

# 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 *Winter 2018/19 (Issue 84)* edition there has been some interesting private hire licensing law developments...

## Addison Lee Loses Workers Rights Appeal.

On 14<sup>th</sup> November 2018 the Employment Appeal Tribunal upheld an earlier decision finding the claimant Addison Lee drivers are 'workers' (*Addison Lee Limited v Lange et al UKEAT/0037/18/BA*). It rejected submissions that the drivers are self-employed contractors and confirmed the claimants' entitlement to the national minimum wage and holiday pay. The judgement is however, subject to appeal.

## Cross-Party MPs Calls for Taxi & Private Hire Reforms.

On 29<sup>th</sup> November 2018 Wes Streeting MP sent a cross-party endorsed letter to the Department for Transport calling for reforms to the taxi and private hire industry. It follows the presentation of recommendations, in *'Lessons from London: The Future of the UK Taxi Trade'*, by the All-Parliamentary Group on Taxis in 2017. Such calls appear to have garnered traction and, coincidentally, resulted in a new Department for Transport consultation.

## Wakefield Taxi Fees Unlawful.

On 7<sup>th</sup> December 2018 the High Court ruled Wakefield City Council's licence fees to be unlawful following a challenge by Wakefield District Private Hire & Hackney Association (*R (Wakefield District Private Hire & Hackney Association) v Wakefield City Council [2018]*). Judgement centred on the statutory provisions enabling the charging of fees and the resultant scope of fettered licensing authority powers. A remedial claim for restitution is expected.

## Welsh Government Consults on Taxis & Private Hire Reforms.

On 10<sup>th</sup> December 2018 the Welsh Government commenced its 'Improving Public Transport' consultation (also entitled 'A Welsh Government White Paper on Proposals to Legislate for Reforming the Planning & Delivery of Local Bus Services & Licensing of Taxis & Private Hire Vehicles'). It proposes reforms to taxi and private hire licensing law including local standards, out-of-area enforcement action and sharing safeguarding information. The deadline for a response is 27<sup>th</sup> March 2019.

## Government Response on Taylor Review.

On 17<sup>th</sup> December 2018 the Department for Business, Energy & Industrial Strategy (DBEIS) presented to Parliament its response to the 'Good Work: The Taylor Review of Modern Working Practices' report. The 'Good Work Plan' outlines the Government's legislative proposals for reform. It includes requiring statements of rights, increases to maximum employer fines and, amongst others, holiday pay calculations.

## Congestion Charge & Ultra Low Emission Zones in London.

On 19<sup>th</sup> December 2018 the Mayor of London, Sadiq Khan, ratified the removal of the 'Congestion Charge Exemption' for private hire vehicles (*Greater London (Central Zone) Congestion Charging (Variation) Order 2018*). In addition, it saw the introduction of the Ultra-Low Emission Zone (ULEZ) (*Greater London Low Emission Zone Charging (Variation) (No.2) Order 2018*). These changes will be implemented on 8<sup>th</sup> April 2019.

## Uber Loses Worker Rights Appeal.

On 19<sup>th</sup> December 2018 the Court of Appeal upheld an earlier Employment Appeal Tribunal decision finding the claimant Uber drivers to be 'workers' (*Uber BV et al v Aslam et al [2018] EWCA Civ 2748*). It rejected submissions from Uber it merely acted as an agent for self-employed drivers. Instead it confirmed the drivers' entitlement to national minimum wage and, amongst others, holiday pay. The judgement is however, subject to appeal.

### ARE YOU AFFECTED BY THESE ISSUES?

If you want to check how you are affected by any of 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.

## DEFRA Taxi & Private Hire Vehicles Database.

On 8<sup>th</sup> January 2019 the Department for Environment, Food & Rural Affairs (DEFRA) laid before Parliament its draft *Air Quality (Taxis & Private Hire Vehicles Database) (England & Wales) Regulations 2019*. It creates a central database, under the Environment Act 1995, for the purpose of identifying and charging tax or private hire vehicles entering Clean Air Zones. The regulations are awaiting ratification and implementation is expected on 1<sup>st</sup> May 2019.

## LGA Publishes Guidance on Mandatory CCTV Requirements.

On 10<sup>th</sup> January 2019 the Local Government Association (LGA) issued guidance for licensing authorities considering introducing CCTV requirements. The document, entitled *'Developing an Approach to Mandatory CCTV in Taxis & PHVs'*, follows certain recommendations made by the Task & Finish Group on Taxi & Private Hire Licensing report in September 2018.

## Uber Subject to VAT Claim.

On 6<sup>th</sup> February 2019, it was reported, a leading tax law barrister has brought a High Court claim against Uber that could leave the company liable to Value Added Tax (VAT) (*Jolyon Dennis Maugham v Uber London Limited [2017] HC-2017-001496*). If successful Uber could incur an historic tax bill of £1.3 billion and an annual bill of £200 million.

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

On 7<sup>th</sup> February 2019 the High Court ruled the Uber mobile application did not amount to 'plying for hire' (*Reading Borough Council v Ali [2019] EWHC 200 (Admin)*). It considered, and dismissed, the on-screen displaying of vehicles, Uber's terms and conditions and the action of waiting for a booking. Permission to appeal was refused.

## DfT Statutory Guidance on Taxi & Private Hire Vehicle Licences.

On 12<sup>th</sup> February 2019 the Department for Transport opened its *'Taxi & Private Hire Vehicle Licensing Users'* consultation. It seeks views on proposed statutory guidance for licensing authorities to manage existing powers for the protection of children and vulnerable adults. This represents part of the Governments reply to the Task & Finish Group on Taxi & Private Hire Licensing report in September 2018. The deadline for a response is 27<sup>th</sup> March 2019.

## United Cabbies Group Judicial Review.

On 13<sup>th</sup> February 2019 the High Court heard the United Cabbies Group challenge to the decision to award Uber a private hire operator licence in London (*R (United Cabbies Group (London) Ltd v Westminster Magistrates Court [2018] CO/3767/2018*). It followed an earlier decision, which has been subject to a conflict of interest allegation, by the Chief Magistrate on 26<sup>th</sup> June 2018. This matter, and its developments, will be updated in future publications.

## Other News...

On 14<sup>th</sup> January 2019 the United Private Hire Drivers (UPHD), of the Independent Workers Union of Great Britain (IWGB), demonstrated against the removal of the Congestion Charge Exemption in London. Additional protests are expected until Transport for London changes its position.

On 28<sup>th</sup> January 2019 Plymouth City Council became aware of opposition to its proposed increase to taxi and private hire licence fees. Trade demonstrations were held across the city.

On 5<sup>th</sup> February 2019 the Government announced it would award £6 million for the installation of rapid and fast charge points for ultra-low emission taxis. The seventeen local authorities expected to benefit include, but are not limited to, Greater Manchester, Brighton and Leicester.

On 9<sup>th</sup> February 2019 Carlyle Group, it was reported, plans to sell Addison Lee later in 2019. The alleged price is £390 million.