



Notice of a public meeting of

Staffing Matters & Urgency Committee

- To:** Councillors Carr (Chair), Aspden (Vice-Chair) and Looker
- Date:** Wednesday, 21 December 2016
- Time:** 10.00 am
- Venue:** The Snow Room - Ground Floor, West Offices (G035)

AGENDA

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Exclusion of Press and Public

To consider excluding the press and public from the meeting during consideration of Annexes 1, 3 and 4 of Item 5 on the grounds that they contain information relating to an individual and which is likely to reveal the identity of an individual. This information is classed as exempt under Paragraphs 1 & 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

3. **Minutes** (Pages 1 - 2)

To approve and sign the minutes of the meeting of the Staffing Matters & Urgency Committee held on 12 December 2016.

4. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is on **Tuesday 20 December 2016 at 5.00pm**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

Please note this meeting may be filmed and webcast or audio recorded and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>. or, if recorded, this will be uploaded onto the Council website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

5. Decision on Application by Uber Britannia Limited for Renewal of Private Hire Vehicle Operators Licence
(Pages 3 - 36)

This report seeks Members determination of an application for the renewal of a Private Hire Operators Licence which has been made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976, by Uber Britannia Ltd to operate from Tower Court, Oakdale Road, Clifton Moor, York, YO30 4WL.

6. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Laura Clark

Contact details:

- Telephone – (01904) 554538
- E-mail – Laura.Clark@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

**Ta informacja może być dostarczona w twoim
własnym języku. (Polish)**

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Staffing Matters & Urgency Committee
Date	12 December 2016
Present	Councillors Carr (Chair), Aspden (Vice-Chair) and Looker

48. Declarations of Interest

At this point in the meeting, Members were asked to declare if they had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda. None were declared.

49. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the consideration of an annex to Agenda Item 5 (Pension or Exit Discretions) (Minute Item 52 refers) on the grounds that it contained information relating to an individual and the financial affairs of a particular person. This information is classed as exempt under Paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information) (Variation) Order 2006).

50. Minutes

Resolved: That the minutes of the Staffing Matters and Urgency Committee held on 14 November 2016 be approved and then signed by the Chair as a correct record.

51. Public Participation

It was reported that there had been one registration to speak at the meeting, which was taken under Agenda Item 5 (Minute Item 52 refers).

52. Pension or Exit Discretions

Consideration was given to a report which advised the Committee of the expenditure associated with the request for a pension discretion and early retirement.

Andrea Dudding from UNISON spoke about the particular circumstances in this employee's case on the grounds of caring responsibilities and long service with the council. She felt it would not set a precedent if Members granted a pension discretion to allow the employee to access their pension early in these exceptional circumstances.

Following the speaker's departure, a confidential annex was circulated which detailed the background and expenditure surrounding a proposed pension discretion and early retirement.

Discussion ensued on the background and expenditure. Members felt that as the employee's circumstances were exceptional, and as each case would be determined on a case by case basis, that it would not set a precedent. In this circumstance, they agreed to grant the request.

Resolved: That the proposed pension discretion and early retirement be agreed.

Reason: In order to exercise its discretionary powers.

Councillor D Carr, Chair

[The meeting started at 4.35 pm and finished at 5.00 pm].



Staffing Matters & Urgency Committee**21 December 2016**

Report of the Director of Economy and Place

Application for renewal of Private Hire Operator Licence by Uber Britannia Limited**Summary**

1. This report seeks Members determination of an application for the renewal of a Private Hire Operators Licence which has been made under Section 55, Part 2 of the Local Government (Miscellaneous Provisions) Act 1976, by Uber Britannia Ltd to operate from Tower Court, Oakdale Road, Clifton Moor, York, YO30 4WL.
2. Uber Britannia Ltd is a registered company their head office is located at Aldgate Tower, First Floor, 2 Leman Street, London, E1 8FA. The full application is a restricted document attached at Annex 1.

