



Transport for London

CONFIDENTIAL

From: Graham Robinson, General Manager, Taxi and Private Hire

To: Helen Chapman, Director, Licensing, Regulation and Charging

Subject: **OLA UK PRIVATE LIMITED (T/A “OLA”) – DECISION ON RENEWAL OF LONDON PHV OPERATOR’S LICENCE**

Date: 3 October 2020

INTRODUCTION AND BACKGROUND

1. Ola UK Private Limited (“Ola”) is a subsidiary of Ola Cabs, a transportation company which has operated since 2011 in various major Indian cities and since 2018 in Australia and New Zealand.
2. Ola first applied to Transport for London (TfL) for a London Private Hire Vehicles (PHV) operator’s licence on 9 August 2018. Its stated intention was to offer an exclusive app-based on-demand private hire service and taxi (black cab) service. At the same time, it was expanding its services across other countries outside India (including Australia, New Zealand and the Netherlands).
3. In and around early 2019, we understand that Ola submitted applications to be licensed in all 315 licensing areas in the UK. It had been granted 59 UK licences including in Manchester, Birmingham and Liverpool by July 2019.

4. Currently, we understand that Ola holds 82 licences, with one provisionally granted, one refused and 17 applications pending a decision.
5. In the course of considering Ola's 2019 application, TfL: (a) observed a technical demonstration of Ola's operating systems; (b) carried out a compliance inspection, and; (c) received assurances regarding the circumstances in which Ola was refused an operator's licence application in Glasgow. Ola also kept TfL informed of its plans to launch operations in other UK licensing areas.
6. TfL granted Ola a London PHV operator's licence on 4 July 2019 for a period of 15 months, subject to non-prescribed licence conditions which were numbered 1 to 7. Ola informed TfL that it was keen to implement lessons learnt from service delivery in Birmingham, Cardiff and elsewhere. At the time of grant, Ola said it would need a period of time, approximately 90 days, before launching its services in London to ensure that the necessary internal processes and systems were in place. Ultimately, Ola took rather longer to launch in London: its private hire services were formally launched on 10 February 2020. Ola's taxi services have not yet been launched in London. Ola's current licence expires on 3 October 2020.
7. Ola is one of London's largest PHV operators (it is one of only two PHV operators with a licence to operate more than 10,000 vehicles). As at the week ending 27 September 2020, 108,785 individuals held a London PHV driver's licence and there were 89,449 vehicles licensed to provide London PHV services. Of those, Ola's upload of data to TfL's records shows that [REDACTED] drivers and [REDACTED] vehicles were available to Ola in that week, although a number of these drivers are likely to be registered with more than one private hire operator and may not have actually carried out any Ola bookings.

CURRENT APPLICATION

8. Ola made an application for the renewal of its London PHV operator's licence on 21 August 2020 for a period of five years to operate with 10,001 or more vehicles.
9. Ola's application was supported by a covering note from Ola's Operations Director, Karl Lutzow, inviting TfL to make contact if clarifications or additional information was required. Five subsets of supplementary information and two zip files were attached setting out material in support of the application. These included documents outlining Ola's 'technical solution', team structure, future strategy, service launch plans, customer and driver terms and conditions, and a list of licence application outcomes elsewhere in the UK.
10. Before granting Ola a PHV operator's licence, TfL must be satisfied that it is a fit and proper person to hold such a licence under section 3(3) of the Private Hire Vehicles (London) Act 1998 ("the 1998 Act"). When determining whether an applicant is a fit and proper person, TfL may take into account "*anything which a reasonable and fair-minded decision maker, acting in good faith and with proper regard to the interest both of the public and the applicant, could properly think it right to rely on.*" That includes evidence of how an operator has conducted itself in the past, where relevant.
11. In considering whether Ola is a fit and proper person to hold a PHV operator's licence, TfL has had regard to all the matters set out in this Decision Note.

PART 1: RELEVANT LEGISLATION

12. The 1998 Act is the primary legislation that applies to the licensing of private hire vehicles, drivers and operators in London. It covers any vehicle seating eight or fewer passengers that is made available for hire with a driver to carry passengers, apart from public service vehicles and taxis (s. 1(1)). PHVs in London are subject to a regime that is distinct from black taxis or "hackney carriages" and is distinct from the regime that regulates PHVs in the rest of

England and Wales, which is set out in the Local Government (Miscellaneous Provisions) Act 1976.

13. Section 2(1) of the 1998 Act provides that no person shall make provision for the invitation or acceptance of, or accept, private hire bookings unless he is the holder of a private hire vehicle operator's licence for London. A person who makes provision for the invitation or acceptance of private hire bookings, or who accepts such a booking, in contravention of section 2 of the 1998 Act is guilty of a criminal offence (s. 2(2)).
14. Section 4 of the 1998 Act provides that the holder of a London PHV operator's licence shall not in London accept a private hire booking other than at an operating centre specified in his licence. A London PHV operator that contravenes that provision is guilty of an offence (section 4(5)).
15. TfL is empowered by ss. 3, 7 and 13 (read together with s. 32(1)) of the 1998 Act to issue private hire vehicles, drivers and operators' licences and to prescribe licence conditions by way of regulations in addition to those contained in the 1998 Act.
16. The regulations that prescribe those additional licence conditions are:
 - a) for vehicle licences, the Private Hire Vehicles (London PHV Licences) Regulations 2004;
 - b) for driver's licences, the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003 ("the 2003 Regulations");
 - c) for operators' licences, the Private Hire Vehicles (London) (Operators' Licences) Regulations 2000 (SI 2000/3146) (the "Operator's Licence Regulations")
17. The relevant regulations for the purposes of this Note are the Operators' Licences Regulations, which are amended from time to time.

18. Section 3(3) of the 1998 Act sets out the requirements that must be satisfied before TfL can (and must) grant a licence. This provides that TfL shall grant an operator's licence where it is satisfied that the applicant is a "*fit and proper person*" to hold a London PHV operator's licence.
19. The phrase "*fit and proper*" is used in a number of statutory contexts, but its meaning is context-specific: a person who may be "*fit and proper*" for the purposes of one licensing regime may not be for the purposes of another. The Courts have confirmed that licensing authorities may take into account "*anything which a reasonable and fair-minded decision maker, acting in good faith and with proper regard to the interests both of the public and the applicant, could properly think it right to rely on.*" In addition, the Courts have accepted that past misconduct by the licence holder is a relevant consideration to consider in every case when considering whether to renew a licence. The weight to be accorded to past conduct will depend on the particular circumstances of the case.
20. TfL publishes a guide for applicants who are applying for a London PHV operator's licence and Part 4 refers to the statutory requirement that the applicant is a fit and proper person. The guide sets out the process that TfL will follow in reaching decisions on applications for operator's licence(s). It also clarifies that TfL may impose bespoke conditions on individual licences in particular circumstances. Amongst the criteria for assessing operator's licence applications are:

"Section 3(3) (a) - the applicant must be a "fit and proper" person. In order to be considered as such, applicants will be expected to demonstrate that they have complied with other legal requirements connected with running a business. Failure to do so could result in the refusal of an application."
21. The guide also sets out the other factors that TfL will consider when determining whether a person is fit and proper to hold a licence including the requirement for applicants to declare any prior convictions, bankruptcy, director disqualification orders, requirements relating to health and safety, accounts and insurance, provide proof that the operating centre complies with local planning regulations, supply evidence of their right to work and reside in the UK and provide details of

any prior licence refusals, revocations or suspensions. It also explains in part 4b that part of the consideration of an operator's licence application is an inspection of any operating centre(s) named in the application form, and applicants must show that they comply with all of the administrative obligations listed in Part 4.

