



Our Ref: Uber Licence Renewal  
Your Ref: L269026/L/LTDA

2 June 2017

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Dear Sirs

## Uber London Limited (“ULL”) – grant of a London PHV operator’s licence

Please treat this as Transport for London’s response to your letter of today’s date, which was hand-delivered this morning and overlapped with our earlier letter to you, sent this morning. Given that you have asked for a response by 4pm today (giving us about 5 hours to respond), our response, drafted in accordance with Annex B to the Pre-Action Protocol for Judicial Review, is necessarily brief.

1. **The claimant:** The Licensed Taxi Drivers’ Association (“LTDA”).
2. **From:** Claire Lefort, Legal, Transport for London, Windsor House, 42-50 Victoria Street, London SW1H 0TL.
3. **Reference details:** As per above letterhead.
4. **The details of the matter being challenged:** The failure of TfL to provide the LTDA with reasons for its decision of 26 May 2017 (“the Decision”) to grant by way of renewal a London private hire vehicle (“PHV”) operator’s licence to Uber London Limited (“ULL”).
5. **Response to the proposed claim:**
  - (1) As you know, ULL’s PHV operator’s licence (granted on 31 May 2012 for a period of 5 years) was due to expire on 31 May 2017. As you also know, ULL applied for a further licence.
  - (2) Under s. 3(3) of the Private Hire Vehicles (London) Act 1998 (“the 1998 Act”), TfL is obliged to grant a London PHV operator’s licence if satisfied that the applicant is a fit and proper person to hold a London PHV operator’s licence and any further requirements that may be prescribed are met.

- (3) Section 3(5) provides that a London PHV operator's licence shall be granted for five years "or such shorter period as the licensing authority may consider appropriate in the circumstances of the case." This confers on TfL a broad discretion to decide, in any particular case, whether to grant a licence for five years or for some shorter period and, if the latter, what period is appropriate in the circumstances of the case.
- (4) As we made clear in our letter earlier today, TfL determined on 26 May 2017, on the information then available to it (which included representations made by your client among others), that ULL is a fit and proper person to hold a licence and its operations comply with the statutory framework in this area. However, as also made clear in our letter earlier today, TfL is pursuing further enquiries which it expects to be complete within the next four months. In the circumstances, TfL considered it appropriate to grant ULL a London PHV operator's licence for a period of four months (expiring on 30 September 2017). It will be open to ULL to apply for a further licence extending beyond this period. Any such application will be considered against the statutory criteria taking into account, if relevant, the results of TfL's ongoing enquiries.
- (5) There is no doubt that TfL is obliged to give *an applicant* for a London PHV operator's licence reasons for any decision to refuse to grant a licence. In this case, TfL has given ULL reasons for its decision to grant a licence of shorter duration than the usual 5 years.
- (6) Your proposed claim appears to be based on a different, wholly novel and (it is submitted) misconceived proposition: that TfL is obliged to provide reasons for its licensing decisions not only to the applicant, but also to anyone else who asks for them or, perhaps (the precise legal basis of your proposed claim remains unclear on this point), to any third party who has previously made representations relevant to the decision or whose representations have been taken into account.
- (7) The three cases you cite (*R v Higher Education Funding Council ex p. Institute of Dental Surgery* [1994] 1 WLR 242, *R v Secretary of State for the Home Department ex p. Doody* [1994] AC 531 and *R v Civil Service Appeal Board ex p. Cunningham* [1999] 4 All ER 300) are all cases about the provision of reasons by a decision-maker to the person who is the subject of the decision. None of them establishes any general proposition, or implies, that a licensing authority such as TfL is obliged to give reasons for its decision to any person other than the applicant for the licence.
- (8) In the particular case of licensing decisions under s. 3 of the 1998 Act, it is obvious that the issues that call for determination by the licensing authority may necessitate consideration of material that is commercially sensitive. The issues and material considered in this case fall into that category. There is nothing on the face of the 1998 Act, or elsewhere, to indicate that it was Parliament's intention that the licensing authority

should be obliged to disclose to any third party who asks for it, or to those third parties who made representations or whose representations were taken into account, details of its reasoning in relation to commercially sensitive material. Nor is there any sound public policy reason why the common law should impose such an obligation. The case law you have cited falls far short of establishing one. The imposition of such an obligation would make it very difficult for TfL as regulator and licensing authority to correspond openly with licence applicants.

(9) For the avoidance of doubt, and in any event, TfL does not accept that there is anything in the explanation provided in its letter of earlier today, or in this letter, that could justify the conclusion that the decision to grant ULL a London PHV operator's licence of four months' duration was "aberrant" in the sense used by Sedley LJ in the *Dental Surgery* case. As I have said, TfL was satisfied on the information then available to it that ULL is a fit and proper person to hold a London PHV operator's licence and complies with the statutory framework. Section 3(5) of the 1998 Act confers a wide discretion on TfL as licensing authority over the duration of any licence to be granted. TfL's ongoing enquiries provide a perfectly proper reason for the exercise of the power to issue a licence of four months' duration in the circumstances of the present case.

(10) For these reasons, TfL will not be providing any further reasons to your client; and any claim for judicial review will be defended.

6. **Details of any other interested parties:** TfL understands that you have sent a copy of your letter to ULL. A copy of this response is also being sent to ULL. TfL is not aware of any other person who would be an "interested party" in the sense in which that term is defined in *R v Liverpool City Council ex p. Muldoon* [1996] 1 WLR 1103.
7. **ADR proposals:** We agree that this matter is not suitable for ADR.
8. **Response to requests for information and documents:** For the reasons set out above, TfL does not consider it appropriate to provide the correspondence or representations sought and will not be doing so.
9. **Address for further correspondence or service of court documents:** As per above letterhead.

Yours faithfully

