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Response to consultation on:

***DRAFT v7 THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME TAXI
LICENSING POLICY 2019-2021***

Dear Licensing Team,

We welcome the opportunity to contribute on the consultation of proposed changes to licensing conditions and policy, welcome the intent to raise the bar in safety standards for passengers and drivers in the industry. As a private hire operator licensed by Newcastle-under-Lyme Borough Council, our feedback will primarily be focussed around the proposed operator conditions (Appendix I, page 75 onwards), with some reference to driver and vehicle conditions. These conditions are listed below as headers, followed by the respective feedback thereafter.

Notification requirements

Condition 2. Change of Vehicles

The operator must inform the Council in writing before they wish to operate an additional vehicle. Where an operator ceases to operate a vehicle on the Operator Vehicle Schedule (see condition 10) he/she must notify the Council within 72 hours in writing.

Feedback:

We understand the requirement for Newcastle-under-Lyme Borough Council to have access to up to date information regarding vehicles operating under each operator. At the same time, we are cognisant of the need to do so in a way that does not risk delaying or disrupting drivers' access to the platform.

Drivers on the Uber platform have the ability to upload new or renewed driver or vehicle documents remotely. In addition to new documents, they are able to add new vehicles they wish to drive in the event that they have changed the vehicle they are using (along with any supporting documents such as PHVLs, Insurance certificates and MOTs).

This process saves drivers from having to come to our office location in order to update information, minimising any inconvenience and allowing drivers to resume driving as soon as they would like to. Once a driver has uploaded a document, it is verified by a team of document compliance specialists and subsequently (assuming there are no issues) approved.

Under the proposed new condition, we would be unable to offer a service which allows drivers to upload new vehicle documents remotely in a way that would allow them to begin working without having to experience a delay associated with us as the operator having to notify Newcastle-under-Lyme Borough Council about the new vehicle being operated.

We feel that providing retrospective notifications and/or weekly lists of new vehicles operating on the platform *after the fact* would still achieve the same aim, without causing undue delays for drivers. From our experiences as a nationwide operator, this appears to be something we see in the conditions of multiple councils across the country as common practice.

In addition to this, we note that the proposed vehicle conditions (proposed vehicle condition No. 7) place the same notification requirement on the vehicle proprietor. It would appear that having the same requirement for operators would duplicate work for council staff in receiving and recording these notifications twice.

Condition 5. Accident damage

The operator must report any accident damage to any vehicle under their control to the Council in writing within 72 hours and it must be repaired as soon as possible

Feedback:

We fully understand the importance of maintaining the highest standards of safety for passengers and drivers. One way in which we do this is by suspending the operation of any vehicle which has been reported to us as being subject to accident damage.

We wanted to feedback on this condition by splitting it into two areas:

Feedback on requirement to report accidents:

As an operator that is not a proprietor of any vehicles, we are mindful that there may be instances where our knowledge of an accident occurring is not immediate and hence not within the 72 hour time frame.

We believe the requirement for proprietors to report accidents within 72 hours under the current Taxi Newcastle-under-Lyme Borough Council and PH Policy (See page 8 'Accidents') is the

condition that is best placed to ensure Newcastle-under-Lyme Borough Council receive notification of vehicles which have been in accidents in the most efficient way.

The requirement for vehicle proprietors to make a notification to their licensing authority of accident damage made to a vehicle is also covered under primary legislation under s. 50(3) of the Local Government (Miscellaneous Provisions) Act 1976.

Feedback on requirement to repair as soon as possible:

We accept that a responsible operator should immediately suspend any damaged vehicle from operation until it is satisfied that the vehicle has been appropriately repaired. At the same time, from the perspective of an operator which is not a vehicle proprietor of any vehicles which we operate, we are unable to require repairs to actually be made. This is ultimately a decision and a matter for the owner of the vehicle (which in many cases, as with Uber's, is not the operator). As a result, it is not practicable to impose on an operator an obligation to repair a vehicle which it does not own.

We believe it is sufficient and proportionate to place the obligation to repair a vehicle as soon as possible on the proprietor of the vehicle. We note that this has already been captured under the Proposed Vehicle Conditions (condition 2. 'Accident damage').

In respect of operator obligations in this area, we respectfully submit that the obligation should be more limited, and should extend only so as to require an operator *not to operate* a vehicle notified to it as damaged until it is satisfied that the damage has been appropriately repaired.

We would also highlight that there is some ambiguity around the use of the phrase "*must be repaired as soon as possible*". We are unsure as to when an operator or proprietor of a vehicle would fall foul of this time frame without it being more prescriptive.

Conditions 10 & 11. Complaints Procedure

10. Each operator must have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a Complaint.

11. The complaints procedure and complaint records must be made available to the licensing authority or Staffordshire Police on request and will be audited and checked by an authorised officer of the Council as appropriate on a risk based approach. Where a child under the age of 18 years is involved the local safeguarding procedures will be used by the licensing authority on receipt of the complaint. Where a complaint is received about the behaviour/conduct of a driver towards a vulnerable person the operator must notify the Council in writing within 72 hours.