22. Section 3(5) of the 1998 Act provides that “*a London PHV operator’s licence shall be granted for five years or such shorter period as the licensing authority may consider appropriate in the circumstances of the case*”. This confers a broad discretion on TfL to decide the duration of any particular licence. The discretion must be exercised for proper and rational reasons, but there are no constraints imposed in the legislation on the kind of factors that might justify the grant of a licence for less than five years in any particular case.
23. As set out in the recently published Statutory Guidance, published by the Department for Transport, licences may not be granted on a probationary basis (TfL has always been of this view in any event). A licence of a shorter duration should not be granted as a means for an operator to demonstrate that they are fit and proper to hold a licence: if they are not fit and proper the application should be refused.
24. Section 3(4) of the 1998 Act also provides a wide discretion for TfL to impose specific conditions on individual licences: “*A London PHV operator’s licence shall be granted subject to such conditions as may be prescribed and such other conditions as the licensing authority may think fit.*” Once again, Parliament has conferred a broad discretion on TfL to impose conditions on an operator’s licence, as long as those conditions are rational and otherwise lawful. Section 3(7) provides that an applicant for a PHV operator’s licence may appeal a decision to impose a condition on a licence to the magistrate’s court.
25. Section 3(7) of the 1998 Act also provides that an applicant for a PHV operator’s licence may appeal to the magistrates’ court against a decision not to grant such a licence. The provisions of sections 25 and 26 apply to any such appeal.

PART 2: CHRONOLOGY OF RELEVANT EVENTS

26. This section sets out the background facts that are relevant to Ola's application to renew its licence. It also captures some of TfL's conclusions in relation to those facts. Each of the relevant matters – and TfL's final conclusions in relation to them – are set out comprehensively in Part 3 below.
27. Condition 1 of Ola's licence required Ola to provide an Independent Assurance Report by 4 July 2020. TfL recognised the unprecedented impact of the coronavirus pandemic on the PHV sector and, based on updates received from Ola about the progress of preparing the report (on 13 July 2020 they had indicated it would likely be submitted by end of July), TfL agreed on 3 August 2020 to an extension until 28 August 2020. TfL could not provide an extension beyond that point because TfL needed sufficient time to consider the report in advance of any final licensing decision on or before 3 October 2020.
28. Ola did not deliver a report by the agreed extended deadline date of 28 August 2020. Indeed it appears, from the report itself, that CMS Cameron Mckenna Nabarro Olswang LLP ("CMS") was instructed to work on the Independent Assurance Report on 27 August 2020, nearly eight weeks after its original due date and only one day before the agreed new date that the report was due. TfL received the Independent Assurance Report on 11 September 2020, leaving only three weeks to consider its contents before the expiry of Ola's licence.
29. The late delivery of the Report has made it more difficult (because of the shortage of time) for TfL to consider all the material provided by Ola, explore further matters that have arisen, and reach a final decision as to the renewal of its licence. There are always some outstanding questions, or areas of factual uncertainty, when TfL takes a licence decision of this kind. Some of the areas where TfL does not have a complete factual picture are identified below. TfL has concluded that it has sufficient information on which to reach a decision as to the renewal of Ola's licence.

Ola self-reports on 25 August 2020

30. On 25 August 2020, prior to providing the Assurance Report, Ola wrote to TfL and provided details of a significant number of record-keeping and screening irregularities that it had identified as part of its internal compliance process.
31. Ola's letter said that public safety and regulatory compliance are at the core of its business philosophy and that it constantly endeavours to detect any events of non-compliance and also regularly strengthens its processes, systems and governance to ensure compliance as far as it possibly can.
32. Ola said that upon detection, the issues received attention from the most senior levels of its UK operations, as well as its global executive management team and have been dealt with as its highest priority. Ola gave assurances that all drivers and vehicles for whom it did not have current and valid documents in its system had now been blocked from undertaking bookings on its platform.
33. Ola explained that it undertook an internal audit exercise in July and August 2020 to assure the effectiveness of the processes and systems it had in place for its operations in London (where it had launched in February 2020).
34. Ola provided an introduction to the issues it had identified and explained that, in order to ensure that only drivers with valid documentation provide bookings on the Ola platform, it digitises all document expiry dates at the time of registering (or "onboarding") drivers and when documents are updated upon expiry. It explained that, based on the digitised dates, Ola runs a set of compliance rules which show a 'booking blocker' to a driver when their own documents or the vehicle documents expire thereby preventing the driver from accepting bookings. Ola said that the internal audit identified a number of cases where, either as a consequence of previously unidentified design fault modes or human error, the safeguarding system had not operated as planned.
35. As Ola's letter explained, it had experienced four broad categories of error within its booking blocker system with several sub-categories in each of these broad categories. It set out each of the issues and the measures taken to correct them:

- a) **Failure to capture expiry dates of some documents accurately in Ola's core system** (on which Ola says that the compliance engine that blocks bookings from being taken runs). The first sub-category that Ola described was that this was a consequence of system sync errors which means that Ola's normal compliance rules did not successfully run in the absence of expiry dates of certain documents on the core system and therefore drivers were able to take bookings even though their documents were expiring. Ola said that it had, at the time of its letter, collected valid documentation for all but two drivers covering 362 journeys which was from an "initial population of 6 drivers covering 762 journeys rides"

A further sub-category Ola explained was Incorrect 'digitisation' (where expiry dates were wrongly digitised due to manual error), allowing drivers to take bookings post document expiry. Ola said it had identified two cases and 16 journeys where expiry dates were wrongly digitised.

Missing 'digitisation' fields due to a technical error was another sub-category identified which meant that, for one case, the expiry date field was unavailable. Therefore, expiry dates could not be digitised, and compliance rules did not run for some documents. Ola said that, at the time of the letter, it held valid documentation for two drivers and 105 journeys.

Ola also said that due to a digitisation issue, the expiry dates of some drivers' permissions to drive at the time of onboarding and subsequent self-serve update were not captured. Ola said it had identified 80 drivers who had carried out 13,310 journeys that may have been provided without the relevant permissions to drive.

Ola said it had taken measures to ensure that the synchronisation issues had been resolved and do not re-occur although did not explain what those measures were. It also said it had instituted proactive reporting from error logs to check for fields which have not synced. Ola further stated that it had tightened its compliance rules so that any absence of data will lead to a block being implemented. Other measures Ola said it had taken to address the above issues included adding "*trained resources to complete 100% quality*

checks within 6 hours of ticket approval” – it said previously the quality checks could take between 24-72 hours – and an additional layer of check in the form of daily sample checks meaning that it has four levels of checks on all digitisation processes. Ola also said it would be reducing the need for manual digitisation which will be implemented in a phased manner.

- b) **Ola’s Compliance engine did not function as planned in some cases.** In particular, when a ‘redigitisation’ ticket was open on Ola’s system it said that the compliance rules to block drivers with expired licences from taking bookings did not operate. Ola said that it had obtained valid documents covering the non-compliance period for all but seven cases associated with 316 journeys out of an *“initial discrepancy pool of 72 drivers and 2,466 journeys”*. It also referred to certain other documents being re-digitised due to internal process changes and that it had obtained valid documents for all but 27 drivers and 581 journeys (out of 464 cases and 12,567 journeys). Ola said that an additional 1,040 drivers were identified with such discrepancies but did not take journeys on the Ola platform. Ola explained that the root cause of this problem has been fixed and compliance rules will work in all such cases in the future – i.e. it said that the compliance blocker has been updated to run irrespective of the digitisation state of the document.

Ola also referred to drivers being able to take journeys with expired documentation on its system because the normal compliance rules were not switched on for test categories due to human error. It said that it had not yet received valid documentation for one case accounting for four journeys out of an initial four cases and 18 journeys. Ola said that amendments have been made and include the mandatory switch on of compliance rules.

In addition, Ola referred to its compliance rules requiring drivers to go off-duty post the expiry of their documents on the system but this check was limited to documents expiring in the next 24 hours. It said that, where drivers stayed logged in for more than 24 hours, the driver was not forced to go off-duty post expiry of the relevant document. It said it held valid documentation for all the affected 53 drivers and 537 journeys. This issue is said to be resolved by

running the compliance check every 24 hours regardless of log-in status and Ola has implemented a more stringent automated process for checking every car/driver at [REDACTED] every day, irrespective of whether the driver has logged off or not.

Ola also referred to technical glitches in which the communication between the compliance engine and driver app timed out. Ola said this affected 203 cases and that 91 journeys were identified and documents had been received for all but two cases and three journeys. Ola said it had configured its compliance engine so that any failure or time-out issue will prevent drivers from logging in.