Background**Relevant Legislative Provisions**

3. The relevant legislative provisions and legal context relating to private hire operator's licences are contained within Annex 5 to this report.
4. In summary, private hire vehicles are required to be pre-booked through an operator, and such an operator must be licensed by the same Council Licensing Authority as the driver and the vehicle.
5. The Council has a statutory duty to grant the licence unless it considers that the applicant is not a fit and proper person to hold a licence. (S. 55 1976 Act as amended).
6. The Licence should be granted for a five year period unless there are specific reasons in the particular circumstances of the case that

justify granting the licence for a shorter period. (S.55 (2) 1976 Act as amended)

7. As this is an application for renewal (the current licence still being in force and due to expire on 24 December 2016), Section 62 of the 1976 Act applies, and provides the only grounds on which an application for renewal can be refused:
 - (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
 - (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
 - (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;
 - (ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
 - (d) any other reasonable cause
8. In the event that the application is refused there is a right of appeal to the Magistrates' Court if made within 21 days of the refusal. Pending the outcome of the appeal, the operator's licence will remain in force.
9. On the 25 April 2016 Gambling, Licensing and Regulatory Committee agreed standard conditions which would be placed on the operator's licence if granted. They can be found at Annex 2.
10. There is also a right of appeal to the Magistrates' Court against the imposition of conditions on a licence.
11. This report concerns an application for the renewal of an Operator's Licence. It has been brought before Members for a decision due to the level of public interest that has arisen regarding Uber vehicles operating in York, so that the application can be considered in a public meeting.

Consultation

12. There is no requirement within the 1976 Act for a consultation to take place in relation to an application for the grant of private hire vehicle, driver or operator licences. Therefore a consultation has not taken place in relation to this application.

Options

13. Option 1 - grant the licence, with the standard licence conditions attached, for a period of 5 years in accordance with the 1976 Act.
14. Option 2 - grant the licence, with the standard licence conditions attached, and/or other conditions that are considered appropriate and for a lesser period if considered appropriate by the Committee in accordance with S55 to the 1976 Act.
15. Option 3 - refuse the application if satisfied having regard to the facts sets out in the application and this report that any of the grounds set out in Section 62 are made out.

Analysis

Relevant facts concerning the Application

16. Uber Britannia Limited was issued a private hire operator's licence on the 24 December 2015; this licence is due to expire on the 23 December 2016. This licence was issued for a period of 12 months as at that time the Council had not implemented the provisions of Section 10(3) of the 2015 Act (requirement to issue licences for 5 years). The Council began to issue 5 year operator's licences from the 1 April 2016.
17. It is a requirement of Section 55(1) of the 1976 Act that the district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence. As part of the application process the applicant must declare relevant information within the application form relating to matters such as criminal convictions and suspension/revocation of licences. They also have to provide the following information:
 - Applicants who are not already licensed as a private hire/hackney carriage driver are required to provide a basic disclosure, criminal record check, from Disclosure Scotland. On submission this disclosure must be less than one calendar month old.

- To produce appropriate public liability insurance and employer liability insurance, if they have employees, annually.

This information has been provided by the applicant and is a restricted document attached at Annex 3.

18. The applicant has also provided a copy of their fare chart and details of licensed vehicles and drivers working for them. This information is a restricted document attached at Annex 4.
19. Uber was issued a private hire operator's licence on the 24 December 2015, having satisfied the Licensing Authority that the application met the statutory requirements. Uber did not physically start operating in York until 9 September 2016. At this time Uber had 3 private hire vehicles and drivers licensed by this Council working through their York licensed operators site. There are presently 10 vehicles. The Licensing Authority therefore has only experienced four months of Uber operating within the City.
20. "Uber" operates using an App, known as the "Uber Platform". A customer downloads the "App" to their mobile phone and sets up an account with Uber. The "App" can identify the closest vehicle that is registered to the Uber Platform, and pre book that vehicle with the relevant Licensed Operator through the App. Since their launch in York on the 9 September, (when the Uber Platform began to cover the York area), a number of complaints have been received relating to Uber vehicles and drivers. However, the majority of these complaints do not relate to the vehicles and drivers licensed by this authority, but to a number of Uber vehicles licensed by other licensing authorities, such as Leeds, Bradford, Kirklees and transport for London, that appear to have chosen to work in York now that the App is operational in the City.
21. Since the Uber launch 110 complaints have been received relating to hackney carriage and private hire vehicles/drivers. 72 of these complaints relate to Uber vehicles/drivers, only one of which relates to an Uber vehicle/driver licensed by this Council, the other 71 relate to vehicles/drivers licensed by other authorities.
22. All of these complaints have been or are being investigated by officers within the Public Protection Investigation and Compliance Team. Due to the high volume of complaints out of hours enforcement work has taken place on Friday and Saturday evenings, this has also included joint enforcement work with

