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By email only: [Jean.Cranford@brighton-hove.gcsx.gov.uk](mailto:Jean.Cranford@brighton-hove.gcsx.gov.uk)

Dear

**Re: Objection to application for Operator's License by UBER**

As Vice Chairman of Brighton and Hove Streamline, I write to make further representations and by way of objections to the application by UBER for a Private Hire Vehicle Operator's License and to submit reasons why such a license should not be granted by Brighton & Hove City Council. I do so in addition to the written representations that I made on behalf of Streamline by my letter to the City Council of 21<sup>st</sup> April 2015.

Private Hire Vehicle Operator's Licenses are regulated in the United Kingdom to protect and benefit the public and to ensure their safety. The public relies upon Licensing Authorities such as Brighton & Hove City Council to provide safety and protection by looking at and considering all applications for a Private Hire Vehicle Operator's License.

A taxi/private hire vehicle ("taxi") user is likely to be in a taxi rather than another mode of transport precisely because they are young, elderly, have a disability or some other special need, have consumed alcohol or are in an unfamiliar place or because it is late or the destination or pick-up point is remote and isolated. The benefits of a regulated taxi service are in some ways difficult to quantify or even identify but must include the comfort to the public of knowing that operators and their drivers have undergone background checks, are insured and use roadworthy vehicles, that drivers know their way around the area and are experienced drivers, that people with a disability will be treated equally and that there will be a good proportion of vehicles that provide wheelchair access and carry guide dogs without extra charges and more that is intangible but of immeasurable value.

The “fit and proper” test is multi-faceted and all embracing in terms of the factors that can and should be taken into account and includes appreciation of the duties and obligations that the law and a licensing authority’s conditions impose.

The public’s trust and confidence in the taxi services provided throughout the country exists because of, and will be justified only as long as, licensing authorities impose fair but rigorous and consistent standards to all applications for operators (and drivers) licenses. Brighton & Hove City Council has done so in the past and all that is asked when making these further representations and objections set out below is that the Council continues to do so in the case of the UBER application.

It is easy to treat objections to UBER’s application as being motivated purely by concerns that UBER will take business away from existing operators and drivers but while economic concerns do of course exist they are by no means the driving force behind these objections/representations. Streamline, as a long experienced, well-established and respected operator, recognizes that it is in the interests of the public and itself that high standards be maintained by all operators and drivers and the thread that runs through all the objections that I put forward is that standards will be lowered if an operator’s license is granted to UBER unless stringent conditions are imposed.

My starting point is to draw attention to Brighton & Hove City Council’s Blue Book which sets out a number of policies and procedures which should be applied to taxi operators generally in the interests of the public:

(1) The Blue Book is intended to provide guidance to “drivers, proprietors and operators” and states: “Customers rightly expect that in using Hackney Carriages and Private Hire’s they will be transported safely. In addition, it is in everyone’s interests to ensure that customer experiences are positive”.

(2) The Introduction states: “This document contains the policy and related procedures that will guide the work of the licensing authority (the Council) in the way in which it carries out its functions. This document sets out the requirements and standards that must be met” (emphasis added).

(3) The Blue Book states in section 3: “The Council will adopt and carry out its .... licensing functions with a view to promoting the following licensing objectives – The prevention of crime and disorder, safeguarding of children & the vulnerable and the protection of the public – The safety and health of the public and drivers – vehicle safety, comfort and access. In promoting these licensing objectives, the council will expect to see license holders and applicants continuously demonstrate they can meet or exceed specifications set by the Council in the four licensing objectives and will be taken into account by the Council when making decisions”.

(4) The Blue Book identifies the following as “issues of relevance”: “operating rules, conditions and disciplinary procedures. Vetting, qualification, training and monitoring licenses..... This will include ... cautions, convictions, other court orders made to control behaviour and even where appropriate looking at somebody’s social media profile.”

(5) The Blue Book identifies inter alia the following factors as relevant to Health and Safety:

"... ensuring drivers are as safe as possible. Driver training qualification and performance .... Knowledge of the City .... Vehicle specifications."

(6) Under Vehicle safety, comfort and access the following appears: "Standards of vehicle comfort and appearance. Provision of disabled facilities. Provision for the aged and the young".

(7) Section 4 of the Blue Book contains a long section devoted to requirements concerning vulnerable passengers (persons of age or disability).

The citation in (2) above makes it clear that it is mandatory for Brighton & Hove City Council to apply the policies and procedures contained in the Blue Book to the UBER application. Accordingly, I make the points set out below which all fall within the ambit of the factors which the Council's Blue Book identifies as relevant matters to be taken into account when dealing with any application for an operator's license.

