

**Appellant
T ELVIDGE
Third
EX3
19 April 2018**

IN THE WESTMINSTER MAGISTRATES' COURT

BETWEEN

UBER LONDON LIMITED

Appellant

– and –

TRANSPORT FOR LONDON

Respondent

THIRD WITNESS STATEMENT OF THOMAS ELVIDGE

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

A. INTRODUCTION

1. This is my third witness statement in this appeal, and I am authorised to make it on behalf of the Appellant, Uber London Limited ("ULL"), in support of its appeal. I do so to respond to specific points made by the Respondent ("TfL") in the first witness statement of Helen Kay Chapman, which ULL received on 29 March 2018, as well as to update the Court on events that have taken place since my first witness statement of 26 February 2018.
2. 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 second witness statements of Fred Jones and Laurel Powers-Freeling. I will refer to their statements in the format [Surname2/x], where "x" is the paragraph number.
3. 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 "[EX3]". Unless stated to the contrary, references to documents in this statement refer to this bundle and take the form "[EX3/x/y]", where "x" is the tab number and "y", where relevant, is the page number. I shall also refer to my first witness statement in the format [Elvidge1/x], where "x" is the paragraph number, and documents

exhibited to my first witness statement in 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.

4. I shall refer to Ms Chapman's first witness statement in the form [Chapman1/x], where "x" is the paragraph number, and to the exhibit to Ms Chapman's statement in the form [HC-1/x/y/z] where "x" is the volume number, "y" is the tab number and "z", where relevant, is the page number.
5. In this statement, I have used the same defined terms as in my first witness statement, which are also explained in the updated glossary.

B. SUMMARY OF THE POSITION

6. I welcome Ms Chapman's confirmation that ULL's operating model complies with our regulatory obligations [Chapman1/341], and her acknowledgment of the progress that ULL has made since TfL's decision not to renew ULL's PHV operator's licence (the "Decision") in September 2017, as set out in the Decision Letter. As she says at [Chapman1/54(b)], ULL has:

[CB/17/321]

[CB/17/234]

updated its policies, changed its senior leadership, admitted its past mistakes, recognised that it had a flawed approach to TfL and regulation more generally, and is in the process of taking steps aimed at transforming its corporate culture.

7. Ms Chapman is right to say [Chapman1/53] that our case rests on that progress. Although we had embarked upon the journey of cultural and governance changes before the Decision, I accept – as does ULL and Uber – that at that time there was insufficient evidence available of tangible and embedded change to satisfy TfL of our fitness and propriety in the face of all of the things that ULL had got wrong.

[CB/17/233]

8. I regret our initial public reaction to the immediate media focus after the Decision. We should have recognised straight away that we had not done enough to evidence the necessary changes having been implemented, and of their being sincere and effective. Our reaction spoke of the frustrations (many self-inflicted) that we felt and not of the understanding that we should have shown. It was an example of us not putting ourselves in TfL's shoes. I can only apologise for that error of judgement and say unequivocally that I now understand why, when set against the mistakes that we had made and have now admitted, as well as the breakdown of trust that had occurred, we had not done enough for TfL to be satisfied of our fitness and propriety.

9. Since the Decision, we have continued to make and implement substantial changes, and to ensure that those changes have worked their way through into how we behave as a business. That journey is not complete but the past six months have provided the time for reflection, both for me and for ULL, on what went wrong and what we need to do to fix it. I now realise there was more that we needed to do to address TfL's concerns.

10. I strongly believe that there is now compelling evidence before the Court to demonstrate the kind of necessary, sincere and effective change required to satisfy TfL and this Court of ULL's fitness and propriety. Ms Chapman seems in part to acknowledge this in a number of key respects. She expressly recognises, for example, the significant shift in our tone and approach to correspondence with TfL, [Chapman1/245 and 247] the fact that our approach to reporting allegations of criminal conduct is now consistent with the approach and conduct that TfL expects of a responsible operator, [Chapman1/271] and our shift in focus towards public safety. [Chapman1/275]

[CB/17/291]

[CB/17/300]

[CB/17/301]

11. However, it is clear from Ms Chapman's statement that rebuilding a relationship of trust with our regulator will take time. I understand that. Our task now is to build a track record of effective communication and governance (including when things go wrong) that reflects our cultural shift and on which the required trust can be founded. I want to be clear that we fully understand that, until our changes have been shown to work day after day, we are on probation. And that is why we have decided not to seek a full five-year licence but instead a licence up to the end of 2019. Such a licence could also contain conditions that reflect the substantial commitments that we have made to address the issues identified by TfL (which I outline at [30-56] below). Those include mechanisms for external audit of our compliance with, and the on-going adequacy of, our policies, processes and those commitments. This would allow us to put our fitness and propriety beyond doubt while subject to enhanced scrutiny and restrictions over an appropriate period.
12. In this statement, I:
- (a) address first Ms Chapman's comments about two areas of concern that came to light after the Decision Letter;
 - (b) provide an update on progress on the changes that we are making; and
 - (c) respond to some specific points made in Ms Chapman's statement.

C. CONCERNS ARISING SINCE THE DECISION

13. In her statement [Chapman1/276-306], Ms Chapman includes a section on two areas of concern that came to light after the Decision and in respect of which TfL had therefore not previously set out its position. These are: [CB/17/302-310]
- (a) the 2016 data breach, which I addressed in my first witness statement [Elvidge1/130-148] and which was included in the Provisional Issues List agreed on 15 January 2018, [EX1/D/47]; and [CB/14/163-167] [CB/5]
 - (b) the alleged misuse elsewhere of a software tool called "Ripley", which I did not cover in my previous statement and which was not included in the Provisional Issues List.

Data breach

14. Ms Chapman has in her statement ([Chapman1/300]) identified the matters that she (and presumably TfL) considers relevant to this appeal in respect of the data breach that occurred in 2016 (and its subsequent handling). [CB/17/308-309]
15. Uber has publicly and privately acknowledged that the failure to report the data breach in 2016 was wrong. [Elvidge1/135] Mr Khosrowshahi has been absolutely clear that such conduct is unacceptable. He has also apologised directly to TfL that (as Ms Chapman notes at [Chapman1/300]) he did not raise the subject with them when they met in October, at which point Mr Khosrowshahi had launched an internal investigation but was not yet clear on the details. Ms Chapman acknowledges that ULL notified TfL of the 2016 data breach on 20 November 2017 before Mr Khosrowshahi issued a public announcement about it on 21 November 2017, but also criticises ULL for failing to inform TfL in advance that Mr Khosrowshahi would make a public statement on the data breach. [Chapman1/277] As far as I am aware, it is correct to say that we did not tell TfL about the blog post before it was issued. [CB/14/165] [CB/17/309] [CB/17/302]
16. As Ms Chapman notes at [Chapman1/300], the data breach affected 2.7 million UK customers, many of whom will have made bookings with ULL. As I have said before, that is of itself highly regrettable. As I also said in my previous statement, I shared the concerns Ms [CB/17/309]

