

Minutes

Meeting: TTCG and BBTDA
Venue: Depot Board Room
Date: Wednesday 3rd April 2019
Time: 3.00
Minutes: C Harrison

Attendees: Paul Adams, Maria Moses, Phil Mynott, Paul Dartford, Jamie Schofield, Hamish Innes, Gerry Smith, Paul Topley, David Hayter, Steve Smith, Graham Dinning, Caroline Harrison

Apologies: Andy Earl, Olivia Sanders

1. Introduction of Brentwood Borough Taxi Drivers Association (BBTDA)

Steve requested that the meeting be recorded and asked if Paul had any objections, PA requested it not be reproduced in any format, and that his responses would be off the cuff and maybe taken with some care and consideration.

SS introduced the BBTDA, for many years have wanted a taxi Trade Association formed to get an idea of what the trade want and to have a unified approach from the trade not just from the TTCG. This has been pushed mainly due to the Uber influx in Brentwood but also other items they would like to address with the licensing department.

There are currently over 200 paid up members, aiming for 250. SS and PT are committee members, the structure of the group is still being formulated and finalised.

PA Welcomed the trade association, is very happy for open and transparent communication with the trade and sees the association as beneficial to this.

PT there is a group email set up to inform all members of updates, we can also communicate through this, brentwoodboroughtda@gmail.com but copy in Steve Smith and Paul Topley.

AE is treasurer.

Actions: Licensing to note email address and communicate any urgent issues via this.

2. Introduction of BBTDA members including Paul Topley and Gerry Smith

Covered under item 1

3. Aims of BBTDA and its relationship with Licensing

SS – As you know there is concern from trade re Uber, it was mainly Fri/Sat night but its now every day all day, reaching saturation point 30% increase in Ubers recently.

PA – is it a 30% increase?

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PT 30% increase plus drivers decrease in income.

SS it is changing week by week, the surge is hard to believe, members would like to know what we want to see happening moving forward. We prepared a document from our barrister which was sent to everyone, including the chief exec and members.

PA – have seen and discussed with chief exec already.

SS – has had response from some councillors showing support, they would like to go through the document and see if we support it, or which points we do or don't agree with and how we will go forward.

PA – as said has discussed with chief exec and his view is he'd like to provide a written response and engage members before we provide a formal response to the letter.

Happy to discuss today but as its being recorded would like to note its NOT a full and formal response.

SS But the licensing committee will get answers and opinion from PA, this is going on in Thurrock too, they are more ahead as a trade assoc than us, but facing same issue. What is your position on Uber currently? Have Uber asked for an operator licence in Thurrock or Brentwood?

4. Update on the legal position of Uber operating in Brentwood

PA no they haven't although there has been discussion around that, they aren't prepared to apply as yet. Most of licensing opinion is that it is lawful for Uber to operate in the model they do. In the last 6 months or so Gouriet opinion has come to the fore asking us to reconsider if we support this view.

As a group Brentwood, Basildon and Thurrock are experiencing similar issues re Uber. We each have sought our own independent barrister opinions and are meeting this week to discuss those findings.

There is also an Essex officers meeting where it will be discussed, PA has reached out to other Essex Authorities to see if they have similar issues, e.g. Harlow and Epping, their opinion is that they are not being significantly affected only authorities within the uber Greater London area. Chelmsford and Southend are no longer part of the Greater London area and are now for the most part unaffected by Uber. The significant drop is due to these areas now needing to obtain their licence with Suffolk. Uber have met with Paul and officers from Basildon regarding their intentions around changing the geofence boundary. They are not willing to remove ANY of the authorities out of the Greater London area at the moment. They have explained the issues this causes us re the different standards, for example in most Essex authorities if you have 1 conviction your licence would be at risk of revocation, in TFL it is up to 2 convictions and you could still maintain a licence. The difference of standards causes issues and we will be writing to Uber once the legal position is clearer.

SS – can you give an idea on timescales for this?

PA – around the Legal work it is difficult to say, we have looked at other areas, York, Maidenhead, Windsor as well as the Essex authorities already mentioned and from collating opinions the only way to get a definitive answer is to go to court. BUT the Brentwood opinion is that Gouriet is wrong, another council opinion does side with Gouriet. Most

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experienced licensing professionals are still of the opinion that this is lawful but somebody needs to go to court to resolve. The advice from Thurrock's legal team is that it would be a very long and very costly prosecution. Uber won't accept a verdict even if it were in our favour they would appeal and if we were unsuccessful we'd be left pursuing it further. We would be looking at years and potentially hundreds of thousands, that is effectively what is at stake. The Brentwood response is opposed to Gouriet, and they don't require an operator licence to work in our area. The York argument is the same (available in public domain). SS – pleased that you are moving along with the legal opinion, but the fact is no one expected Uber vehicles to be taking 30% of our work. We have in writing that TFL don't want Uber vehicles in Brentwood. TFL are going to lobby the government to say this. What the BBTDA would like is for us to write to Uber and TFL and say we would like Uber to remove your vehicles, and change the Geofence to remove Brentwood, or else we will be objecting to your operator licence.

