

Response to Report by the Head of Environment – Removal of Condition 6A (iv)

I will address the points raised by the Head of Environment in turn:

2.4 – Whilst the roof sign is visible from the sides, if a private hire vehicle has a roof sign affixed, which by law it is perfectly entitled to do, you still won't be able to tell the difference. The plates on the front and the rear, which state the word HACKNEY CARRIAGE in large letters, identify it as a hackney carriage. The roof sign does not.

4.2 – The report by the Head of Environment incorrectly refers to a **'golden triangle'**, however this is not the legal term, and never has been, what is described by the report with regards to where private hire vehicles can work is also manifestly incorrect. A private hire vehicle and driver, can at all times, operate and pick up pre booked passengers anywhere within the United Kingdom, where it is licensed is immaterial, this is not unique to a hackney carriage vehicle.

The actual legal term used is a **'triple lock'**, this is the operator, the vehicle and the licensed driver, and as long as they are all licensed by the same authority (any authority in the UK), the private hire vehicle can operate and pick up passengers anywhere in the UK. For example, if Lucy's Cars has an operators license issued by Wolverhampton City Council, a driver licensed by the same council, who is driving a private hire vehicle licensed by the same council, can take a booking to collect a passenger, anywhere in the UK, as long as that booking is made through Lucy's Cars, just like a hackney carriage vehicle can.

This is known as **'cross border hiring'** and is perfectly legal, as long as the **'triple lock'** is active, as was stated by The High Court (Administrative Division):

'So long as the relevant operator's license, vehicle license and driver's license are all issued by the same local authority, then it is irrelevant that any particular journey undertaken by a private hire vehicle, neither begins nor ends, nor passes through the area for which that authority is responsible.'

Blue Line Taxis LTD V The Council of The City of Newcastle Upon Tyne [2012] EWHC 2599 (Admin)

It was also then confirmed as the **'triple lock'** in **R (United Trade Action Group LTD) V Transport for London [2021] EWHC 3290 (Admin)**, a case from December 2021.

And further more, just to note, the **'Golden Triangle'** is actually a geographical area in South East Asia, where the borders of Thailand, Laos and Myanmar meet, along the Ruak and Mekong Rivers, it is where a large amount of the world's opium is produced, I know this because I learnt about it in GCSE History, many years ago. I have no idea why anyone would confuse a legal term in relation to the private hire and hackney carriage industry, with a geographical area that is used to grow opium, a narcotic that has hallucinogenic affects, was I hallucinating when I read the report?

4.4 – Again, this is irrelevant, private hire vehicles can do exactly the same, this is perfectly legal. Therefore the requirement to identify the vehicle as a hackney carriage when it is operating in another local authority area, remote or otherwise, is not necessary, because it is, at that point, when outside Gedling Borough, acting exactly as a private hire vehicle would.

4.6 – The report states that the fact the roof sign is on the vehicle identifies it as a hackney carriage, and therefore protects the driver from unnecessary enforcement when operating outside the area the vehicle is licensed in. Again, this is not true because a private hire vehicle can carry out exactly the same tasks as a hackney carriage when working outside the area the vehicle is licensed in, therefore the hackney carriage is just as likely to undergo an enforcement stop, as the private hire vehicle is. The report by the Compliance Manager at Nottingham City Council adds nothing to the argument. Section 48 is irrelevant, as the vehicle actually IS a hackney carriage.

4.7 – Again the argument is repeated, for a third time, and the point is irrelevant. Vehicles operating under a hackney license or private hire, can carry out exactly the same tasks outside of the area where they are licensed, there is absolutely no requirement for a member of the public or an enforcement officer, or police officer, to know the difference, because they are in essence the same. The only thing a passenger needs to be aware of is that the vehicle they are about to be carried in is a vehicle licensed to carry passengers, the plates provide this information.

