



Uber Brighton & Hove Operators Licence Renewal – GMB Brighton & Hove Taxi Section Response:

The GMB Brighton & Hove Taxi Section that Brighton & Hove City Council have backed a multi-billion dollar company that refuses to supply wheelchair accessible vehicles in the city on demand the same way that the local taxi companies have always done.

However it is clear that the council cannot commit to deeming Uber 'Fit and Proper' as it has only issued the licence for six months as opposed to the standard five years.

We made a point of ensuring the council asked Uber specific questions as shown in the Local Government Association Handbook that the council is a member of.

These specific questions were also supplied by the GMB to the council to ask Uber and were used by Reading and North Tyneside Councils where Uber walked away

However as far as we can see at the moment these questions were not included in the renewal application process and we have asked for an explanation of this.

The council has stated that certain conditions have been put in place and these appear to have come from Uber itself but we need to confirm this.

However those condition are unsatisfactory and we have already addressed this to the council.

Where the trade has complained about Uber using vehicle & drivers from all over the UK even the council has stated

“Many authorities have fewer conditions attached to their licensing than is the case here.”

Lastly this has never been about competition it has simply been about a level playing field working on equal conditions and high standards.

Andrew Peters
Secretary
GMB Brighton & Hove Taxi Section



Uber Brighton & Hove Operators Licence Renewal

October 2 2017

Dear Jim

Thank you for providing the information on the Uber Brighton & Hove Operators Licence renewal which has now been extended for a further six months.

I would like address the contents of the letter you have provided:

2. Proposed new Operator condition:

'Uber Britannia Limited 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 reasonable steps to restrict the driver's access to the App within 24 hours and whilst any investigation is ongoing. All complaints will be reported by the Operator to the Council within 72 hours of receiving the complaint.

Whilst we accept this condition, we would consider that there needs to be further and ongoing dialogue with Uber as to which behaviours to include in the condition and to explore further the 72 hour time limit to see whether that can be reduced.

GMB: Is this only when a Brighton & Hove licensed driver is involved or will the also apply to any car used by Uber that is not licensed by the council when any allegation takes place within the licensing authority area? This is vitally important.

3. Proposed new Operator condition:

'When a booking is made under Uber Britannia Limited's Brighton and Hove operating licence, the booking confirmation and receipt provided to a passenger will identify that the driver is licensed by Brighton & Hove City Council.'

I accept this condition.

GMB: This is not satisfactory unless conversely the customer also receives a message stating the vehicle/driver is not licensed by the council then this condition is completely pointless. Any booking undertaken by Uber should provide a message stating exactly where the vehicle & driver is licensed based on Uber using cars from all over the UK.

4. Proposed new Operator condition:

'Uber Britannia Limited must ensure that 100% of Brighton & Hove licensed drivers have undergone disability equality training to help them serve disabled people or passengers with an access need.'

I accept this condition.

GMB: This is not satisfactory as the issue of the lack of Uber supplying wheelchair accessible vehicles has been totally ignored. Effectively a cop out and it appears the council has totally ignored the GMB submission on Uber not providing wheelchair accessible vehicles in the city.

I now need to have a response to the GMB Brighton & Hove Taxi Section Objection Submission where the council were put on notice that the GMB required specific questions to be put to Uber which are also included in the Local Government Handbook on Licensing:

- PHV operator licences are required for anyone who makes provision in the course of business for the invitation or acceptance of bookings for PHVs, so you need to consider:
- Who will invite the booking? If passengers are invited to make bookings through an app, does the app belong to the applicant? If not, it may be that the applicant is not the right person to be licensed.
- Who will accept the booking? If it is the driver who accepts (for instance, by pressing 'accept' on a smartphone app), the driver may need to be licensed as a PHV operator too. This may depend on who the passenger has a contract with – is it the app provider or the driver?
- What does the applicant intend to do in your district? Some models can mean that all the activities of inviting or accepting bookings happen remotely outside your authority's jurisdiction and control.
- Can vehicles be booked in advance, or can customers only 'book' a vehicle at the time they want it?

Can you please confirm that the council

A: Put the GMB specific questions to Uber?

B: That the council used the LGA questions to Uber as Reading and North Tyneside did?

GMB Statement:

The GMB Brighton & Hove Taxi Section considers that the council has taken a very easy way out and appears to have not addressed issues raised by the GMB Brighton & Hove Taxi Section and other parties and have accepted watered down solutions that seem to have been provided by Uber.

Complaints:

It is understood that Uber has undertaken a procedure for reporting serious incidents in the city but it is no clear as to whether this only applies to matters relating the Brighton & Hove Licensed vehicles/drivers because this should also apply to any vehicle/driver used by Uber when undertaking bookings within the city otherwise this is a pointless condition of licensing.

Vehicle/driver Information:

It appears that the council has accepted a proposal from Uber that it will inform customers that when booking will be undertaken by a Brighton & Hove Licensed vehicle/driver it will provide that such information.