PA – wanted to finish the legal explanation first, the chief prosecutor at Thurrock has said if we can push the argument and there are 9 tests they apply and it needs to meet those, for example is there an offence, is it in the public interest, is there a reasonable chance of a successful prosecution. They are looking into that at the moment, can't say much more as could prejudice the case it could take 2-3 months for that decision to be made.

DH – understand but you can do a second line of attack if you like, while you wait for legal stuff to go on, write to Uber and make representations against their operator licence with TFL.

PA – haven't given much consideration to objecting to their operators licence with TFL as yet, would like to speak to TFL and see their opinion SS has referred to IF TFL are saying is not lawful.

SS – No TFL are saying the law needs changing. They are lobbying the government to say Uber need to change their geofence as they don't want TFL vehicles working in other areas. PA would like to see that document. Happy to explore representation against the TFL Operator licence for Uber in principle but wants to consider it further.

SS – Have questions to ask you personally, Do you want Uber in Brentwood? Do you think it is a good thing for Brentwood?

PA – Any licensing officer would want control over the vehicles operating in its borough. Its important to realise the legislation was created before the technology took over.

SS would you not want local drivers/local knowledge and vehicles we can control?

PA- yes things were easier years ago but things have changed and its important that legislation keeps pace with technological changes.

SS- The law is slow to move, 30% of vehicles collecting Brentwood passengers are no longer licensed by Brentwood, no one is protecting the public, they are not marked up clearly it is open to abuse. We have had fake private hire cars in Brentwood in the past.

PA agree the public should be aware of what is and isn't a licensed vehicle but that is TFL who don't insist on plates etc.

SS it is a TFL issue but its not good enough.

PA No it is not the government are looking at bringing in National standards, they are driver standards not vehicle standards.

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SS the Task and Finish report supports banning of cross border hiring.

PA Response to the T&F report consultation is done, taken to Thurrock licensing committee and will be put to councillors (at least the licensing committee) in Brentwood.

GS we would like 2 weeks to review that before hand.

PA We would encourage you to make your own response, but think we will have similar view.

We are happy to support and engage with the process. There is appetite to change things. It needs primary legislation. In the next 2-3 years hopeful we will see that, at least for driver standards. Vehicle standards more difficult, one policy won't fit all due to varying types/conditions etc.

GS – from a positive point as the first time attending this meeting feel rewarded that we are on the same side would like to ask what are you prepared to do to support us and work with TFL

PA – yes but wanting to go pursue the law route.

SS – we all know that the law route will take longer, but lets think how we can stop them, feels other previous licensing officers would have had them off the patch.

GS – would have been stronger enforcement from previous licensing officers agreed.

SS – who are you dealing with?

PA – they only have 50 staff – surprised it is so small thought it would be a much bigger operation.

SS – would like you to write to the head of Uber and say move the geofence and we will oppose the Operator licence.

PA – will give more consideration to objecting against their Operator licence.

DH – now would be the best time around their flotation press etc.

PA – But they are acting within the confines of the law

DH – Object to their renewal in the spirit of the law being behind the time.

Between Brentwood Thurrock and Basildon pressure from us would be useful.

PA – not saying we won't but I want to consider further with other Essex authorities it will have more weight with all of us. It is a valid point, each authority is seeing Uber operating vehicles with no enforcement and no power to stop.

GS – TFL have indicated they are happy to transfer that power to us.

PA – sure they are but why should Brentwood pay for enforcement against TFL when they are getting all the fees in.

GD – TFL licence was taken away due to lack of corporate responsibility – can we not push the point that we still feel they aren't taking corporate responsibility due to their operation.

SS this is what we have been pushing for.

PA – A lot of what you have talked about has been focussed on the Gouriet argument so it hasn't been priority but it needs to be looked at before the renewal.

GD- we can build a picture and pressure points will all add to the argument.

PA – can't see why we won't do that but IF there are grounds for more formal action an objection will be stronger so feel won't be making it until the legal side is decided.

SS – we can't wait it needs to be done.

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5. Discussion of the content of the BBTDA document and

6. Response to our plea for support

GS – bring you back to the contents of the document, declare an interest as a parish councillor.

Page 19 of the document (attached to the minutes) can you go through the recommendations and state which you are willing to take forward to the committee

i) will respond before the 22nd

ii) support the Trade fully and the recommendations of the Task and Finish Group

iii) work with other Essex Authorities through the forum and specifically through the Brentwood/Thurrock/Basildon working group.

iv) TFL inspections agreed, joint working dates have already been agreed for enforcement activity and have a contact for the head of the enforcement team.

At the moment there are no plans for joint working with parking enforcement.

(some conversation around parking issues on high street and Shenfield and the difficulties there in – will come back to that at a later meeting as we need to look into all the ranks and how they were constructed in the first place and the signage)

v) support the LGA to reform the cross border hiring legislation and have consistency across the country.

vi) Make rep to Uber to alter the geo fencing – has been done verbally but need more time.