5 – The report states that officers submit that the incidents would have occurred regardless of the FOR HIRE sign, this is in my view incorrect and is supported by the fact that when the incidents happen at the train station, it is only the vehicles that have FOR HIRE signs that are approached, private hire vehicles are not approached. The sign also makes the problem worse, as it gives the impression the vehicle is FOR HIRE, when it isn't. I have seen vehicles licensed by Broxtowe Borough Council approached, as they also have the FOR HIRE roof sign attached. I see Gedling Borough Council Hackney Carriages pulling into the train station pick up and drop off area behind me and in front, and those that are not displaying a FOR HIRE sign (when they should be), are left well alone, and I am the one approached as are others who are displaying the sign.

Again within 5, the report mentions inconvenience of enforcement when the hackney carriage is operating outside its licensing authority area, I do not wish to sound like I am a broken record, but this is not the case, as a private hire vehicle can operate anywhere in the UK, at anytime when taking pre booked passengers, just like a hackney carriage, see above.

6.1 – This refers to Appendix G, I wish to refer you specifically to Consultation Comment Two, and the Officer Response:

'When drivers are going on holiday and wish to use their vehicle for that period for domestic purposes they can surrender the plates at no cost to themselves and the council will hold them in deposit until they retrieve them on their return.'

If this were to take place it would lead to a clear and unequivocal breach of Gedling Borough Council Hackney Carriage Vehicle Licensing Conditions 2A, 6A (iv) and 8B.

The front and rear plate, and the roof sign must be affixed to the vehicle at all times (2A and 6A (iv)) and **this must be so regardless of how the proprietor operates the vehicle**, unless the vehicle license is revoked, suspended, surrendered or has expired (8B).

It is deeply concerning that the Head of Environment, who authored this report, is not aware of this, and has not removed this comment, which appears to condone the clear and unequivocal breach of the council's vehicle licensing conditions. If the comment is true, and the plates and roof sign can be removed when the vehicle is in personal use, it would be excellent, as this would resolve some of the safety issues raised in the consultation, handing in the plates would be the same as keeping them in the boot of the vehicle. However, currently it isn't possible, as it would be a breach of the conditions.

7.1 – With regards to the comments by Broxtowe Borough Council, again private hire vehicles can legally carry out the same tasks as a hackney carriage when outside their licensing area. The comment about differentiating it from an unlicensed vehicle is a good point, but the plates do that, just like they do for private hire vehicles. Again, safety is mentioned, but no argument is put forward as to why having the roof sign on the vehicle, ensures anyone's safety, 23 licensing authorities do not have a roof sign requirement for hackney carriages, are they operating unsafely then? I doubt it.

Kind regards,



Dear Councillors,

I make these representations to yourselves, as I made the original application to have Condition 6A (iv) removed. I will be at the meeting, and hope to address the committee.

I have been a hackney carriage driver for nearly two and a half years, in that time I have carried approximately 15,000 passengers, cumulatively, and have never received a complaint about my conduct or vehicle. At the very start of the pandemic, when in one week there were over 12,000 extra deaths in the UK, over and above the usual average, I stayed out and transported key workers, I transported Nurses, Health Care Assistants and Doctors who were working on coronavirus wards, I did this on many occasions free of charge, and in some cases at maximum capacity. At times, it felt like I was alone, however at times I saw others on the road most were taxis, I saw other drivers, travelling four up at maximum capacity, doing their job, whilst almost everyone else was inside. My operator was and is still outstanding, their concern for my safety was and is exceptional, and their concern for my level of financial income during the difficult periods was outstanding, however I cannot say the same for my licensing council.

During the pandemic, the years 2020 and 2021, the taxi trade (including all hackney carriage and private hire) has been decimated, from the statistics that I have obtained, the licensed trade with Nottingham City and surrounding councils, has lost exactly 1,410 private hire and hackney carriage vehicles between 31st December 2019 and 1st February 2022. The breakdown is as follows:

Gedling Borough Council: 482
Nottingham City Council: 676
Broxtowe Borough Council: 47
Erewash Borough Council: 42
Rushcliffe Borough Council: 163