However there is no mention that Uber has undertaken to conversely inform the customer that it will be specifically supplying a vehicle/driver from another area and that area will be named. If this is not in place then this is a pointless condition of licensing.

Wheelchair Accessibility

The council has totally ignored the issue raised by the GMB Brighton & Hove Taxi section regarding Uber not supplying wheelchair accessible vehicles and has completely disrespected the hard work the trade has undergone with the council to provide wheelchair accessible vehicles on demand. By only undertaking to ensure that effectively only Brighton & Hove licensed vehicles/drivers are disability trained would a million miles away from ensuring that Uber provided wheelchair accessible vehicles on demand the same as the other companies in the city do.

Deregulation Act 2015

The council has stated: *“Under national law, licensed drivers can operate anywhere in the country, so drivers licensed elsewhere are allowed to operate in the city. Many authorities have fewer conditions attached to their licensing than is the case here. “*

Whilst it is understood that cars licensed by other licensing authorities under the Deregulation Act 2015 can accept jobs in other licensing authorities this was never intended to be interpreted that such vehicles can predominantly work outside of their local authority Enforcement powers.. Effectively any vehicle predominantly working in an area that it is not licensed in should be regarded as 'Touting without a booking'

The council has acknowledged that other licensing areas have fewer licensing conditions than in the case of Brighton & Hove Council. Therefore should the trade now consider removing conditions to the lowest common denominator for a level playing field such as getting rid of council controlled CCTV that has cost the trade over half-a-million pounds payable by each vehicle proprietor?

Due to the Brighton & Hove Council decision we can now expect to see the continuous issue of Uber drivers using the cars as dormitories to sleep in for months at a time in the city streets.

Lastly this has never been about competition as it has simply been about a level playing field working on equal conditions and high standards.

The GMB Brighton & Hove Taxi Section will now have to have time to reflect on matters and how the previous good relationship with the council can continue.

Please note that this document has been provided with speed and further documents may be provided as replacements.

With regards

Andrew Peters
Secretary
GMB Brighton & Hove Taxi Section



**Brighton & Hove
City Council**

Attn. Fred Jones,
General Manager,
Uber Britannia Ltd,
1st Floor,
Aldgate Tower,
2 Lemn Street,
London E1 8FA.

Regulatory Services
Taxi Licensing Office
Hove Town Hall
Norton Road, Hove, BN3 3BQ

Date: 2nd November 2017
Ref: 2017/04739/PHOL2
Phone: (01273) 292488
e-mail: jo.player@brighton-hove.gcsx.gov.uk

By email to fred.jones@uber.com

Dear Sir,

RE: Application by Uber Britannia Ltd to renew Private Hire Operators Licence

I have considered your application to renew your licence. In doing so I have considered written submissions from the Trade, interested parties, Councillor Wares and from Uber. I have also considered issues raised by the Chair and opposition spokespersons of the Licensing Committee. I confirm I have had the benefit of legal advice in reaching this decision.

The legislation is set out in the Local Government (Miscellaneous Provisions) Act 1976. The relevant sections are s55 (the test is Fit and proper) but also s62 which while strictly references suspension or revocation also states "refuse to renew an operator's licence on the following grounds –

- (a) Any offence under, or non-compliance with, the provisions of this part of the act,
- (b) Any conduct on the part of the operator rendering operator unfit to hold a licence
- (c) Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted
- (d) Or any other reasonable cause".

The presumption in Section 55 of the Act is that the licence shall remain in force for five years or for such lesser period, specified in the licence, as the Council think appropriate in the circumstances of the case.

There are some outstanding issues notably around the TFL decision and the current, pending appeal. We have not been privy to the evidence that TFL relied upon in making their decision. We have requested that evidence but our request has been denied and the evidence is not likely to be available prior to the appeal hearing (TfL / Uber appeal). There has also been discussion and negotiation with yourselves around possible conditions to be placed on the licence some aspects of which require further consideration. We welcome those discussions and while they have



Telephone: 01273 290000
www.brighton-hove.gov.uk

been very helpful, due to time pressure (renewal date was approaching) we feel that there are still some issues outstanding.

Four additional (above and beyond the Blue book) conditions have been put forward and accepted. I take the view that these are a positive offer by Uber and are detailed below with comments.

1. Proposed new Operator condition:

'Uber Britannia Limited must not use 'Greyball' technology for the purposes of avoiding regulatory or law enforcement activity in connection with its BHCC operator licence'

We note we have seen no evidence that Greyball has been utilised to avoid regulatory activity and so this offer is made by Uber to reassure.

2. Proposed new Operator condition:

'Uber Britannia Limited 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 reasonable steps to restrict the driver's access to the App within 24 hours and whilst any investigation is ongoing. All complaints will be reported by the Operator to the Council within 72 hours of receiving the complaint.