- c) **Incorrect documents were inadvertently verified.** Ola said that this had occurred in various ways. Those included: (i) failures to check vehicle documents after any document is re-submitted (Ola said that valid documents in relation to all but six cases and 343 journeys had now been collected with an initial impact pool of 34 cases and 2,644 journeys); (ii) accepting post-dated documents and allowing drivers to take bookings (Ola said that this affected 63 cases with 594 journeys), and (iii) delays in completing some of the quality checks on all accepted onboarding applications which meant that any wrongly accepted driver/vehicle was not immediately 'off-roaded' (Ola said that these delays allowed 880 drivers to take 2,537 journeys before being removed).

Ola explained the measures it had taken to correct these which included making it mandatory for drivers to re-upload all vehicle documents if they edit vehicle details in their application and other onboarding changes were made, making the validity start date compulsory for all documents. Furthermore, as noted above, Ola has assigned additional manpower to conduct quality checks at onboarding and self-serve within 6 hours (rather than 24-72 hours) of application approval. It said it was also planning to add system guidance and checklists for its agents to ensure steps are not missed.

- d) **Incorrect weekly reporting.** Ola said that, due to a misunderstanding of the data that TfL was requesting, its weekly reporting of its upload containing a

list of all drivers and vehicles available to Ola in that week has been inadvertently erroneous and there were errors in the data set. This has continued from their launch up to 'week 29' (which we take to mean up to Monday 24 August 2020). Ola said that it now had a full understanding of the operator upload requirement and that it was correcting certain errors in the data sets it had provided and introducing both electronic and manual "*sanity checking*" to ensure that the correct data is accurately and promptly reported. From that point onwards each report will be validated by 2 analysts and an operations lead before being uploaded. Ola committed to resubmit all driver and vehicle data from the affected weeks. TfL received this data on 2 October 2020 and will begin an assessment.

36. Ola explained that the net effect of all of the above errors was that it was missing documentation for 90 unique drivers who took 2,426 journeys.
37. Ola's letter of 25 August 2020 also explained certain other corrective measures it had taken including increased daily reports covering all active drivers and vehicles in the system to identify any cases of expired documents on a daily basis. Those reports are reviewed by a committee of operational team members and a dedicated data analyst. It also referred to a team comprising Ola's UK Managing Director, UK Legal and Compliance Head, Nominated Representative, Group Technology Head, Group Business Excellence Head and Group General Counsel which would undertake a thorough weekly review of the compliance status with operations and compliance team. For its systems, it said that it has also initiated system reports to identify any failure proactively by running a 3 hourly check to identify any sync or time-out issues. Ola also identified certain structural product and process enhancements which were in place to ensure that problems were proactively identified and dealt with.

TfL letter to Ola on 8 September 2020

38. The issues raised in Ola's letter of 25 August 2020 gave TfL cause for concern. It indicated that Ola's systems had failed in a number of different and important respects and that these failures had potentially compromised the safety of thousands of passengers. TfL was also concerned that Ola's letter did not

provide any supporting data to enable TfL fully to understand the extent of the issues identified (Ola only provided the raw figures that it had calculated). Furthermore, TfL did not consider that sufficient information and explanation had been provided as to: (i) the extent of the issues; (ii) the impact of these failures/issues on Ola's drivers or vehicles; and (iii) which drivers or vehicles were affected by them. Given the variety and scale of the errors, TfL also wanted additional clarity so that it could be assured that the measures put in place would prevent reoccurrence of the potentially serious public safety issues disclosed by Ola.

39. TfL therefore wrote to Ola on 8 September 2020 seeking further information in relation to every breach/failure/issue identified including details as to the exact nature of each, details of the TfL licence reference number and driver and/or vehicle details, the number of trips undertaken where documentation was not in place and, the relevant date(s). TfL also requested a full description of Ola's current onboarding process for drivers and the checks it undertakes of drivers already on-boarded with Ola. TfL also sought confirmation that Ola used the TfL Licence Checker in compliance with Condition 7 which requires Ola to confirm the validity of both the PHV driver's licence and the PHV licence before making that driver and vehicle available to carry out private hire bookings.

Ola's response on 14 September 2020

40. On 14 September 2020, Ola responded and provided some further information in relation to each of the issues and the related remedial action taken. The letter summarised all of the issues and failures it had identified and provided separate breakdowns of all the records affected by each respective issue. However, the underlying scope and substance of the issue was still not clear to TfL and the accompanying spreadsheet of data did not provide TfL with sufficient clarity for the following reasons:
 - a) The explanation of each of the failures/issues identified by Ola remained unclear to TfL and so it could not fully understand what every failure/issue was. TfL considered that the issues had been explained in a manner that meant they could only be understood by someone with a detailed

understanding of Ola's systems. For obvious reasons, nobody within TfL had that in-depth knowledge;

- b) TfL did not understand the meaning or context of the data fields that had been provided within each of the tabs for each separate system failure/issue identified and the corresponding records that had been affected by the failure/issue. It was not possible to make sense of the significance of the data or the extent of each failure/issue; and
 - c) The dates upon which each failure/issue was identified were confusing because they suggested that some of the underlying issues had been identified by Ola in June 2020. However, Ola also explained in its 25 August 2020 letter that the internal audit identifying the issues had taken place in July-August 2020.
41. The information was presented in an excel spreadsheet attached as Annex 1. Unfortunately TfL did not consider that the data was sufficiently explained or clearly presented and consequently found the spreadsheet to be confusing.
42. The data in Annex 1 contained 14 tabs in total:
- a) One tab was a summary of the scope of the failures/issues;
 - b) One tab contained data for all the identified records affected by the failures/issues; and
 - c) 12 tabs contained the details of each separate system failure/issue identified and the corresponding records that had been affected by the failure/issue, along with additional data that Ola believed was relevant.
43. The summary of the data provided in Annex 1 stated that the above issues had impacted 2,467 unique drivers and vehicles who had carried out 35,467 journeys. Ola said that as of 25 August 2020, paperwork had not been 'recovered' for 170 drivers/vehicles (amounting to 15,736 journeys), and that, as of 11 September 2020 (following receipt of further documentation), paperwork had not been recovered for 124 drivers/vehicles (amounting to 8,283 journeys). TfL understood

this to mean that although Ola had subsequently been provided with the valid documents (in the majority of cases), it had not held the necessary information or documents at the relevant time, in accordance with its record keeping obligations.

44. Ola also attached as Annex 2 details of its current onboarding and documentation validation process, which it said it had provided to TfL in December 2019. It said that the process had been updated and that additional checks and balances had been included to address the issues identified in its 25 August 2020 letter. In relation to the licence checker, Ola said “*As agreed with TfL, we continue to review 100% of PHDL and PHVL against the TfL Licence Checker on a quarterly basis*” which it said was due to change imminently to a daily basis when the licence checker is replaced by the daily upload of csv files.

TfL and Ola Zoom Conference: 16 September 2020

45. TfL subsequently arranged a meeting with Ola via Zoom Conference on 16 September 2020 to better understand all the issues. In attendance from TfL were Michael Stack – Interim Head of Licensing, Simone Oyekanmi – Licensing Manager, Martin Haver - Assistant Compliance Operations Manager and Laura Carleton – Stakeholder support. Ola had 10 representatives on the call including Karl Lutzow – Nominated Representative, Andrew Winterton – Senior Director of Legal, Compliance and Regulation; Marc Rozendal – UK Managing Director and Nitin Banerjee, Group General Counsel.
46. At the meeting, TfL asked Ola to provide a step-by-step explanation of the issues and failures in relation to specific driver and vehicle records. Ola explained the various issues in the course of the meeting. TfL asked Ola to provide further information in relation to all of the records that had been identified and to provide a clear explanation of each failure/issue, so TfL could understand the nature and extent of each failure/issue and the checks that Ola had conducted (including timing) for each of those failures/issues. Ola was also asked to explain where any breach of the licensing regime was believed to have occurred. Additional information was provided to TfL by Ola in a letter dated 22 September 2020 which was received on 23 September 2020 (see below).

