring (DBS) check is Recommended
 Maintain Driver Standards
 Ensure Vehicle Licences are valid.
 Ensure that the vehicle is not used for illegal or illicit purposes Check
 Vehicles Clean and Safe.
 Ensure Insurance is Valid. Check
 Vehicle for Damage.
 Ensure Plates Displayed Correctly. Report

Any Driver Offences Report any
Accidents.
Report any Lost Property.
Assist with Police Link calls.
Keep all Records for 6 months.
Give Fixed Price Quote if Requested.
Telephones are in Working Order.
Report any changes of Address, Report
any changes of Director(s).

67. **The Operator**

The application form must be complete and returned to the Taxi Licensing Office.

Every applicant will be checked to ensure that they are a fit and proper person to hold a private hire operator's licence.

The applicant is required to provide proof of holding a radio transmission licence (and planning permission for any aerial if required) if such radios are used by the operator.

In the case of operators who invite the public to make bookings in person at a premises, the prospective premises will be inspected to ensure compliance with the following;

clean, adequately heated, ventilated and lit, both for bookings and waiting,

if required waiting area has adequate seating facilities.

The operator premises to be licensed must be situated within the district of Brighton & Hove.

The operator may only utilise drivers and vehicles also licensed by Brighton & Hove City Council.

All operators premises to which the public have access must be covered by public liability insurance to cover all risks.

Planning permission for operating purposes maybe required and it is the operator's responsibility to ensure any permission required is granted and produced to an authorised officer at the time of application.

All operators will be required to have a document setting out their policies and procedures in relation to those with a disability. They will also be required to undertake monitoring of use of their service by those with a disability and provide a summary of monitoring in a format as required by the Director of Neighbourhoods, Communities and Communities annually. Failure to do so may result in the suspension or revocation of an Operators Licence.

All operators must ensure that all drivers of wheelchair accessible vehicles are trained and have passed the Driver and Vehicle Standards Agency (DVSA) taxi wheelchair exercise test or one of the following; the Catstream Drivers Disability Awareness Training, DHAATC training, Transport for All Training or equivalent (as decided by the Director).

All operators must ensure that all drivers do not work excessive hours and have adequate breaks between shifts

All operators must ensure that all Brighton & Hove Vehicles operated under the licence comply with the current Brighton & Hove CCTV conditions. See sections 192 & 193.

No licence will be issued until all licence requirements are met to the satisfaction of the authorised officer and the appropriate fee has been paid.

68. **Notes.**

Any requirements of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence. Case law has shown that anyone making provision for the acceptance of bookings for private hire must be licensed in the District where such provision is made (this includes such things as mobile telephones, pagers and redirected calls by any electronic means) and such bookings must be fulfilled by drivers and vehicles licensed in the same district as which the operator holds his licence. So if an operator accepts a booking on a mobile telephone in a district other than the one in which he is licensed he will commit an offence of operating in an unlicensed manner.

Part G**Private Hire Vehicle Operators Licence conditions made under the Local Government (Miscellaneous Provisions) Act 1976****69. Interpretation.**

In these conditions;

"the Council" means 'Brighton & Hove City Council.'

"the operator" means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership to each of the partners and in the case of a company to each of the company directors.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

70. The records to be kept by the Operator

The records required to be kept by the operator under Section 56 (2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book, folder, computer system or other means approved by the Authorised Officer, and produced for his examination on demand.

The operator shall enter in the recording system (book folder or other means) before the commencement of each journey, the following particulars of every booking of a private hire vehicle invited or accepted by him;

the time and date of the booking.

the name where possible and pick up point of the hirer.

the time and date of pick up and call sign of the vehicle used.

how the booking was made (e.g. by telephone, personal call, or via a mobile app).

where any bookings are sub contracted either by the operator to another licensed operator or are accepted by the operator from another operator a full record of the booking and notes must be included: including the name of the sub-contractor and contact information.

the records of bookings shall be maintained and kept up to date at all times and shall be made available for inspection at all reasonable times without notice by any duly Authorised Officer of the Council or any Police Officer. Such Officers shall be empowered to photograph and/or remove such records howsoever kept from the premises as so required.

The operator shall keep records of all private hire vehicles operated by him, which will include details of the owner, registration numbers and drivers of such vehicles, together with any radio call sign used.

The operator shall keep records of all driver training.

The operator shall keep all records for a period of not less than six months following the date of last entry.

71. The standard of service

The operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times, and for this purpose shall in particular;

ensure that when a private hire vehicle has been booked that the driver attends at the appointed time and place punctually, unless delayed or prevented by sufficient cause.

keep clean, adequately heated, ventilated and lit premises which the operator provides and to which the public have access, whether for the purpose of booking or waiting.

ensure that any waiting area provided has adequate seating facilities.

keep a summary of all complaints received regarding service provided or about drivers

Must provide an equal service for differently abled passengers

Any operator operating more than 100 vehicles must ensure that 20% of their fleet is Wheelchair Accessible.

