

LICENSING SUB COMMITTEE

18 December 2017
10.20 am - 2.45 pm

Present: Councillors Benstead, Bird and T. Moore

Officers

Team Manager (Commercial & Licensing): Karen O'Connor

Technical Licensing Officer: Luke Catchpole

Barrister: Asitha Ranatunga

Legal Advisor: Rory McKenna

Committee Manager: Claire Tunnicliffe

Committee Manager: Emily Watts

Present for the Applicant

Director and Uber Britannia Ltd General Manager and Head of Cities: Fred Jones

Queens Counsel: Philip Kolvin

Uber Solicitor: Helen Hayes

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| FOR THE INFORMATION OF THE COUNCIL |
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17/24/Lic Appointment of a Chair

Councillor Bird was appointed as Chair for the meeting.

17/25/Lic Declarations of Interest

No declarations of interest were made.

17/26/Lic Meeting Procedure

All parties noted the procedure.

17/27/Lic Private Hire Operators Licence Renewal Application

The Committee received a report from the Technical Licensing Officer concerning the renewal application of the private hire operator's licence for Uber Britannia Ltd (UBL) in Cambridge.

The Technical Licensing Officer went through the report in detail with the Committee, a copy of which could be viewed at the following link (pages 5 to 11):

<https://democracy.cambridge.gov.uk/mgChooseDocPack.aspx?ID=3314>

In response to a question from the Committee the Technical Licensing Officer confirmed it was not unusual for a private hire company to be licensed with more than one authority. The more licences the operator held widened the areas that could be covered.

Before any further discussion took place, Asitha Ranatunga, Barrister, representing Cambridge City Council, recommended the Committee consider a confidential paper submitted by UBL (a redacted copy had been made available in the public domain).

The report contained exempt information during which the public and press were likely to be excluded from the meeting subject to determination by the Committee following consideration of a public interest test. This exclusion would be made under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Resolved (unanimously) to exclude the press and public if and when agreed confidential items of the additional report needed to be discussed.

Philip Kolvin QC then provided a summary of the UBL submission by outlining the following about the Applicant:

- i. Had a good operating history in Cambridge.
- ii. Had a good relationship with Cambridge City Council.
- iii. Was popular amongst its customers.
- iv. Held a good safety record.
- v. Had no complaints from its customers to the Council.
- vi. Was ready, willing and able to make changes when required by the Cambridge City Council.
- vii. Agreed to all conditions proposed in Appendix I (p117) of the agenda pack.
- viii. The Directors of UBL (both DBS checked) were of impeccable character whose job was to ensure that Uber was a cooperative and compliant licensee.

The Committee were informed that UBL agreed with the policy approach undertaken by Cambridge City Council, emphasising section 5 Policy Consideration and section 6 Options of the Officer's report.

Fred Jones advised the Committee that UBL had been working with the City Council's enforcement team to resolve any issues that had occurred in the twelve month period. This was exemplified by moving the pickup point at Cambridge City Railway Station further away from Hackney Carriage vehicles with clear instructions to drivers on where they can and can't park.

After providing a working history, business model and technology model of Uber, Philip Kolvin QC explained that he would give a response to the objections made as highlighted in the agenda and additional papers to the agenda pack:

- i. He referred to the list of considerations posed by Transport for London's (TfL) licensing decision on page 45 of the agenda.
 - Highlighted Uber's commitment to working with the police and reporting any known criminal offences. Referenced the second condition on page 117 of the agenda.
 - The approach to undertaking medical checks had changed from using the online 'Push Doctor' service to ensuring each driver saw a doctor in person.
 - Explained that TfL only accepted Enhanced Disclosure and Barring Service (DBS) from one provider. Highlighted that lots of providers can undertake DBS checks. Confirmed that all drivers must undergo a DBS check.
 - Confirmed that Greyball technology would never be used, this commitment was enshrined within their licence.
- ii. He referred to the statement submitted by Panther Taxi on page 191 of the agenda.
 - In order to avoid confusion between Uber and other taxis at Cambridge Railway Station, Uber had created a blacked out zone for their vehicles to wait within.
 - UBL's November 2017 policy encouraged all of its drivers to undertake safeguarding training.
 - Confirmed that UBL always reported complaints to the relevant Licencing Authority. A driver could have their access to the Uber App (and therefore ability to work) suspended with immediate effect if a complaint was raised. UBL had also created a law enforcement portal and a police working group which improved communication with the police.
 - Passengers were able to suggest shorter or different routes to drivers with the Uber App if they were not content with the route taken.