- Chapman expresses, for example at [Chapman1/289], about ULL's ability to obtain the information it needs in order to deal appropriately with its regulators and Uber users in the UK. It is not unusual for data relevant to a business to be held and controlled by other companies, inside or outside the same group and subject to both regulatory standards and relevant agreements. In our case, users (both passengers and drivers) sign up with Uber BV to use the App; it solely controls their data - and is responsible for how it does so. However, as an operator, ULL is also accountable for the experience of those who book with it, and we need to have the ability to understand and address the way in which data relating to those bookings is treated. [CB/17/305]
17. I do not agree with Ms Chapman's suggestions, also at [Chapman1/289], that ULL's response to the data breach indicates that we failed to grasp the seriousness of the situation by not making any kind of announcement to our customers, and that we were seeking to protect our reputation. We did make announcements following the data breach (see, for example, the announcements at [EX1/D/87] and [EX1/D/42]). However, the data breach prompted me to recognise a failure in our intra-group relationships: I make no bones about the fact that the unsatisfactory experience of the data breach (in respect of the timeliness and accuracy of the information we received and our ability to communicate with UK users) was one of the main factors behind my insistence on the need for the Compliance Protocol. This is reflected in the fact that data breaches of this sort are expressly identified in it. I am confident that it provides a sound framework for addressing any such issues in future. [CB/17/305]
[HB/7/304],
[HB/4/146]
18. At [Chapman1/299], Ms Chapman notes that I have included information about the data breach that is new to TfL. That is true, and I included that additional information because I wanted to explain some of the background. However, Ms Chapman also says at [Chapman1/299] that "*TfL is unaware of the GitHub system or its use in ULL, and whether the use contributed to the data breach itself*". Our letter of 5 December 2017 explained GitHub and the steps taken by UTI to improve security in relation to it. [EX1/B/88/453] What we did not do, and I now realise would have been helpful to TfL, was to explain that GitHub is not a repository for user data, but is a widely used third-party tool for software development and collaboration that was used by Uber's engineering team in the US, but not by ULL. [CB/17/308]
[CB/17/308]
[HB/4/163/
1573]
19. Uber is continuing to take steps to ensure that an incident like this does not recur. I understand from my colleagues in the global security team that, as well as on-going technical improvements, Uber has retained an independent cybersecurity firm (Mandiant), which has conducted a forensic review of the nature and extent of the data accessed in the breach. As a result of that review, Mandiant has been able to verify that the nature and extent of the breach was as reported.
- Ripley**
20. Starting at [Chapman1/302], Ms Chapman raises a number of concerns in relation to media reports regarding the use by Uber businesses outside the UK of a tool known as "Ripley" to impede regulatory investigations. [CB/17/309]
21. I now know that Ripley is the name for a software tool that could be used to remotely lock a computer or laptop. In my experience, this sort of software tool is standard in most organisations, as it provides a useful tool for dealing with lost or stolen computers or laptops, so that information stored on them does not get into the wrong hands. Indeed, most mobile phones, tablets and computers now come with this sort of functionality as standard. I can also imagine that there may be some circumstances where it may be appropriate to remotely lock access to devices in the context of a regulatory investigation in order to ensure that it is not possible for data that may be relevant to the investigation to be deleted by an individual. What

is not acceptable - obviously - is to use standard software tools to impede a regulatory investigation. That is something that is and always was clearly stated in Uber's internal policy on how to respond to on-site investigations by regulators, including "dawn raids".
[HC-1/A/11/36C-36J]

[HB/5/201/1923-1930]

22. I became aware of the existence of Ripley for the first time when the article to which Ms Chapman refers was published on 11 January 2018. Before that, and as Ms Chapman says at [Chapman1/302], Ms Chapman had asked us to confirm whether other systems may have existed within Uber that may have been used to evade regulatory measures. We responded to these queries, with our 1 November 2017 letter, which is at [EX3/8]. The letter did not mention Ripley because, although I think I was probably aware or at least assumed that we had tools that could be used to lock a device in the event that it was lost or stolen, it had not occurred to me that it might be used to evade regulatory enforcement.

[CB/17/310]

[HB/3/134]

23. Having seen the Bloomberg article [HC-1/B/18], my first step was to check with colleagues whether there had ever been any sort of raid in the UK, such that the circumstances had arisen in which Ripley might have been misused as described in the Bloomberg article. Those inquiries provided me with comfort that there had never been any such raid in the UK. This was later confirmed by the centralised team that was handling the issue for Uber globally.

[HB/4/147]

24. As far as I am aware it was on 15 January 2018, at a meeting between Mr Khosrowshahi, Mr Byrne, Mr Brown and Mr Everitt, when TfL mentioned that they were concerned about Ripley.

25. I had already started to prepare a letter to TfL to confirm the results of my investigations before the 15 January 2018 meeting. However, this response took longer to send than I would have preferred because, following the Bloomberg article, colleagues in the US had wanted to check that our policy on dealing with regulatory investigations was appropriate. Following that review, which did not lead to the policy being changed materially, [EX3/21] our Chief Legal Officer recirculated the policy within the company, [EX3/20] highlighting that technical measures should never be used during regulatory visits without express legal approval, and I then sent the letter at [HC-1/A/11] to TfL, along with the policy itself.

[HB/5/200]

[HB/5/199]

[HB/5/201]

26. It is important to note that the policy included the following "dos and don'ts", which I have confirmed had been included in the policy, with the exact wording below, since at least March 2016:

1. *COOPERATE with the investigation and requested interviews*
2. *DISCLOSE the requested documents*
3. *ASK the Regulators to clarify unclear, vague or complicated questions*
4. *ASK to defer to a later time any questions which are unclear, wide-ranging in scope, or potentially incriminating*
5. *ASK Regulators to note formally in their minutes specific points of objection and ASK for a copy of these minutes*
6. *TRY to direct and refer all questions to Spokesperson or designated senior employee*
7. *REMAIN factual and to the point*
8. *INSTRUCT/INFORM everybody in the office (including cleaning / security company) not to break any seal and fully observe the DONT's*

1. *Do NOT volunteer any documents or information that have not been requested by the Regulators*
2. *Do NOT delete, destroy, conceal any document or data*
3. *Do NOT speculate, give false, misleading or untrue answers*
4. *Do NOT obstruct investigation (obstruction can be a criminal offense)*

5. Do NOT allow Regulators to copy the hard drive of computers unless their mandate specifically allows for this
6. Do NOT interfere with or break seals left by Regulators after their investigation (broken seals cause high fines!)
7. Do NOT expand your answer beyond answering the question posed by the Regulators
8. Do NOT communicate, disclose or mention in any (internal or external) social media (e.g. twitter, blogs, tweets) that a visit /investigation is taking or has taken place or that Regulators are on the premises

27. TfL did not respond to my letter of 21 January 2018. [HC-1/A/11] However, although this is not mentioned in TfL's note, [HC-1/B/35] I do remember that, at a meeting with TfL on 13 February 2018, we discussed Ripley and we agreed that we would double-check and let TfL know if there was anything else to flag. There was nothing else to flag, but we continue to keep this under review, including through the Compliance Working Group. [EX3/39] [HB/5/201] [HB/5/219] [HB/6/258]
28. It was not until I read Ms Chapman's statement that I became aware of TfL's continued concerns that TfL was not informed sooner. As Ms Chapman suggests in her statement, this was - as I have explained above - because ULL had no information about Ripley or the allegations made in the media.
29. I can understand the concerns that Ms Chapman expresses at [Chapman1/306]. However, I am clear that, as she suggests may be the case, ULL's - and Uber's - significant cultural and governance changes mean that a similar situation should not be repeated in future. [CB/17/311]