47. In the course of the Zoom meeting on 16 September 2020, it became clearer to TfL that – as a consequence of some of Ola’s systems failures – it was possible that Ola may have been using unlicensed drivers. The exact details had not been clear from the initial information provided in previous correspondence which was a significant concern. TfL needed to fully understand which of the 2,467 drivers and vehicles (that Ola said had been affected by the issues) were of concern.
48. TfL highlighted to Ola why the use of unlicensed drivers to provide trips is a serious safety concern. In simple terms, the driver in question could pose a significant risk to the public – an unlicensed driver might not have the necessary and up to date criminal background checks and medical checks for example. Indeed, the driver may have previously had their licence revoked by TfL for serious misconduct and/or inappropriate behaviour towards passengers. Furthermore, the driver would be uninsured (thus placing the passenger and the general public at considerable risk).
49. I understand from those who participated in the call that they formed a clear impression from Ola’s responses, in the course of the discussion, that Ola had not previously appreciated the seriousness of this issue and the potential seriousness of the issues set out in its 25 August letter.

TfL’s first compliance inspection

50. On the same date as the 16 September Zoom call, TfL also conducted an announced compliance inspection of Ola’s operating centre between 16 and 18 September 2020. This was undertaken by eight Compliance Officers both virtually and in person who applied the ordinary standard when conducting inspections of this kind. The purpose of the inspection was to verify that Ola has in place the following as a minimum:
- i. Customer booking confirmation and overall booking processes for all bookings;
 - ii. A system for providing accurate fare estimates;

- iii. A system for creating and retaining driver and booking records;
 - iv. Any new requirements set out in regulations changes;
 - v. A full set of vehicle records including insurance certificates and Motor Insurance Bureau records;
 - vi. Records of complaints and lost property, which included the complaints that have recently been investigated as referred to above (a thorough check was undertaken on Ola's driver dismissal and complaints process);
 - vii. Advertising to ensure it complies with section 31 of the 1998 Act; and
 - viii. Relevant documents either held or displayed at the operating centre, such as public and employer liability insurance, operator's licence and VAT registration certificates.
51. During a standard compliance inspection, each item of non-compliance with the 1998 Act and the relevant PHV regulations is scored. At the end of the inspection, operators may be given an indicative score between one and seven. However, Compliance Officers sometimes take some time afterwards to reach a conclusion as to the final score. Operators are given a series of follow-up actions within various categories. These are based on TfL's Grading Categories guidelines. The lower the score, the greater the level of compliance with the licensing requirements that has been demonstrated by the operator. A score of 5 or less confirms that the operator is generally compliant with their licensing requirements. However, a higher number indicates that the omissions are increasingly serious. If a higher score is awarded, the next compliance inspection will take place more quickly or it could result in a referral for a licensing decision which may include the suspension or revocation of a licence.
52. Unless there is a significant safety concern, operators are given an opportunity to rectify any identified areas of non-compliance during the inspection, before it is finalised.

53. The Compliance team undertook a sample check of 1,715 driver and vehicle records during the compliance inspection selecting a randomised date of 29 August 2020. Due to the number of drivers and vehicles that Ola uses each day, the sample checked was relatively small and checks of this kind are, of course, not capable of uncovering all possible issues.
54. When this was raised with Karl Lutzow, Nominated Representative, he stated that it was captured and he would be able to request a new report with the information available.
55. None of the driver records provided to TfL during the inspection contained date of birth or National Insurance numbers. When the lack of National Insurance numbers was raised with the Nominated Representative, Karl Lutzow, he stated that the data was captured as part of the registration process and he would be able to request a new report with the information available. As for dates of birth, Paul Kane, Ola representative, advised that this information was not being recorded due to the data being present on the DVLA driving licence. After being made aware of this, he said that it would be available for the next inspection. In addition, there were also driver records that recorded different addresses to those entered on the TfL issued licence and the DVLA driving licence checker.
56. The Compliance team checked whether any of the bookings within the sample had been fulfilled by unlicensed drivers and/or vehicles; none of them had.
57. The Compliance team also identified a number of problems with the vehicle records that they inspected. A number of vehicles, that Ola had allowed to be used for the purposes of PHV services, did not have a second MOT date recorded. Others had a number of other safety related-issues. For example, of vehicle records assessed during the inspection:
 - Three vehicle records did not include the most recent paper licence;
 - Two vehicle records had no evidence of a 2nd MOT;
 - Two vehicle records did not have a 2nd MOT Certificate on file; and

- In two cases, the registered keeper had been registered with different addresses on more than one document provided to, and accepted by, Ola.
58. With respect to the three vehicles found during the inspection to have undertaken bookings at a time when – according to Ola’s own records - there was no TfL vehicle licence in place, it is now clear that the documents had recently expired but a copy of the new licence had subsequently been obtained. However, the critical point – from TfL’s perspective – is that the relevant records were not available to Ola at the time, but Ola was nonetheless making those vehicles available to provide PHV services. As set out further below, this is a significant breach of the licensing regime.
59. The final day of the inspection was reserved for TfL to review specific complaints and track these against PHV/105 notifications of suspension or dismissal forms received by TfL. The inspectors also planned to review any serious complaints that had been received by Ola in the last 72 hours and ensure these had been handled appropriately. Finally, it was intended that TfL would review Ola’s lost property processes to ensure it was meeting its obligations in this regard.
60. However, Ola notified TfL’s Compliance Team that a member of its team had exhibited symptoms of Covid-19. As a result, the final day of the compliance inspection was carried out remotely, with details of the records being shared with TfL electronically for review.
61. The TfL Compliance Officers have reported that it took a significant amount of time for the requested lost property and complaints records to be provided via the secure portal that Ola advised would be available.
62. Complaints records requested from Ola at approximately 10am on 18 September 2020 were only received around 3pm. TfL recognises that the circumstances were unusual and that some additional time might be expected to be required in order to deliver the material remotely. However, the length of time taken to provide the records was considerable, even allowing for the circumstances. This

has caused TfL to have some doubts about Ola's ability to rapidly and readily obtain access to its own basic data.

63. Once received, the complaints records were listed by 'ticket numbers', but did not contain the relevant driver or vehicle licence numbers. As a result, correlating the complaint received to the actual driver or vehicle record was not possible without further information being provided. The requested records were subsequently provided to TfL on Tuesday 29 September 2020 and will require further analysis.
64. Nonetheless, TfL's Compliance Officers noted a number of complaints where the passenger had reported to Ola that the driver that carried out the booking did not look like the driver in the confirmation image provided by Ola. This may indicate that fraudulent behaviour has occurred and that the wrong individual – including possibly unlicensed drivers – has been undertaking bookings and requires further investigation. Given that very little time has passed since the inspection, to pursue this matter in full, TfL has presumed – in Ola's favour – that this is not the case but will conduct a further investigation on this point.
65. TfL's Compliance Officers also requested Ola's lost property record. Once received, it was noted that the records, were listed by 'ticket numbers' only. The information provided did not contain the driver or vehicle licence numbers. Therefore, correlating the complaint received to the actual driver or vehicle record was not possible at the time without the provision of further information by Ola. TfL's Compliance Officers awarded Ola a Category 7. This is the lowest possible score category for a PHV operator inspection. A score of 7 is not necessarily enough, on its own, to lead TfL to conclude that an operator's licence should be suspended or revoked. However, it might cause TfL to refer the matter for licensing action.

Ola's letter to TfL on 23 September 2020

66. Returning to the main chain of correspondence between the parties, Ola wrote to TfL in a letter dated 22 September 2020 which was received on 23 September

2020, providing an explanation of the 124 cases that were discussed during the Zoom meeting on 16 September 2020. It explained that from its review of these cases, it had previously taken an “*extremely cautious approach*” and had overstated the number of drivers and journeys for some of the issues disclosed in its previous letter and in the data presented to TfL during the meeting. Ola said that 86 cases were proven compliant because Ola had: either now identified that the purportedly missing documents were actually available on its systems at the time when journeys were undertaken; or the documents were received from drivers or relevant third parties (insurers/PCO vehicle operators) after the event. 18 cases involved post-dated private hire driver licences where copies of the valid private hire driver licences were not kept at the time of onboarding although the latest private hire driver licences are now on file. There remained 20 drivers/vehicles in respect of which Ola had still not been able to obtain any documents despite multiple communications. Those drivers had now been blocked from undertaken bookings for Ola. The letter provided a revised position in relation to each of the issues previously raised and also provided a separate excel spreadsheet with relevant details for each of the 124 drivers discussed at the 16 September meeting.

