

Item

FIRST RENEWAL OF OPERATOR LICENCE



To:

Taxi Licensing Sub-Committee

Report by:

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Wards affected:

All

1. Introduction

- 1.1 The purpose of this report is to consider the first renewal of the private hire Operator's licence held by Uber Britannia Limited. An application to renew the licence was made by Uber Britannia Limited on 7th November 2017. A copy of the application form is attached to the report as Appendix A.
- 1.2 The application is classed as a first renewal application, which is for any Operator wishing to renew the licence at the expiry of the first year of holding the licence. An Operator will need to demonstrate that they have been operating a private hire business for the full duration of the licence (one year). The matter will then be referred to Licensing Sub-Committee who will then review the matter to determine whether the applicant is a fit and proper person(s) to hold an operator's licence.
- 1.3 The applicant has requested an Operator's licence to be granted for five years.

2. Recommendation

- 2.1 It is recommended that Members consider the information contained in this report, any representations made to them and the legislative provisions and policy considerations detailed in paragraphs 4 and 5 below, and determine whether Uber Britannia Limited is “fit and proper” to continue to be a licensed private hire operator by Cambridge City Council.
- 2.2 If Members consider Uber Britannia to be fit and proper and decide to grant the renewal of the operator’s licence, Members can decide to grant it for a period of one year, five years or for any other time period that is deemed appropriate.

3. Background

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- 3.1 Uber Britannia Limited first applied for a Private Hire Operator’s Licence on 26th November 2015 and was issued with the licence on 21st December 2015 for a period of one year.
- 3.2 Due to the operator not having traded under the initial licence for a whole year, the subsequent renewal application was treated as a new application. The licence was issued on 21st December 2016 for a period of one year. The current licence, PHO080 is attached to the report as Appendix B.
- 3.3 An application to renew the current licence for 5 years was received from Uber Britannia Limited on 7th November 2017 (Appendix A). In accordance with the Hackney Carriage and Private Hire Handbook (Appendix P, Page 153) this application is classed as a first renewal as Uber have been operating under the current licence for only one full year. The current licence expires on 20th December 2017.
- 3.4 When the first application was made references were provided for Tom Elvidge and an enhanced DBS check was also provided.
- 3.5 Tom Elvidge and Fred Jones have both had their DBS checks carried out via the update service as part of this application. Both DBS checks came back with no information.
- 3.6 Uber do not carry out DBS checks or medicals before allowing drivers to drive for Uber. However all drivers licensed by Cambridge City Council will have an enhanced DBS check carried out every three years and procedures are in place for Cambridge City Council to deal with any information that is provided on the DBS check. All licensed drivers with Cambridge City Council will also have medicals carried out as per Cambridge City Council’s policy.

- 3.7 Any driver and vehicle licensed by Cambridge City Council will go through the same application process as set out in Cambridge City Council's Hackney Carriage and Private Hire Licensing Policy and Cambridge City Council's Hackney Carriage and Private Hire Taxi Handbook.
- 3.8 As there are no set national guidelines around the licensing of drivers and vehicles, we are unable to comment on the steps that drivers licensed by other authorities have to take in order to become a licensed driver and to get their vehicle licensed or the conditions that they must adhere to in respect of that licence.
- 3.9 Uber Britannia Limited holds Operator licences with 42 other local authorities. Tom Elvidge holds Operator licences with 7 local authorities and Fred Jones holds Operator licences with 12 local authorities. Details of which can be found on pages 21 to 23 of Appendix A.
- 3.10 Uber Britannia Limited has had two applications for an Operator's licence refused by Reading Borough Council and Swansea City & County Council (SCCC). The reasons are provided on page 24 of Appendix A.
- 3.11 On 22 September 2017 Uber London Limited had an application to renew their Operator licence in London refused by Transport for London (TfL). This decision is currently under appeal. The statement issued by TfL in regards to this decision is attached to the report as Appendix C.
- 3.12 Since November 2016, we have received 6 complaints regarding Uber as an operator. Five of these were received on the 15th and 16th November 2016, which was when Uber vehicles first appeared in Cambridge. The complaints related to how the bookings were made and whether the triple lock process was being adhered to. Investigations carried out by the Licensing enforcement officers concluded that Uber was acting correctly. The 6th complaint was received on 17th March 2017 and related to drivers licensed by The City of Wolverhampton Council working for Uber within Cambridge. The complaint was looked into and it was concluded that as long as the triple check process was being followed, which it was, there was no action that could be taken.
- 3.13 Further complaints have been received regarding vehicles licensed by other authorities working for Uber not displaying licence plates or door signs. Each local authority sets different conditions and not all require door signs to be displayed. In regards to vehicles licensed by TfL, they must display a roundel style logo in both the front and rear windscreens. These complaints have been forwarded on or have been sent to the local authority responsible for the licensing of the vehicle. Cambridge City Council can also take action against the driver of the vehicle if evidence is received that they are working as a private hire driver and not displaying their licence plates. No action has been taken against any driver in regards to these alleged offences by Cambridge City Council but Uber Britannia Limited have been informed and suspended vehicles from the app until that vehicle is displaying the correct licence plates.
- 3.14 One complaint has been received in regards to an Uber vehicle and driver licensed by Cambridge City Council not displaying door signs. Uber Britannia Limited were informed of this complaint and the vehicle was suspended from the app (meaning