GS – glad to hear you support those, regarding the report to committee when will it go?

PA – It's likely to be June the calendar isn't agreed yet.

SS – are you saying you can't make reps before June?

PA – want member buy in before we rep. Members may choose to go against Phil Ruck so would like to get member support.

PT- Are you aware that Uber drivers can select Brentwood as an area to work on the site?

Brentwood is seen as a target for Uber, can you appreciate that driver are losing income we don't want Uber vehicles.

PA – do appreciate but hands tied legally and it does take time. If they are advertising Brentwood as a place to work that is not on, their geofence was down to the operator licence.

SS- Our bugbear is the lack of urgency in the response,. We've sat here for over a year now saying it will take time – it would have been much easier a year ago now we have an influx of them it is much harder, we did warn of this.

PA – we haven't been sitting on it, but we needed to consider the opinion of Gouriet – it's an alternative view and has put more pressure on the situation, before then the view was Uber were operating lawfully and there was little we could do about it. Also the Reading case would have had a big impact if it hadn't gone Ubers way. We are not dragging it out for any reason.

GS – what can we do now to speed this up? Put the legal arguments aside what can we provide to you to assist.

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PA- we want all the info from the trade parked illegally

PT – we have reported loads

MM – has a spreadsheet of all Ubers logged date/time/are from drivers and from us.

DH – can we have a copy?

PA – not sure due to GDPR sensitive info

SS – from the FOI there were only 2 letters reporting to Uber, though knows there were loads of photos sent through during that time.

PA – most of those were just Ubers driving or parked legally, we can't do anything with those.

CH – possible some photos get blocked.

PA – There is a better flow of information now, we have good relationship with their compliance officers and we do need the info through. Quantifiable information on the impact Uber is having on the trade and the number of jobs you would have carried out across the week compared to now.

SS – but there are 100 plus Ubers in the area Fri and Sat night and they all take 6- 10 jobs a night.

GD – can we ask them for a record of their journeys? See what their operation is?

PA – See how TFL commitment is on joint enforcement

DH – but what times will you be out?

PA – until NTE ends, 3ish?

SS – You wanted figures on how they have been affected, they used to get 200 calls an hour in peak time, now they get virtually none past 1.30am. Drivers don't want to work anymore past 1 as all the jobs go to Uber.

PA – what Uber think is significant is different to what we think, we need to paint the picture that it is very significant to Brentwood.

PM – Is it threatening to them and their licence? A small amount of pressure on them might make a difference to their Operator licence.

PA – we want to make sure we can get the relevant information legally.

PM – The relationship with TFL should improve and the info will flow more freely.

GD – can we get records of trips – working with TFL can't we request that legally?

GS – would be anonymised.

SS – would like to sum up that feels disappointed with how you have supported the trade with us as local businesses, feel you have a cosy relationship with Uber.

PA – not in agreement.

7. Formal request to meet with the Licensing Committee

SS – Feel strongly that they would like to meet with more than one member of the licensing committee and previously PA has tried to block members from attending the TTCCG.

PA – I came from a different area and we do things differently. would like to have full and frank discussion which the committee can then take an objective view of not involved in the deeper discussions.

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PM – surely if the report is presented then there is an opportunity for SS etc to speak in support of the trade and speak directly to committee, it has happened before. Can't see there would be any problem with that.

PA – no objection to that either, the letter will form part of the report, not sure on the legalities, would be up to the chair.

GS – One thing to take forward is that this is urgent. This can't wait.

PM – We usually have a meeting in May, so might be sooner.

GS – Position needs to be made urgent, things are changing for the worst daily.

PA – it will take time, even if we challenge legally isn't going to happen overnight.

SS – know this but please converse with someone within Uber to see if they will move the geofence. You haven't tried that and we want to as a trade.

PA – get the impression that the trade feel there is a quick fix and there isn't.

DH – Feels there is apathy against the trade from Brentwood. Please make a point of contacting TFL and Uber.

SS – will you write to Uber?

PA – wants to check with Legal and will confirm

GD – is this conflict with Thurrock?

PA – we will write to them it will carry more weight if it's signed off by Councillors.

GS – who?

PA – Chair of Licensing Cttee Olivia Sanders and vice chair Roger McCheyne. But will commit to reporting to the committee first. So it is a councillor decision as opposed to an officer decision.

HI – Please highlight in that letter to pressure TFL as they have grounds to oppose the Operator licence, and the public safety.

ACTION POINTS

Report to licensing committee May/June

SS – can we have TTCG before? Unlikely but they would like to see report first.

Also Representatives from trade to attend the committee.

SS – maybe their barrister will come

Consider what to write to TFL/Uber

Part of the report

Coordinate reporting of Ubers through the BBTDA and licensing@brentwood.gov.uk

Report on the recommendations of page 19.

17:00 meeting closed.

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