

Appellant
F Jones
First
EX1
26 February 2018

IN THE WESTMINSTER MAGISTRATES' COURT

BETWEEN

UBER LONDON LIMITED

Appellant

– and –

TRANSPORT FOR LONDON

Respondent

FIRST WITNESS STATEMENT OF FRED JONES

I, Fred Jones, of Uber London Limited (Company Number: 08014782), 1st Floor, Aldgate Tower, 2 Leman Street, London, E1 8FA, WILL SAY AS FOLLOWS

A. INTRODUCTION

1. I am authorised to make this statement on behalf of the Appellant, Uber London Limited ("ULL"). I do so in support of ULL's appeal against the decision of the Respondent ("TfL") not to renew ULL's private hire vehicle ("PHV") operator licence under the Private Hire Vehicles (London) Act 1998 (the "1998 Act"), which expired on 30 September 2017 [EX1/D/3], as explained in its letter of 22 September 2017 (the "Decision Letter") [EX1/B/62].
2. In this statement, I have used several defined terms, all of which are included in the accompanying glossary. In this statement, I refer to ULL and to individual companies within the global Uber group when there is a need to be specific but, when referring to the global business as a whole, or where there is no need to be specific about entities within that business, I refer simply to "Uber".
3. Before I started at Uber, I worked for Accenture, latterly as head of the Corporate Strategy and Value Analysis team in the UK. During my time there, I worked principally for companies operating in the financial services industry. As such, I have experience both

[HB/1/2]
[CB/3]

of regulated industries and also of working in large organisations with established governance structures.

4. I joined Uber in June 2015, initially working on the launch of Uber in Bristol. From September 2015, I became part of the UK management team. I then became increasingly involved in Uber's licensed operations in London over the summer of 2017, and leading up to my appointment as an executive director of ULL on 18 August 2017.
5. In addition to being an executive director of ULL, I am "Head of Cities" for the UK and Ireland and also oversee our Regulatory Operations team. As such, I am responsible for our relationships with our regulators, as well as key stakeholders in the cities in which we operate. I have therefore been heavily involved in augmenting ULL's corporate governance and also, from late July 2017, our liaison with the Metropolitan Police Service (the "Met") in relation to ULL's reporting to the Met of criminal allegations. It is those topics that I cover in this statement.
6. Except where otherwise stated, the facts and matters set out in this witness statement are within my personal knowledge. Where they are not, I identify the source of my understanding and belief. In particular, I have read in draft the witness statements of Tom Elvidge, who is a co-director of ULL and General Manager for the UK & Ireland, and Laurel Powers-Freeling, who is the independent non-executive Chair of ULL's board of directors (the "Board"). I will refer to their statements in the format [Surname1/x], where "x" is the paragraph number. In the course of making this statement I shall refer to a number of documents, a paginated bundle of which is shown to me marked "[EX1]". Unless stated to the contrary, references to documents in this statement refer to this bundle and take the form "[EX1/x/y/z]", where "x" is the section number, "y" is the tab number and "z", where relevant, is the page number.

B. UBER'S GROWTH AND CULTURE

7. Mr Elvidge has provided a useful summary of the London PHV statutory framework [Elvidge1/12-21], ULL's operations in the UK and Ireland [Elvidge1/27-46], and its licensing history [Elvidge1/47-62]. To the extent that it is within my knowledge, I agree with the information that Mr Elvidge has provided on these topics, and there is no need to repeat any of it here. However, it is worth building on the points that Mr Elvidge makes at [Elvidge1/24] about Uber's rapid growth by providing the Court with some information and observations about the effect that this growth had on corporate governance. [CB/14/129-130], [CB/14/132-136] [CB/14/137-141] [CB/14/131]
8. As Mr Elvidge says in paragraphs [Elvidge1/22-26] of his statement, Uber and ULL grew extremely quickly. When I joined to launch the Bristol operation, it felt to me very much like a small start-up company, run by people who were excited about being involved in something new: everyone wanted to get stuck in and to do their bit to support Uber's launch and growth. However, it also lacked clear corporate governance processes or decision-making structures, as you would expect of many start-ups and companies of a similar size. Decisions were informally documented, often over email, and the general sense seemed to be that everyone was part of a close-knit team and, because we were a small team, it was easy to make decisions without following overly-formal processes. I would make a similar observation about the London operation, although reporting structures were better defined as the team was larger and the business more mature compared to other cities across the UK. [CB/14/131]
9. For much of my time at Uber, I worked directly for the Regional General Manager for Northern Europe, Jo Bertram. I want to emphasise that I respected Ms Bertram's achievement in building the business in the UK, and the energy that she poured into her

role. Although I am convinced that ULL needs to demonstrate that it has changed and continues to change for the better, and also that it is addressing the failings that led to TfL's decision not to renew ULL's licence, my view is that this is more about changing our culture, governance and structure than it is about individuals.