When an automated booking is made under an operators licence, the booking confirmation and receipt provided to a passenger will identify that the driver is licensed by Brighton & Hove City Council or the name of the subcontracted operator.

An operator must provide a phone number for customers to have voice contact during the Operators hours of business and at all times during a journey if passengers want to make a complaint or discuss other matters relating to their booking.

72. Provisions regulating signs on vehicles

The proprietor of a private hire business shall not cause any advertisement in respect of his business or the vehicles used for that purpose to include the words "taxi" or "cab", whether in the singular or plural, or those words of similar meaning or appearance to either of those words, whether alone or as part of another word.

73. Provisions regulating the conduct of the operator.

The operator shall immediately upon receipt notify the Council in writing of any complaints concerning the cleanliness/condition of a vehicle.

The operator shall notify the Council in writing of any change of address during the period of the licence within seven days of such change.

No operator may change the address from which he operates without prior agreement in writing from the Council and all licence requirements being met.

The operator shall within seven days disclose to the Council in writing details of any convictions (motoring or otherwise) imposed upon him (or if the operator is a company or partnership, on any of the directors or partners) during the period of the licence.

the operator shall not, by him/herself, his agents, or any other person importune, or cause or permit to be importuned any person by calling out or by any other means whatsoever to hire any of the licensed vehicles under his control

the operator shall not cause or permit the private hire vehicle licence plate or any notices that are required to be displayed on the inside or outside of a private hire vehicle to be:-

- Concealed from public view

- Defaced
- Disfigured

The operator shall also ensure that the licence plate and notices are always legible and displayed in accordance with the conditions of the private hire vehicle licence

The operator must notify the Council as soon as practicable and in any case within 72 hours of the occurrence thereof, of any accident to any vehicles working for that company, causing damage

The Operator must not use any technology for the purposes of avoiding regulatory or law enforcement activity in connection with its operator licence.

74. Provisions regulating the conduct of the operators drivers

The operator must inform the Council in writing within 7 days the details of any driver removed from the operator's circuit giving the reasons for removing that driver

Operators must report to the Council any allegation or complaint relating to certain serious behaviours, specifically:

- Sexual misconduct
- Violence
- Discrimination
- Wrong driver / vehicle
- Theft
- Touting

Upon receiving any allegation or complaint relating to the above serious behaviours the Operator must take all reasonable steps to restrict the driver's access to work within 24 hours and whilst any investigation is ongoing. All complaints involving these behaviours must be reported by the Operator to the Council within 72 hours of receiving the complaint.

The operator shall keep records of all driver training.

The operator must ensure that all drivers of wheelchair accessible vehicles that are operated under this licence are adequately trained in the safe carriage of passengers in wheelchairs and that drivers have passed one of the following; the Driver & Vehicle Standards Agency (DVSA) taxis wheelchair exercise test, the Catstream Drivers Disability Awareness Training, DHAATC training, Transport for All Training or equivalent (as decided by the Director) before renewal of licence every 3 years.

The operator must ensure that all its drivers have undergone disability equality training to help them serve differently abled people or passengers with an access need.

The operator shall take all necessary measures including those of requested by an Authorised Officer of the Council or Police Officer to prevent vehicles in its employment from parking or congregating in such a manner as to cause a nuisance to any reasonable person

The Operator shall bring to the attention of all drivers their legal obligations regarding the use of seat belts by both adults and children under 14 years of age.

The operator shall bring to the attention of all drivers their legal obligation regarding no smoking in vehicles under the Health Act 2006

The Operator shall ensure that all licensed drivers who carry out work on behalf of their company have an up to date Enhanced Disclosure and Barring Service check Certificate.

The Operator shall ensure that all licensed drivers who carry out work on behalf of their company act in a civil and orderly manner both towards customers and any other member of the public.

The Operator must ensure that all drivers who carry out work on behalf of the operator do not work excessive hours and have adequate breaks between shifts.

The Operator shall ensure that all drivers are aware of their obligations under the Equalities Act 2010 which are:-

Section 165 – Duty on a driver of a designated wheelchair accessible vehicle to:-

- Carry the passenger whilst in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in a passenger seat to carry the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- To give the passenger such mobility assistance as is reasonably required

Unless a driver has an exemption under Section 166 which states that he/she is unable to assist passengers in wheelchairs on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult to comply.

Section 168 to 171 (previously Disability Discrimination Act 1995):-

Duty to carry Assistance Dogs unless an exemption is held on medical grounds.