D. PROGRESS ON KEY COMMITMENTS

30. Since my first witness statement, we have made progress in a number of the areas that I covered in that statement. During the last few weeks, our focus has been on making sure that we are following through on our governance and culture changes and the commitments and assurances that we have made to TfL. Those were made in particular in the submissions that we sent to TfL at the end of 2017 and the start of 2018, which I exhibited to my first statement, [EX1/B/75, EX1/B/76, EX1/B/78, EX1/B/79, EX1/B/87, EX1/B/99, EX1/B/100, EX1/B/101, EX1/B/106] and also in correspondence and my first statement itself. I explain below our progress in relation to these actions. I have divided this section into four parts: governance and personnel, culture, communications with TfL, and corporate responsibility and safety. [HB/3/139], [HB/3/140], [HB/4/143], [HB/4/144], [HB/4/162], [HB/4/188], [HB/4/189], [HB/4/191], [HB/5/206]

Governance and personnel

31. As Mr Jones says in his second statement, [Jones2/10] we have continued to refine our policies and procedures. In my view, which is a view that I know I share with others in the ULL management team (including Mr Jones), these policies are working well, and have meaningfully improved the ways in which we share information with each other, and work together. We have also built the governance functions which help ensure that the ULL leadership team is sufficiently aware of all major changes that might have an impact on our regulated operations in the UK. [EX1/B/101/584-585] [CB/19/347] [HB/4/191/1864-1865]
32. Ms Powers-Freeling explains in her statement [Powers-Freeling2/15] that we are continuing to embed the Compliance Protocol, which is now operational. I will attend the first meeting of the Compliance Steering Group, which is attended by the General Manager (UK & Ireland), the Vice President for EMEA and the Chief Operating Officer of UTI, and which is scheduled to take place quarterly. [CB/20/364]

33. At [Chapman1/244], Ms Chapman expresses doubt as to how well the new processes will work in practice and concludes that it is difficult for TfL to assess the practical consequences of the changes that have been made, as they are so recent. I can sympathise with that view. However, I am confident that the changes that we have made since the Decision Letter [EX1/B/62] are now working well and are already having an important practical impact. For example, we are now finding out about proposed systems changes from UTI much earlier than was previously the case, which is making it easier for us to consider them, provide feedback where appropriate, tell TfL about those changes in advance, and plan for their implementation. Furthermore, we have fundamentally changed the way that we communicate with TfL and will continue in doing so in order to demonstrate that trust and confidence can be placed in the commitments made. [CB/17/291] [CB/3]
34. We have also now appointed two new Non-Executive Directors, who, as Ms Powers-Freeling explains in her second statement, [Powers-Freeling2/8] have a lot of extremely relevant and valuable experience. This is something that we told TfL we were committed to doing, [EX1/B/106/636] and I am really looking forward to working with them both. [CB/20/362] [HB/5/206]
35. In addition, we have now recruited a new UK Head of Compliance, who will be responsible for our compliance programme, and who we anticipate will also take over as our nominated Compliance Officer under the Compliance Protocol. Mr Jones gives more detail on this at [Jones2/23-25] of his second witness statement. [CB/19/351]
36. Among other things, and as Mr Jones explains at [Jones2/15], the new Head of Compliance will also be responsible for an Independent Assurance Procedure, which will review and provide external validations, for the Board, of the effectiveness of our policies and procedures. [CB/19/349]
37. All in all, I agree with Ms Chapman when she says that these changes mean that ULL will be subject to greater oversight and challenge in respect of its obligations, [Chapman1/234] and that is something that I consider to be immeasurably valuable in ensuring that we can assure and demonstrate that we operate as the responsible operator that both we and TfL want us to be. [CB/17/288]

Culture

38. As I said in my first statement, [Elvidge1/125] cultural change within Uber is being driven from the very top. For example, in an email sent to all permanent employees at Uber globally on 2 February 2018, Mr Khosrowshahi talked about the importance of our new cultural norms: [EX3/23] [CB/14/160] [HB/5/212]

Our cultural norms are not meant to be just nice words on a screen - they should live and breathe throughout our work, and be a huge part of not just what we do, but HOW we do it. They also shouldn't come to life via mandate, which is why we want your input—just like with so many of the changes we've implemented over the last year, from Perf to our compensation program to the norms themselves.

You've stepped up every time we've asked for your ideas or feedback, so, naturally, I'm going to ask you to step up again. How can and should we bring our new norms to life @Uber? How can they be truly meaningful and set us apart? Share your ideas here and help shape where we go as a company.

39. These key messages, and the emphasis on safety, are a frequent feature of the weekly global "all-hands" meetings that Mr Khosrowshahi chairs and are broadcast to all of Uber's locations. Similarly, a recent email to everyone at Uber from Mr Khosrowshahi emphasised the

importance of safety as our top priority, and something that is pivotal to earning our customers' trust. [EX3/38]

[HB/6/257]

40. In terms of ULL's culture, one of the points that I was most keen to emphasise in my first statement was the value that I place on ULL's culture, as well as on the culture of the broader group, in bringing about meaningful change to the way in which Uber operates, and is perceived, in London. In my first statement, I described the cultural changes that we have been making over the course of the previous year. Since that statement, the ULL leadership team has continued to work on ensuring that the new cultural norms [EX1/B/106/619-620] are fully embedded in the business and the way in which we all behave. The following are examples of this work.

[HB/5/206/
1949-1950]

(a) The UK leadership team is investing time in determining what behaviours should define each of our norms. We will aim to lead by example, committing to these behaviours in front of the UK and Ireland team and encouraging feedback when people feel others behave in ways that undermine the norms (even in their interactions with each other). I am hoping this will send a powerful message of leadership engagement.

(b) As I explained at paragraph 98 of my first statement, [Elvidge1/98] our strategic priorities for 2018 include standing for safety and being a trusted partner of cities and regulators. In relation to the latter, and since my first witness statement, I have identified specific actions to support these goals, including running surveys and roundtable discussions to properly understand the objectives and ambitions of our regulators. I also wrote to all ULL staff just before Easter to update everyone on progress against our strategic priorities and emphasising the importance of our cultural norms. [EX3/33]

[CB/14/151]

[HB/6/252]

(c) We have also created several resources that help to elevate understanding and awareness of the norms. These have included internal digital resources such as desktop screen-savers [EX3/10-17] and public-facing signatures [EX3/26] that are now being adopted across the Europe, Middle East and Africa region as poster boards to provide constant awareness.

[HB/4/170-
177],
[HB/5/240]

(d) I have appointed a new role within the ULL organisation focused specifically on the measures that we can take to rebuild and refresh our culture in line with the new direction that we are taking as a global organisation. This role, entitled Team Engagement Programme Manager, works very closely with me in facilitating the changes that are discussed in this section including how the ULL leadership team can fully embed the cultural norms.