10. It is clear that ULL's previous approach to making decisions without establishing or following clearly defined processes, as well as our arm's length and, frankly, often wary approach to regulatory relationships, pervaded Uber globally. As a result, a number of well-documented problems arose within the global business, the most significant of which were the misuse of "greyball" technology to evade regulatory and law enforcement (which Mr Elvidge discusses at [Elvidge1/100-127]) and also suggestions that the company did not have the appropriate procedures in place to deal with allegations of harassment and discrimination. [CB/14/154-162]
11. All of this came to a head in 2017, when – following a number of damaging revelations and the publication of a report [EX1/D/27] by Covington & Burling LLP, a US-based law firm that had been commissioned by Uber to examine its corporate governance and culture – there was a shake-up at the highest levels of the global business. We provided TfL with details of these changes in our 30 January 2018 submission on "Culture and Governance" [EX1/B/106/615-617]. Most significantly in terms of heralding change, though, our new global CEO, Dara Khosrowshahi, arrived in September 2017. Mr Khosrowshahi has been very clear from the start that he intends to realign Uber's culture and governance entirely, and that he expects Uber's operations in each of the countries in which it operates to follow suit. That process started almost immediately following his arrival, when he wrote an open letter, addressed to Londoners, apologising for Uber's mistakes globally and committing to change. [EX1/D/37] [HB/3/76] [HB/5/206/1945-1947]
12. At the same time that Uber started to change its approach to culture and governance from the top down, ULL was also thinking about how to bring about change within the London business. In my view, this had been prompted not only by the factors affecting the whole business that I have referred to above, but also by specific questions being asked by TfL. In particular, TfL's letters of 30 June 2017 [EX1/B/38] and 20 July 2017 [EX1/B/42] asked a number of questions that focused on the way in which ULL operates and governs itself, as well as its relationships with other companies in the Uber group. [HB/3/78], [HB/3/83]
13. In line with this wider change in culture, and more particularly in the run up to and upon our appointment as directors, Mr Elvidge and I both committed to formalising ULL's governance arrangements in order to create and codify processes that were necessary and appropriate for a company of ULL's size and significance, and which would ensure that the Board was fully empowered to take ULL in a new direction. We also wanted to make sure that our new approach and processes were firmly embedded in the business, and that all ULL employees, whatever their position, properly understand the business, our operations, technology and processes and cultural norms.
14. Shortly before I was formally appointed a director, I helped to write ULL's letter to TfL dated 4 August 2017 [EX1/B/47]. I remember that we were really keen to demonstrate to TfL that we were committed to doing some substantial work to improve our corporate governance processes. In the letter, we made a number of specific commitments, as summarised below. [HB/3/87]
 - (a) To establish a committee of the Board (the "Sub-Committee"), to be chaired by an experienced independent non-executive director, with responsibility for overseeing ULL's licensed activities.

- (b) To include in ULL's constitutional documents an explicit reference to the importance to ULL's business of maintaining its PHV operator's licence (and therefore of regulatory compliance).
 - (c) To provide the UK & Ireland Legal Director with specific functions in respect of compliance with requirements relating to the licence.
 - (d) To engage (by mid-September) an external auditor to review the appropriateness of our policies, authorities and processes and corporate governance best practices, and to advise the Sub-Committee on this on a regular basis.
15. I explain in the following sections what we have done in respect of each of the commitments, as well as more broadly.

CHANGES TO ULL'S CONSTITUTION AND CORPORATE GOVERNANCE ARRANGEMENTS

London operator licence committee

16. One of the first corporate governance-related changes that we made was to set up a monthly meeting between me and Mr Elvidge, as the two executive members (and, indeed, at that time the only members) of the Board, with the people within ULL who were most heavily involved in our licensed operations and compliance. The first meeting of this licensed operations management committee, or "LOMC", as it came to be known, took place on 29 September 2017.
17. That meeting was agreed by everyone in attendance to be extremely valuable in providing coordinated senior management oversight of all matters relevant to licensed operations. We therefore decided that meetings of this committee should happen weekly, and that the committee should be given a more formal footing. Whilst the LOMC has been in operation since 29 September 2017, it was formally established by the Board on 23 February 2018 and now has formal terms of reference [EX1/D/62], which essentially reflect its role of supporting the Sub-Committee by performing various day-to-day tasks in relation to our licensed functions. [HB/5/232]
- (a) Reviewing any changes to processes or products that might impact regulatory compliance.
 - (b) Ensuring that any compliance breaches are reported properly and reviewing and monitoring management responsiveness to addressing any weaknesses leading to breaches.
 - (c) Reviewing the effectiveness of internal controls around compliance, providing assurance to the Sub-Committee that internal controls are effective and escalating any serious compliance failures to the Sub-Committee.
 - (d) Overseeing ULL's relationship with regulators – including considering material correspondence and reporting.
 - (e) Considering and determining all matters referred by the Safety Steering Group. The Safety Steering Group also meets weekly, is chaired by our newly appointed Head of Safety, and includes one of me or Mr Elvidge, the Head of IRT, the Head of Community Operations, Head of Marketplace, Head of EMEA IRT and our Metropolitan Police Liaison. Its terms of reference are at [EX1/D/64]. [HB/5/234]

18. Since its inception, the LOMC has already met 20 times and discussed matters ranging from the status of important ongoing projects to improve our governance to specific changes to the App. It prepares monthly reports, which go to the Sub-Committee for review and in support of any decisions that need to be made at that level.
19. Overall, the LOMC is a genuinely useful forum for discussing important operational issues, and ensuring that we regularly consider the practical application of our regulatory requirements. It is a good example of a change that we have made to our corporate governance structures that has brought real practical benefit to the way in which we work, meaning that we make better-informed decisions and share knowledge more consistently. Importantly, from a governance perspective, it also ensures that decisions that might once have been made by an individual are now scrutinised from several points of view and that important matters are escalated to the Sub-Committee for consideration and decision by those with ultimate responsibility for ULL's licence and regulatory compliance and with fiduciary duties in that regard.

Changes to the Articles of Association

20. On 23 October 2017, we amended our Articles of Association. [EX1/D/40] This was done to make the following key changes. [HB/3/127]
21. We included an explicit reference (in Article 6A(6)) to the importance to ULL's business of maintaining its PHV operator's licence and to the responsibility of the Board, and of each director, to have regard to the best interests of the company in maintaining and complying with the PHV operator's licence. [EX1/D/40/612] [HB/3/127/1362]
22. We also provided for the Sub-Committee to have responsibility for matters related to ULL's licence, including compliance. [EX1/D/40/611-612]. The Articles confirm that "*the creation of the [Sub-Committee] is without prejudice to the responsibilities of the Board, and of each Director, having regard to the best interests of the Company in maintaining, and complying with, [a PHV licence]*", and that the Sub-Committee will be chaired by the non-executive director who chairs the Board. The terms of reference for the Sub-Committee [EX1/D/63] explain that its role is to review, monitor and ensure compliance with UK licensing requirements, effectiveness of compliance controls and training, to escalate serious compliance matters to the Board, and to oversee ULL's relationship and interaction with regulators. In addition, various of the internal policies and processes that I describe below at paragraphs [32] and [33] include a specific role for the Sub-Committee, in some cases concurrent with the LOMC and in others in its supervisory function as regards the LOMC. The Sub-Committee meets immediately prior to the full monthly Board meetings and, in line with our Articles, all members of the Board are members of the Sub-Committee. As such, there is an effective chain of communication from the people across ULL are who most heavily involved in our licensed operations and compliance, via the weekly LOMC meeting, to the Sub-Committee. [HB/3/127/1361-1362] [HB/5/233]
23. We also included in our Articles of Association a requirement that the UK & Ireland Legal Director (or an alternate nominated by the Legal Director) attends meetings of the Sub-Committee. [EX1/D/40/612] On 23 February 2018, the Board also resolved formally to direct the UK & Ireland Legal Director to raise any concerns relating to matters affecting ULL's ability to comply with its regulatory obligations with the independent non-executive director who chairs the Sub-Committee, and to seek external legal advice in each case without reference to the other directors if she considers that appropriate. [EX1/D/60/949] This put beyond doubt what we all accepted to be the position, namely that the UK & Ireland Legal Director is empowered to take these steps. This is clearly an important [HB/3/127/1362] [HB/5/229/2152]

further line of defence against potential improper behaviour by, or undue influence over, the executive members of the Board.

