



Name of meeting: Licensing & Safety Committee

Date: 4 November 2015

Title of report: Briefing Paper - UBER

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the Council's Forward Plan?	Yes
Is it eligible for "call in" by Scrutiny?	Not Applicable
Date signed off by Director & name	Jacqui Gedman – 09/09/15
Is it signed off by the Director of Resources?	David Smith – 09/09/15 <i>Debbie Hogg on behalf of</i>
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 10/09/15
Cabinet member portfolio	Cllr Steve Hall – Planning, Highways & Open Spaces

Electoral wards affected and ward councillors consulted: ALL

Public or private: Public

1. Introduction

1.1 This briefing paper has been brought to Committee at the request of the Chair of the Licensing & Safety committee, Cllr Smith to inform Members of the current status nationally of Uber.

2. UBER

Uber is an American company which develops markets and operates the Uber mobile app, which allows consumers to submit a trip request which is then routed to sharing economy drivers. Uber is a technology platform that mediates between supply and demand using smartphones. Primarily, right now, the main service is urban passenger transport, helping people get a ride around towns and cities in the UK.

Uber is a licenced private hire operator in more than 26 UK cities and towns including Birmingham, Bristol, Leeds, London, Manchester, Newcastle and Sheffield. An operator licence was granted to Uber in Kirklees in March 2015. There are currently 39 licensed drivers and 33 licensed vehicles linked to Uber in Kirklees. As of April 2015 Uber was operating in 19 out of 28 EU countries.

Uber own no licensed vehicles or employ any licensed drivers. The vehicles and drivers are classified as self-employed and contract with Uber to deliver services. It is estimated that there are 15000 drivers & vehicles in London alone.

There are ongoing lawsuits in France, Germany, Belgium, and Spain. Arguments in favour of Uber tend to be around consumer choice and driver flexibility. Those opposed to the use of the app in London argue that it is being used illegally so that, in effect, PHVs can act like taxis by plying for hire and using a smartphone as a taximeter to calculate fares. They are also concerned about driver and passenger safety.

In its December 2014 report on the taxi trade in London the London Assembly Transport Committee set out the cabbies' concerns about Uber as follows:

Uber London is a technological platform that allows passengers to hire a private hire vehicle through a smartphone app. Both licensed taxi and existing private hire operators have expressed strong reservations about the legality of its operating model, arguing that the smartphone used by Uber drivers constitutes a 'taximeter', and that the app allows for 'immediate hiring'- both of which are illegal under current private hire legislation.

Uber London was licensed as a private hire operator by TfL in 2012. Since then, TfL have faced strong criticism from the trades for granting the licence and for failing to effectively regulate Uber's operations in London. Similar criticism has been levied at other Local Authorities who have licensed Uber.

The fundamental issue remains unresolved. In London TfL has taken a provisional view that the Uber driver's smartphone is not operating as a taximeter and therefore not contravening the legislation. However, having listened to the concerns raised by the taxi and private hire trades and what they have said about how the legislation should be interpreted, TfL concluded that there is ambiguity about how the statutory prohibition on the use of taximeters should be applied to the use of smartphones.

TfL is therefore of the view that the appropriate way to resolve this is to seek a binding ruling from the High Court in the form of a High Court Declaration. TfL believes that this is the fastest and fairest way to resolve this issue, allowing all parties the opportunity to make representations to the Court. That said, the case has failed to progress. TfL states that this is because in July 2014 the Licensed Taxi Drivers Association (LTDA) filed separate criminal proceedings against six Uber drivers, which took precedence over TfL's referral. The LTDA later agreed to allow the criminal case to adjourn so that the TfL case could progress, but this did not happen. TfL said that they believed that the summonses have to be withdrawn by the LTDA for that to happen.

Reports in March 2015 indicated that LTDA had done this and that TfL's application could proceed. On 27 July TfL tweeted that they had applied to the High Court for a ruling, with the hearing set for 5 and 6 October 2015.

Once the High Court has determined the application, there will hopefully be clarity for other Local Authorities on the use of smart phones being used as a booking platform..

3. Legal Considerations

There are no legal considerations other than those already highlighted within the report

4. Resource implications

Not Applicable

5. Conclusion

The report informs the Committee of the current position nationally on the position of Uber as it currently stands.

6. Recommendations

Committee is asked to note the contents of the report.

7. Cabinet portfolio holder recommendation

8. Contact officer and relevant papers

Catherine Walter
Licensing, Local Land Charges & Highways Registry Manager
Tel: 01484 221000
Email: catherine.walter@kirklees.gov.uk

9. Assistant director responsible

Paul Kemp
Assistant Director – Place
Tel: 01484 221000
Email: paul.kemp@kirklees.gov.uk