

Reference: RFI 1708054

Request:

UBER Britannia Ltd (UBER) applied to North Tyneside Council (the Council) for a private hire operator's licence.

In the course of determining such an application, a council is entitled, pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976, to ask for such information as it may reasonably require to enable it to determine the application.

Can you please answer the following questions:

- (1) Did the Council exercise its right to ask UBER questions?
- (2) If the answer to question (1) is 'yes', please advise what questions were asked.

For the avoidance of doubt, I appreciate the answers to such questions may be regarded as being commercially sensitive, so I do not ask for the answers given by UBER to any questions that may have been asked by the Council.

I do not ask for **copies of correspondence** passing between the Council and UBER, because I am not concerned with who was corresponding with whom or when. In the circumstances, all I ask for is a list of all the questions asked and am not concerned as to whether they were asked all at once or whether questions initially asked resulted in the posing of further questions. If, however, it is easier to the Council to provide a suitably redacted copy of the correspondence it sent posing such questions, I would be happy to receive the requested information in that format.

I appreciate that such questions may have been asked wholly or in part as a result of legal advice received by the Council, but in precisely the same way that such questions would have ceased to be subject to legal professional privilege when they were asked of UBER, I do not consider that such questions could be exempt from disclosure under the legal professional privilege exemption.

I confirm that neither do I do seek to see a copy of any legal advice that may have been received by the Council in relation to any questions that may have been asked of UBER by the Council.

Response:

- (1) Did the Council exercise its right to ask UBER questions? – **Yes**
- (2) If the answer to question (1) is 'yes', please advise what questions were asked.

Questions asked

1. Can UBER provide confirmation that all bookings are received in the premises specified in their application and provide evidence to this effect?
2. Can UBER confirm and provide evidence that the booking is recorded prior to the commencement of the journey?

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3. Can UBER provide details of their 'zonal' system.
4. Does the UBER App differentiate between vehicles licensed by different Licensing authorities?
5. Do customers using the UBER App to book a vehicle have a choice of which Licensing Authority that vehicle is licensed with?
6. Can UBER explain how these bookings are allocated and recorded?
7. Are these bookings recorded with each individual private hire operator?
8. Is there a maximum range that an operator in a particular Licensing Authority can despatch a booking to?
9. We understand that the Uber system accepts a booking from a passenger via the smartphone application which is then routed via Uber operator's servers to the nearest available driver based upon the location of the passenger. Can you confirm that the booking is first received within the premises stated on your application, i.e Unit 1, Orion Business Park, North Shields?.
10. Will there be a server or other device located permanently in the premises specified in the application capable of receiving, recording and despatching a booking, (i.e. Unit 1, Orion Business Park, North Shields)?
11. A search of the Data Protection Public Register reveals that Uber London Ltd is registered but there does not appear to be any registration for Uber Britannia Ltd. Can this be explained please?
12. The Equality Act 2010 requires that a private hire operator must not discriminate against a person requiring a wheelchair accessible vehicle (WAV) by not providing such a vehicle. As well as being prohibited from discriminating by not providing the service, a service provider has a duty to make reasonable adjustments and it could be argued that a large private hire operator ought to be able to provide WAV's. Could you advise whether or not Uber can offer this service?
13. Under the Deregulation Act 2015 bookings can be sub-contracted between operators in different licensed districts. In such cases the booking must be recorded by each operator prior to despatch to the driver. Can you confirm this is the case with the Uber App?
14. Where a booking is offered to, and declined by, a driver licensed with one authority, and which is then offered to and accepted by another driver who is licensed with a different authority, then sub-contracting would result. At present this is unlawful, but of course from October 1st 2015 it would not. I'd be grateful for your thoughts on this as the Committee would require firm evidence that sub-contracting is not occurring before considering your application.

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15. What provision does Uber propose to make in the licensed area of North Tyneside for the invitation or acceptance of bookings for a private hire vehicle?
16. It would appear from my consideration of the latest iteration of Uber's terms and conditions (11 January 2016, <https://www.uber.com/legal/gbr/terms>) ("the Terms and Conditions") that UBL has no role in the provision of the Uber Rider App to potential passengers. This appears to be a service provided by Uber BV ("UBV") in accordance with Part 2, paragraph 2. Am I correct?
17. Where is the "Uber system" referred to, and which Uber entity operates it?
18. What is meant by "the criteria set by the local operator through the use of its dispatch tools"?
19. Is the system checking to see which partner-driver is nearest to the passenger and is available to conduct a trip a task which is undertaken automatically and without intervention from UBL.?
20. What input, if any, does UBL have in this process? How, does the relevant operator "accept the booking on behalf of the partner-driver"?
21. What input does UBL have in the process – 'The nearest driver accepts the request via the smartphone app'?
22. In what sense is there a "dispatch" of a vehicle "from" UBL, given that UBL is the agent of the driver for the booking services and asserts it does not provide transportation services (Part 1, paragraph 3 of the Terms of Conditions)?
23. Please particularise the equipment proposed to be contained in the Operating Base.
24. Can I assume that, in general, the process of inviting and accepting bookings will be conducted entirely automatically by the Uber system?
25. Can I assume that the software tools permitting the monitoring of vehicles (location, status and journey details), communication with drivers and amendment of allocation criteria are tools that UBL may choose to access from time to time, but do not have to be actively operated for any given booking to be invited and accepted?
26. Please clarify the basis on which it is asserted that the Uber systems are "managed, monitored, and, ultimately, controlled by UBL staff". Does that management, monitoring and control go beyond the functions listed in paragraph 1.5 of your letter, and if so, how?
27. If UBL makes provision for the invitation or acceptance of bookings for private hire vehicles merely as agent for each proprietor/driver, then in what sense are those proprietor/driver principals themselves not making provision?

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28. What do you suggest are the “limited purposes” of Part II of the 1976 Act for which the deeming provision takes effect?
29. Please clarify whether it is UBL’s position that, if licensed as an operator by this Authority and functioning as such, it does not propose to accept any contractual liability to passengers in respect of bookings for the hire of a private hire vehicle with a driver, where both the vehicle and the driver are licensed by this Authority?
30. Please Confirm whether or not “out of town” hackney carriages are now operating on the Uber platform, and, if so, when this practice commenced.
31. For the purposes of its application to this Authority, does UBL intend to amend the Representations and if so in what form?
32. What contractual provisions prevail for customers whose journeys are provided by “out of town” hackney carriages?
33. Do “out of town” hackney carriages operate surge pricing when on the platform? If so, what if any steps have been taken to ensure that the fares so charged do not contravene the provisions of s.67 of the 1976 Act?