Non-executive director

24. Another change that has brought real practical benefit is the appointment of Ms Powers-Freeling to chair our Board as an independent, non-executive director from November 2017. My involvement in this process started in mid-September 2017, when Mr Elvidge and I interviewed potential candidates, alongside our UK & Ireland Legal Director, for a new non-executive director to chair the Board. We were especially keen to find an experienced non-executive director who had worked in regulated industries and who was willing to challenge our approach. Ms Powers-Freeling, who fitted that brief perfectly, started in post on 1 November 2017.

25. Ms Powers-Freeling describes at **[Powers-Freeling1/6-8]** in her own statement her qualifications and experience as well as the work she has been doing since she started in post. However, in my view, she really knows - and has enhanced our thinking on - what an independent board should do in terms of: constructive but independent challenge of our operations; best practice by the Board; views on the contributions that potential non-executive directors could make; and the importance of culture and behavioural change in an organisation that is going through a process of realignment. [CB/16/211]

26. In terms of specific changes that Ms Powers-Freeling has already brought, she has particularly championed the importance of clear mechanisms governing cooperation between ULL and UTI and other companies within the Uber group to support ULL's regulatory compliance and the Board's ultimate responsibility for that. Mr Elvidge and I agree with her. Our first step towards achieving this clarity was to produce a set of principles covering our relationship with other companies in the Uber group and UTI in particular. **[EX1/B/106/622-623]**. These are as follows. [HB/5/206/1952-1953]

- (a) UTI recognises that, under the Private Hire regime in the UK, the entities holding operator licences (including but not limited to ULL) have a number of obligations and duties placed upon them. Not only are there specific licence conditions imposed, but the operator must be a 'fit and proper' person.
- (b) UTI fully supports the UK entities in performance of their regulatory obligations and is satisfied that oversight and responsibility for the licensed operation in London rests with the ULL Board.
- (c) UTI recognises that as ultimate parent, it should take steps to ensure that ULL can meet its regulatory obligations and UTI has a clear interest in ensuring that its subsidiaries are operating in a way that is appropriate and sustainable.
- (d) Both the UTI and ULL Boards will "set the tone" for culture and behaviours in the business, affirming what is and is not appropriate for the future, in part by making clear what is no longer acceptable from the past.
- (e) UTI actions that might impact the UK business (e.g. product changes, structural or operational changes, communication of material events etc) will be communicated to the ULL Board in a timely manner.
- (f) In the event of a conflict between UTI and ULL, such as if a group decision is taken which is not in the best interests of ULL in the context of its regulatory responsibilities, there will be clear lines of communication to inform/explain the

concerns and to find a satisfactory way forward. The ULL Board will at all times have a duty to meet licence obligations and report any concerns to regulators.

- (g) UTI has also acknowledged that the ULL Board has to act in the best interests of ULL and its regulatory obligations and that reports may need to be made to regulators to meet its licence obligation.
27. We have also taken steps to embed in the governance of ULL, UTI and Uber BV a recognition of these principles, to ensure that communications between ULL and Uber's executive management are appropriate and that ULL's position as a regulated subsidiary is respected and supported. As Ms Powers-Freeling explains at **[Powers-Freeling1/24]** in her statement, on 23 February 2018, the Board considered a draft "Compliance Protocol", issued by Ms Powers-Freeling, which builds on the principles above and on some of our more specific policy documents (see the description of our product launch policy below, for example). The Compliance Protocol has now been endorsed by the Board, our global CEO, COO and CLO, as well as our Vice-President for EMEA. (**[EX1/D/54]** and **[EX1/A/6]**) [CB/16/216]
[CB/10], [HB/5/231]
28. In my view, the ULL Board now has robust, and codified, mechanisms for engaging with TfL on important issues, consistent with its regulatory obligations and ULL's best interests. Ultimately, if the Board is not satisfied that it is able to fulfil those obligations, then our recourse is to inform TfL. Uber's Executive Leadership Team recognises this expressly in the Compliance Protocol, as is reflected in the Second Principle **[EX1/D/54/910]**. Although we hope that it would never come to this, I and my fellow Board members are clear (and have said as much in our witness statements) that, in circumstances where we are unable to reconcile our regulatory obligations with the decision and actions of UTI or other Uber entities, we would all be willing to report that to TfL as appropriate. That is the backstop of the autonomy that goes with the Board's ultimate responsibility for ULL's licence and regulatory compliance. [CB/10/42]
- External assessment of policies, processes and governance**
29. The final commitment that we made to TfL in our letter of 4 August 2017 **[EX1/B/47/199]** was to appoint an external auditor to assist in reviewing and documenting, and monitoring our adherence to, our policies, authorities and processes and corporate governance best practices (the "**Deloitte Assessment**"). [HB/3/87]
30. From August 2017, I led the process of appointing, and supporting, Deloitte to carry out this work. I was clear from the outset that the Deloitte Assessment should produce a pack of user-friendly policy and guidance documents, which would help to support our aim of embedding an understanding of our business, operations and regulatory regime within ULL. Deloitte were specifically engaged to conduct a root and branch review of our business governance and policy framework to identify and address areas in which ULL fell short of best practice.
31. During the first phase of their work, Deloitte identified the key applicable regulatory requirements for ULL, reviewed a number of documents on our existing governance processes, and sought to identify any "oversight bodies" within ULL. They also conducted a lot of interviews with people within ULL about our processes at the time. I was one of the interviewees, and they asked about our regulatory regime, how we understand our business requirements, decision-making forums, areas of responsibility, and which people perform what functions.