67. However, the update only contained data in relation to the 124 records that Ola believed were still ‘unresolved.’ TfL understands Ola to mean by this that these were the cases in respect of which it had not been able to retrospectively identify that the necessary documents (such as licenses or insurance documents) that Ola should have had on its systems at the relevant time were actually in place (albeit not held by Ola) Alternatively, they were on Ola’s systems but not properly ‘synced’ to the relevant database. TfL has some concerns about this approach. The relevant underlying breach is not only that there may be some cases of uninsured or unlicensed operations. It is also that Ola did not hold (and did not know it lacked) certain key documents at the relevant time. Ola is required, by s. 4(2) of the 1998 Act, and the conditions of its licence, to have that material available to it before a driver/vehicle is permitted to provide services via its platform. TfL expects all licensed operators to hold the necessary information and to store the relevant documentation that they are legally obliged to hold in an easily retrievable way.

68. Ola also explained the reason why it took so long to report the issues to TfL. It said that the internal audit was instigated on 20 June 2020 and the sample audit was completed on 14 July 2020. As the internal audit uncovered some irregularities, Ola said it took the decision to audit the entire database of TfL drivers in the course of which the list of issues expanded to the 11 issues reported. It explained that because the issues were identified in succession, this extended the time required to investigate fully until mid-August 2020 and it wanted to ensure that the root cause of each issue had been identified and all infringements had been identified whether related to record keeping or licence infringement.

TfL letter to Ola on 24 September 2020 stating that it is minded to revoke Ola's licence

69. Having considered these matters, on 24 September 2020 TfL wrote to Ola setting out its concerns about the matters set out above and advised that it was, at that time, considering an immediate revocation of its PHV operator's licence on public safety grounds. Given the seriousness of such a decision, and the need for urgency in a case of this kind, TfL asked Ola to respond by midday on 25 September 2020.

Zoom conference between TfL and Ola 24 September 2020

70. At the request of Ola, and following receipt of TfL's letter, a meeting was arranged via Zoom Conference on 24 September 2020. In attendance from TfL were Simone Oyekanmi and Laura Carleton. Three representatives from Ola, Karl Lutzow, Andrew Winterton and Nitin Banerjee attended. Ola's representatives expressed concerns about the content of TfL's letter but indicated that they understood the seriousness of the matters it identified and requested further clarification as to what information TfL required. They also sought clarity on the expected response to each of the points in the letter and explored the possibility of an extension to the deadline provided. Ola confirmed that it had yet to receive its inspection outcome letter and may be unable to comment fully on this particular aspect.

71. TfL reiterated the importance of looking at each area of concern highlighted and providing a detailed but clear response. Ola confirmed that it would set out a full response and provide evidence to demonstrate why TfL could have full confidence in its business processes. Ola also confirmed that it had access to the TfL's Operators Handbook Guidance and the Compliance Weighting and Grading Scale document, to confirm its understanding of its obligations and to assist with its response. An online version of the Compliance Weighting and Grading Scale document was sent to Karl Lutzow during the meeting to aid Ola's understanding of the inspection outcome letter, once received. TfL declined Ola's request for an extension to the set response deadline because of the importance of the public safety concerns set out in TfL's letter of that date.

Ola's letter of 25 September 2020

72. On 25 September 2020, Ola responded to TfL's "minded to" revoke letter. It said that a decision to revoke would be disproportionate and out of step with the manner in which other similarly situated operators have been treated and TfL should not impose such a draconian step on it. It noted that this is the first time Ola had failed in its responsibilities to TfL, no member of the public had come to any harm, each issue had been self-reported, it had made very significant efforts to ensure that these issues cannot arise again and it had not had an opportunity to review or comment on the findings of TfL's audit conducted on 16 - 18 September 2020.
73. Ola stated that its owners and Directors take their responsibilities for compliance very seriously and will work tirelessly to deliver the necessary compliance and changes needed. It also said that whether failings have been due to processes, staff, design or systems, they have been uniformly and systematically reviewed and appropriate actions have been taken and changes made to strengthen compliance processes have been outlined in great detail in its previous correspondence. It said "*we continue to learn and evolve our compliance processes, designs and systems to ensure compliance with our license conditions*".

74. In an exhibit to its 25 September 2020 letter, Ola provided the details of 21 records that it believed were the sole cases yet to be “resolved” (i.e. that it has not been able to retrospectively identify the relevant documentation). Ola asked for TfL’s assistance in finding those documents.

Microsoft Teams meeting between TfL and Ola 25 September 2020

75. Ola also requested a meeting with TfL to provide verbal representations in advance of any decision to revoke its licence with immediate effect. This meeting was arranged via Teams on 25 September 2020 with me, Michael Stack, Simone Oyekanmi and TfL’s TPH Information Manager Andrew Antoni. In attendance from Ola were Karl Lutzow, Andrew Winterton, Marc Rozendal, Nitin Banerjee and Gaurav Porwal.
76. During the meeting, Ola explained its various system issues and failures again and the measures that had been put in place to resolve them. Ola accepted that breaches of the licensing regime had occurred (i.e. its use of unlicensed drivers) and expressed regret for those breaches. It offered TfL assurance that there would be no further occurrences. TfL asked Ola for a formal written response setting out its position and its explanation of the background to these breaches and explained to Ola the importance of providing clear and precise explanations as it had found previous correspondence to be unclear. Ola agreed and said it would ensure that it clearly explained all of the issues and also how and why the supporting data provided to TfL has changed throughout the course of correspondence with TfL.

E-mail from TfL to Ola on 25 September 2020

77. Later on 25 September 2020, TfL sent an email to Ola confirming the urgent actions that had been agreed between the parties and clarified that Ola would need to provide further details of the following:
- i. A clear explanation with evidence as to why TfL can be assured that all bookings being undertaken by Ola are only fulfilled by London licensed private hire drivers and vehicles with the correct insurance in place;

- ii. A clear explanation as to how and why unlicensed drivers and / or vehicles have previously been used to fulfil bookings and what measures Ola has taken to rectify the issue and prevent reoccurrence; and
- iii. Clear and accurate data relating to the breaches that have been identified including clear reasoning as to why the previous data provided by Ola has changed over time, including a chronology of what has changed and how we can be assured that the data provided by Ola now is accurate.

78. During the meeting and in the follow-up email sent to Ola on 25 September 2020, TfL stressed the urgency of the matter and the importance to provide information in response to these questions as soon as it could over the course of the weekend so TfL could assess the risk to passenger safety. TfL said it would be acceptable for Ola to provide responses in iterations.

TfL sends separate letter about the outcome of the compliance inspection on 25 September 2020

79. On 25 September 2020, TfL also sent a letter to Ola containing the outcome of the announced compliance inspection that took place on 16 – 18 September 2020. Details of the outcome of that inspection are set out above.

Ola responds to the TfL compliance letter on 27 September 2020

80. Ola responded to the compliance inspection letter - in its letter of 27 September 2020 Ola explained that:

- a) The audit portal that was provided to the team during the inspection was not the only source of driver details but rather a portal that offers “*easy access to a sub-set of details*”. The letter suggested that this was explained on the inspection day and that details of driver Date of Birth and NI Numbers are held elsewhere on Ola’s systems.
- b) Ola accepted that there was a delay in providing the complaint information but stressed that, had TfL’s compliance officers been able to attend in person,

they would have seen the operation of Zendesk – the system used by Ola to record complaint information – which contains a comprehensive record of the relevant materials on request.

c) The same applies to the availability of lost property information.

