

Re: Uttlesford District Council Taxi Licensing - Restricted Licences

You have asked me to comment specifically on the views expressed by Elizabeth Smith, Solicitor at Uttlesford District Council in response to questions raised by yourself at the meeting on 13th December 2018

Firstly, Ms Smith stated:

First of all, it is common ground that the trinity of licences – vehicle, driver and operator – has to be in place. Though where a contract is made can sometimes be important in this case it does not matter and there is nothing whatsoever to prevent the creation of the 24 x 7 Group of Companies all of which have their registered office at Stansted.

A company's registered office is very often not its principal place of business and there is *nothing whatsoever* to stop the formation of subsidiary companies in the locations in which school contracts are held and for those companies to hold the operator's licence, trading from a local address, to which the drivers and vehicles are also linked. If they are only doing school contract work the physical premises can be very modest indeed. It could be open to a local education authority to decide at any time that as part of their safeguarding requirements they were going to insist on local licensing, eg Hampshire County Council might require their school contract drivers to be licensed by Winchester City Council; they could probably get around *Knowsley* if it were a safeguarding requirement. Any competent solicitor or accountant could set this up: it is nothing whatsoever to do with the regulatory regime.

My comments are as follows:

There is nothing to prevent an operator licensed by Uttlesford undertaking hirings anywhere in England or Wales. The only proviso is that the vehicles and drivers used to discharge those hirings must also have been licensed by Uttlesford District Council.

However, a local education authority, or a health body (the NHS or social services) may require within their contracts that vehicles, drivers and operators are licensed locally.

Secondly, Ms Smith stated:

Secondly the legislation simply does not provide for a limited or restricted licence. Certainly the roving PHV driver has driven a coach and horses (sorry!) through the intention of the legislature in 1976 that the licensing regime be local, but even though some authorities apparently purport to impose conditions/restrictions on the grant of a driver's licence I very much doubt that those would survive a challenge and in all honesty [REDACTED] could not stop one of his licensed school contract drivers taking that licence and working for another operator evenings or weekends. He might well be able to dismiss them from their employment but he could not surrender the drivers licence for them or require them to do so.

██████████ did accept that his airport drivers *will* have to complete the full training package. However, his school contract drivers almost certainly are a very different sort of person to his airport drivers, quite apart from legal status. I only see drivers before a panel, and the school contract applicants are a) older and b) tend to be there because of very historic convictions, while the PHV drivers tend to have acquired points or in other ways offended recently.

However, the point remains that by its very nature regulation has to be one size fits all, and I am afraid that while the drivers can take their licence and go and work elsewhere, they have to meet competency standards”.

My comments are as follows:

In relation to restricted licences, Uttlesford District Council already issue restricted licences, to those who wish to drive private hire drivers engaged in testing vehicles.

These are granted as a “restricted licence” which is written on the application form. These are treated differently from the mainstream private hire drivers, and the licence is issue without any DBS check or any medical test or assessment being required. The only requirement is a DVLA mandate to enable the Council to access the DVLA driving licence.

As the Council already have this precedent, it is difficult to see why they are not prepared to issue restricted licences to those who wish to undertake only school contract work. The application forms already require an applicant to specify which operator they will be working for, and the hours they intend to work. This could be

reinforced by imposing a condition on such a licence that it could only be used whilst the driver was undertaking school contract work for a specified operator. The Council could then revoke the licence of anyone found using their private hire drivers’ licence outside those situations.

I trust that this is of assistance.

Yours sincerely

James Button
Principal,
James Button & Co., Solicitors

RESPONSE:

From our first discussions regarding policy change at UDC we have carefully considered your request to issue a separate restricted Private Hire Driver’s licence which would allow individuals to only carry out school contract work. I’m sure that you appreciate that in giving this consideration we have also

considered the need to also issue a limited Private Hire Vehicle licence as well as this would need to go hand in hand if a limited driver's licence were to be issued.

In Mr Button's response he, as you and others have, raises the point that UDC already issues a limited licence. This licence is very different to what you have requested as it does not allow the person to drive passenger for hire and reward or licence their own vehicle. The numbers of these licences issued are low (18), for a specific purpose. This is not a precedent but was a decision based on the risk to public safety of issuing such a licence.

The fundamental consideration is the safety of the public. UDC considers that issuing a restricted school contract only licence has the potential to risk public safety. As an example if UDC issued a restricted vehicle and driver licence the person driving that vehicle may live a considerable distance from UDC and their operator. This driver then has access to a licensed vehicle 24 hours a day and should they choose to use it to carry paying passengers then there would be little that could be done to identify this given the number of licences that would be issued and some of the distances involved. We appreciate that you say that your vehicles are GPS tracked and that as an operator you would be aware of any misuse but the authority has to consider that most operators do not have the technology that you do.

As people in the taxi industry are aware the travelling public simply see a licensed vehicle and it is rare that they know the difference between a Hackney Carriage or Private Hire vehicle/driver. Simply issuing a different colour/style badge and plate with this restricted licence will not address that risk.

Mr Button states that for the issue of the current restricted licence only a DVLA mandate is required rather than the other checks which are required for unrestricted licences. We would refer you back to the point that these licences do not allow the carrying of passengers for hire and reward and that those that hold them do not have access to their own licensed vehicle.

The letter makes the point that if a restricted licence were issued and then used inappropriately then that licence could be revoked. This is the case with all types of driver licences so is not considered an argument that supports the issuing of the proposed restricted licence. Again you will be aware that the legislation relating to taxis is old and the process of revoking a driver's licence can often be a long drawn out affair allowing a driver to continue to work until any appeal is concluded.

From discussions during the consultation it appears that you would be seeking to have different levels of training, if training is implemented, for the different types of driver licence (restricted or not). It is this authority's contention that the school contracts drivers are likely to be carrying some of the most vulnerable members of society, not just those that are young but possibly children with a variety of special needs. The authority needs to ensure that all drivers take their responsibilities seriously if it is to diligently fulfil its statutory obligations.

The issuing of a restricted licence could place an additional burden on to those entering the trade. If a person granted a restricted licence then decide that they wish to do other types of work for hire and reward they would then have to go to the time and expense to change licences. By issuing one type of private Hire licence a person entering the trade can work for any UDC operator carrying out any type of work.