32. Deloitte then documented our current policies and processes and identified areas in which we could improve our processes and governance. These areas were then categorised into workstreams, based on the nature of the response required. There were a total of eight workstreams: governance and leadership; oversight bodies; procedure formalisation; procedure change; policy framework; formalise monitoring, training; and controls and assurance. Three "waves" of work were identified, which prioritised the recommendations for each of the workstreams. Rather than go through exactly what fell into each, and explain the subtle distinctions between them, it may be more helpful to give a few examples of the work done in these workstreams in producing a number of key policy documents. As is clear from these examples, Deloitte's focus was on the whole on documenting and codifying existing processes, rather than creating new processes from scratch.

- (a) The overarching results of the Deloitte Assessment were set out in a handbook entitled "Governance & Policy Framework Manual", which represents the first time that ULL has recorded everything about its governance in one place. [EX1/D/53] It outlines the policies, processes, governing bodies and assurance activities that ULL has in place to support good governance and specifically to adhere to the compliance requirements associated with holding a PHV operator's licence. As such, it forms a strong foundation for making necessary changes and improvements, in particular to our decision-making and oversight processes. It is also an essential tool in ensuring consistency of approach and understanding across all levels in the business. I reviewed the handbook in its entirety and made a significant number of suggested changes to the structure and content, to make sure that it was as practical and useful as it could possibly be to the different teams within the business. I am personally committed to keeping the handbook under review so that we can continue to enhance and augment it over time. The handbook was launched internally to the whole UK office on 21 February 2018 [EX1/A/5], along with a covering email in which I emphasised the following:

[HB/5/207]

it is vital to becoming a sustainable company that we understand and maintain appropriate governance principles, policies and procedures to manage compliance with our regulatory obligations. It is everyone's responsibility to understand the regulatory obligations we have as a business and how they relate to your day-to-day role.

[CB/5/228]

- (b) Our "Change Management" policy [EX1/D/53/857-858], is based on the recognition that, where change is not managed properly, it can cause uncertainty, potential revenue loss and regulatory breaches, but that where it is embraced and managed effectively it can bring significant benefit and opportunity. One of my priorities going into this exercise was to put in place clearly written procedures for conducting effective and timely change management assessment when operational changes are in development. Assessing the impact of proposed changes can be a challenge in an innovative company, in which the urge to drive change does not always sit easily with the need to demonstrate a thorough impact assessment and validation of compliance to regulatory models. However, in order to ensure that innovative companies do not fall foul of those regulatory models, it is important that developments are fully assessed, before such technologies are finalised and made available. The policy provides a framework for managing change in both regulatory obligations and the organisation's policies, processes and people to prevent those changes from having an impact on operations. It achieves this by defining "change", and requiring certain specified steps to be taken where there is a proposed change. The policy also provides guidance on

[HB/5/235]

what is likely to be considered a “change” by identifying certain protected process, policies and roles.

- (c) Our “Product Launch Policy” **[EX1/D/66]** sets out the operating agreement between ULL, UTI and Uber BV with regards to the development and roll out of product features, in recognition of ULL’s position as a licensed entity with specific regulatory obligations. The policy includes the criteria against which a product change should be assessed in determining whether or not it is “material”, as well as stipulating the steps that need to be gone through before a material change can be made. Importantly, the policy makes it clear that any product changes implemented by UTI and/or Uber BV affecting ULL will be subject to the Change Management Policy and will require approval by the LOMC or the Sub-Committee before being launched in the UK. These steps include advance notification to TfL. [HB/5/236]

- (d) Our “Breach reporting” policy **[EX1/D/59]** codifies the approach that should be taken by anyone who identifies a regulatory breach, which includes notifying the Regulatory Operations team and the Legal team in the first instance, and implements a process for escalating certain breaches for consideration by the LOMC and/or the Sub-Committee, in order to resolve the breach and prevent it from recurring. Under the policy, breaches are classified as critical, major, moderate or minor and different steps are taken in respect of each category of breach. For example, a critical breach is required by the policy to be resolved immediately, whereas a minor breach, which breaks only internal policies rather than regulations, can be resolved after a week. The policy includes provisions relating to the notification of TfL in the case of certain regulatory breaches. I should note that this is an example of a policy that provides for consideration to be given to TfL being informed: given the scope of our obligations as a PHV operator, the number of different teams and people involved in those operations, and the voluntary commitments that we have made to keep TfL informed **[EX1/B/79/391]**, it makes more sense to include such provisions in individual policies than to try to collect them together in one freestanding policy. [HB/4/144/1486-1487]

- 33. The Board resolved to adopt the ULL policies referred to above on Friday 23 February 2018. **[EX1/D/60/947]** We are also due to discuss at the next Board meeting, which is on 27 February 2018, the frequency with which we would like an update exercise to be conducted by an external advisor. These policies build on a number of other policies that are also in place, both within ULL and Uber more generally, and which are also worth mentioning. [HB/5/229/2150]

- (a) We have developed a “requirements codification” document **[EX1/D/66A]**. This codification document sets out the various regulatory requirements that apply to ULL. This means that all staff members can access a summary of the key regulatory concepts that apply to ULL whenever they are relevant to something that they are working on. [HB/5/209]

- (b) Uber has also established a whistleblowing policy (described by Mr Elvidge at **[Elvidge1/126(a)]**) and also an “Integrity Helpline” **[Elvidge1/126(b)]**, which allows people working for Uber globally to raise any concern that they have with someone other than their manager or colleagues. It is hosted by a third party, who passes the report on to the relevant Uber team, such as Compliance, Internal Audit, People or Security (on an anonymised basis if that is what has been requested), who will then decide on appropriate next steps. Details of this helpline have been sent around the company on a couple of occasions, including when I [CB/14/161],
[CB/14/161]

sent an email to everyone working in all UK offices (including ULL) to remind them of it. [EX1/A/1]

[HB/2/60]

CRIMINAL ALLEGATION REPORTING

34. As I said above, the other topic that I want to cover is criminal allegation reporting. This is one of TfL's three concerns in relation to safety, which - cumulatively - led them to conclude in the Decision Letter that ULL demonstrated a lack of corporate responsibility in relation to various issues with potential public safety implications. [EX1/B/62/278] That is a conclusion with which I do not agree; I agree with Mr Elvidge's conclusions on this point [Elvidge1/149-152].