TfL carries out further compliance inspection between 26 to 27 September 2020

81. TfL arranged for a further inspection of Ola’s booking records, systems and processes to take place on 26 and 27 September 2020 with the intention to:
- i. Review all bookings taken between Thursday 24 and Friday 25 September and conduct a subsequent check through the records to assure TfL that each booking was undertaken by a licensed driver and a licensed vehicle with the correct insurance in place.
 - ii. Obtain a list of all licensed drivers available to Ola on its platform from Monday 14 to Sunday 20 September so TfL can ensure the data matches up with the upload data provided by Ola on 21 September.
 - iii. Obtain a list of all licensed vehicles available to Ola on its platform from Monday 14 September to Sunday 20 September so TfL can ensure the data matches with the upload data provided by Ola on Monday 21 September.
 - iv. Review the list of 21 drivers and vehicles in respect of whom Ola has confirmed it does not have relevant documentation and who may have been unlicensed at the time that bookings were undertaken and confirm:
 1. Whether these were unlicensed at any time when bookings were carried out;
 2. That the data ranges when bookings were undertaken is accurate;
 3. That the number of trips is accurate; and
 4. That all documentation is available (licence, insurance, MOT)

82. When the officers reviewed the requested data for bookings that had been taken by Ola between 24 and 25 September 2020, TfL's Compliance team were informed by Ola that [REDACTED] jobs were taken on the platform. There were also [REDACTED] drivers on the platform and [REDACTED] vehicles. As a result of this, from the bookings that had been seen to have been taken, TfL Compliance Officers only checked a sample of 201 drivers and 201 vehicles. They also reviewed the records for the 21 drivers and vehicles in respect of whom Ola has confirmed it does not have relevant documentation and who may have been unlicensed at the time that bookings were undertaken.

83. The findings of that inspection were that:

a) Of the 201 driver records checked:

- i. It was identified that the National Insurance numbers and driver addresses were not available on any of the records. However, it recognised that it had been clarified by Ola that the National Insurance numbers were recorded as part of the registration process and recorded on a separate database and available upon request.

An example of such a report was requested by Karl Lutzow, Nominated Representative and was printed off and shown to the lead Assistant Compliance Manager, later on in the day, to demonstrate that Ola do request and capture National Insurance numbers;

- ii. The driver's addresses are available on the driving licences; and
- iii. Ola's database did not make provision for the insertion of a ceased/return date (i.e. the date on which the driver ceased to be available to Ola). It only made provision for an onboarding date. Regulation 13 of the Operator's Licences Regulations requires operators to keep a record of the date that a driver becomes available to them and the date they cease to be available.

b) Of the 201 vehicle records checked:

- i. Two vehicles were found to be non-compliant due to no MOT being on file;
 - ii. There were no start/ceased dates recorded in respect of vehicles. Regulation 12 of the Operator's Licences Regulations requires operators to keep a record of the date that a vehicle become available to them and the date it ceased to be available;
- c) The Compliance officers that attended the inspection also stated that they found Ola's system difficult to understand and interrogate due to its set up in that it is linked to another system that is accessed and controlled remotely by staff outside the Ola operating centre. They also indicated that no badge numbers were showing for the drivers and that identification is done through the driver's DVLA driving licence number or the vehicle's registration mark;
- d) Of the 21 specific driver and vehicles records reviewed, the officers identified issues with all of the records:
- i. 11 drivers were shown to not have a valid driver or vehicle licence in place during the times when bookings were undertaken;
 - ii. One driver did not have a valid licence but had not been seen to undertake any bookings;
 - iii. One vehicle did not have a record of the V5C logbook;
 - iv. Four vehicles did not have a record of the required insurance certificate;
 - v. Three vehicles had no record of a permission letter to drive;
 - vi. One vehicle was recorded as being an administration error as the correct licence was on file.
84. TfL retains concerns about Ola's systems and compliance, in particular the fact that MOT certificates could not be viewed, insurance certificates could not be found to be available for periods where bookings had been seen to be

undertaken and that required licence documents had not been obtained. All of which are serious matters given the impact on the safety of the travelling public.

85. TfL sets out its conclusions arising out of these two compliance inspections, when setting out its conclusions as to Ola's fitness and propriety below.

Ola provides a response letter to information requested on 27 September 2020

86. In the early hours of 28 September 2020, Ola provided a response (dated 27 September 2020) in relation to TfL's request for further clarification/information at the virtual meeting on 25 September 2020 and in the follow up email. Ola said that it genuinely believes that it is a compliant company that has invested significant time, resources and money into ensuring that it not only complies with TfL's requirements but gives the public the best and safest possible experience. Ola included with its letter materials and detailed responses to the questions raised. It referred to the detailed checklists and operating procedures which are implemented for driver onboarding and subsequent validation of driver/vehicle documents received on its driver self-service portal, which it said it hoped would give comfort to the rigour of its processes.
87. In response to TfL's question as to why it can be assured that all bookings being undertaken by Ola are only fulfilled by London licensed private hire drivers and vehicles with the correct insurance in place, Ola explained that its booking application will only allow journeys to be performed by drivers (with cars) who have active and current licences, insurance and other required paperwork which has been presented to Ola, verified by Ola operatives and saved in its systems. If any element is missing, the system is designed to not allow the driver to accept any ride via its platform. It referred to the internal audit that had identified loopholes in the system which have been closed off and said that it has systems in place to identify any other areas for concern.
88. Ola also provided further explanations as to why the various systems failures that were reported to TfL occurred and the measures taken to rectify the issues and prevent reoccurrence. It gave assurances that the root cause of each of the

issues have been resolved and that its booking application has been set to lock-out any driver from accepting a booking unless Ola has positive verification on file of all the necessary documentation in place. It also set out a number of the measures it has taken including systems changes and enhanced training for staff handling record digitisation.

89. Ola also set out a chronology of the reporting it has submitted previously to TfL and provided an explanation as to why information given to TfL has changed. Ola said that it should be permitted a further opportunity to demonstrate to TfL that its systems meet all of TfL's requirements and said it had taken on board the feedback from TfL's Compliance Officers which it will implement.

TfL's third compliance inspection on 29 September 2020

90. TfL continued to carry out further due diligence in order to ascertain whether it could be confident there was no further risk to the general public. As part of this work, TfL compared the list of 'available' drivers and vehicles derived from Ola's weekly upload as per Regulation 9(12) of the Operator's Licences Regulations.
91. When comparing the list of all drivers provided by Ola in its weekly uploads for weeks commencing 7 and 14 September 2020 against the online licence checker, TfL identified that there were 19 unique drivers available on the Ola platform that were now unlicensed. A further compliance inspection was arranged to take place from 29 September 2020 in order to ensure that Ola had not offered bookings to any of the unlicensed drivers and vehicles and that the Ola systems had recognised that the drivers and vehicles in question were unlicensed.
92. This further compliance inspection on 29 September 2020 identified that 15 of the drivers had undertaken bookings while unlicensed: a total of 2,070 journeys were undertaken. Of the 19 drivers checked, a total of 12 drivers remained active on Ola's system at the time of the inspection. The Compliance Officer highlighted these cases to Ola and that the unlicensed drivers needed to be blocked immediately and prevented from undertaking any further bookings (see below).

93. Given these latest findings, TfL remained seriously concerned that there could be other unlicensed drivers and vehicles that Ola had not identified as part of its own diligence. In order to have full assurance, TfL wrote to Ola on 30 September 2020 and requested that it undertakes a full check of all of the drivers and vehicles registered on its platform and available to undertake bookings should they log onto the app.
94. It was apparent to TfL that the presence of this significant number of unlicensed drivers was, at least in part, a consequence of the fact that Ola was only carrying out checks against TfL's online licence checker on a three monthly basis.

TfL e-mails Ola with full list of licences on Wednesday 30 September 2020

95. In order to address this issue, TfL emailed Ola a complete list of all drivers and vehicles currently licensed by TfL and asked Ola to use this to provide:
- A full list of all drivers (title, full name and licence number) and vehicles (VRM, make, model and licence number) currently registered and available with Ola;
 - A list of any driver and vehicle identified that is registered and available but that does not appear on the attached TfL licensee spreadsheets along with confirmation that action has been taken to prevent them from undertaking any further bookings;
 - A PHV105 driver dismissal form for each driver who had carried out bookings when they did not have a licence, where action has been taken to prevent any future bookings to be undertaken (TfL asked for these dismissal forms to be submitted within 14 days of the action being taken).
96. Given the urgency, TfL requested that Ola provides this information no later than 10pm on 30 September 2020 to ensure that any unlicensed driver or vehicle was removed from the Ola platform at the earliest opportunity.