Licensing Enforcement Officers from Leeds City Council and North Yorkshire Police.

23. The 72 complaints received concerning Uber vehicles/drivers relate to the following issues:

No.	Complaint	Investigation ongoing/action taken	Unfounded and/or insufficient evidence was provided
31	Out of town vehicles / concerns about unlicensed vehicles	7 cases enquiries are still ongoing	24
23	Plying for hire (it is an offence for private hire vehicles to ply for hire)	1 case awaiting decision	22 1 related to the vehicle/driver licensed by this authority, this was unfounded
8	Vehicles signage missing (door signage and/or licence plates)	1 referred to Leeds City Council who made the driver replace the plate (it is not a requirement of every licensing authority that door signage must be displayed on licensed vehicles)	7
6	No insurance / MOT / tax	1 untaxed vehicle found, referred to home licensing authority and Uber	5
3	Driving standards	1 warning letter issues	3

1	Driver smoking in licensed vehicle	1 fixed penalty notice issued	
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24. As a majority of these complaints relate to Uber vehicles/drivers licensed by other authorities, this authority is limited to the action it can take dependant on the nature of the complaint. Where the details of those authorities are known officers have notified the vehicles/drivers home authority to take appropriate action.
25. The 38 complaints received concerning York licensed vehicles / drivers (not Uber) relate to the following issues:

No.	Complaint	Investigation going/action taken	Unfounded and/or insufficient evidence was provided
12	Driving standards	6 warnings issued	6
9	Conduct towards other licensed drivers	2 warning letters issued	7
5	Out of town vehicles / concerns about unlicensed vehicles	1 warning letter issued	4
5	Driver smoking in licensed vehicle	3 fixed penalty notices issued	2
4	Driver conduct	1 warning letter issued	3
2	Plying for hire	1 formal investigation in progress	1

1	Vehicle signage missing	1 warning letter issued	
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26. A number of the complaints / enquiries we received regarding Uber relate to the way they operate. Their bookings are taken via an App and they only provide a service to customers who want a vehicle as soon as possible (ASAP), they do not take advance bookings. Some believe that as they are only taking ASAP bookings they are not operating as a private hire service, their operation is more in line with hackney carriage vehicles who can ply for hire and rank and do not have to be pre booked, offering an ASAP service. There are no requirements within the 1976 Act relating to how far in advance a private hire vehicle must be pre booked. It is only a requirement that a booking for private hire vehicle must be made through their licensed operator. Your Officers are satisfied from information received with the Licence Application that the Uber Platform pre books the journeys with the relevant Operator, albeit within a very short timescale.
27. Uber have provided information on request in relation to complaints relating to licensed vehicles/drivers working for them, for example where we have received complaints relating to their vehicles plying for hire Uber have provided booking records for that vehicle. If required they have also suspended vehicles/drivers from the Uber Platform (this prevents the driver from receiving bookings through the App) until they/we have investigated the complaint.
28. Uber Britannia Limited have provided details of their company representative, who will have responsibility for day to day management of the operating centre. Uber have provided the required information to confirm that there are no criminal convictions, and your Officers have not received any evidence of conduct rendering the applicant unfit to hold an operator's licence, nor are they aware of any changes in the circumstances of the operator since the grant of the Operator's Licence by the Authority last year.
29. The application is for renewal, and S55 (2) provides a presumption that the Licence is granted for 5 years unless the Council consider it appropriate that the licence should be for a lesser period, for specific reasons relating to the particular application. Such reasons would need to meet the tests of Wednesbury reasonableness. If

Members are minded to grant the application for a lesser period clear reasons must be given.