[CB/3/20]

[CB/14/168
-170]

35. TfL's criticism in this regard is that ULL has failed to report various allegations of criminal conduct to the Met. For the avoidance of doubt, I should clarify that this is not concerned with our specific obligation under Reg 9(4)(c) of the 2000 Regulations to make a report to TfL in circumstances where a driver ceases "to be available to the operator for carrying out bookings, by virtue of that driver's unsatisfactory conduct in connection with the driving of a private hire vehicle" (the "PHV/105 Obligation"). [EX1/C/3/138] TfL has made no complaint in respect of our compliance with our PHV/105 Obligation.

36. ULL is under no obligation to report allegations of criminal conduct by drivers, passengers or third parties to the police, either under the 1998 Act, the 2000 Regulations, or the law more generally, nor has any such requirement ever been imposed on ULL under the terms of its licence.

37. Until it was questioned by TfL in July 2017 [EX1/B/44/180], our approach to reporting allegations of criminal behaviour was not something that I had considered in any great detail. That approach had been introduced, before I started working for Uber, at a global level. In summary, it was that - although we encouraged victims and witnesses to report potential crimes to the police themselves, and had teams, processes and procedures in place to support them if they did - we did not generally report allegations of criminal behaviour to the police other than in three situations[ref. Those situations were: (i) where ULL was aware that a crime was happening that constituted an immediate risk of harm or danger; (ii) where there was an ongoing offence, such as possession of drugs; and (iii) in instances of fraud, where ULL was the victim. Although I was not involved in setting the policy, based on the explanations of this approach that I have seen now that I have considered this topic in detail, there seem to be two main reasons why Uber, including ULL, took this approach, which seem reasonable to me.

[HB/3/85/1136]

(a) First, in the vast majority of cases, ULL is not a witness to the conduct complained of, and so is not the best person to make a police report.

(b) Secondly, the idea of requiring people or companies to report crime is a highly sensitive issue, and there is a well-established view that the decision as to whether to report a crime to the police should be left to the victim of the crime. I am aware, for example, that the charity Victim Support commits on its website not to report any crimes to the police without consent, unless someone is at serious risk of harm and needs urgent help. [EX1/D/52] This point is even more forceful in the case of sexual assaults, as Ms Bertram explained in an email to ULL staff shortly after TfL first started asking questions about our approach. [EX1/A/2/2]

[HB/5/197]

[HB/3/92]

[R]eporting of sexual assaults of any form on behalf of a victim is a really difficult and complex topic. On the one hand, the more information the police have, the better equipped they are to investigate. On the other, the

victim has already had someone take away their control, and some support groups argue that taking this choice away from them can make things even more distressing... This is an incredibly difficult issue, and we have been doing our best to tread the right balance between supporting the police in their investigations, while preserving the victim's right to privacy and to determine themselves how they want to involve the police... We always encourage victims to report any alleged crimes to the police (and support any subsequent police investigations), and never imply that we will report this ourselves.

This approach is reflected in the talking notes used by our Incident Report Team ("IRT"), which is a highly trained team that handles serious incidents, such as accidents, altercations, harassment, sexual misconduct, discrimination, or driving under the influence of alcohol or drugs. These talking notes have been reviewed by our safety advisory board, which is made up of independent experts on various safety issues, including victim support. I describe them further below at paragraph [43(b)].

38. For the avoidance of doubt, I should clarify that this approach to reporting criminal allegations does not mean that we do not liaise with, or seek to support, the Met. On the contrary, ULL works extremely hard to maintain a good working relationship with the Met, and there are a number of things that we do in support of this relationship. Some of these points were expressly recognised in the Decision Letter. [EX1/B/62/274-275]

[CB/3/16-17]

(a) ULL has employed a dedicated Law Enforcement Liaison since October 2015, whose primary role is liaison with the Met.

(b) We have a dedicated Law Enforcement Response Team (known as "LERT"), which is responsible for working directly with police and other law enforcement agencies to support investigations about incidents involving drivers and passengers. Between August 2016 and August 2017, LERT handled 1,493 requests for information from the Met. These requests cover a wide range of police investigations, which do not necessarily relate directly to journeys booked through the App, such as missing persons enquiries and offences alleged to have taken place immediately before or after Uber trips. [EX1/B/48/207]

[HB/3/89/1204]

(c) We have designed, built and maintain a Law Enforcement Response Portal, which enables law enforcement officers to submit requests for information processed by LERT [EX1/B/28]. The Met have access to it at all time, and can choose to prioritise urgent requests. We also gave the Met training on how Uber works in order to ensure the most effective use of the Portal [EX1/D/80]. This portal was introduced in London on 31 July 2017, after extensive consultation with the Met Intel group (of which their Taxi and Private Hire team are a part), as well as the Home Office and the College of Policing [EX1/D/23] [EX1/D/28]. This consultation was led by our Law Enforcement Liaison at the time, Jonathan Byrne (an ex-Detective Constable with the Met). I note that Mr Byrne's letter to the Met on 8 August 2017 refers to the fact that the subject of proactive reporting was brought up during a meeting with the Met working group, and that no-one at the meeting raised any concerns about our approach. [EX1/B/48/204-206]

[HB/2/57]

[HB/7/297]

[HB/2/61],
[HB/3/71]

[HB/3/89/1201-1203]

(d) ULL liaised directly with investigative teams during both the Westminster and London Bridge terror incidents implementing messaging and technical measures to direct vehicles and customers away from the scene. Subsequently ULL worked

to actively identify tier one witnesses, including two significant witnesses, and carried out appeals for information and dash camera footage. This activity has been recognised by the Security Service who are looking into how to formalise communication and rapid response with ULL during any future incidents.

