

APPENDIX A: Responses to additional comments and queries about Uber

Listed below are further comments and queries which were raised in the Council meeting on 23 March 2017 and subsequently, together with other information on how the Council is working with Uber and the taxi trade:

- 1. *“That the licence to Uber in B&NES was granted on the basis that North Somerset Council had already granted one for Uber. This is incorrect as North Somerset granted a licence on 12th October 2015”:***

The licence was not granted in B&NES on this basis. It was granted in accordance with the legislative framework. Other local authorities were contacted to understand if Uber were operating in their areas and whether they had been approached by Uber to apply for a PHO licence. The verbal briefing to the Licensing Committee on 14th October 2015 noted that Uber were operating in North Somerset, South Gloucestershire and Bristol at the time of the meeting - which was correct.

- 2. *“That Uber did not have an office in Bath – only a room in Oldfield Park for once a week for 7 hours”:***

As required by legislation, Uber’s application for a PHO licence in B&NES had to be for a specific address within the boundaries of the local authority. This was identified as the location where bookings for private hire vehicles would be recorded and held for inspection by the local authority.

The premises were not visited at the time of granting the licence as there was no need to do so in order to progress the application.

There is nothing in the provisions of the legislation that require the office to be resourced by staff. In a more “traditional” private hire office there would be controllers answering telephones and allocating bookings to available vehicles. Uber uses cloud based technology to facilitate the booking process between client and driver and the system is fully automated which therefore does not require the presence of staff members. The office is the local point for the records of jobs received and undertaken by B&NES licensed drivers to be held in case of inspection. Licensing officers have been able to access and inspect records kept by Uber in the course of investigating allegations and complaints.

Uber also have facilities in other locations in B&NES’ area where they hold induction events for new drivers.

- 3. *“That there was no liability insurance displayed on the wall of that office”:***

There is no requirement under the licensing regime for Uber to have anything on display at any premises they use for inductions or other purposes.

On 2nd May 2017 an inspection of the Uber office was carried out by Licensing Officers. The inspection confirmed that there was an insurance certificate present, and on display on one of the desks in the office. The certificate on display was also noted to be in date at the time of the visit.

4. *“Local drivers were not being used by Uber”:*

The technology that Uber uses is based upon GPS technology. The customer requiring a vehicle uses the Uber app on a smartphone to request a vehicle. The app then locates the closest vehicle to the customer and, at the same time, sends the details of the requested pick up to the relevant licensing authority for the vehicle. This satisfies the trinity of licences required by the legislation and does not involve sub-contracting. There is no legislation which requires any private hire vehicle to either start a journey within its home licensing authority or return to its home licensing authority at the end of a job.

Uber inform their drivers that they are able to work legally anywhere where the Uber app is launched- which is correct. Uber encourage licensees from other licensing authorities to work in an area where they know there to be a demand for their vehicles. Whilst this may be considered undesirable by local taxi drivers it is not illegal providing the ‘trinity of licences’ required by the legislation are in place. This means that as long as the private hire operator fulfilling the private hire booking ensures that they allocate it to a vehicle, and driver all of which are licenced with the same licencing authority, then the trinity of licences is satisfied and the booking can be fulfilled in another local authority’s area.

Uber do use B&NES licensed vehicles and drivers but there has not been a large migration of existing licensed B&NES drivers from the already established private hire operators. Uber use this legally compliant model of operation legitimately all over the UK and it is not unique to B&NES.

Hackney carriages can fulfil jobs for licensed PHOs in areas remote from their home licensing authorities and this activity is not contrary to legislation.

5. *“That the operator conditions state that there should be a majority of local drivers employed by the operator”:*

This is not a B&NES licensing condition.

6. *“Uber are subcontracting when they allow other out of area drivers operating on the Uber App to work in the Bath and North East Somerset Council area”:*

Please see response to comment *“Local drivers were not being used by Uber”* above.

7. *“Uber drivers licensed by other authorities will not be insured if they constantly work out of their area”:*

This is incorrect as a blanket assertion. Whether or not a driver licensed by another authority is insured will depend upon the wording of their specific policy of insurance with reference to the Road Traffic Act 1988 and the specific circumstances of a case.

8. *“There are no Uber cars able to carry disabled passengers”:*

Based on information currently available Uber do not offer to provide accessible vehicles on their platform and there is nothing in the existing licensing legislation that requires them or any other PHO to do so. However, Uber have now started to launch an UBER ACCESS service to wheelchair users in the Greater Birmingham and Manchester areas (this service has been available in London since 2016). This service allows wheelchair users to book a journey with Uber in the same way as any other user. Uber aim to roll this service out across the UK in 2017 however the availability of the service will be dependent on the availability of existing licenced accessible vehicles to join the platform.

9. *“Drivers who have previously been ‘banned’ by B&NES are driving Uber cars in B&NES”:*

In order to be a driver of a HC or a PHV, an individual has to be licensed by a local authority. In licensing the individual, the authority has to be satisfied that the applicant has been authorised to drive a motor car for not less than 12 months and that they are a fit and proper person to hold a driver's licence. There are also provisions relating to immigration offences and penalties which have been introduced recently.

What amounts to "fit and proper" is not defined in the legislation, but there is case law around the subject. In B&NES the Policy (see Appendix E to the report) assists the licensing authority in the determination of what is fit and proper with reference to factors such as previous convictions. The Council requires a Disclosure and Barring Service (DBS) check to be undertaken in respect of all new applicants and subsequently on a 3 yearly basis following the grant of a licence. As far as B&NES' Policy is concerned – and it is likely other licensing authorities have similar policies - the presence of previous convictions and cautions on a person's record are not an absolute bar to obtaining a licence. Factors such as the relevance of any previous conviction to whether or not the applicant is a fit and proper person and the time that has elapsed since the conviction was obtained, can have a bearing on the outcome of an application.

As the law currently stands, where one licensing authority refuses to grant a licence there is nothing to stop the applicant in question from applying to another licensing authority for a licence and that other authority will have to decide whether or not the applicant is fit and proper to hold a licence.

10. *That UBER use a special computer system called “GREY BALL,” that will only ever show 8 vehicles in any one area:*

It has been confirmed that the “Greyball” technology was originally used to hide the location of vehicles/drivers by moving their actual geographical location to protect them from being located and targeted in countries outside of the UK.

“Greyball” is not used in this country and Uber have confirmed that there are no plans to use it in this country.

The maximum number of Uber vehicles that you will see on the Uber app is 8. This is done to avoid causing confusion for customers when viewing the app.

11. General concerns which have been expressed about young person's using Uber:

Uber do not engage in the provision of transportation of persons who are defined as vulnerable children or adults on contractual basis for the local authority. Licensed PHOs who are contracted to provide that level of transportation are required by the local authority to ensure that their drivers undergo child sexual exploitation awareness training.

The licensing authority continues to review the provision of training for the taxi trade around child sexual exploitation in order to build upon good practice.

12. General concerns about Uber pricing structures:

The licensing authority does not have the power in law to set the fares for a private hire vehicle. Uber fares are quoted to the potential customer via the app prior to the customer ordering the required vehicle; this is in contrast to the conventional private hire and hackney carriage journeys where the customer is only aware of the total price at the end of the journey.

13. Joint working between B&NES Council and PHOs:

The licensing authority has a co-operative and positive working relationship with PHOs including Uber, within B&NES.