he was no longer able to access jobs through Uber) until the door signs were in place. The vehicle in question started displaying the correct door signs and was able to take jobs through the Uber App.

- 3.15 No complaints have been made to Cambridge City Council from members of the public in regards to journeys taken in Uber vehicles.
- 3.16 At the time of the inspection, Uber Britannia Limited currently uses 4 private hire vehicles and drivers licensed by Cambridge City Council.
- 3.17 An inspection of the Operator's base was carried out on 8th November 2017 by Karen O'Connor, Team Manager (Commercial & Licensing) and Luke Catchpole, Technical Officer. A copy of the inspection form is attached to the report as Appendix D.
- 3.18 The relevant findings of the inspection were as follows:
- Question 6 (d) on the application form indicated that bookings could be taken via the website. The inspection clarified that this was an error and bookings can only be made via the app.
 - The booking process was explained in detail (page 4 of inspection form) and the operator confirmed that Uber Britannia Limited invites the booking, accepts the booking and that the contract is with Uber Britannia.
 - A condition of the operating licence is that the operator must ensure that every vehicle working under their operator licence is covered by a valid certificate of insurance and a valid certificate of compliance and a record of this must be maintained. At the inspection, Uber Britannia were able to show valid certificates of insurance for all vehicles working under their operator licence but did not hold copies of valid certificates of compliance for any of the 4 vehicles. Uber Britannia was not aware of the need to do this and stated that they will contact the vehicle owners and get this information from them and add it to their records. Any vehicle that does not provide this information will not appear on the app until it is provided. All certificates of compliance have been received and added to the operator's records. Uber have also provided assurances that they will continue to do this going forward.
 - Should the insurance cover for any vehicle working under the Operator's licence be cancelled, suspended or lapse then the vehicle must be immediately stood down and Cambridge City Council notified of this immediately. Uber have processes in place to suspend any vehicle without valid insurance from its app but were not aware of the need to inform the Council. After the inspection they are now aware of that need and will be informing the Council when necessary.
 - The list of staff provided in the application form was added to at the inspection and a print out of ancillary staff was provided. This is attached to the report as Appendix E.
 - Drivers receive a presentation that covers the use of the app and regulatory information that drivers must adhere to. A copy of the presentation is attached to the report as Appendix F. Uber also provides an electronic safeguarding e module produced by Barnardo's that drivers can access if they so wish. A copy of this is attached to the report as Appendix G.

- Uber were able to provide all information relating to bookings and record keeping of journeys undertaken on the operator's licence issued by Cambridge City Council at the inspection. As part of enforcement work carried out by the licensing team, a test purchase was made via the app. Officers found that the bookings were recorded in the correct manner.
- Uber has a complaints procedure in place. A record of complaints received over the last 12 months has been provided and is attached to the report as Appendix H. None of the complaints were forwarded on to Cambridge City Council and this was discussed at the inspection. Going forward, Uber will forward all relevant complaints to the Council when received. Discussions will take place between the Council and Uber to confirm what relevant complaints are.
- A valid copy of public liability insurance was seen at the inspection. This expires on 29th June 2018.
- A first renewal application requires the operator to demonstrate that they have been operating for a whole year. Uber have provided copies of bookings for journeys taken under their Cambridge City Council operator licence for the first week of every month, beginning with December 2016. A copy of this can be provided if members wish to view it.