Ola responds on 1 October 2020

97. The information was provided by Ola at 2:06am on 1 October 2020. Ola's response set out that it had identified a further six drivers and 83 vehicles that were registered with it, and available to provide PHV services, but not currently licensed i.e. the driver and / or vehicle details were not contained on the spreadsheet of all licensees that had been provided by TfL. Ola also confirmed that action had been taken to 'off-road' these drivers and vehicles to prevent any future bookings being undertaken. At the time of writing this Decision Note, it is not clear if any bookings had been undertaken by these drivers or vehicles while unlicensed.
98. In order to satisfy itself as to the accuracy of Ola's analysis, TfL undertook its own analysis of the data provided by Ola. TfL asked Ola to provide a complete list of all its current drivers and vehicles, so that it could carry out the same cross-check that Ola had conducted, against the list of vehicles and drivers currently licensed by TfL. TfL's assessment identified a number of anomalies. In short, the list provided by Ola contained hundreds of drivers and vehicles that were not identified in their email of 1 October 2020 and were not currently licensed to provide PHV services. TfL concluded that this discrepancy could be the result of one of two factors: a) either the number of unlicensed drivers and vehicles registered and available to Ola was much higher than reported by Ola; or b) the list of registered and available drivers and vehicles provided by Ola to TfL was incorrect.

Teams Call between TfL and Ola 1 October 2020

99. Following a request from Ola, TfL met with Ola at 6pm on 1 October 2020. Simone Oyekanmi, Graham Robinson and Andrew Antoni attended from TfL and Karl Lutzow, Andrew Winterton, Marc Rozendal, Nitin Banerjee and Gaurav Porwal from Ola. TfL raised concerns that the data that had been provided by Ola contained a very considerable number of unlicensed drivers and vehicles. Karl Lutzow explained that the list of registered drivers and vehicles provided to TfL on 1 October 2020 included drivers and vehicles that were not available to it and could not undertake bookings. This is despite a clear request from TfL to run a

check of licensees against only those drivers and vehicles that were available to Ola to undertake bookings at that time. TfL asked Ola to provide an updated list to TfL as soon as possible. Ola agreed to this request and explained that, in order to obtain that list, a report would have to be run by the team in India. As a result, Ola would need to wait until they were available to undertake the work.

100. During the same meeting, TfL also raised concerns about the frequency in which Ola has been undertaking checks to ensure drivers and vehicles remain licensed. TfL pointed out that that given the number of unlicensed drivers and vehicles that have been identified by TfL, some of whom have undertaken bookings, and the scale of Ola's operations, the frequency of the checks was inadequate. During the 20 September compliance inspection, I understand from Martin Haver that Karl Lutzow explained that Ola carried out no checks at all against the online licence checker before June or July 2020. After that point it began carrying out checks on a three monthly basis.
101. In the 1 October 2020 call, Ola said that it knew that other operators carry out more frequent checks of TfL's licence checker than it does by using 'screen scrape' tools but stated that it was not prepared to do so. Ola also said that it undertakes checks on a three monthly basis because it is difficult to carry out manual checks. TfL pressed Ola on this and underlined the significance of providing journeys via unlicensed drivers or vehicles. In response, Ola confirmed that it would change its approach and would carry out daily checks from now on as it is taking part in a TfL trial that gives Ola access to a daily download of the licence checker. Ola highlighted that it had been keen to take part in the daily download service as have a number of other operators.
102. As TfL explained in that meeting, it is a significant risk not to carry out ongoing checks on documentation and licences following the completion of the registration process as changes in status can occur. Any changes to the licence status of a private hire driver or vehicle are reflected in alterations to the licence checker. TfL also asked Ola to provide further clarity on the other checks that were carried out in order to ensure that Ola meets its licensing obligations such as checks on insurance documentation, MOTs or driver DVLA licences. Ola was

asked to clarify what regular checks it had in place. Ola confirmed that it was looking to undertake three monthly insurance checks on all annual insurance premiums. Ola said that a TfL Compliance Officer had previously told them that other operators adopt a similar approach of quarterly insurance checks. Ola also confirmed that it does not currently undertake any subsequent validation to confirm that the insurance certificates that it holds – which are less than one year in length – continue to remain valid.

Email from Ola of 2 October 2020

103. Ola sent a further email to TfL on 2 October 2020 following the Teams meeting that was held on 1 October 2020. In the email Ola provided four attachments containing the data that had been requested by TfL during the meeting.
104. Ola confirms in its email that the four attachments contain the data requested by TfL to show all the drivers and vehicles that were on Ola's system and capable of taking a booking prior to midnight. The data had been run against a TfL's daily download of the driver and vehicle checker up to 7.15pm of the previous day.
105. TfL has not yet had an opportunity to analyse the data provided.
106. Ola says in its email that it has taken swift action to 'off-road' additional drivers and vehicles where:
 - i. They have detected inconsistencies between the data records they hold and the information provided by TfL (and in light of the additional guidance provided by TfL during the meeting on 1 October 2020);
 - ii. That the guidance provided by TfL during the meeting on 1 October 2020 changes the position Ola takes in respect of private hire vehicle licences that were subject to "so called COVID extensions".
107. Ola says it has taken a strict approach to 'off-roading' for any discrepancy between its own dataset and that of the TfL 7.15pm upload – no matter how minor. Ola also says it is undertaking further investigations where there is a less significant discrepancy (e.g. exact make and model).

108. Ola notes that some of the vehicle discrepancies seem to arise where they are holding data for a licence that remains currently valid (e.g. the licence might be due to expire in the next two weeks) but where, Ola presumes, TfL has granted a renewal licence with a different licence number. Ola says that out of an abundance of caution it has off-roaded certain vehicles.
109. Ola also provided further clarification as to the frequency of checks that they are currently undertaking and where they had previously confirmed this to TfL. They also referenced Ola's participation in the pilot to provide the licence checker data on a daily basis. As part of the pilot Ola committed to:
- i. Undertake verification of its driver and vehicle database once per day manually, providing feedback to TfL and ensuring the robustness / completeness of both TfL's and its own data – particularly where subtle differences arise;
 - ii. Build standard operating procedures to deal with temporary off-roading and reporting to TfL where any material difference arises; and
 - iii. Move up to data checking three times per day as soon as they can automate this activity.

PART 3: ANALYSIS AND ACTIONS UNDERTAKEN BY TfL

110. In part, as a result of the late delivery of the Ola Assurance Report and the provision of the information in the 25 August 2020 letter shortly before the licensing decision became due, TfL has had to assess a large volume of material from Ola in a relatively short period of time. Ola has also clarified, or updated, the information provided on a number of occasions.
111. Partially as a result, TfL has undertaken its own assessment of some of the records that have been provided. From our own analysis, we have identified that the period of concern covered by the results of the system failures and issues Ola identified in the 25 August 2020 letter is between 13 January 2020 – 5 August 2020.

112. However the information supplied by Ola has not always been entirely accurate. By way of example, there have been some errors in the date information provided, which can in some cases be attributed to the use of mixed US and UK date conventions. TfL understands – from what Ola has told it – that any confusion in relation to the use of US or UK date conventions has arisen as a result of mistakes made by Ola’s team in India.
113. TfL has carried out three separate assessments of Ola’s records, and the information provided by Ola in the recent past.
114. First, TfL conducted a sample analysis of the information provided in conjunction with Ola’s 14 September 2020 letter (in relation to the issues identified in the 25 August letter). The purpose of this sample analysis was for TfL to try and understand what regulatory breaches, if any, had occurred as a result of Ola’s systems failures and whether those breaches had presented an immediate risk to passenger safety at the relevant time.
115. During the course of this investigation it became clear that a number of passenger-carrying bookings had been undertaken by Ola drivers who were not licensed as private hire drivers at the relevant time. These were a direct consequence of Ola’s failures to identify that the relevant drivers’ licences had expired. This is extremely alarming. Such journeys present a real risk to passengers because the drivers are unlicensed and therefore uninsured. Ola had failed to identify this at the time because of the systems errors set out in the August 25 letter. These cases fell within the group that Ola had described as ‘unconfirmed’ in its correspondence with TfL.
116. The example cases were identified as being as follows:

Example 1: London PHV driver’s licence No [REDACTED]

The above driver’s licence expired on 9 May 2020 and a new licence was granted by TfL, which started on 30 June 2020.