39. Until mid-2017, there was no suggestion that TfL had any concerns about ULL's approach to reporting allegations of criminal behaviour to the police. On 30 June 2017, TfL had asked us a question about the number of reports that we had made to the police in relation to drivers in the previous 12 months [EX1/B/38/150], although, looking back at this now, this question seems to have been asked because TfL were interested in the numbers rather than in our approach to criminal allegation reporting *per se*. We responded to that letter on 14 July 2017 in some detail, explaining the reasons for which we did not routinely report criminal allegations to the Met. [EX1/B/41/168-169] [HB/3/78/1101]
40. The first indication that TfL was concerned about our *approach* to criminal reporting was a letter dated 28 July 2017 [EX1/B/44], enclosing a copy of a letter from Inspector Billany, who worked for the Met, that TfL had been sent by the Met some months earlier, on 12 April 2017 (the "Billany Letter") [EX1/B/31]. The Billany Letter refers to a number of specific occasions on which ULL had not reported criminal allegations to the Met. In response, we explained our position again [EX1/B/48/204-205]. Although this was not a specific regulatory obligation, as I have mentioned, it is something that we take very seriously and were concerned to address. That is why I was personally involved in considering the issues and inputting into the drafting of this letter. [HB/3/82/1124-1125] [HB/3/85] [HB/2/70] [HB/3/89/1201-1202]
- Uber's general policy is that the choice of whether or not to make a police report should sit with the reporter/victim. We understand that there could be all sorts of reasons why they may or may not wish to report the incident to the Police. We have also worked closely with women's advocacy groups – Hollaback, for example, and recognise that victims of sexual assault often feel like their agency is reduced even further if a police report is made on their behalf ...*
- To protect this principle of victim choice, Uber has always offered to support a report made to the police (in terms of rider/driver and trip records), but we have not made this report on behalf of a driver or rider. Where appropriate, our representatives will encourage a rider to report an incident to the police, and would not indicate that the police will be informed by ULL.*
41. Shortly after we first saw the Billany Letter, our Law Enforcement Liaison contacted Inspector Billany [EX1/B/56] to see whether we could improve the way in which we worked with the Met and to address his concerns. In addition, I emailed Inspector Billany, and DCI Will Young, on 5 September 2017, explaining that I was now leading ULL's approach to the question of police reporting and that I was keen to explore ways in which we would address the Met's concerns [EX1/B/59]. On 19 September 2017, I attended a meeting with DCI Young, and others, at which we discussed the real value that the Met places on the data that we provide them, as well as the Met's concerns and areas where we could improve. I had set out a suggested agenda for the meeting in an email dated 18 September 2017, which included understanding the Met's priorities for effective safeguarding and areas in which Uber could improve [EX1/B/60]. I followed up on that meeting with an email on 20 September 2017, in which I set out agreed focus areas for further work with the Met [EX1/B/61]. [HB/3/102] [HB/3/105] [HB/3/107] [HB/3/108]

42. Two days later, ULL received the Decision Letter, which made it clear that TfL now does not agree with ULL's approach to reporting criminal allegations. Specifically, TfL made the following general criticisms.

- (a) ULL attached insufficient importance to the safety and security of its passengers by not reporting directly to the police the specific incidents raised in the Billany Letter .
- (b) ULL attached insufficient importance to the safety and security of its passengers by not providing information to TfL promptly in response to requests from TfL for information concerning allegations of sexual assault made against a driver in May 2016.
- (c) TfL would not be aware of ULL's approach to these matters had the Met not brought specific incidents to TfL's attention.

43. With respect to TfL's point that ULL did not report the specific incidents mentioned in the Billany Letter to the police, it is correct that we did not. That was for the following reasons, which are also reflected in a letter sent by Mr Byrne to the Met on 11 August 2017 [EX1/B/50].

[HB/3/91]

(a) In relation to the 'firearm incident', a complaint was made by a passenger that, followed a dispute caused by another driver, an Uber driver pulled a gun out of the glovebox. Further investigation initially suggested that the object was not a gun but some pepper spray. However, that also turned out to be incorrect, as the object was, in fact, criminal identifier spray. The driver voluntarily attended a police station immediately following the incident and provided a detailed report. The police have since confirmed that there was no crime committed and no further action taken. Under the circumstances, and in light of our policy, there was no reason for ULL to report this incident to the police.

(b) The Billany Letter also refers to a driver who is alleged to have committed two sexual assaults. The first of these incidents took place in January 2016, when the driver asked a passenger to give him a hug. The transcript of the call with the IRT [EX1/D/58/934] shows that the IRT member suggested that the victim may wish to report the incident to the police if she felt that a crime had been committed, and offered to send her information about getting in touch with the police. Ultimately, it seems that the victim decided not to do so, and that is a decision that I absolutely accept that she was entitled to make. The driver was prevented from using the App while we investigated. I also understand that he was subsequently told that, if similar feedback was received again, it would be treated in a more serious manner. The second incident involving the same driver took place in May 2016, when he touched a passenger's leg. At that stage, it was decided that we could no longer maintain our partnership with the driver. He was permanently stopped from using the App, and we informed TfL of the allegations in order that they could consider revoking his private hire licence and prevent him from working with any other operators in London. [EX1/D/85] However, I do not agree with the implication in the Billany Letter that, had ULL notified the Met after the first offence, the second would definitely not have taken place. While that may be true, there are lots of possible outcomes, including that the Met may not have followed up a report about the hug incident, or the passenger may have been reluctant to cooperate with a police investigation, which would have made it difficult for the police to make a decision as to whether an offence had been committed.