This is a horrendous loss, of which Gedling Borough Council has suffered the worst, and I will not say much, except to say that people are angry and dismayed with the service level that is now provided by the taxi industry. The situation is horrific at peak times, and the worst I have had to deal with is a 90 year old lady who had no smart phone, and was at Nottingham Train Station, and she had waited for a taxi for so long. She begged me to take her, offered me money, but I couldn't. In the end I parked my vehicle in the five minutes stay area, and walked her to the staff in the concourse area of the train station, and asked them to help her get a taxi. They said they would, and I left thinking that I should have done more. This haunts me to this day, I should have taken her, no matter the consequences. However, with the propensity that Gedling Borough Council have to prosecute their drivers, especially recently a driver who was prosecuted, without in my view, any reasonable grounds, I perhaps took the more selfish option. This prosecution was unsuccessful in Crown Court, thankfully cooler heads prevailed.

As the country was pulled out of the second lockdown in April 2021, I started to notice a serious issue that was occurring regularly, and that it was a clear risk to the health and safety of drivers, passengers and members of the public at large. It had happened before the pandemic, but only on occasion. Condition 6A (iv) of the GBC Hackney Carriage Vehicle Licensing Conditions, requires a GBC HC to have a roof sign on the top of the vehicle at all times, the front of it bares the words FOR HIRE.

It was causing and still does cause incidents to occur of the following nature:

Members of the public have tried to open the car door when I am stationary at traffic lights, both with passengers on board and when I am alone, they have tried to get into the vehicle when I have been setting down passengers, they have also attempted to alight the vehicle when I have been waiting for a pre booked passenger. On two occasions now a member of the public has opened the front door of the vehicle, not knowing there was a passenger in the rear, and has attempted to hire the vehicle, they have BOTH stated the 'FOR HIRE' roof sign shouldn't be on the vehicle when not for hire. On many other occasions members of the public, who whilst I am waiting for a pre-booked passenger, have approached me and asked me to take them, I have told them I can't. Then as the pre-booked passenger has arrived, the member of the public has then started an argument over who will be conveyed. I have always intervened and done my best to defuse the situation, however on one occasion this didn't work and I was threatened with physical violence. I have had people step out in front of me as I am driving along the road, to try to get me to stop and take them, on Saturdays, specifically when it is raining it gets to its worst, this happened three times in one day, and it was dangerous. When I arrive at the train station to set down or pick up, there are times when I am and other drivers are 'mobbed', and people ask to be transported. On one occasion, in Nottingham City Centre at around 4am I was threatened with again physical violence for not being willing to transport a passenger without a booking.

What I have just said is only a snapshot, now, in May 2021 I made an application for Condition 6A (iV) to be removed, after I had to threaten to take GBC to court, it was finally put before yourselves on 13th July 2021, along with a report from Gedling Borough Council which recommended on safety grounds, which no rationale was provided for, and identification of HC vehicle concerns, that the condition was kept in place. I appeared before you, and was impressed by the time and depth with which you considered my application, you decided to reject the report from the Head of Environment and instructed a consultation. This was an excellent response, and I thank you for this, you gave me hope that we were moving forward, and your considerations were clearly outlined.

At the end of June, and through July, the country returned to normal and restrictions were fully released, streets were full and everything was open, to say it was busy, was an understatement, people had been restricted for far too long and were letting off steam. Due to the lack of taxis, the situation as I have described above, took a turn for worse, and after three incidents in the space of an hour, one which resulted in me having to take evasive action to avoid a member of the public who had stepped out into the road with his hand outstretched to hire me, I decided I had to act.

I wrote a **formal urgent application** to yourselves for condition 6A (iV) to be suspended on health and safety grounds, whilst the consultation took place and you came to a formal decision, and in accordance with the procedure under Section 100B (4) (b) of the Local Government Act 1972, I asked it be sent to yourselves to be considered at the ELC Meeting on 10th August. I sent it to Paul Gibbs one of your Licensing Officers, who has always been brilliant and never been wrong, and he stated in communications (which I have obtained), correctly, that it was a matter for the chair to decide if it should be considered.

