

# Travis Morley Associates: Your Licensing Law Brief!



We, Travis Morley Associates, are proud to be the LPHCA's official legal advisors and are pleased to continue our update section for Private Hire News.

Since the publication of the *Summer 2018 (Issue 82)* edition there has been some interesting private hire licensing law developments...

## Brighton Refuses Uber Licence Renewal.

On 1<sup>st</sup> May 2018 Brighton & Hove City Council refused to renew Uber Britannia Limited's (Uber) private hire operator licence. Specific concerns related to a well-publicised data breach in 2016 and commitment failures on the sole use of drivers licensed by the authority. Ultimately, pursuant to *section 55 Local Government (Miscellaneous Provisions) Act 1976*, Uber was found not to be 'fit and proper' to hold a licence. Uber confirmed, on 21<sup>st</sup> May 2018, it had filed an appeal. This matter, and its developments, will be updated in future publications.

## Name & Shame Workers Rights Abusers Proposal.

On 9<sup>th</sup> May 2018 the Director of Labour Market Enforcement, Sir David Metcalf CBE, published his first annual report entitled '*United Kingdom Labour Market Enforcement Strategy 2018/19*'. It makes recommendations, amongst others, on supply chain responsibility, a 3-month time limit for remedial action and the public naming of companies who fail to comply beyond that deadline. What, if any, proposals are adopted by government remains to be seen.

## New Transport for London Compliance Team & Spot-Check Powers.

On 17<sup>th</sup> May 2018 the Mayor of London announced the creation of a new Transport for London Taxi & Private Hire Compliance Team empowered to stop private hire and taxi vehicles for inspections. Officers will be trained, under the '*Community Safety & Accreditation Scheme*' with a view to checking insurance documents, drivers' licences, photographic identification and the vehicle. It remains to be seen how these spot-checks will affect the trade.

## Transport for London Extends English Language Requirement Deadline.

On 22<sup>nd</sup> May 2018 Transport for London confirmed it would extend the period for private hire drivers to satisfy an 'English Language Requirement' (*TfL TPH Notice 02/18*). [This matter is covered in greater detail on page 5.](#)

## Supreme Court Rules on Voice Contact Requirement.

On 25<sup>th</sup> May 2018 the Supreme Court overturned an earlier High Court decision and gave judgement in favour of Transport for London (*Transport for London v R (Uber London Limited et al) [2018] EWCA Civ 1213*). It means operators must ensure someone is available to speak to a customer at specified times (i.e. during business hours or the performance of a booking) (*TfL TPH Notice 03/18*). A new compliance deadline has been set for 1<sup>st</sup> October 2018.

## High Court Rules on Operator Licence Fees.

On 25<sup>th</sup> May 2018 the High Court ruled on Transport for London's new private hire operator licence fees (*R (LPHCA Limited) v Transport for London [2018] 1274 (Admin)*). A challenge was brought by the Licensed Private Hire Car Association (LPHCA) on grounds of a lack of sufficient information during the consultation and the unlawful use of powers to set an improper purpose. Judgement was given in favour of Transport for London. [This matter, and its implications, are covered in greater detail on page 26.](#)

## Supreme Court Rules on Pimlico Plumbers & Worker Rights Claim.

On 14<sup>th</sup> June 2018 the Supreme Court rejected an appeal by Pimlico Plumbers against a Court of Appeal decision fining a plumber, Gary Smith, within the definition of a 'worker' (*Pimlico Plumbers et al v Smith [2018] UKSC 29*). In a similar dispute, Deliveroo reportedly agreed a financial settlement with a number of its couriers. These matters, and effects upon an Uber appeal listed for October, will be updated in future publications.

## Magistrates Court Rules on Uber Licence Refusal Appeal.

On 26<sup>th</sup> June 2018 Westminster Magistrates Court heard an appeal from Uber against Transport for London's refusal to renew its operator licence (*Uber London Limited v Transport for London (26 June 2018) (unreported)*). In overturning the regulators decision, and granting a shortened 15-month licence, the court noted various remedial measures adopted by Uber. To ensure compliance, the court also specified key licence obligations and conditions the company must satisfy.

## Transport for London Congestion Charge Consultation.

On 6<sup>th</sup> July 2018 Transport for London announced a new consultation entitled '*Have your say on proposed changes to the Congestion Charge*'. It is focussed, amongst others, on a proposal to remove the existing exemption for private hire vehicles from congestion charges. The response deadline is 28<sup>th</sup> September 2018. [This is covered in greater detail on pages 4 and 5 of this edition of Private Hire News and the LPHCA has launched a petition to protest \(details on page 22\).](#)

## Magistrates Court Rules on Uber Mobile Application & 'Plying for Hire'.

On 10<sup>th</sup> July 2018 Reading Magistrates Court dismissed Reading Borough Council's prosecution of a driver, Mr Mudassar Ali, utilising the Uber mobile application (*Reading Borough Council v Ali (10 July 2018) (unreported)*). It was contested by the authority that showing an approximate location of Mr Ali's vehicle on a digital map, within the software, constituted unlawful 'plying for hire'. The court rejected this view, and in general terms, took the view the process reflected a modern method of booking a private hire vehicle. This decision, and its wider effects as a non-binding interpretation, will be updated in future publications.

## Licensed Taxi Drivers' Association Plans Uber Case.

On 24<sup>th</sup> July 2018, it was reported, the Licensed Taxi Drivers' Association (LTDA) has been exploring legal claim options with, law firm, Mischon de Reya. It centres around an action for loss of earnings relating to the licensing of Uber in London. The LTDA, alongside other interested parties, has formed the Cabbie Action Group. This matter, and its developments, will be updated in future publications.

## Government Publishes Transport Strategy

On 26<sup>th</sup> July 2018 the Department for Transport published '*The Inclusive Transport Strategy: Achieving Equal Access for Disabled People*'. It sets out governmental plans to make the transport system more inclusive and travel easier for disabled individuals. This includes outline objectives for licensing authorities in respect of licensed taxi and private hire vehicles.

## Mayor of London Requests Licence Cap Powers.

On 16<sup>th</sup> August 2018, it was reported, Mayor Sadiq Khan has sought new powers to limit private hire driver licence numbers in London. A letter has been sent to Chris Grayling MP, Secretary of State for Transport, and cites ever-increasing congestion, pollution and reduced earnings as reasons. A government response is awaited. [This matter is covered in greater detail on page 5.](#)

## OTHER NEWS

On 23<sup>rd</sup> July 2018 the Driver & Vehicle Licensing Agency (DVLA) launched a '*National Eyesight Awareness Campaign*'. It seeks to encourage drivers check their vision and ensure compliance with minimum driving standards.

On 14<sup>th</sup> August 2018, it was reported, FiveAI would be collecting traffic data in London for the next 10 months. Once completed, autonomous taxi vehicles are planned to launch in 2022.

**ARE YOU AFFECTED BY THESE ISSUES?** If you want to check how you are affected by the above issues, or any other Licensing Law matter, please contact Travis Morley Associates now on 01159 724928 or by email to [enquiries@travismorley.co.uk](mailto:enquiries@travismorley.co.uk) or visit us at [www.travismorley.co.uk](http://www.travismorley.co.uk).

\*Travis Morley Associates accepts no liability for any action or inaction taken based on this article by an individual or party and where such action or inaction is taken it is done so at their own risk. We would always recommend, prior to taking any steps, seeking professional legal advice.