Whilst it is appreciated the Blue Book is currently under review, I feel certain that all of the foregoing will continue to remain applicable to licensed operators and drivers.

Most if not all operators make their first application having gained skill and experience as a driver and start small. This cannot be said of UBER who will learn "on the job" and, as experience elsewhere shows, start "big". Where requirements are imposed on drivers rather than operators, the experienced operator (such as Streamline) will act to ensure that drivers comply. In contrast, UBER appears to view its role as nothing more than providing a communication service between potential passengers and drivers. There is nothing to suggest that UBER has in place, or will put in place, systems to ensure that their drivers are themselves fit and proper to provide driving services to the public, are licensed and experienced drivers, have road worthy cars, and are properly insured.

UBER does not provide any pre-booking facility and has a policy of "surge pricing" at times of unexpected demand. Neither of these features is in the public interest. There is no way that members of the public could know in advance when "surge pricing" is in operation until being told the cost. Members of the public, particularly younger members of the public, might be unable to afford the "surge price" having counted on using the UBER service, say, throughout the evening.

UBER does not provide an equal service to those with disabilities. This could result in serious difficulties being encountered by members of the public who have made plans counting on using the UBER service but unaware that the service might not be able to deal with their particular disability. The importance of disability requirements cannot be fairly measured in terms of actions brought in the courts and cannot properly be ignored by saying that these are "driver" requirements. Discrimination claims are difficult to prove and individual cases are not cost effective to pursue. Brighton & Hove City Council has required the operators' fleet to be by way of wheelchair accessible vehicles. It would be a retrograde step to license an operator who is not bound by the disability requirements applicable to other operators particularly as those requirements are so obviously in the public interest.

Taxi operators are required on application to set out their policies and procedures regarding those with a disability and if they do not do so the application is returned without further



consideration. New laws require taxi operators to undertake monitoring of the use of the service by passengers with a disability and if information is not provided on the next application, the application is not processed. Natural justice, equality principles and the public interest requires the same standard to be applied to UBER.

Brighton & Hove City Council has imposed requirements that a proportion of an operator's fleet must be wheelchair accessible and UBER must be made subject to the same requirements along with a requirement that drivers undergo disability awareness training. UBER ought to be required to comply with all Brighton & Hove's usual requirements regarding the taking of booking, ensuring drivers are properly trained, the necessity of treating disabled persons equally, carrying guide dogs and not making extra charges. Equality Act compliance is a strict legal obligation, not a choice. A failure to require compliance with all these requirements will undermine Brighton & Hove's standards and make a nonsense of the Blue Book.

UBER draws on a wide range of drivers who are not required to undergo DBS checks or to have an established level of skill and experience. By way of contrast, Streamline has in place measures to ensure that all Hackney and Private Hire drivers who are new to Streamline must have held a UK driving license for 5 years, compulsorily undergo a DBS check, and such DBS check must be satisfactory. The risk to the public is obvious, and even more so following on from the findings from such enquiries as in Rotherham!

UBER vehicles do not carry any livery and a wide range of cars is used (in contrast to e.g. London Taxis). Livery and the readily identifiable London Taxi is not a mere affectation but serves an important purpose not only in enabling ready identification but, because it is costly to apply/obtain, in minimizing the risk of unlicensed drivers. Livery or a readily identifiable vehicle protects the public. When Brighton Streamline and Hove Streamline merged in 2008 Brighton & Hove City Council refused permission for a livery change save for the addition of a second telephone number to be displayed on the rear of the roof sign. Brighton & Hove City Council recognized the value of livery in this decision but it seems that the City Council is proposing to waive or change its policy for the benefit of UBER which would be an inexplicable step, if an operator's license is now granted to UBER.

The speed of response to a call via the UBER app. means that UBER cars are in effect being hailed by users and using a Smartphone as a taxi meter. An attempt to address this issue in New York by imposing a mandatory 5 minute period between the booking and the pick-up resulted in customers being alienated. Importantly, such a requirement would be undesirable if cases involving vulnerable people. It provides no answer to the problem. Also, it is plain to anyone looking for transport in cities where UBER has been licensed that UBER drivers ply for hire picking up people straight from the street in effect using a Smartphone as a taximeter. There are therefore regulatory disparity issues about the use of taximeters. This means that if UBER could be granted a new private hire vehicle operator's license whereas it is in effect offering services analogous to that of Hackney Carriage and without being subject to the stringent conditions that would be applicable to the provision of such a service. The position would appear to have already arisen in London in this respect.