Whilst we accept this condition, we would consider that there needs to be further and ongoing dialogue with Uber as to which behaviours to include in the condition and to explore further the 72 hour time limit to see whether that can be reduced.

3. Proposed new Operator condition:

'When a booking is made under Uber Britannia Limited's Brighton and Hove operating licence, the booking confirmation and receipt provided to a passenger will identify that the driver is licensed by Brighton & Hove City Council.'

I accept this condition.

4. Proposed new Operator condition:

'Uber Britannia Limited must ensure that 100% of Brighton & Hove licensed drivers have undergone disability equality training to help them serve disabled people or passengers with an access need.'

I accept this condition.

As well as conditions, Uber have also put forward a memorandum of understanding regarding out of town drivers. There is a 24/7 hotline offer which I am happy with. Uber will restrict access to the App for any licensed driver alleged to be involved in a serious criminal offence and restrict a driver's access to the App whilst BHCC and or the police undertake an investigation into the allegation. These are positive proposals and I accept them. There are aspects regarding broader disclosure of data which need further discussion between the parties to comply with data protection legislation.

My decision is to grant a renewal of your licence for a period of 6 months. The reasons for the time limitation are as discussed above and as follows. It will permit ongoing dialogue with your company regarding conditions and measures, and permit changes to be made to the App and to monitor that progress. It will enable us to ascertain the outcome of the TFL licence situation and related appeal proceedings. It will allow us to consider any further evidence that may emerge in connection with this. The licence is granted with the addition of the 4 conditions as discussed above and as follows:

- 1. *'Uber Britannia Ltd must not use Greyball technology for the purposes of avoiding regulatory or law enforcement activity in connection with its BHCC operator licence'.***
- 2. *Uber Britannia Ltd must report to the Council any allegation or complaint relating to certain sexual 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 reasonable steps to restrict the driver's access to the App within 24 hours and whilst any investigation is ongoing. All complaints will be reported by the operator to the Council within 72 hours of receiving the complaint.

- 3. *'When a booking is made under Uber Britannia Limited's Brighton and Hove operating licence, the booking confirmation and receipt provided to a passenger will identify that the driver is licensed by Brighton & Hove City Council.'***
- 4. *Uber Britannia Ltd must ensure that 100% of Brighton & Hove licensed drivers have undergone disability equality training to help them serve disabled people or passengers with an access need.***

Appeal rights.

An operator aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

Following the council's standard procedure for renewing taxi operators' licence renewals, the decision was taken by officers under delegated authority. A decision on the process to look at the licence at the end of this six month period will be taken in the new year.

Yours faithfully,

A handwritten signature in black ink that reads "Joanne Player". The signature is written in a cursive, flowing style.

Jo Player

Joint Acting Head of Regulatory Services (Trading Standards and Licensing)
Brighton & Hove City Council

Cc Werkshop 30, 30 Grand Parade, Brighton, BN2 9QA

From: Martin Seymour [mailto:Martin.Seymour@brighton-hove.gcsx.gov.uk]
Sent: 02 November 2017 12:29
Subject: FW: Uber decision letter - unclassified

Dear All

Please see attached decision letter and press statement below regarding Ubers private hire operators renewal application.

Regards

Martin

Uber license renewal

Following a meeting on 31 October, Brighton & Hove City Council has extended Uber's licence to operate a taxi service in the city for a further six months.

The decision on the length of the extension was taken to allow the council to monitor the outcome of the Transport for London Uber decision, to allow the council to consider whether any of the information arising from the case had direct implications for the operation in the city. It also allows the council more time to negotiate with Uber about a number of proposed conditions for operating in the city.

In making the decision, officers studied reports and written submissions from interested parties. While there was no evidence to suggest that public safety had been compromised, there are a number of concerns, and Uber are working with the council to address these and reassure residents and visitors about their safety.

Under national law, licensed drivers can operate anywhere in the country, so drivers licensed elsewhere are allowed to operate in the city. Many authorities have fewer conditions attached to their licensing than is the case here.

When licensing operators, Brighton & Hove City Council work with them to maintain and enhance standards of safety, which includes trying to ensure that drivers not licenced locally can be as accountable as possible. We're working with Uber to ensure safety standards are maintained and address the challenges brought about by technological changes.

All Brighton & Hove private hire and Hackney Carriage drivers in the city operate under the same licences and the same guidelines contained in the Blue Book, whichever company they drive for. Likewise, all drivers undergo the same background checks.

Following the council's standard procedure for renewing taxi operators' license renewals, the decision was taken by officers under delegated authority. A decision on the process to look at the license at the end of this six month period will be taken in the new year.

Martin Seymour
Hackney Carriage Officer
Taxi Licensing Office
Room G14
Hove Town Hall
Norton Road
Hove
BN3 3BQ
Tel: 01273 296655