

# 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 2019 (Issue 86)* edition there has been some interesting private hire licensing law developments...

## Bedford Taxi Fee Protests.

On 24<sup>th</sup> May 2019 it was reported Bedford Hackney Carriage Association had protested, and submitted a petition, opposing specified fee increases. This follows a decision by Bedford Borough Council to set new rates for vehicle tests. The matter has been passed to the licensing authority's General Licensing Sub-Committee for a policy decision.

## Glasgow Plans Knowledge Tests.

On 27<sup>th</sup> May 2019 Glasgow City Council announced it will introduce an SQA qualification for all taxi and private hire drivers. This step follows a significant rise in public complaints about pirating, cherry-picking jobs, over-charging and refusals to carry guide dogs or wheelchair passengers. The new requirement will take effect from January 2020.

## Heathrow Consults on Taxi & Private Hire Proposals.

On 18<sup>th</sup> June 2019 Heathrow Airport opened its 'Airport Expansion Consultation'. It proposes, amongst others, to introduce so-called 'back-filling' alongside other measures aims at promoting taxi-sharing and increasing each vehicles passenger numbers. The consultation closes on 13<sup>th</sup> September 2019.

## Tax Exemption for e-Taxis.

On 5<sup>th</sup> July 2019 the Department for Transport (DfT) announced new incentives for taxi drivers and trade companies to purchase environmentally friendly vehicles. Legislation, which will reflect the Governments 'Road to Zero' strategy, is intended to exempt such vehicles from the premium rate of vehicle excise duty. How, and whether, this will increase the uptake in zero-emission vehicles remains to be seen.

## New London Taxi Age Limits.

On 5<sup>th</sup> July 2019 Transport for London (TfL) published its new mandatory vehicle age limits for all licensed taxis in London (*TfL Notice 05/19*). The new limits, and accompanying exemptions, are closely aligned with, and based upon, the emission categories for each vehicle. The new requirements will come into effect on 1<sup>st</sup> November 2019.

## Welsh Delay Licensing Reforms.

On 11<sup>th</sup> July 2019 the Welsh Government published details of the responses to its taxi and private hire licensing reforms. This follows the conclusion of the 'Improving Public Transport' consultation on 27<sup>th</sup> March 2019. Whilst responses were encouraging on some measures, such as national standards, others, such as single national licensing authority, were more negative. More time is evidently needed and delays are expected to extend until the next Welsh Assembly elections in 2021.

## DEFRA Publishes National Database Guidance.

On 18<sup>th</sup> July 2019 the Department for Environment, Food & Rural Affairs (DEFRA) issued its 'The Air Quality (Taxi & Private Hire Vehicles Database) (England & Wales) Regulations 2019: Statutory Guidance'. It offers advice to licensing authorities on how to manage, format and submit vehicle data to the new 'Taxi & PHV Centralised Database'.

## High Court Rules on Congestion Charge Exemption Removal.

On 24<sup>th</sup> July 2019 the High Court handed-down its judgement on the Mayor of London's decision to remove the congestion charge exemption for private hire vehicles (*R (Independent Workers' Union of Great Britain & Others v The Mayor of London & Transport for London [2019] EWHC 1997 (Admin)*). The court considered, and dismissed, the allegations, amongst others, that it amounted to discrimination and a breach of human rights. It is expected an appeal will follow. Additional discussion on this case can be found in this edition of Private Hire News.

### 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).

## UBER LEGAL REPORT

### Elite Taxi Group Plan Fraud Claim

On 23<sup>rd</sup> May 2019 the Elite Taxi Group, representing Barcelona taxi drivers, signalled its intention to bring a claim against Uber and Cabify. It alleges fraud, money laundering, tax infringements and breaches of worker's rights. Previously, the same association successfully brought a case against Uber to the European Court of Justice which established its status as a transportation company (as opposed to an online application). It remains to be seen whether similar success will follow in this case.

### LCDC Requests Regulatory Investigation

On 11<sup>th</sup> June 2019 the London Cab Drivers Club confirmed it had instructed solicitors, Birdmans LLP, who have written on their behalf to Transport for London (TfL). It raised a number of legal complaints surrounding Uber's booking practices, namely the use of 'ghost offices', across the country. This, it is alleged, constitutes illegal activity and warrants investigation.

### HMRC Confidentiality Order in Tax Case

On 26<sup>th</sup> June 2019 the Good Law Project confirmed it was progressing with its judicial review proceedings against HMRC. Its central complaint relates to an alleged failure, as highlighted in previous columns, to properly assess Uber's VAT liabilities (*Jolyon Dennis Maugham v Uber London Limited [2017] HC-2017-001496*). In a new development HMRC has applied, reportedly, for a Confidentiality Order to protect the details of the claim from disclosure. This application is being resisted and the case continues.

### Settlement in Leeds Cases of Alleged Sexual Assault

On 27<sup>th</sup> June 2019 it was confirmed Uber had agreed undisclosed out of court settlements in cases where a Leeds driver had allegedly committed sexual assaults. The claims were brought against Uber based on the drivers' status as an employee and the company's resultant duty of care to protect passengers. Questions remain as to how this decision by Uber will, ultimately, affect the wider issue of its drivers' employment status.

### Magistrate Court Issues Fine for No Insurance

On 5<sup>th</sup> August 2019 it was reported Westminster Magistrates Court had fined Uber London for allowing drivers to perform bookings without valid insurance and for failing to keep adequate records. The total fine, it is understood, amounted to £29,600 following judgement on 31<sup>st</sup> July 2019. This represents a breach of the probationary licence conditions granted to Uber London. The current licence expires on 25<sup>th</sup> September 2019 and various calls have been made for its revocation.

## OTHER NEWS...

On 29<sup>th</sup> June 2019 the Department for Transport (DfT) announced it proposes to toughen rules surrounding the issue of idling vehicles. New fines are to be considered with a view to stopping the practice and reducing air pollution. A consultation is expected later in 2019.

On 16<sup>th</sup> July 2019 the Crown Court overturned Halton Borough Council's decision to refuse taxi licence applications. The capping of licence numbers was found not to be supported in evidence and the court recommended the conducting of an unmet survey demand.

On 24<sup>th</sup> July 2019 Grant Shapps MP replaced Chris Grayling MP as Secretary of State for Transport. His approach to trade issues, and whether it differs from his predecessor, remains to be seen.

On 2<sup>nd</sup> August 2019 it was reported the Licensed Taxi Drivers Association (LTDA) had written to the new Prime Minister to request powers be given to the Mayor of London to cap the number of private hire drivers in London.

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