Conclusion

30. Members are required to determine the application in accordance with the provisions of the 1976 Act, and provide reasons for the decision.

Council Plan

31. The provision of hackney carriage and private hire licensing supports the council plan of a prosperous city for all, where local businesses can thrive.

Implications

32. The direct implication arising from this report are:
- **Financial** – There are no direct financial implications.
 - **Human Resources (HR)** – There are no HR implications.
 - **Equalities** – There are no equalities impact implications.
 - **Legal** - The applicant has the right to appeal the refusal to grant an operator's licence or to the imposition of conditions, to the magistrates' court.
 - **Crime and Disorder** – There are no crime and disorder implications.
 - **Information Technology (IT)** – There are no IT implications.
 - **Property** – There are no property implications.
 - **Other** – There are no other implications.

Risk Management

33. There are no known risks associated with this report.

Recommendations

34. Members are asked to determine the application for the renewal of the licence in accordance with Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) as amended by the Deregulation Act 2015 (2015 Act).

Reason: To consider the application for renewal of a private hire operator licence as required by the legislation.

Contact Details

Author:

Lesley Cooke
Licensing Manager
Ext: 1515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning & Public Protection

Report
Approved



Date 15 Dec 16

Specialist Implications Officer(s)

Alison Hartley
Senior Solicitor
Ext: 3487

Wards Affected:

All



For further information please contact the author of the report

Background Papers:

Annexes

Annex 1 – Application for a Private Hire Operator’s Licence - restricted

Annex 2 – Standard Conditions

Annex 3 – Criminal Records Check and Insurance – restricted

Annex 4 – Fare Chart and List of Vehicles and Drivers – restricted

Annex 5 – Extracts from relevant legislation

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Private Hire Operators' Licence Conditions

1. All applicants are required to complete an application form and are reminded that it is an offence to knowingly or recklessly make any false statement or omit relevant information.
2. The Booking Office premises of a Private Hire Operator shall be approved by the Council and shall conform to all Planning Regulations and other legal requirements in respect of business premises. In the event that it is found that the Booking Office is operating without all necessary planning consents or in breach of planning conditions, the Private Hire Operator's licence will be deemed suspended until planning consent is obtained.
3. The current Private Hire Operators licence must be displayed at the business premises to which the licence relates in a prominent position at all times in view of the general public with the exception of such times as the licence is presented to the Council for amendment.
4. The licensed Operators shall have in force a Public Liability Insurance policy providing a minimum of £2,000,000 indemnity in respect of any one incident where there is public access to a booking office. This policy will be produced to the Council annually.
5. The licensed Operators, who have employees, shall have in force an Employers Liability Insurance policy complying with the Employers Liability (Compulsory Insurance) Act 1969 covering death or personal injury arising out of any incident during the course of a person's employment. This policy will be produced to the Council annually.
6. During the currency of the licence, the Operator shall notify the Council in writing within 7 days of any temporary change of residence which is for a period in excess of 21 days.
7. The licensed Operator shall inform the Council within 14 days of any change of the partners or Directors of the company, or any change on the Secretaryship or Chairmanship thereof.
8. Each Operator, when disposing of any business interest, shall within 14 days give notice in writing to the Council that the business registered in his/her name has terminated.