[HB/5/226/2139]

[HB/7/302]

- (c) The Billany Letter also mentions two "public order offences" subject to six month prosecution time limits. I understand from Mr Byrne that a huge range of actions could amount to public order offences and so, without more information about these offences, it is impossible to identify which particular incidents these refer to. I understand from Mr Byrne that he had a conversation with the Met about these offences, but they said that they did not think that it was necessary to pursue them further.
44. Given the nature of the incidents referred to in the Billany Letter, our decision not to report them to the Met was entirely consistent with our policy of only reporting matters to the police at the request of the complainant or in the specific circumstances that I have explained at paragraph [37] above. This is explained in a blog that Mr Elvidge wrote at the time [EX1/D/31]. I do not accept TfL's view that our decision not to report the incidents outlined in the Billany Letter to the Met means that ULL attached insufficient importance to the safety and security of its passengers. On the contrary, Uber had taken a considered approach to its policy on police reporting, and ULL applied that policy correctly and consistently at the time. [HB/3/93]
45. As to TfL's second criticism, Mr Elvidge addresses this point at paragraph [Elvidge1/150(a)] of his statement, and I do not need to address it separately here. [CB/14/169]
46. In relation to the third criticism, I accept that ULL did not specifically inform TfL about its approach to police reporting before the Billany Letter. As I have mentioned above, this has never been a licence condition, and TfL had not indicated to us until mid-2017 that it was concerned to understand our approach to this issue.
47. However, notwithstanding that I do not accept TfL's specific criticisms of our previous approach to criminal reporting, or in relation to the specific incidents described in the Billany Letter, we have carefully considered whether we can make any improvements in this area, including in extensive discussions with the Met and TfL. I describe below the steps that we have taken in this regard.
48. In the months following the Decision Letter, we had meetings with the Met to discuss possible amendments to our approach. Indeed, just four days after the Decision Letter, I contacted the Met to follow up on our on-going correspondence and agree next steps. [EX1/B/64] On 6 October 2017, the Met wrote to us about the ongoing work that we had been doing with them in this area [EX1/B/67A]. On 25 October 2017, I presented a new proposal ([EX1/B/69] and [EX1/B/69A]) for reporting criminal allegations to the Met. This proposal was based on the idea of a defined list of "designated offences" so that, where any allegation was made that a designated offence had taken place, there would be certain steps that would have to be taken, which varied depending on whether or not we were able to obtain the victim's consent to reporting the incident to the police. Where a complaint was made that a designated offence had taken place, we intended to take the following steps. [HB/3/114]
[HB/3/123]
[HB/3/128],
[HB/3/129]
- (a) Contact the complainant to verify the allegation and to seek consent to report the complaint to the police.
- (b) Where we obtained consent, we would report the incident to the Met via their online reporting service, including the passenger's verbatim complaint and details. We would also provide the Met with information about the driver upon request. Once the police investigation has concluded, we would make a decision as to whether to deactivate the driver.

- (c) Where we did not obtain consent, and where it was clear and unambiguous that a designated offence had taken place, we would deactivate the driver, and notify TfL in accordance with the "PHV/105 Process". This involves the completion and submission of a PHV/105 driver dismissal form to TfL within 14 days of a driver's dismissal. The form sets out the dismissed driver's personal details and details of the incident or complaint that led to the dismissal.
49. My personal view is that this approach struck the right balance between supporting public safety, ensuring consistency of approach in relation to similar cases, including on whether or not certain behaviour should be treated as an offence and - if so - what offence it should be treated as being, and maintaining victim agency. On 27 October 2017, the Met confirmed by email that – subject to certain agreed changes and next steps – this proposals addressed their concerns [EX1/B/70]. On 31 October 2017, I sent them an updated proposal [EX1/B/71]. [HB/3/131]
[HB/3/132]
50. As well as engaging with the Met, I was keen that we spoke to women's groups and victim groups, as there was no doubt in my mind that they were a key stakeholder in this. We met with Hestia, No More, the National Network to End Domestic Violence and the Global Network of Women's Shelters, and held a "listening session" with women's groups. Although I was not at these sessions, I have heard from people who were at them and who informed me that the view of the people to whom we talked, and from whom we heard, was that reports should only be made to the police with the victim's consent, and that ULL needs to be as transparent as possible with passengers about our approach to criminal behaviour reporting.
51. Following these meetings, we put together the submission to TfL referred to above at paragraph [32(d)], which explained the work that we had done to change our approach to reporting of alleged criminal incidents, and how to balance public safety against victims' right to privacy using the concept of designated offences [EX1/B/79/385]. The first substantive section of that document explained that: [HB/4/144/1481]
- [o]ur work with the MPS and third parties including victim support groups has produced a set of operating procedures to govern how we handle allegations from passengers and pass that information to the police and to TfL. The MPS has agreed in principle this revised policy ... Subject to TfL's feedback, this document will become the new procedure in which staff will be trained.*
52. Appendix A of the document gave more detail on our proposed approach [EX1/B/79/395-399], and Appendix B set out the list of proposed designated offences [EX1/B/79/400-406]. The document explained that, where we did not obtain consent, and where it was unclear whether a designated offence had taken place, we would contact the Met for guidance. [EX1/B/79/386] [HB/4/144/1491-1495]
[HB/4/144/1496-1502]
[HB/4/144/1482]
53. To ensure all "designated offences" were correctly identified by our IRT, we also developed specific training for the IRT. The Met reviewed this training and confirmed to me that they were happy with it.
54. On 6 December 2017, I emailed Helen Chapman at TfL to update her on the progress that we had made with the Met, and telling her that we were planning to implement our new, designated offence-based approach to reporting criminal allegations. I sent her a further document explaining our proposed approach. [EX1/B/91] My email also referred to the fact that we had understood from discussions with TfL that TfL would soon be issuing guidance on how to report incidents to the police and to TfL. I note that that guidance has not yet been published. [HB/4/166]