(e) Following the relaunch of our "Cultural Champions" policy, [EX3/28] we regularly recognise members of staff nominated by their peers for displaying the behaviours that we want to promote and encourage across the broader team, as reflected in our cultural norms. Each month, these nominated champions receive a dinner voucher in recognition of their contribution to the business. In addition, I, along with our Team Engagement Programme Manager, meet for lunch with each month's Cultural Champions, to discuss suggestions that these team members might have about how to further embed our cultural norms and how we can bolster our culture to fully align with that vision.

[HB/6/246]

(f) This recognition extends to our regular team strategy days, which include team-wide recognition of peer- and manager-nominated individuals. We launched this at our

recent team offsite event on 16 Feb 2018, where, in front of 150 staff, I also gave a talk about how we are fundamentally re-thinking the way that we will partner with cities. In my talk, I spoke of my personal experience of the near-impossibility of building trust with a regulator if you are operating in a culture that is overly adversarial, and occasionally views regulators with suspicion. At the heart of the fundamental shift we have made are two simple propositions. First, that trust is built on transparency. Secondly, a regulator's job is protecting public safety, and we have a fundamental role in assisting them with that

Communications with TfL

41. In my first statement, I really wanted to get across the point that I, like ULL's management team more generally, am committed to an open and transparent relationship with TfL and also with App users and the public. I gave examples of occasions in the past when the standard of our communication with TfL was inadequate, and not what I would expect from a PHV operator if I were in TfL's shoes. While there were sometimes reasons for our communications being unclear or unhelpful, that does not mean that the inadequacy of our communications is not a source of considerable regret to me. I am certain that, if we had made more of an effort to communicate clearly and helpfully with TfL, we could have built a far more productive working relationship.

42. Since the Decision, there have been a number of times when I have thought that our approach to communicating with TfL has been particularly positive. Examples of this include the following.

- (a) We have committed to proactively notifying TfL of any changes to our operating model. I note that Ms Chapman suggests [Chapman1/228, Chapman1/229] that this is something that we are already obliged to do. However, there is an important distinction between the requirement to notify TfL of changes to our operating model under the 2000 Regulations, which require notification of material changes before they are made, and our commitment to notify TfL far enough in advance to allow discussion of those changes, as reflected in the LOMC Guidelines, [EX3/47] as discussed above at paragraph 33, and also our submission to TfL in which we said as follows: [EX1/B/79/390]

[CB/17/286]

[HB/6/263]

[HB/4/144/1486]

We would like to go beyond the regulatory requirement and assure you that we will not only notify you but also seek to engage with you on changes as they develop to ensure that all licensing requirements are met and safety angles are considered. While ULL assumes full responsibility for ensuring these considerations are made in advance of any changes we make, we will also welcome the opportunity to engage with TfL on them as they are developed so that you never feel blind-sided by a change.

For example, we will voluntarily commit to go beyond licensing requirements by providing you with a minimum of 28 days' advance notification of significant changes that we intend to make to our service. We would welcome extensive dialogue with TfL as our regulator during this period and in advance of the implementation of any changes to allow us to consider your feedback and answer any questions you might have. That would encompass recognition of our duty to ensure public safety and comply with private hire regulations.

For smaller changes such as major updates to the app we will provide a minimum of 14 days' notice.

- (b) We have invited TfL to come to our offices in order that we can explain to them various product changes that we are making. For example, on 7 March 2018, I wrote to TfL explaining the changes that we are planning to launch under a new Driver App, and offered to give them a presentation and walkthrough of the new functionality. While I appreciate that TfL has many other functions to perform and may not have the time or desire to visit, we feel it is important that the invitations are made. I intend to continue to make offers such as this when we are making significant changes and hope that we are able to find the opportunity to discuss such changes in person in future. [EX3/27] [HB/6/242]
- (c) ULL has built a constructive and improved relationship with Graham Robinson, the Interim General Manager, London Taxi and Private Hire at TfL through open communications on a number of topics, including in regard to our approach to police reporting.
- (d) We have met with TfL frequently to update them on our progress and to get their feedback, as partly reflected in the internal, summary notes from some of these meetings that Ms Chapman has exhibited. [HC-1/B/11-17] [HB/3/120], [HB/3/124], [HB/3/130], [HB/3/135], [HB/3/137], [HB/4/141], [HB/4/145]
- (e) I also want to mention the changes that we have made in regard to sharing data with TfL. This is perhaps best exemplified by 'Uber Movement', a bespoke urban planning tool that we announced in London in March 2018. This allows TfL (or any other interested party) to compare current and past travel conditions and potentially provide valuable insights for the future. The launch of this tool speaks to our significantly altered approach in regard to the use and sharing of Uber's data, and our desire to be a better partner to TfL and other city planners and regulators. This is something that I believe would not have been prioritised in the past under previous leadership. We intend to continue to develop the Uber Movement tool and add further insights over time and I look forward to discussions with TfL on what enhancements might be helpful in this regard.
43. As Ms Chapman recognises, ULL has committed to being more open with TfL, and this reflects a significant shift in tone and approach. [Chapman1/247] That recognition is welcome. However, Ms Chapman also says that the proof of such commitments is yet to become clear, and I can see that. There are a number of things that I think we can do over the coming months to make sure that TfL does have the necessary proof of our commitments. Those include the following. [CB/17/291]
- (a) Adhering to the deadlines for contacting TfL that are set out in the LOMC Guidelines. [EX3/47] [HB/6/263]
- (b) Making sure that important communications with TfL are not rushed, but also prioritised, so that we can get accurate information to TfL as quickly as possible.
44. In spite of all the progress that we have made in this area, and which Ms Chapman has recognised, Ms Chapman also makes some criticisms of certain of our communications since the Decision, in particular in relation to specific details of:
- (a) the changes to our operating model so that only ULL will accept bookings in a given area around London; and
- (b) our driver hours policy.

Given the importance that ULL attaches to getting its communications and relationship with TfL right, I think it is important that I address these directly here.