3.19 The issues found at the inspection regarding certificates of compliance, insurance and the forwarding of complaints that have been mentioned in 3.18 were discussed at the visit and there has been further dialogue with the Operator since. The Commercial & Licensing team is working on developing a process on how all Operators should report gaps in insurance and relevant complaints received to the Council.

3.20 Two letters objecting to the renewal of the Operator's licence have been received from Panther Taxis Ltd and a joint response from Cambridge City Licensed Taxis (CCLT) and Cambridge Hackney & Private Hire Association (CHPHA). The responses are attached to the report as Appendix J.

3.21 Fred Jones of Uber has sent in an email in response to the data breach that affected Uber. The email has been attached to the report as Appendix K.

4. Legislative Provisions

4.1 In making their decision, Members must give consideration to section 62 of the Local Government (Miscellaneous Provisions Act) 1976 which states:

“Suspension and Revocation of operators' licences.

(1) Notwithstanding anything in this Part of this Act a district council may suspend or revoke, or (on application therefor under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:—

(a) any offence under, or non-compliance with, the provisions of this Part of this Act;

- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;*
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis when the licence was granted; or*
- (d) any other reasonable cause*

(2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the operator notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal.

(3) Any operator aggrieved by a decision of a district council under this section may appeal to a magistrates court.

5. Policy Considerations

5.1 Section 55 Local Government (Miscellaneous Provisions) Act 1976 require a local authority to be satisfied that an applicant for a private hire operator's licence is a "fit and proper person to hold an operator's licence". A definition of what could constitute "fit and proper" is provided by Bingham LCJ in *McCool v Rushcliffe Borough Council* [1998] 3 All 889, QBD: "...those licensed to drive private hire vehicles are suitable to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers". This definition relates to a driver of a taxi, not an operator but the general views could be used when determining whether an operator is "fit and proper".

6. Options

6.1 The Authority has a duty to ensure that a safe and secure 'taxi' service is available to the public.

6.2 Every case should be dealt with on its own merits, and after consideration of any representations from the applicant and his referees, the following options are available to the Sub-Committee:

1. Renew the Operator's licence for the standard 1 year or 5 year period.
2. Renew the Operator's licence for a limited duration up to 5 years.
3. Renew the Operator's licence with additional conditions. A list of potential conditions is attached to the report as Appendix I. These are only proposals and members can decide to utilise all of them, some of them or none. It is also not an exhaustive list and members can add further conditions if so minded.
4. Refuse the renewal. This carries a Right of Appeal to Magistrates Court

If members choose option 4 they must be satisfied that Uber Britannia Limited has behaved in a manner that renders them not a "fit and proper person" to continue to

hold an Operator's licence and give their reasons. Members are required to give their reasons for any decision reached.

7. Conclusion

- 7.1 Uber Britannia Limited was first issued with a private hire Operator's licence by Cambridge City Council on 21st December 2015, and has utilised this Operator's licence by providing relevant services since November 2016. The current licence expires on 20th December 2017 and the applicant has requested an Operator's licence to be granted for 5 years. Having examined all the facts presented in this case, members are asked to determine the issue by choosing one of the options outlined in section 6.
- 7.2 Members may give their decision at the hearing and, in any event, Uber Britannia Limited will be informed of the decision in writing as soon as possible. Any appeal must be lodged with the Magistrates Court within 21 days of receipt of the notification of the decision.

8. Background Papers

[Town Police Clauses Act 1847](#)

[Local Government \(Miscellaneous Provisions\) Act 1976](#)

Cambridge City Council Hackney Carriage and Private Hire Licensing Policy

Cambridge City Council Hackney Carriage and Private Hire Taxi Handbook

9. Appendices

Appendix A – Application form

Appendix B – Current PHO Licence

Appendix C – TfL statement

Appendix D – Inspection Form

Appendix E – Ancillary Staff List

Appendix F – Driver presentation

Appendix G – Barnardo's safeguarding training

Appendix H – Record of complaints

Appendix I – Proposed conditions to be placed on the licence

Appendix J – Response to renewal application

Appendix K – Email from Fred Jones regarding data breach

Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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