However I received no further communications, and it wasn't included in the agenda for the 13th August and I was then notified, after having to ask the question, on 6th September that it was decided it wasn't to be considered. I assumed, incorrectly as I now know, that the chair, in line with Section 100B (4) (b) had decided not to consider it, and that you had approved it not being

considered. I have now discovered this was not what happened.

It now would appear that the legislative procedure was apparently circumvented, and that a member of staff appears to have ensured it was kept from the committee, as she herself felt it wasn't urgent and advised as to the decision and that it was not even sent to you, even though she has informed me there was 'no decision as such', which is absurd. I was never told this, nor did she even do me the courtesy of speaking to me, or give me the opportunity to make representations to her as to the urgency, it was just shelved. **I have made a formal complaint about this, and was advised at both Stage 1 (Director Level) and Stage 2 (Chief Executive Level) of the complaints process, that in effect, the authority of consideration of any urgent applications, lies with the Section 5 Monitoring Officer and Lead Legal Adviser, Francesca Whyley, or another Legal Adviser, and not the chair of the meeting. In effect, any urgent applications can be kept from the committee, you may never even be told about them, I am happy to send you the outcomes at both stages, and the complaint I made.**

Twelve days after my application was made, as I will explain below, a taxi driver in Birmingham was stabbed and his vehicle vandalised for refusing to take passengers without a booking. My application was urgent, and it should have been provided at least to the chair of the committee for a decision, it wasn't, this in my view is a serious concern, and impacts the democratic process.

As I wasn't of course aware of the obstruction and was just continually told that the consultation would be followed through, as and when, and due to this and in effect a wall of silence, and the urgency of the situation, I had no choice but to make an application to the court. This was partly made on the grounds of the incident that occurred in Birmingham on 22nd August 2021, a driver refused to take passengers without being pre-booked, and for this his front windows were smashed and he was stabbed. He was taken to hospital with serious injuries, and luckily survived, a man is currently awaiting trial I understand, for this senseless act of violence.

On 13th December my application was heard in court, and due to the fact that I had filed the case earlier than the condition was served at my last vehicle inspection, the Judge stated he couldn't hear it, but would happily hear it if I served it again at the appropriate time.

On the 9th of December, the consultation was started, the wording, as you have seen, is in my view appalling and objectively cannot be in anyway said to be impartial, to me it looks like it was written to achieve a specific outcome. I raised a complaint about this, and at Stage 1 as determined by again, the Section 5 Monitoring Officer, I was informed that my complaint could not be actioned, as a consultation wording and the conduct of it, was outside the complaints policy, I have reasonable grounds to believe that she herself advised and signed off the wording of the consultation, I know for certain however that she was involved in the process, she has admitted this, and I am awaiting confirmation on how deeply, so how she was permitted to investigate a complaint about her own activities, I don't know, but no matter. At Stage 2 after I sent a copy of the complaints policy to Alison your Director of Corporate Resources, showing clearly that in my view the consultation was within the complaints policy she stated it wasn't. This will be referred to the ombudsman, I will update you on the decision.

With regards to my assertion that the consultation wording was done to achieve a specific outcome, I have obtained an email that was sent from one of your legal officers to again the Section 5 Monitoring Officer Francesca Whyley, who is also your Head of Governance, Customer Services and your lead legal adviser, it contains a file with a perfectly reasonable and independent

consultation question, however it also states the following, verbatim:

'I know this will not be high up on your list but I have drafted the attached to be included at the end of the standards consultation. I am not really happy about the whole thing but I cannot see how we cannot go out to consultation.'

There are no further written communications between that legal officer and Francesca Whyley, until the legal officer then forwards the consultation question to her again, that is the final authorised version, and in my view, the unlawful and biased version, written to try and achieve a specific outcome, of the condition remaining. I have reasonable grounds to suspect, that your Section 5 Monitoring Officer discussed the consultation question, and in essence, potentially may have rigged it to achieve a specific outcome.

I do not know how the kind of behaviour in the email is to be tolerated, the democratic mandate you gave on 13th July was clear, when you order a consultation, it is to be independent, fair and impartial, and discussions about how to avoid consultations that have been ordered, should not even take place. This must be formally investigated.