9. The licensed Operator must notify the Council and nominate a responsible person to take responsibility on an interim basis if they are absent from the business for 15 days or more.
10. The licensed Operator will ensure that the Council has his/her most up to date contact details, including a mobile telephone number and email address. There should also be a generic email address for the company.
11. The licensed Operator shall keep a record for a period of not less than 36 months, of all the hackney carriage/private hire vehicle licence number, plate number, registration number and make and model of all hackney carriages/private hire vehicles operating from his/her office. Such records shall be sent to the Council annually and be available at all reasonable times for inspection by the Council.
12. The licensed Operator shall keep a record for a period of not less than 36 months, of all the hackney carriage/private hire driver's licence number, badge number, personal identity code name or number and name and address of each driver operating from his/her office. Such records shall be sent to the Council annually and be available at all reasonable times for inspection by the Council.
13. The licensed Operator shall make sure that hackney carriage/private hire vehicles and driver's operating from his/her office have had their licence renewed by the Council.
14. The licensed Operator shall display in a prominent position visible to customers visiting his premises at his place of business a list of fares and booking fees chargeable by the Operator. The Council shall be supplied with an up to date list of fares within 14 days of any changes made.
15. The licensed Operator will ensure that the licence issued by the Department of Trade and Industry for all radio equipment used is current and valid. All equipment must only be used on the frequencies stipulated in the D.T.I. licence and the licensed Operator must allow the Council access to inspect all equipment and D.T.I. licenses.
16. The licensed Operator shall keep and maintain at all times for a period of not less than six months, a record of hiring showing the particulars of every booking of a hackney carriage/private hire vehicle, including any booking accepted at the request of another Operator.

The record must be kept in the form of a log sheet or computer database detailing in particular:-

- a) The date and time of each booking
- b) The name and address of the hirer (if known)
- c) The dates, time and place of the commencement of each hiring
- d) The destination
- *e) The vehicle licence number and the name of the driver
- f) For booking transferred to another operator, details of that operator and information detailed in point 'e' above

(* This information may be given by reference to an incorporated code)

All records shall be maintained and kept up to date at all times, and shall be available for inspection at all reasonable times, without notice, by an Authorised Officer, the Police or DVSA. For the purpose of further investigation, records may be removed from the premises if so required or copied.

- 17. The licensed Operator shall keep a register of complaints by the public for a period of not less than 12 months.
- 18. Upon receiving a complaint or allegation regarding any person licensed by the Council in relation to the following matters:
 - a) sexual misconduct, sexual harassment or inappropriate sexual attention
 - b) racist behaviour
 - c) violence
 - d) dishonesty
 - e) breaches of equalitythe licensed Operator shall report it immediately to the Council when the taxi licensing office is open.
- 19. The licensed Operator is not permitted to accept bookings forwarded by their private hire drivers.
- 20. Artwork for vehicle side plates must be approved by the Council prior to use.

21. A sign on the rear passenger doors including the name and telephone number and/or website address of the firm and the words "PRIVATE HIRE VEHICLE – PRE BOOKED ONLY" in suitable lettering at least 50mm (2") high. The approval of the Council should be sought before the display of the sign. The sign must not include the words "FOR HIRE", "TAXI" OR "HACKNEY CARRIAGE".
22. Private hire operators must provide the Council with a current table of fares, including mileage fare chart.
23. If used, private hire operators must make sure all meters and PDA systems are calibrated to the correct fare scale.
24. The licensed Operator shall provide a prompt, efficient and reliable service to members of the public at all times, ensuring that when a private hire vehicle has been hired to be in attendance at an appropriate time and place, that vehicles shall, unless delayed, attend punctually at that time and place.
25. The licensed Operator remain accountable for service delivery even upon the transfer of a booking to another licensed Operator.
26. The maximum number of vehicles that may operate from the licensed Private Hire Booking Office are detailed on this licence, this number will not be exceeded without prior written notification to the Council.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Section 46 of the 1976 Act states :

- (1) Except as authorised by this Part of this Act –
- (d) no person shall in a controlled district operate any vehicle as a private hire vehicle without having a current licence under Section 55 of this Act;
 - (e) no person licensed under the said Section 55 shall in a controlled district operate any vehicle as a private hire vehicle –
 - (i) if for the vehicle a current licence under the said Section 48 is not in force; or
 - (ii) if the driver does not have a current licence under the said Section 51.
- (2) If any person knowingly contravenes the provisions of this section, he shall be guilty of an offence.