45. At [Chapman1/243], Ms Chapman suggests that ULL has engaged with TfL only after implementing important changes to its systems or approach, and that this is contrary to the 2000 Regulations. I am well aware of the requirement, under Regulation 9(13) of the 2000 Regulations, to notify TfL of material changes to our operating model that may affect our compliance with the 1998 Act, the 2000 Regulations themselves, or our licence, in advance. I disagree that we have ever failed to comply with that requirement since it was introduced on 21 November 2016, and I note that she has not given any examples. Furthermore, this is the first time that I am aware of TfL making a suggestion that we have breached this requirement. [CB/17/290-291]
46. At [Chapman1/316], Ms Chapman says that the information that we gave TfL in December 2017 about our proposals to define an area within which ULL (and not UBL) accepts bookings (which we had been discussing with TfL for some time) gave TfL the impression that ULL would no longer allow cross-border hiring and that its geographical boundary would be consistent with TfL's licensing jurisdiction. [CB/17/313-314]
- (a) I am surprised by this suggestion, but sorry if TfL gained this impression. As Ms Chapman notes, [Chapman1/307] we "*said that the licence would not be used in areas where other licensed companies within the Uber group are trading, in order to provide a clear separation between licensed operations*". [CB/17/311]
- (b) While we are aware of TfL's views on cross-border hiring and these were discussed on a number of occasions, TfL has also acknowledged (as does Ms Chapman at [Chapman1/308]) that it is lawful. In fact, Ms Chapman confirms that TfL's position is that "national change" is required ([Chapman1/309]). Given that, and that the policy concerns that Ms Chapman raises in relation to the law in this area are not in issue in these proceedings, I do not think it necessary to address them here. [CB/17/312]
[CB/17/312]
- (c) What does, of course, concern me is any suggestion that we were not clear enough with TfL in some of our discussions about changes to our operating model on this point.
- (i) Our submission of 1 December 2017 [EX1/B/87] makes clear in the introduction that it is seeking to address TfL's concerns about the compliance of our model with s. 2 of the 1998 Act, which was a legal issue (that has now been resolved). It goes on to list the concerns that TfL had raised in this regard (and which the submission was addressing): there is no suggestion (nor was there any legal reason) that the geographical boundary within which only ULL would accept bookings under our proposed changes would be the Greater London Authority boundary, which defines TfL's jurisdictions. [HB/4/162]
- (ii) However, putting myself in TfL's shoes, I can, in hindsight, understand why Ms Chapman may have assumed that this would be the boundary. We could have been clearer in this instance that this was not necessarily the case. The reason that we did not go into this point in December was two-fold:
- (1) first, it was not directly relevant to the way in which our proposals addressed TfL's concerns about the compliance of our operating model; and,

- (2) secondly, we were still at that time working on where to draw the boundary, which was a very significant change that we had to ensure we got right.
- (iii) By January, we had firmed up our intentions in this regard, and updated TfL accordingly. **[HC-1/A/13/39-43]** However, I now appreciate that, knowing as **[HB/5/204/1934-1938]** we did TfL's wider policy concerns about cross-border hiring, it would have been helpful if we had flagged this point in our discussions before Christmas, even though we had not made a decision ourselves.
47. Ms Chapman expresses a similar concern **[Chapman1/317-318]** about one aspect of the cap on driver hours that ULL introduced recently. This is a new App feature that we introduced on 25 January this year, which automatically logs drivers off the Driver App after 10 hours of being "on trip" (by which I mean being en route to collect a passenger or taking a passenger to their destination) if they have not taken a six-hour break. As far as I am aware, we were the first PHV operator in London to place a hard restriction on driver hours, although I believe that ViaVan (who obtained a licence in March 2018, after we had announced the cap) have a similar policy. I believe that Ms Chapman's concern is we did not flag to TfL that the cap is set by reference to "on trip" hours, not the number of hours that drivers are logged into the App. **[CB/17/314]**
48. Ms Chapman's criticism is not of the policy, but of how we communicated one aspect of that policy. Ms Chapman says that TfL understood from our conversations about the policy between November and January 2018 that the cap referred to hours logged in to the App, not on-trip time. She says that the "true position" only became clear to TfL shortly before ULL announced the policy on 16 January 2018, which "came as a surprise".
49. I am sorry that Ms Chapman was taken by surprise - and I understand that surprise is the last thing that any regulator wants. We tried to take an open and transparent approach to communicating with TfL throughout the development and implementation of the policy.
- (a) In July 2017, we confirmed to TfL that we were proposing to introduce such a policy and explained some of the factors we were considering in order to develop it further. **[EX1/B/41/159]** **[HB/3/82/1115]**
- (b) We updated TfL in September 2017 on our progress and explained that we were considering a range of scenarios that combined an hours limit with mandatory break periods. In that letter we explained that the tool would monitor how long someone has been driving while using the app and then would prevent them from accepting trips until they have had a break. **[EX1/B/58/242]** **[HB/3/104/1297]**
- (c) At our meetings of 13 October and 27 October 2017, we discussed further our initial proposals for capping driver hours with TfL, who responded broadly positively. Before discussing particular limits, we started by explaining to TfL our understanding of working time as equating to on trip time and therefore clarifying that any limit imposed would be to on trip driving hours.
- (d) In November 2017, we provided full details of the proposals in our submissions to TfL **[EX1/78/369-70]** and, as Ms Chapman acknowledges, they explain very clearly that **[HB/4/143/1465-1466]** hours are calculated as the length of time spent en-route to pick up a passenger plus the length of time spent driving passengers. We had further meetings at which these proposals were discussed.

- (e) On 9 January 2018, we provided TfL with our risk assessment [EX1/B/97A/495-6] for the driver hours cap feature, which reflected our considerations of any potential pitfalls - informed by our previous discussions with TfL. We said to TfL that we would be happy to explain the hours cap feature in more detail if helpful. We received an acknowledgment of that email from TfL but no further comments or requests for additional explanation. [EX3/18] [HB/4/183/1768-1769] [HB/4/185]
50. We announced the policy on 16 January 2018. [EX1/D/48] Ms Chapman says it became clear to TfL a short while before that announcement that the limit was calculated by reference to driving hours. In the light of the detail in these materials and our discussions, it is not fully clear to me how this misunderstanding arose, but I will consider how we can be clearer about updates such as this going forward. I hope to work with TfL to understand these deficiencies fully and to rectify them in future. [HB/4/194]
51. We were not contacted by TfL regarding any concerns and the policy went live on 25 January 2018. We kept TfL updated on how the policy was working in a follow up letter to them of 29 March 2018. [EX3/32] [HB/6/251]

Corporate responsibility and safety

52. Ms Chapman lists a number of safety initiatives that we have introduced (including the driver hours cap that I mention above), and concludes that they indicate that the focus of the business has shifted towards public safety. [Chapman1/275] While I would genuinely say that, for as long as I have been at Uber, I have always thought that safety has been taken seriously, it is certainly accurate that the processes that we follow to ensure that safety is clear and present in our decisions and actions are much more advanced than they ever have been in the past. I welcome Ms Chapman's recognition of our increased focus in this area, which shows that our process changes are being felt. [CB/17/301]
53. Ms Chapman expressly refers to a number of safety improvements that we have been working on at [Chapman1/264]. Of these, the only one that requires an update at this stage is the telephone line. I referred to this in my first witness statement, to which I also exhibited a separate witness statement on this subject, which I had prepared for TfL's appeal against the High Court's Order quashing the telephone requirement that they had introduced ("TE5"). [EX1/D/55] Since then, we have continued to work towards setting up the telephone line function within the App in the way that I said that we would, although we are still finalising the precise details. [CB/17/297] [HB/5/223]
54. In terms of next steps, we are already recruiting new agents to operate the new telephone system. We have defined rigorous agent profiles that we are using as a benchmark through various interview sessions held with the local team. We anticipate needing a total of 360 trained phone support agents, with 60 dedicated to fielding safety-related calls. Some of this need will be met by existing agents, and so this equates to 230 new agents. 65 of those new agents will be in Ireland, 35 of whom will be dedicated to safety issues.
55. Before we implement the phone line, we will write to TfL to outline our proposed approach, in line with the commitments that I gave in TE5. [EX1/D/55] I expect that we will be ready to do this in the next few weeks. Once that has been done, and TfL have agreed the approach, we will finalise the system. We will then need to go through the steps requirement by our Change Management Policy. Finally, we will need to train all of our agents on the workings of the system and, in particular, on how to identify and deal with a safety-related incident. [HB/5/223]

56. At the moment, we are aiming to stagger the roll-out the launch of the telephone line city by city, starting in June 2018, and ending in September 2018. Given the number of App-users ULL has in London, our plan is to introduce the telephone line to users in London towards the end of that roll-out process.