75. Emergency call sign

All operators using a radio network must have in place an emergency call sign. When this call sign is used the operator and / or other cars will render all assistance possible to the caller. The use of the call sign in a frivolous manner could result in suspension of licence. On hearing the call sign all other vehicles will maintain radio silence until advised that the situation is resolved. The call sign should only be used when a person is at risk, (e.g. need for police, fire or ambulance assistance). The call should be changed at regular intervals to avoid misuse. All drivers must be aware of the call sign currently in use by the operator. Each operator is responsible to ensure compliance. Whilst this will complement the "Police Link" it is not voluntary but a condition of the operator's licence in the interests of the safety of drivers and passengers.

76. Operator office location

The office must be located within Brighton & Hove City to enable any Authorized Officer access to the premises or any records as required by statutes or conditions. If unable to fulfil a booking they may only pass these to another licensed operator whose drivers who carry out work on behalf of that operator have an up to date Enhanced Disclosure and Barring Service check Certificate.

77. Deposit of driver and vehicle licences

Any operator who employs or permits anyone to drive any licensed vehicle owned by them will ensure that a copy of the driver's licence is deposited with them during the period that the driver is employed or permitted to drive, the licence must be returned to the driver at the end of that period.

Any vehicle employed or used by an operator must be licensed and the proprietor of the vehicle shall deposit his vehicle licence with the operator during the period that his vehicle is so employed. The operator must return the licence to the vehicle proprietor at the end of the period.

The Operator must ensure that every proprietor of a Private Hire Vehicle operating under the licence is acquainted with, understands and observes the conditions attached to a Private Hire Vehicle Licence.

78. Private Hire Operator Association

Operators may form an association and must give a copy of the constitution of that Association to the Licensing Officer. The Association must keep the Authorised Officer informed in writing of the offices and members of the Association. Only vehicles being operated through members of the Association may display signs as approved by an Authorised Officer.

79. Confidentiality

Due to the nature of enforcement work undertaken by authorised officers, operators are expected not to disclose/broadcast to drivers or proprietors the whereabouts of authorised officers or any other enforcement agencies as this may jeopardise any enforcement actions being undertaken at the time. Failure to comply with this requirement may result in suspension of licence.

80. **Police Safety Schemes**

All operators and drivers should assist in any schemes that assist the police. The main purposes are:

To alert radio controlled vehicles as to missing or suspicious persons or vehicles etc.

To alert Sussex Police of any criminal activities observed.

To create a safer environment for all hackney carriage and private hire drivers.

Drivers should report through the operator to the police and the police will use the scheme to advise drivers of incidents or help required.

81. **Appeals**

The applicant / licence holder may appeal against all or any of these conditions.

Any appeals must be made within 21 days of the grant of the licence.

Appeals must be made to the Magistrates Court – contact: the Clerk to the Justices, The Law Courts, Edward Street Brighton

END.

Alex Evans

From: George Beresford <itdbtnandhove@gmail.com>
Sent: 17 April 2019 18:40
To: Alex Evans; Jacqueline O'Quinn; Jim Whitelegg; Mike Kennedy
Cc: Barry Horne; Directors; GMB BHTS Andy Peters; Unite the Union – South-East Region (Cab Section).

Dear Licensing panel

In regards to the operators license application made by Ola, with the city still suffering from vagrancy, by this I refer to out of town (OOT) drivers sleeping in their cars.

I have also, witnessed or been made aware of several occasions where OOT cars have broken down due to lack of maintenance, or worse vehicles seized for illegal tyres.

Though this has no reflection on the operator, I do fear that as more app based/ commission driven companies appear in the trade, this will leave drivers having to work even longer hours than their already lengthy working week, because of commissions taken by these app companies, as opposed to traditional subs oriented taxi companies.

Eventually drivers will have no option but to have several phones running several apps, in the hope of making enough money to live but, also creating unnecessary distractions.

To add even further substance to my fears I see that Ola already have an operator's license with Wolverhampton.

After having established a working relationship with John Banham the HCO for Wolverhampton, when he came to Brighton to carry out much needed enforcement duties I was as able to coordinate with him resulting in several compliance issues been brought to his attention, and enforcement carried out accordingly.

In these times of austerity is it necessary for councils to be running around the country trying to clear up the mess created by greed,

If I can see and understand that the so-called honey pot districts are attracting less and less license applications but have more issues to deal with.

Yet soft licensing districts have a greater revenue with no more outgoing, so creating an end where quite possibly the residents of B&H will no longer be protected by a licensing team as there will be no funding.

I would like BHCC to understand that it is not competition that I am afraid of but public safety, and the wording of Ola's license application doesn't give me much hope on that front.

I thank you for your time and hope that a favourable decision will be met.

Yours faithfully

George Beresford



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G Beresford

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