(Section 48 relates to the licensing of private hire vehicles)

(Section 51 the licensing of private hire drivers.)

Section 55 of the 1976 Act (as amended) states:

55.— Licensing of operators of private hire vehicles.

(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied

- (a) that the applicant is a fit and proper person to hold an operator's licence; and
- (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.

(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from operating a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.

(2) Subject to section 55ZA, every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.

(3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

Section 62 states:

(1) Notwithstanding anything in this Part of this Act a district council may ... refuse to renew an operator's licence on any of the following grounds:—

(a) any offence under, or non-compliance with, the provisions of this Part of this Act;

(b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;

(c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted;

(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

(d) any other reasonable cause.

77.— Appeals.

(1) Sections 300 to 302 of the Act of 1936, which relate to appeals, shall have effect as if this Part of this Act were part of that Act.

(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act—

(a) involves the execution of any work or the taking of any action; or

(b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;

then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution—

(i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and

(ii) that person may carry on that business.

(3) Subsection (2) of this section does not apply in relation to a decision under subsection (1) of section 61 of this Act which has immediate effect in accordance with subsection (2B) of that section.

(4) On an appeal under this Part of this Act or an appeal under section 302 of the Act of 1936 as applied by this section, the court is not entitled to entertain any question as to whether—

(a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom; or

(b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.

Section 55A states

55A Sub-contracting by operators

(1) A person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle may arrange for another person to provide a vehicle to carry out the booking if—

(a)the other person is licensed under section 55 in respect of the same controlled district and the sub-contracted booking is accepted in that district;

(b)the other person is licensed under section 55 in respect of another controlled district and the sub-contracted booking is accepted in that district;

(c)the other person is a London PHV operator and the sub-contracted booking is accepted at an operating centre in London; or

(d)the other person accepts the sub-contracted booking in Scotland.

(2)It is immaterial for the purposes of subsection (1) whether or not sub-contracting is permitted by the contract between the person licensed under section 55 who accepted the booking and the person who made the booking.

(3)Where a person licensed under section 55 in respect of a controlled district is also licensed under that section in respect of another controlled district, subsection (1) (so far as relating to paragraph (b) of that subsection) and section 55B(1) and (2) apply as if each licence were held by a separate person.

(4)Where a person licensed under section 55 in respect of a controlled district is also a London PHV operator, subsection (1) (so far as relating to paragraph (c) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the London PHV operator were separate persons.

(5)Where a person licensed under section 55 in respect of a controlled district also makes provision in the course of a business for the invitation or acceptance of bookings for a private hire car or taxi in Scotland, subsection (1) (so far as relating to paragraph (d) of that subsection) and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the person making the provision in Scotland were separate persons.

In this subsection, “private hire car” and “taxi” have the same meaning as in sections 10 to 22 of the Civic Government (Scotland) Act 1982.

(6)In this section, “London PHV operator” and “operating centre” have the same meaning as in the Private Hire Vehicles (London) Act 1998.

55B Sub-contracting by operators: criminal liability

(1) In this section—

- “the first operator” means a person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle and then made arrangements for another person to provide a vehicle to carry out the booking in accordance with section 55A(1);
- “the second operator” means the person with whom the first operator made the arrangements (and, accordingly, the person who accepted the sub-contracted booking).

(2) The first operator is not to be treated for the purposes of section 46(1)(e) as operating a private hire vehicle by virtue of having invited or accepted the booking.

(3) The first operator is guilty of an offence if—

(a) the second operator is a person mentioned in section 55A(1)(a) or (b),

(b) the second operator contravenes section 46(1)(e) in respect of the sub-contracted booking, and

(c) the first operator knew that the second operator would contravene section 46(1)(e) in respect of the booking.”

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