

# Your Licensing Law Brief!

Travis Morley are proud to be the official LPHCA legal advisors and are pleased to continue our regular update column for Private Hire News.

Since the publication of the Autumn 2019 (Issue 87) edition, there has been some interesting private hire licensing law developments...

## **Leeds Considers Mandatory CCTV**

On 7<sup>th</sup> August 2019, it was reported that Leeds City Council are considering adopting a mandatory CCTV requirement for all taxi and private hire vehicles. The authority will setup a working group to assess the practicality of such a proposal. A Data Protection Impact Assessment is expected to be carried out in due course.

## **IWGB Registers Enforcement Complaints**

On 19<sup>th</sup> August 2019 the Independent Workers Union of Great Britain (IWGB) lodged a formal complaint on enforcement practices with the Mayor of London. It alleges discriminatory and unfair action against private hire drivers by Transport for London (TfL) and the Metropolitan Police. Additional calls are, amongst others, made for an independent TfL complaints procedure. A response from the Mayor is awaited.

## **Police Oppose Dumfries Tuk-Tuk Licence Enquiry**

On 20<sup>th</sup> September 2019, it was reported, Dumfries & Galloway Council had received an enquiry about licensing tuk-tuks. This prompted opposition from the Police who raised serious safety concerns about the vehicles design.

## **Manchester Driver 'Plying for Hire' Prosecutions**

On 23<sup>rd</sup> August 2019, it was reported, Manchester Council had successfully prosecuted 30 private hire drivers. This followed 'Operation Aztec' which aimed to tackle the issue of illegal 'plying for hire' in the city. A further 71 cases are also pending review by the authority.

## **Wolverhampton Launches Awareness Campaign**

On 17<sup>th</sup> September 2019, it was reported, Wolverhampton Council had launched a 'Get Home Safe' campaign. It seeks to enhance public awareness of the differences between the trades and the risks of using unlicensed services. The campaign commenced on 22<sup>nd</sup> September 2019.

## **York Retains Triple Licence Policy**

On 26<sup>th</sup> September 2019 York City Council considered whether to change its policy on 'out of area' private hire services. Legal advice, presented by York Private Hire Association, suggested private hire vehicles working in the City who are not licensed by the authority, do so illegally. The Council resolved however, to maintain the current policy which recognises the ability of a private hire vehicle to undertake journeys anywhere in England provided the vehicle, driver and operator are licensed by the same authority. This follows established case law which, following a council decision on 10<sup>th</sup> October 2019 may now be challenged by Medway Council.

## **St Helens Driver Information on National Database**

On 27<sup>th</sup> September 2019, it was reported, St Helens Council would submit driver data to the 'National Register of Taxi & Private Hire Licence Revocations & Refusals (NR3)'. This is expected to commence in November 2019.

## **Scotland Passes Low Emission Zone Bill**

On 11<sup>th</sup> October 2019 the Scottish Parliament voted to pass the *Transport (Scotland) Bill*. It imposes an obligation on local authorities, at section 6, to consult with specified stakeholders when making, amending or revoking a low emission zone scheme. This will include representatives of the taxi and private hire car industry. The Bill is awaiting Royal Assent before it can come into effect.

### **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 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).

## **Edinburgh Investigate Licence Caps**

On 24<sup>th</sup> October 2019, it was reported, Edinburgh City Council would investigate the possibility of capping private hire car numbers. This followed a motion, brought by Cllr Susan Rae, citing concerns over plying for hire, public safety and air pollution. If, and whether a cap will be imposed, remains to be seen.

## **Government Policy Change on Law Reforms**

On 24<sup>th</sup> October 2019 the Secretary of State for Transport, Grant Shapps MP, announced the Government will consider new legislation. Previously, in the Transport Select Committee on 16<sup>th</sup> October 2019, the Secretary of State had only indicated an intention to update existing guidance. Such legislation would focus on standardising checks and a national database. If, and whether law reforms result is a matter for the future.

## **TfL Investigates Illegal Driver Qualifications**

On 4<sup>th</sup> November 2019, Transport for London (TfL) announced it would investigate reports of 1,667 private hire drivers fraudulently obtaining qualifications. Concerns allegedly centre around 'Business & Technology Education Council (BTEC) Diplomas' awarded by Vista Training Solutions in Newham. The investigation is understood to be ongoing.

## **HMRC Confidentiality Order in Uber Tax Case**

On 6<sup>th</sup> November 2019 the Good Law Project confirmed the High Court had heard HMRC's request for a Confidentiality Order (*R (Good Law Project Limited) v HMRC [2019] CO/2150/2019*). It seeks to protect the details of the claim from disclosure. A decision on the application is awaited.

## **TfL Licence Conditions & Worker Rights Inclusion**

On 11<sup>th</sup> November 2019, the Independent Workers Union of Great Britain (IWGB) published a legal opinion suggesting licence conditions could include worker rights requirements. A failure to do so, it is asserted, may constitute a violation of the *European Convention on Human Rights*. If correct, such an interpretation would have wide-ranging effects on the trade.

## **Court of Appeal on Congestion Charge Exemption Removal Appeal**

On 12<sup>th</sup> November 2019, the Court of Appeal agreed to accept an appeal against the High Court judgement on the removal of 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)*).

## **OTHER NEWS...**

On 13<sup>th</sup> August 2019, it was reported, the House of Commons' Transport Select Committee heard evidence on the safety risks posed by drivers using hands-free mobile phones ('Road Safety: Driving While Using A Mobile Phone' report). A public consultation is expected before the end of 2019.

On 13<sup>th</sup> November 2019, it was reported, the European Council had approved the mandating of specified safety functions in cars (*Regulation (EU) 2018/0145 (COD)*). It means new models from 2022 will be fitted with, amongst others, intelligent speed assistance and in-car breathalysers. This requirement, regardless of Brexit, will be mirrored in UK law.

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