- A reconfiguration of the Uber App was due to be completed in early 2018; after every journey passengers would then receive a receipt which identified the Licensing Authority of the driver.
- iii. He referred to the statement by Cambridge Taxi and Private Hire Association on page 123 of the agenda.
- He asked the Committee not to be swayed by their threat of legal action.
 - There was no evidence to support their objections related to public safety.
 - All drivers were regularly vetted through DBS checks.
 - Stated that Uber drivers were self-employed.
 - Confirmed that none of the Uber vehicles in Cambridge had disabled access. However, as Uber drivers expanded in the area accessible vehicles would be encouraged.
 - Uber's fare prices could surge, this was due to supply and demand at the time of the journey. The customer would always be warned about the surge before proceeding with the booking so they had the option of declining it. The Uber App did not allow the drivers to manipulate the pricing to make it surge.
 - He referred to the statement on local malpractice and strongly refuted it. Stated that if a breach did occur Uber had a 24/7 support team on hand to respond to the allegations.
- iv. He referred to the statement by Brighton and Hove City Council in the additional document pack.
- The data breach took place in America and involved limited customer data which did not include any financial information such as credit card details or dates of birth.
 - There had been no threat to customers in the United Kingdom.
 - UBL wrote to Cambridge City Council to notify them of the breach and reassured that they had worked to ensure no further breach occurred.
 - All of Uber's data handling approaches and measures met recognised data standards to ensure security.
- v. He referred to the statement by Alpha on page 123 of the agenda in the additional document pack:
- Stated that under Uber's terms and conditions the acceptance of booking and passenger's contract was with the driver not UBL. This did not impact on the safety of the customer.

In response to Members' questions Philip Kolvin QC, Helen Hayes and Fred Jones said the following:

- i. Agreed that upon receiving any allegation or complaint relating to the serious behaviours of the drivers (as outlined in Appendix I (p117), reasonable steps to restrict the driver access to the Uber App would be undertaken as soon as reasonably practicable.
- ii. The introduction of the Deregulation Act had set national standards for private hire vehicles to allow greater freedom for operators to work across borders. It was perfectly legal for a driver to be issued a licence with one licensing authority and to work within another authority. The system was dependent on good relationships between the licencing authority and the authority where the driver was driving.
- iii. A good relationship between Uber and the local licensing authority allowed issues reported to be resolved quickly.
- iv. Uber drivers would be available for hire in Cambridge whether the licence would be issued or not; but dispensing a licence locally would allow Uber to build upon its local taxi trade meeting the standards of Cambridge City Council.
- v. Uber customers could complain through the App as they were asked to rate their journey immediately after it took place. If a driver was rated below four stars, more details were requested and logged on the driver's profile. This would allow Uber to identify repeat patterns of behaviour and determine if that driver should be given access to the Uber App.
- vi. The second source of complaints was the Licensing Enforcement team which alerted Uber of complaints and then kept a record.
- vii. The Uber App's reconfiguration would allow additional information about the driver to be shown. Customer receipts would also display the Licensing Authority of the driver and their contact number.
- viii. Global Positioning System (GPS) data allowed the tracking of the journey, where the complaint happened and the driver's details. This could be shared with relevant outside organisations, such as the police or local authority if and when needed.
- ix. No location data or financial data had been accessed from the specific data breach referenced. Agreed that no breach of any data was acceptable.
- x. UBL had a dedicated team dealing with law enforcement at national and local level. They were able to communicate with the police with ease through a specific e-mail address.