In Amsterdam UBER was raided by the Dutch police authority where it has been accused of violating the Dutch taxi laws with its UBERPOP service which allows untrained drivers and those without taxi licenses to offer trips at a cheaper rate. This service has been banned in

the Netherlands. In Paris two of UBER's top executives appeared in court charged with having committed "misleading commercial practices" and of "complicity in the illegal exercise of the taxi profession". These events again relate to the UBERPOP service and France has in effect passed a law banning the service. UBER has informed licensing authorities in other jurisdictions (Netherlands, Germany and Spain) that it will process bookings using a server within the licensing authority's area only for it to be found subsequently that UBER continued using its Netherlands server outside the authority's area. I accept that the laws of France and the Netherlands might not be the same as the laws applicable in England and Wales. The point is that if UBER is willing to "skate on thin ice" in other jurisdictions, UBER might well be prepared to do so in the UK jurisdiction.

Just such a disregard for regulations was revealed when UBER introduced blue lights in Manchester which were contrary to private hire regulations. Further, after UBER was granted a license in Newcastle-upon-Tyne there were instances of attempted UBER bookings in the adjacent licensing area of North Tyneside and of the use of non-area licensed vehicles. In comparative pricing advertising UBER purported to demonstrate that it was cheaper than other private hire operators but drew comparisons with Hackney Carriage fares, not private hire fares. It appears that UBER has not registered in the UK as a data controller despite operating in London for almost three years and in other UK cities for some time. By signing up to UBER, a customer accepts UBER's terms and conditions which allow UBER to download the customer's entire address book in their Smartphone and use it for UBER's marketing purposes. This is unlikely to be known to the customer who probably will not read UBER's terms and conditions. The point here is that UBER lacks good faith and has shown a disturbing disregard for rules, regulations and conditions attached to the grant of licenses. The weight to be given to concerns cannot be measured by reference to known court cases or complaints because members of the public do not necessarily know what rights they have in this regard and probably take the view that their one experience is not worthy of complaint. Furthermore, UBER does not appear to offer any or any adequate complaints procedure for its customers and certainly none similar to that offered by the current operators within the licensing area of Brighton & Hove City Council. The public interest is therefore to be safeguarded by experienced licensed operators expressing concerns based on their past knowledge and experience and by licensing authorities such as Brighton & Hove City Council undertaking a thorough investigation.

TfL has pointed out that many UBER drivers work for several companies which makes checking compliance and standards very difficult. UBER notoriously cuts its prices resulting in disaffected drivers, drivers willing to work for a minimal reward which cannot be desirable as it attracts those verging on the desperate for money and those willing to take shortcuts in incurring expenses such as upon the roadworthiness of their cars and adequate insurance.

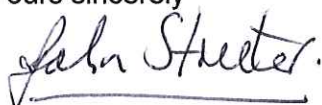
Insurance is a vital concern. If UBER fails to operate within the terms of its license, it is likely that its drivers will be in breach of their insurance policies and may be operating without insurance cover, including cover for their passengers. TfL established that this was the case in a recent successful prosecution.

The fundamental economic issue raised by the presence of UBER in the market goes far beyond a mere concern for the earnings of individual drivers. UBER would appear to enjoy a significant price advantage by avoiding and not paying UK corporation tax because jobs are booked through the Netherlands. UBER drivers earn less than other taxi drivers and in

some cases, less than the minimum wage. Further, there is a real risk that UBER's model will depress fares to unsustainable levels threatening not only the viability of the UBER model but the viability of the taxi trade as a whole. Thus the relevant question for Brighton & Hove City Council is whether an operator who is able to obtain a price advantage by operating outside the UK is in reality suitable to hold an operator's license at all, or certainly within the area licensed by Brighton & Hove City Council.

I am not looking to ban UBER but to bring it into line with what the public expects from any transport provider today. It is very important to ensure that the welfare of passengers is made paramount. Passengers have a right to know that when they book a journey through any operator, the service will be reliable, traceable and fairly priced. They should know who is driving and be able to trace the vehicle's registration and licensing details quickly and easily. UBER cannot be said to satisfy this test. The threat of allowing UBER to operate without bringing it into line with existing taxi operator's requirements and regulations has been described by Sadiq Khan MP in a debate in Parliament as "a race to the bottom" and this aptly describes what will occur in Brighton & Hove if UBER is granted a license or is granted a license that is not subject to conditions that oblige UBER to operate in accordance with the same rules and regulations that apply to all other licensed taxi operators.

Yours sincerely

A handwritten signature in black ink, reading "John Streeter". The signature is written in a cursive style with a horizontal line underneath the name.

**John Streeter, Vice Chairman**

**Brighton and Hove Streamline**