E. RESPONSES TO HELEN CHAPMAN'S STATEMENT

57. There are also a few discrete points that I should make in reply to various points made in Ms Chapman's statement about events since the decision.

Correspondence on acceptance of bookings and operator model

58. In her statement, Ms Chapman has made a number of comments in response to things that I said in my first witness statement about our communications with TfL on the subject of our operator model. While the substantive issue of the compliance of our model has now been resolved, and Ms Chapman has accepted that there was some room for argument about the position, **[Chapman1/342]** I do wish to respond below to some of the points that she makes. [CB/17/321]

- (a) Ms Chapman says that my statement was "inaccurate" when I said that I was not aware that TfL was considering suspension or revocation. **[Chapman1/40]** To be clear, my intention was simply to make the point that, although TfL was clearly asking important questions about the compliance of our operating model, and that if it were not satisfied of that compliance that would lead to enforcement action, I was not aware that TfL had ever said that suspension or revocation were ever imminent or a likely outcome. [CB/17/230]

- (b) Ms Chapman notes that our 17 June 2014 letter referred to the possibility that TfL's position was being influenced by the views of the Licensed Taxi Drivers' Association and/or the Licensed Private Hire Car Association, and says that she considers this suggestion unfair and improper. **[Chapman1/78]** I did not work for Uber at the time, but I have read this correspondence and I accept Ms Chapman's criticism. On any view, the tone of the letter was unnecessarily - indeed, inappropriately - aggressive. It appears to extrapolate from TfL's reference in its 10 June 2014 letter to the possibility that one or more trade association may seek to litigate the question of the compliance of ULL's model with the statutory framework as suggesting some sort of influence over TfL's conclusions in this regard. In fact, TfL refers to this possibility as part of the explanation for why it is appropriate to resolve the issue. Whether prompted by competitors or not, this is a matter that it was entirely proper for TfL to consider, and ULL should not have called into question its motivation in doing so. It should have engaged fully with the questions to help TfL reach its conclusion. [CB/17/241]

- (c) At paragraph 69 of her statement, Ms Chapman notes that I had suggested that the meaning of the concept of "acceptance" is the root cause of the confusion in the correspondence about our operator model. **[Chapman1/69]** She then goes on to say that TfL was very clear about its understanding of the concept of acceptance. I want to clarify that I was not trying to say, in paragraph 97(c) of my first witness statement, that TfL was confused about the meaning of "acceptance". Rather, I was trying to explain that ULL was unclear about how to fit the regulatory concept of acceptance with the practical operation of the App. In other words, it was not that the question was unclear, but that ULL did not understand its own answer. Furthermore, rather than admitting that we were unsure about the answer, we indicated the opposite, and attempted to second guess the point in the sequence at which acceptance takes place, rather than simply telling TfL how the system performs. [CB/17/239]

- (d) At [Chapman1/90], having acknowledged that the inaccurate information provided to the High Court in 2015 was not directly relevant to the proceedings that were then on foot, Ms Chapman says that ULL must have known how its own systems worked and the sequence of steps that take place every time a passenger uses the App to arrange a ride with a driver using the Uber App. Again, although ULL knew how its technology worked and the systems steps involved, my assessment is that we were less sure about how to fit the workings of a technological process with a regulatory concept that pre-dated that technology by many years. We should not have argued for a particular interpretation with such apparent certainty without being entirely clear ourselves about how the regulatory concepts applied to our technology. In doing so, we gave answers that risked being - and ultimately turned out to be - inaccurate. In this sense, I agree with Ms Chapman when she says at [Chapman1/116] that our letters at least appeared to be clear but were false, and I do not seek (as Ms Chapman suggests at [Chapman1/121]) to persuade the Court that the Decision Letter was wrong on this point: I accept that it was not good enough. It is easy to see now, as I have noted before, that had we engaged openly and positively with our regulator, this situation could have been avoided. [CB/17/246] [CB/17/254] [CB/17/255]
- (e) Also at [Chapman1/90], Ms Chapman says that I had asserted that the inaccuracy was not "knowingly incorrect". However, what I actually said in my first witness statement (at [Elvidge1/80]) was that I had no basis on which to conclude, nor any reason to believe, that it was knowingly incorrect. It is my job to make sure that ULL is set up in such a way that it is not at risk of people making making mistakes about the way in which our business works and how it fits with our regulatory obligations. That is precisely one of the things that the changes that we have been making in the last few months are targeted at. [CB/17/246] [CB/14/146]
- (f) At [Chapman1/106], Ms Chapman says that, at a meeting on 15 November 2016 about the booking acceptance process, ULL did not provide TfL with information that had been requested. What we did provide was a step by step breakdown, and time stamped real examples. [EX1/D/19] At the time, we did not realise - as Ms Chapman now says is the case - that TfL wanted something other than what we had provided. Although it might have been possible to show the booking process step by step live on the system, this would have been extremely difficult and would not in fact have allowed someone to track a single booking in real time, because we would have had to extract information about each step from the system. As such we believed that providing a demonstration of the system was best done via a presentation. During the meeting, we agreed with TfL a number of amendments to the slides, and we sent the amended slide pack after the meeting. TfL subsequently wrote to us on 4 January 2017 requesting that we also include the process followed when a "driver accepts a booking but subsequently cancels it". [EX1/B/27/115] We added that to the slide pack and sent the revised version to TfL on 12 January 2017. [EX1/B/27/115] I did not receive a reply to that email. This suggested to me that they had found the session and the subsequent follow-up useful and did not require anything else. It was only upon reading Ms Chapman's witness statement that I learned Ms Chapman considered that ULL had not provided TfL with the information that it had requested. [CB/17/250] [HB/2/55] [HB/2/56/957] [HB/2/56/957]

Greyball

59. On the subject of greyball, Ms Chapman has acknowledged our recognition of the things we got wrong, our commitment to change and the steps we have taken in this regard. In

addressing below a small number of factual points that arise from Ms Chapman's comments, I am in no way seeking to counteract that position.