55. On 4 January 2018, Mr Elvidge attended a meeting with TfL. As he says at paragraph **[Elvidge1/150(b)]** of his witness statement, TfL were very clear that they wanted us to implement our proposed approach of reporting designated criminal offence allegations to the Met immediately. [CB/14/170]
56. In a meeting that I attended with TfL on 10 January 2017, they indicated a strong preference for ULL to report all potential criminal behaviour irrespective of whether it was a 'designated offence' which we had worked with the met to codify based in the importance of these specific incidents to the Police it is or whether the complainant consents to that report, omitting passenger details. I have to admit to having concerns about such an approach. This is for the following key reasons.
- (a) As explained above, we engaged with women's advocacy and victim support groups at the end of 2017 regarding such a proposal, and they had serious concerns about a victim's agency being removed in this way.
 - (b) Reporting any conduct that could possibly be a criminal offence would have a significant impact on drivers, as notes about such reports could remain on their record and prevent them from obtaining an enhanced criminal records check ("**ECRC**"), thus preventing them from continuing to work as PHV drivers as of their next licence renewal.
 - (c) Reporting anything, regardless of seriousness, could lead to the Met being sent a significant amount of information, which at best may not be useful to them, and at worst may result in the reports of the most serious incidents being lost or overlooked.
 - (d) Reporting incidents without consent of the complainant could have a 'chilling effect' on encouraging victims to report future incidents.
57. On 12 January 2018, we set out our proposed new approach to police reporting in a further submission to TfL, which Mr Elvidge describes at paragraph **[Elvidge1/60(b)]** of his statement. **[EX1/B/101/568-577]** In the submission, we explained the way in which we deal with safety related complaints, changes that we had made recently to further improve our approach to safety, and a description of a new approach to reporting potential criminal offences to the police. [CB/14/140] [HB/4/191/1848-1857]
58. I understand from our Head of Public Policy, Andrew Byrne, that on 15 January 2018 TfL had thanked him for progress on reporting and noted that there were some very small details to address. I also understand that they told him that they would like to work with ULL on a safety focused announcement that included information about our reporting policy as well as information on other safety features that were being developed at the time (and as described in Mr Elvidge's statement at **[Elvidge1/149]**). [CB/14/168-169]
59. On 16 February 2018, we made the following announcement.
- We're changing our approach to reporting serious incidents to the police. Our new approach will pass directly to the police information about any serious incident reported to us by riders. If a driver is a victim of a serious incident we will also report it to the police if the driver wants us to do so on their behalf. This policy has already gone live in London with the Metropolitan Police. **[EX1/D/57/931]*** [HB/5/225/2136]
60. In practice this means that we are reporting any incident that we believe to be a criminal offence to the Met. The decision as to whether to report is made by the member of the IRT dealing with the incident, using the list of designated offences and drawing on training

that they have been given. [EX1/D/75/1083-1098] Where we have obtained consent to do so, we include the complainant's details in the report. Where we have not obtained consent, we do not include the complainant's details. However, the London PHV Regulations require ULL to provide full complaint details to the police upon request and so, even if the complainant has not provided consent, the Met can require us to provide the complainant's name. Similarly, the Met can seek information under the investigation and prevention of crime exemption to the Data Protection Act. Whilst it is early days, the Met has asked for complainant's details on a number of occasions. We have given training to IRT members on "talk paths" for seeking consent to report a serious offence, which suggest informing complainants that where they do not consent, ULL may nevertheless be required to provide the complainant's contact details upon receipt of a formal request from the police.

[HB/7/292/2722-2737]

61. We are planning to meet the Met and TfL together, during the course of the next week, to work out a sensible approach to implementing this, and to discuss consent in more detail, based on insights gained from discussions to date.
62. In the meantime, and in response to a discussion that took place in meeting with TfL that I (along with Mr Elvidge) attended on 13 February 2018, we are:
 - (a) reviewing all historic reports received by ULL, whether from passengers, the police or otherwise, to determine whether the correct action (potential actions including "waitlisting", which is where we temporarily suspend a driver's account, and deactivating the driver, for example) has been taken; and
 - (b) conducting more extensive analysis to identify 'concerning patterns of behaviour' (such as where a driver has been involved in a series of isolated incidents that might indicate a propensity to commit a criminal offence in future).

FUTURE CHANGES

63. It is clear to me, and to my fellow directors, that there remains work to be done: even where documents and policies have been finalised for now, there will be an ongoing process of review and adaptation to ensure that ULL's approach to governance continues to comply with the best practice.
64. There are some specific tasks that we need to focus on as soon as possible. For example, we are in the final stages of hiring a UK Head of Compliance, who will have responsibility for leading the design, build and implementation of an augmented, 'best in class' compliance programme in the UK. This will be an important extra line of defence on governance matters. We are also in the process of interviewing additional non-executive director candidates to support Ms Powers-Freeling in her role. There is also an important exercise of making sure that all of the policies and processes described above are truly embedded into the business: there is clearly no point in introducing new policies if they are not understood and followed. The handbook emphasises the role of training as a "fundamental tool" in improving our working practices and raising the awareness of staff of regulatory requirements and compliance. Everyone in ULL was asked to attend a mandatory training session on 23 February 2018 on our regulatory obligations, our new "Cultural Norms" [EX1/D/41], and current strategic priorities [EX1/D/61].
65. Other tasks are identifiable, but not on the immediate horizon. For example, we want to introduce an interactive governance, risk management and compliance tracker tool, known as a GRC, that will allow people from across the business to manage and check relevant policies and processes in very specific situations.

[HB/3/136],
[HB/5/208]

66. Further tasks are not yet known, but are certain to emerge in time. However, as I have already noted above, my intention in leading our current governance and criminal reporting improvement process is not to reach a certain point, and then to stop. I see this process as an ongoing and continuous one, which will require time and attention from all the Board members on an ongoing basis. We will also continue to consider the effectiveness of all of the changes that we have introduced through regular Board level reviews and also by seeking feedback from TfL, in which we go through the key submissions and communications and seek their perspective on whether we have provided things in a clear, appropriate and timely manner.
67. The important thing, as far as I am concerned, is to have got ULL into a position from which it acts in a manner befitting of a responsible PHV operator, that the decisions that it makes are properly taken, and that processes are in place to monitor those changes and to adapt as necessary. As the person leading the process of updating our governance systems and processes, I am pleased that we have achieved a remarkable amount since we increased the focus on this in August 2017, and that we are in good shape to continue the work.
68. Statement of truth

I believe that the facts stated in this witness statement are true.

Signed: 

Dated: 26th FEB 2018

Appellant
F Jones
First
EX1
26 February 2018

IN THE WESTMINSTER MAGISTRATES' COURT

BETWEEN

UBER LONDON LIMITED

Appellant

- and -

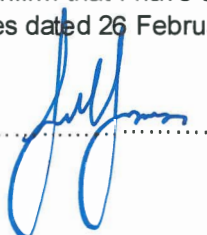
TRANSPORT FOR LONDON

Defendant

EXHIBIT "[EX1]"

This is to confirm that I have seen all of the documents referred to in the First Witness Statement of Fred Jones dated 26 February 2018 in the Exhibit marked "[EX1]".

.....
Fred Jones



Dated 26 FEB 2018