I have obtained an email that specifically states that before the consultation can start, they are waiting for the question from 'Fran', I can only assume that this is your Section 5 Monitoring Officer, Miss Whyley.

No matter, you have seen the results of the consultation, and the response, even with the wording as it was, and that in my personal opinion it was potentially rigged to ensure a specific outcome in favour of keeping the roof sign, **it has still come out in favour of removing condition 6A (iv)**. It has even revealed more safety issues that this condition causes supporting the fact that it needs to be removed. Gedling Borough Council have a duty under health and safety legislation, to take all reasonable steps to ensure the safety of their drivers, members of the public and passengers, this condition is causing health and safety problems, and needs to be removed.

There has been an argument put forward by GBC that the roof sign is there for safety, however there has NEVER been any rationale put forward for that, just saying it is so, certainly doesn't make it true. There is an argument over the vehicle having to be distinguishable from a private hire vehicle, however looking at the two vehicle plates on the front and rear of your licensed vehicles, they are clearly different, one is ORANGE and says PRIVATE HIRE the other states HACKNEY CARRIAGE and is BLUE. Roof signs are also used lawfully on private hire vehicles at many licensing councils up and down the country, therefore the argument that the roof sign clearly shows the vehicle is a hackney carriage, has no substance. I have also contacted other licensing councils in the UK and they have informed me that they will always entertain applications to have roof signs on PRIVATE HIRE VEHICLES in relation to advertising taxi company details.

Section 3 (2) of The Health and Safety at Work Act 1974 states the following (hackney carriage driver added for clarity):

*'It shall be the duty of **every hackney carriage driver** who conducts an undertaking of a prescribed description to conduct the undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.'*

I ask you to let drivers decide, is the risk of displaying the roof sign too great in line with their responsibilities under legislation, or is it something they are willing to do, to get business and which they think is reasonable to leave affixed to the roof of their vehicle? It should be our choice, it should not be an absolute. When out operating, mostly alone, sometimes late at night and early in the mornings, whilst others lay asleep in bed, we transport people who have no alternative. We do not deal in absolutes, we do not have the privilege of black and white, we live in the grey.

You are asked on many occasions to apply the 'fit and proper' test as to whether or not you license drivers, we are held to the highest of standards and rightly so, you are required to ask yourself, would you let your daughter/son/mother/father be carried as a passenger by this driver?

I ask you also apply the same standard to a hackney carriage with Gedling Borough Council. If your young daughter is in a hackney carriage vehicle, or about to get into a hackney carriage vehicle at 2am, in the pitch dark, would you think it fit and proper that a hackney carriage driver, who is deeply concerned about her health and safety, be permitted to remove the FOR HIRE roof sign, to make sure she isn't witness to, or the subject of a serious incident that is brought about by that specific sign?

Finally, I ask you to imagine the following situation:

It is 1am about three weeks from now, a young woman is approaching a Gedling Borough Council hackney carriage, which she has pre booked with an operator, she has finally managed to get a taxi, as she has been cancelled on and refused so many times and waited so long, as the trade is decimated. She is concerned as it is late at night, and it is very, very dark. Suddenly a man runs in front of her and starts talking with the driver and asking him for transport. The young woman then approaches the vehicle, and the driver lets her inside, as she is his passenger. The man starts arguing with the driver, and gets aggressive, shouting and demanding that he should be taken, as he was first and the sign says FOR HIRE. He starts making threats, and offering violence. She is frightened and asks the driver to please take her and not leave her stranded. The driver drives off with her on board, she is shaking and scared.

Now, imagine this is your daughter, and you could have made the decision to allow hackney carriage drivers to make a choice as to whether or not to have that FOR HIRE sign on the roof? You could have prevented this, and if you choose not to, it is on you.

It's not my choice, it's not your Section 5 Monitoring Officer, Francesca Whyley's choice, it is YOUR choice. I ask you to give us the latitude and understanding and allow us to make the decision as to whether or not the roof sign is on our vehicles, to decide to keep members of the public, ourselves and passengers safe.

Thank you,

[REDACTED]