60. I would also add that, contrary to Ms Chapman's interpretation at [Chapman1/157], I do accept that the involvement of senior leaders in ULL in communications regarding the potential misuse of greyball is relevant, which is why we have taken the steps that we have to address it. That includes the changes to our culture, governance and leadership that Ms Chapman refers to. As regards, Mr van der Woude, he is not carrying out active duties at this time. [CB/17/265]
61. At [Chapman1/130], Ms Chapman expresses surprise that Jenner & Block did not interview Matthew Wilson or Harry Porter. In fact, both Mr Wilson and Mr Porter were interviewed by Jenner & Block in November 2017 in order to ensure that ULL was able to provide as full an account as possible to TfL, not only of the involvement of the senior ULL officials previously identified but also of other ULL employees who had been copied in to correspondence relating to other jurisdictions. [CB/17/258]
62. Although my letter of 17 November 2017 [EX1/B/77] did not say so (for which I apologise), the information set out there about Mr Wilson and Mr Porter was Jenner & Block's findings, based on the totality of their investigations. That is consistent with our previous correspondence on this topic, which was necessarily reliant on and reflective of Jenner & Block's findings. The reason for putting these investigations in the hands of a reputable international law firm was to give both us and regulators reassurance that the investigations were being conducted rigorously and objectively. The effect of this was two-fold: first, it meant that many of the important communications with our regulator came, not from us, but from an external law firm; and, secondly, the factual conclusions are necessarily (and rightly) those of Jenner & Block, not mine or ULL's. [HB/4/142]
63. The reason that in November 2017 I wrote directly rather than asking Jenner & Block to do so again is because - while I understand the reasons for involving Jenner & Block - I was personally frustrated that important communications with our regulator had in the past months been conducted via Jenner & Block - and that was a frustration that it seemed to me TfL shared. I wanted to re-establish direct communication on this critical issue.
64. This same point about Jenner and Block's role is also important elsewhere.
- (a) For example, the reference ([Chapman1/144,147] [EX1/B/47]) to Ms Bertram being "exposed to" discussions regarding potential misuse of Greyball was simply a reflection of Jenner & Block's findings in their letter, which was sent to TfL alongside our letter on 4 August 2017. [CB/17/262-263], [HB/3/87]
- (b) At [Chapman1/138, 140], Ms Chapman expresses her view that the only reasonable interpretation of Ms Bertram's emails of 26 November 2015 [EX1/A/7/16] and 26 November 2015 [EX1/A/7/22] is that she approved the use of greyball against law enforcement authorities. I do agree with that on the face of the words used. However, Jenner & Block's findings will have been based on their investigations as a whole. For example, I can understand that, where there were already within Uber established ways of handling the situations being considered, the email exchange may not have been viewed by any of the parties as involving any request for or expression of approval because no question of approval arose. The attachment to one of the emails entitled "Tactic: How to handle when regulators target drivers" [HC-1/B/4/375-387] suggests that this may have been the situation. I should say that, although it was stored on our intranet, I had never seen that document until it was provided to me by [CB/17/261] [HB/2/32/678] [HB/2/32/684] [HB/2/29/589-601]

Jenner & Block and I do not know how or why it was produced, although I understand that it was produced by two employees in Italy.

- (c) At [Chapman1/155], Ms Chapman says that she is unclear about the identity of ULL's global functional support teams. This was a reference to our centralised teams, which I referred to at paragraph 32 of my first witness statement. Their structure and role are explained in my letter to Ms Chapman dated 5 December 2017. In that letter, I explain that their role is to support the operational business in their areas of specialisms (such as legal and communications) and they are line managed on a global basis. For example, the legal team that supports ULL, while working closely with the Board and senior management of ULL, reports ultimately up to the Chief Legal Officer, Tony West, at UTI. The nature of the investigations into the misuse of Greyball, including the on-going US Department of Justice inquiry, meant that the global legal and privacy teams were necessarily heavily involved in the management of this issue. That is entirely appropriate. However, it of course poses challenges when ULL's interests as determined by the Board may not be entirely aligned with how the issue is being managed globally. This can and did manifest itself in, for example, concerns about inadvertent waivers of legal privilege and/or the restrictions relating to the Department of Justice investigation, indicating a more cautious approach to disclosure than ULL wanted to take. The Compliance Protocol provides a robust mechanism for managing such issues in future. [CB/17/265]
- (d) At [Chapman1/256], Ms Chapman questions whether Mr Jensen has any involvement in ULL's systems or processes. Mr Jensen has a junior technical operations role. As such, he is one of many people within Uber who have some access to Uber tools and systems that are relevant to ULL. In all cases, that access has to be used in accordance with the (now-strengthened) framework of policies and processes that Uber has put in place, and consistently with the cultural change that I have previously explained. [CB/17/294]
- (e) As regards the four other jurisdictions to which Ms Chapman refers at [Chapman1/257], we confirmed to TfL in a meeting on 13 February 2018 [HC-1/B/35] that, in respect of three of the four jurisdictions, UTI and the relevant local Uber entities would pre-notify the police that same week and that, in respect of the fourth, the external investigation was already well-advanced and any appropriate report would be made once it was completed, in line with the commitment we gave in our culture and governance submission to TfL. [EX1/B/106] As requested in the meeting, we put this in writing in our letter of 15 February 2018. [HC-1/A/17] These steps have been taken and I apologise for not confirming that previously. [CB/17/294] [HB/5/206] [HB/5/220]
65. I have previously [Elvidge1/127] outlined the safeguards that have been put in place to ensure that the Greyball function cannot be misused, such as the policy requiring legal/compliance approval to be able to apply a Greyball 'tag'. In addition, I understand from my colleagues in UTI that Uber globally has taken steps to decommission the Greyball function altogether. It has already turned off the function and is now in the process of removing historic Greyball tags. This process is expected to complete in the coming weeks. [CB/14/161]
- Corporate responsibility**
66. At [Chapman1/264] onwards, Ms Chapman discusses a "cluster" of issues relating to corporate responsibility and safety. [CB/17/297]
67. One of the criticisms of ULL in the Decision Letter [EX1/B/62] was our decision to inform drivers, for one month between August and September 2016, that they could get their medical [CB/3]

checks performed by a GP using the Push Doctor service. Another was that, from March 2016 until mid-2017, we referred prospective drivers to a company called Onfido to obtain the DBS checks they needed in order to get a PHV driver licence.

68. In relation to Push Doctor, I regret that, in our eagerness to find a better way for drivers to comply with the requirement to undergo a medical check in order to be a licensed PHV driver, we did not come up with a wholly adequate solution and that it was not until TfL raised concerns with us that we ascertained TfL's position and stopped informing drivers about Push Doctor. I agree with Ms Chapman when she says at [Chapman1/197] that drivers having to go through a second medical check could have been avoided, and I regret that we caused inconvenience to the prospective drivers who attended an appointment with Push Doctor. [CB/17/276]
69. In relation to both Push Doctor and Onfido, I share Ms Chapman's frustration that in order to put before the Court our full response to the issues identified in the Preliminary Issues List it was necessary to go into so much detail in my first witness statement, when they are historic issues and given all of the progress that we have made with TfL since. I am sorry if this appeared overly-defensive.
70. I want to make very clear that in neither case were we seeking to interfere with or circumvent the regulatory and licensing regime, or the regulatory arrangements that TfL had in place. We have expressly assured TfL we will not do so, as confirmed in our submissions. [EX1/B/79/387] I also want to reiterate that I understand TfL's concern that we embarked on these changes on our own initiative without involving TfL first. That was a mistake, and is one of the reasons why we have redesigned our governance processes to ensure this will not happen again. [HB/4/144/1483]
71. Ms Chapman criticises my statement for its "defence" of these two decisions. I want to be clear that I was not seeking to suggest that our decisions relating to Push Doctor and Onfido were good decisions. They were not. As I said in my first statement, we should have discussed the services with TfL before we started informing potential drivers about them. I am also clear that inadequate ECRCs could be a safety issue: what I said at [Elvidge1/197] was expressed too generally. What I sought to convey was that I did not see that the use of Onfido, in the way that we used them, itself created a safety issue. However, that - of course - does not mean that we should not have communicated far more clearly to TfL before we started to use Onfido. [CB/14/184]
72. For all of the reasons above, I stand by the assurance that we have given to TfL that we will not seek to suggest a new service to drivers as part of the Ignition process without first talking to TfL. I would also like to reassure TfL, as Ms Chapman requests that I do, [Chapman1/272-273] that we will never seek to undermine or circumvent the regulatory regime. [CB/17/300]
73. Finally, it is worth mentioning - in relation to the specific examples in the Decision Letter - that ULL's Ignition programme directs driver applicants to use their GP for medicals and to GB Group (TfL's recommended provider) in order to obtain an ECRC in all materials and prepared guides. In this way the recommendations we are providing to drivers are exactly in line with TfL's stated process.
- F. CONCLUSION**
75. I said at the beginning of my statement that ULL is asking the Court to grant it an operator's licence that is substantially shorter than the default 5-year term under the 1998 Act and contains any additional conditions that it considers are appropriate. Although TfL would in any event have the power to suspend or revoke at any time, we understand that any licence