- xi. The Uber App was configured in a local area which would determine which driver was available for hire within the closest distance to the passenger before alerting that driver of the fare.
- xii. Data was held in a secure virtual location known as the 'cloud' which the operator and each individual driver could access at any point.
- xiii. The cloud satisfied the Section 56.2 legal requirement of keeping a record of all the Uber journeys throughout the UK. Crucially, this information was immediately accessible to any authorised officer of a council or law enforcement agency if requested.
- xiv. An Uber taxi could be tracked at all times by the person who booked it so if a vulnerable family member was travelling alone their family could ensure they safely reached their destination.

The Chair called a comfort break at 12:30

The Committee resumed at 12:45

Summing Up

The Technical Licensing Officer made the following points:

- i. It was compulsory for all drivers licenced by Cambridge City Council to undertake safeguarding training.
- ii. The rewording of condition 2 of page 117 would change to the following (additional text underlined with deleted text ~~struck through~~);

2. Potential new Operator condition:

"Uber Britannia Limited must report to the Council any allegation or complaint relating to certain serious behaviours, specifically:

- Sexual misconduct
- Violence
- Aggressive or rude behaviour
- Discrimination
- Theft
- Plying for hire

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 as soon as practicable possible and in any event within 24 hours and whilst any investigation is

on-going. All complaints will be reported by the Operator to the Council within ~~72 hours~~ one working day of receiving the complaint.

- iii. Conditions 1 & 2 recommend by Cambridge City Council would be implemented as soon as possible.
- iv. Condition 3 recommended by Cambridge City Council should be implemented by the end of June 2018.
- v. Referred to section 5 of the Officer's report and reminded the committee to consider if UBL were judged to be fit and proper to hold an Operator's Licence. Taking into account the information that they had received and the submission made by Uber.

Asitha Ranatunga Barrister, made the following points:

- i. Highlighted the legislative provisions on pages 9 & 10 of the agenda pack.
- ii. Options for consideration were on 6.2 of the Officer's report. The Committee had the power to impose additional conditions if reasonably necessary on those conditions which had already been agreed.
- iii. The licensing history which had been presented could be taken into account however it was important to focus on the facts relevant to Cambridge.
- iv. To focus on the objections and evidence within Cambridge pertinent to the application.
- v. Decisions reached by other local authorities were not binding and the committee should think carefully on those decisions and be fact specific when considering the application.
- vi. The data breach in 2016 referenced could be taken into consideration but also when and where it occurred, the response taken and the reassurances that had been received at this Sub-Committee.
- vii. Could consider the duration of the licence but if the Committee wished to change the recommendations in the Officer's report the reasons should be clear.

Members withdrew at 12.55 pm to consider their decision and reconvened at 2:35 pm. whilst retired Members received legal advice on the wording of the decision.

Decision

The Sub Committee resolved to renew the Operator's Licence for a period of 5 years subject to the following conditions (as agreed);

1. “Uber Britannia Limited must not use ‘Greyball’ technology for the purposes of avoiding regulatory or law enforcement activity in connection with its Cambridge City Council operator licence”
2. “Uber Britannia Limited must report to the Council any allegation or complaint relating to certain serious behaviours, specifically:
 - i. Sexual misconduct
 - ii. Violence
 - iii. Aggressive or rude behaviour
 - iv. Discrimination
 - v. Theft
 - vi. Plying for hire

Upon receiving any allegation or complaint relating to the above serious behaviours the Operator must restrict the driver’s access to the App as soon as reasonably practicable and in any event within 24 hours, and whilst any investigation is on-going. All complaints will be reported by the Operator to the Council within 1 working day of receiving the complaint.”

3. “When a booking is made under Uber Britannia Limited’s Cambridge City Council operating licence, the booking confirmation and receipt provided to a passenger will identify that the driver is licensed by Cambridge City Council. This condition will come into effect no later than the 30th June 2018”

Reasons for reaching the decision were as follows:

Following Cambridge City Council’s Licensing Policy, as we found no valid objections or reasons to refuse UBER’s Cambridge Operator’s Licence, we decided to renew UBER’s Operators licence for a further five years on the basis that we consider UBER to be a fit and proper operator.

The meeting ended at 2.45 pm

CHAIR