Feedback:

We support and encourage Newcastle-under-Lyme Borough Council's application of a condition which requires operators to maintain records of all complaints received and any subsequent investigations or actions taken as a result of the complaint. We also support requirements for operators to report serious complaints to licensing authorities and see this as best practice.

Newcastle-under-Lyme Borough Council already has a complaints reporting condition in place. We believe that the proposed condition somewhat undermines the existing requirement. The proposed condition only requires an operator to notify the council within 72 hours of any reported behaviour/conduct of a driver towards a vulnerable person, whereas the existing condition captures "*any complaints*".

It is also not clear as to how an operator would distinguish who is a vulnerable person and who is not, which could lead to inconsistency of interpretation as between operators and either under- or over- reporting of complaints.

The current operator conditions which relate to complaints procedures actually go further by stating that "*The Operator shall immediately notify the Council in writing of any complaints concerning a contract for hire or purported contract for hire and of the action which the Operator has taken or proposes to take.*"

The reporting of complaints is something we have been working on with a number of councils recently (and should be viewed in the context of working within GDPR regulations). We would make the recommendation that reporting requirements be clarified in the conditions with respect to;

- the type of complaints to be proactively reported
- the timeframe for complaints to be proactively reported
- the details required in proactively reported complaints

We would welcome the opportunity to share our experiences with Newcastle-under-Lyme Borough Council of working with other councils and police forces (including TfL and The Metropolitan Police) which may help towards curating a complaints reporting conditions which delivers the best and most practical outcome.

Condition 13. Operator Vehicle Schedule

The Operator Vehicle Schedule must record [details of] road tax

We agree and support the need to ensure all vehicles are properly taxed, however we believe this responsibility best sits with the vehicle proprietor. The means through which an operator would obtain and keep details of road tax is not clear and would create unnecessary process which may otherwise be more easily solved by the vehicle proprietor.

Condition 15. Operator Driver Schedule

The Operator Driver Schedule must record [for each driver] ‘the date of his next medical’

Feedback:

We understand that medical assessments are required every 3 years (in line with the standard PHDL renewal period). In addition to this, any licensed drivers aged 65 and over must undertake a medical examination at least annually.

We support this cadence for medical assessments and accept that operators should be responsible for preventing any driver from operating where he or she has not completed the required medical assessment under the criteria set by the licensing authority.

At the same time, we are unsure how we would satisfy ourselves that the appropriate medical checks had been carried out, and unsure as to what details or documents (if any) we would need to keep evidencing such medical assessments and how we would obtain this information in a reliable and efficient manner.

We believe the intention behind this condition is very sensible: to ensure that all private hire drivers have undertaken a medical within an appropriate time frame. We believe this aim would be better achieved by the verification and enforcement processes being carried out by Newcastle-under-Lyme Borough Council at the point of licence grant or renewal.

Since there is a requirement for drivers (under the age of 65) to conduct a medical as part of their PHDL renewal, expiry or non-renewal of any PHDL resulting from not attending/not passing a medical will automatically mean this driver is no longer operating (via suspension notice sent from council to an operator or by virtue of the document expiring).

For drivers aged 65 or over, who are required to undertake a medical annually, we believe issuing them with an annual PHDL will achieve the same outcome.

Keeping the Newcastle-under-Lyme Borough Council as the single source of truth/data holder on drivers' medicals seems to be the most proportionate and effective in regards to drivers' medical records.

Condition 17. Operator to keep Drivers' Licences

It is the operator's responsibility to check that all drivers are licensed as private hire drivers. The operator should ensure that when a driver has made themselves available for private hire work that the driver has deposited her/his licence with the operator whilst s/he is available for work.

We agree with the requirement for operators to verify that all drivers available to receive bookings under an operators licence are suitably licensed as private hire drivers. However, we believe this aim can be just as easily achieved by the operator having the option to maintain digital scans/copies of any PHDL and that a requirement to keep physical documents would be an unnecessarily burdensome process.

Maintenance

Condition 18. Safety and good order

The operator must ensure that all vehicles on the Operators Vehicle Schedule are maintained in a safe, comfortable, clean and tidy condition at all times whether or not the operator owns the vehicle. The operator must ensure that at all times all vehicles on their Operators Vehicle Schedule meet all relevant legal obligations including the vehicle conditions imposed by the Council.

Condition 19. Maintenance programme

The operator must at all times ensure that all vehicles on their Operator Vehicle Schedule are properly and regularly maintained. The operator must have in place a programme to ensure that vehicles are inspected regularly and record in writing. The programme must be submitted to the Council on request and must include details of how often the vehicle is inspected, serviced and what checks are carried out.

Feedback:

We support the requirement to ensure all vehicles operating in the private hire sector are maintained to good order and are safe, comfortable and clean for drivers and passengers alike. For instances where vehicles fall short of this standard, we aim to take appropriate action including suspending it from operating.

As an operator which is not the proprietor of any vehicles we operate, we do not have constant control over any given vehicle's condition. We believe the requirement necessary to ensure the proper maintenance of vehicles is more fittingly covered by placing the onus on the vehicle proprietor, this is something that we note is covered in the proposed Driver code of conduct ('Maintenance Check', page 51) and in the proposed vehicle conditions ('Vehicle Condition and Maintenance, page 66).