granted now should be tailored to the context. That means that its term and conditions should reflect the fact that we are still rebuilding a relationship of trust with our regulator - a relationship that we damaged by the mistakes we made.

76. We have previously made clear to TfL on a number of occasions that we are willing to be subject, where appropriate, to conditions that reflect the substantial commitments that we have made to them. Although I understand that conditions will be a matter for the Court, if it decides to grant a licence (as reflected in the Provisional Issues List), we would welcome the opportunity to discuss with TfL what, if any, conditions might be appropriate in light of the issues that it had identified and the commitments and progress that we have made. To that end, I thought it would be helpful to outline here key commitments that we have made.

a. A key element of the changes that we have made is the governance framework we have put in place. To reflect that, we are committed to maintaining in place governance arrangements under which:

- i. ULL will have a Board comprising at least two independent directors (one of which shall be the Chair) and at least two executive directors;
- ii. responsibility for ULL's licensed operations rests with a sub-committee of the Board chaired by the Chair or another senior independent non-executive director that meets at least monthly and is supported by a management committee that meets at least weekly; and
- iii. materially in line with the Compliance Protocol, ULL is entitled to adequate notification by other Uber group entities of potentially material events and changes and where those entities are committed to respecting and supporting ULL's regulatory autonomy and accountability.

b. We are also committed to implementing and maintaining in place the Independent Assurance Process that Mr Jones explains at **[Jones2/13-15]**, and to providing TfL with the regular reports that the Independent Assurance Procedure provides for. This will ensure that the Board - and TfL - have the benefit of rigorous, externally-verified assessment of the effectiveness of the governance framework that ULL has implemented and our compliance with it.

[CB/19/349]

c. We are committed to informing TfL as soon as possible of any potentially material event of which it becomes aware and to provide to TfL any information that it may reasonably require.

d. We are committed to giving TfL advance notice of relevant changes in accordance with the notification periods set out in ULL's Licensing Submission. **[EX1/B/79/391]**

[HB/4/144/1487]

e. We are committed to not interfering with or circumventing any regulatory obligations applying under the 1998 Act, or arrangements made by TfL in relation to them, including obligations and arrangements applying to applicants for or holders of private hire driver or vehicle licences.

f. We are committed to not recommending, suggesting or informing others of any provider of DBS checks or medicals not approved by TfL.

g. We are committed to maintaining in place our new approach to reporting to the Met any passengers complaints that allege behaviour that may be criminal.

- h. We are committed to not using any software, tool or mechanism to interfere with or evade any action by a regulatory or law enforcement authority.
- i. We are committed to maintaining in place the feature that restricts the number of hours a driver can use the app that we introduced in January 2018 (subject to any such future amendments as may be agreed with TfL).

77. I strongly believe that, with these commitments and the progress we have made, ULL can now demonstrate the sincerity and effectiveness of the changes we have implemented and are embedding. We recognise that building a relationship of trust with TfL on these foundations will nevertheless take time and consistent evidence of the practical impact of these measures and adherence to our commitments.

78. We believe that a licence expiry date in December 2019 would provide time for the changes that we have identified to be fully embedded and put to the test for a sustained period while subject to enhanced scrutiny, including two externally-verified audits of their effectiveness and our compliance with them (through the Independent Assurance Procedure). I respectfully ask the Court to grant a licence on this basis.

G. STATEMENT OF TRUTH

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

Signed:



Dated:

19/4/2018

Appendix

I set out below corrections to inadvertent errors in the references to Exhibit EX1 in my first witness statement.

Paragraph	Reference to Exhibit EX1	Correct reference
Elvidge1/120	[EX1/C/2/110]	[EX1/C/2/117]
Elvidge1/145(d)	[EX1/D/41/1161]	[EX1/D/41/161]
Elvidge1/115	[EX1/B/90]	[EX1/A/7-10]
Elvidge1/150(a)	[EX1/B/61/275] [EX1/B/18A] [EX1/B/18A] [EX1/B/18A] [EX1/B/61/275]	[EX1/B/62/275] [EX1/B/18A/59.2-3] [EX1/B/18A/59.1-2] [EX1/B/18A/59.1] [EX1/B/62/275]
Elvidge1/158	[EX1/D/18]	[EX1/D/4]
Elvidge1/164(c)	[EX1/D/18/343]	[EX1/D/4/69]
Elvidge1/193	[EX1/B/37], [EX1/B/41]	No reference

Further, I set out below references to Exhibit EX1 in my first witness statement that should be accompanied by additional references.

Paragraph	Reference to Exhibit EX1	Additional reference
Elvidge1/51	[EX1/B/32/124-125]	[EX1/B/29,30]
Elvidge1/98(d)	[EX1/B/101]	[EX1/B/79]
Elvidge1/120	[EX1/B/53]	[EX1/B/57]
Elvidge1/124	[EX1/B/106] [EX1/B/106/621-624] [EX1/B/106/622-623]	[EX1/B/100] [EX1/B/100/546-549] [EX1/B/100/546-547]
Elvidge1/125	[EX1/B/106] [EX1/B/106/619-620]	[EX1/B/100] [EX1/B/106/544-545]
Elvidge1/126(b)	[EX1/B/106]	[EX1/B/100]
Elvidge1/127(a)	[EX1/B/101/579]	[EX1/B/79/388]

Rectifying amendments were made to my first witness statement prior to service on the LTDA on 16 April 2018.

Finally, I should note one inadvertent error to Exhibit EX1 itself. The attachments to the letters from ULL to TfL at [EX1/B/72] and [EX1/B/77] were missing from Exhibit EX1, but are exhibited at [HC-1/B/4-5].

**Appellant
T ELVIDGE
Third
EX3
19 April 2018**

IN THE WESTMINSTER MAGISTRATES' COURT

BETWEEN

UBER LONDON LIMITED

Appellant

- and -

TRANSPORT FOR LONDON

Respondent

EXHIBIT "[EX3]"

This is to confirm that I have seen all of the documents referred to in the Third Witness Statement of Thomas Elvidge dated 19 April 2018 in the Exhibit marked "[EX3]".


.....
Thomas Elvidge

Dated 19/4/2018