The data provided by Ola in its correspondence with TfL suggested that this driver undertook 58 bookings between 9 May 2020 and 23 June 2020.

However, according to the booking records obtained from Ola during the compliance inspection, this driver undertook 76 bookings for Ola between 10 May 2020 and 21 June 2020. He did not have a valid private hire driver licence during this period.

Example 2: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 29 May 2020 and a new licence was granted by TfL on 30 July 2020.

The data provided by Ola, in its correspondence with TfL, indicated that this driver undertook 38 bookings between 29 May 2020 and 23 June 2020.

According to the booking records obtained from Ola during the compliance inspection, this driver undertook 45 bookings for Ola between 30 May 2020 and 3 July 2020. He did not have a valid private hire driver licence during this period.

Example 3: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 20 May 2020 and a new licence was granted by TfL on 30 June 2020.

The data provided by Ola, in the course of correspondence with TfL, indicated that this driver undertook 206 bookings between 29 May 2020 and 23 June 2020.

According to the booking records obtained from Ola, this driver undertook 235 bookings for Ola between 29 May 2020 and 23 June 2020. He did not have a valid private hire driver licence during this period.

Example 4: London PHV driver's licence No [REDACTED] [REDACTED]

The above driver's licence expired on 12 June 2020.

The data provided by Ola, in correspondence, indicated that this driver undertook three bookings between 12 June 2020 and 23 June 2020.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 5 bookings for Ola on 13 June 2020. He did not have a valid private hire driver licence during this period.

Example 5: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 29 April 2020 and a new licence was granted by TfL on 27 July 2020.

The data provided by Ola, in correspondence, indicated that this driver undertook 72 bookings between 29 April 2020 and 15 June 2020.

According to the booking records obtained from Ola during the inspection, this driver undertook 81 bookings for Ola between 1 and 15 June 2020. He did not have a valid private hire driver licence during this period.

Example 6: London PHV licence No [REDACTED]

The above vehicle licence expired on 27 May 2020.

The data provided by Ola indicated that this vehicle undertook two bookings on 5 June 2020.

117. The following points emerge from this material:

- i. These cases clearly demonstrate the serious consequences of the problems with Ola's systems, set out in its letters of 25 August and 14 September. All the relevant information (i.e. the licence expiry date of the TfL issued licence documents) was available to Ola at the relevant time: it would have received a copy of the licence – and its expiry date – at the time when the driver was onboarded. Operators are required to retain this information for a period of 12 months from the date on which the driver/vehicle was no longer available to carry out bookings as per Regulation 16(1) of the Operator's Licences Regulations.

- ii. The information provided by Ola in the spreadsheet attached to its 14 September 2020 letter was not consistent with the information later obtained by TfL's Compliance Officers during their visit to Ola's offices. In each case, the booking records obtained from Ola's systems by TfL's Compliance Officers indicated that more journeys had been taken than was suggested in the letter of 14 September from Ola.

118. TfL has undertaken a sample analysis of the information provided by Ola on 14 September 2020 in relation to cases which Ola described as "resolved". The purpose of this sample analysis was for TfL to understand if any other regulatory breaches had occurred, whether those breaches had presented an immediate risk to passenger safety at the relevant time and whether Ola has fully understood that such breaches had occurred.

119. Within the group of drivers that Ola described as being "resolved", which TfL took to mean that a previously outstanding document had now been obtained by Ola for the driver concerned, TfL has identified 4 drivers that were not in possession of a valid private hire driver licence during some or all of the time in which Ola has identified that they carried out a number of passenger-carrying bookings. This is extremely alarming due to the potential passenger safety risks when using unlicensed and therefore uninsured drivers. It is also concerning to TfL that Ola had identified that it lacked a relevant document – as a result of the systems errors set out in the 25 August letter – but then identified these cases as "resolved". That characterisation of these cases failed to take into account that these drivers had – in at least some cases – provided unlicensed services.

120. The example cases that TfL identified are as follows:

Resolved example 1: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 19 March 2020 and a new licence was granted by TfL on 22 May 2020.

Data provided by Ola, in its letter of 14 September 2020 shows that this driver undertook 79 bookings between 20 March 2020 and 21 March 2020. If Ola's data is correct, this driver was unlicensed at the time of these 79 bookings.

Resolved example 2: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 28 March 2020 and a new licence was granted by TfL on 26 May 2020. Data provided by Ola, in a letter of 14 September 2020, shows that this driver undertook 226 bookings between 28 March 2020 and 7 July 2020. If Ola's data is correct, this driver may have been unlicensed at the time of some or all of these 226 bookings. This will require Ola to confirm each of the dates the bookings.

Resolved example 3: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 25 April 2020 and a new licence was granted by TfL on 20 May 2020.

Data provided by Ola, in a letter dated 14 September 2020, shows that this driver undertook 202 bookings between 25 April 2020 and 1 July 2020. If Ola's data is correct, this driver may have been unlicensed at the time of some or all of these 202 bookings.

Resolved example 4: London PHV driver's licence No [REDACTED]

The above driver's licence expired on 7 May 2020 and a new licence was granted by TfL on 27 May 2020.

Data provided by Ola, in a letter dated 14 September 2020, shows that this driver undertook 95 bookings between 7 May 2020 and 7 July 2020. If Ola's data is correct, this driver may have been unlicensed at the time some or all of these 95 bookings were undertaken. This will require Ola to confirm each of the dates the bookings were undertaken.

121. It is of concern that Ola considered the above cases as 'resolved' without recognising the obvious public safety risks.

122. As mentioned in the above examples, TfL needs to carry out further analysis of these cases. In particular, it will need to carry out a full review of the relevant booking records. However, TfL's current view is that this is a matter of some concern for the following reasons:
- i. Ola's data suggests that (in at least some of the cases and perhaps all of them) bookings have been undertaken during a time period when a valid licence was not held by a driver. If that is the case, TfL does not consider it is appropriate to describe cases of this kind as 'resolved'. While it is true that a later licence covering a later period was obtained, bookings were still carried out when no licence was in place.
 - ii. As a result, the information provided by Ola in the spreadsheet attached to its 14 September 2020 letter does not appear to accurately reflect the true consequences of the issues identified in its 25 August letter.
123. Ultimately, it may be necessary to take licensing action against these drivers if, after further validation, it transpires that they carried out bookings when they were not licensed. Prosecution may also be considered where appropriate.
124. In order to obtain a fuller picture of Ola's current operations, TfL also analysed the recent weekly upload data submitted by Ola for the weeks commencing 7 and 14 September 2020. The purpose of this was in order to identify whether any further, more recent, use of unlicensed drivers had taken place. The analysis of this data led to 19 drivers being identified where Ola had declared in its upload submissions that they had been made available for bookings, but TfL identified that some of those drivers did not hold a valid private hire driver licence during some of the time period for which they were available to Ola. Of those, TfL has identified that:
- a) In eight cases, the driver did not hold a valid licence because TfL had revoked the licence;

b) In seven cases, there were record keeping discrepancies in relation to those drivers where their licence number and/or name provided by Ola did not match that held on TfL systems; and

c) In four cases, it appears that the drivers had not undertaken bookings.

125. The underlying details of those who had a licence revoked but continued to provide services are set out below:

Upload example 1: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 9 September 2020 due to non-return of annual medical information.

According to the booking records obtained from Ola, in the course of the compliance inspection on 29 September 2020, this driver undertook 13 bookings for Ola between 11 September 2020 and 13 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 2: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 11 September 2020 due to a serious allegation of improper conduct and safety related complaints.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 253 bookings for Ola between 11 and 28 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 3: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 18 August 2020 for failure to surrender his licence due to medical health concerns. The licence was subsequently re-instated by TfL on 29 September 2020.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 292 bookings for Ola between 17 August 2020 and 28 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 4: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 12 September 2020 for inappropriate conduct and safety related complaints.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 11 bookings for Ola between 12 September 2020 and 13 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 5: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 8 September 2020 for providing fraudulent vehicle documentation.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 255 bookings for Ola between 8 September 2020 and 24 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 6: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 15 July 2020 for a DVLA licence disqualification.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 20 bookings for Ola between 8 and 14 September 2020. He did not have a valid private hire driver licence during this period and was in fact disqualified from driving by the DVLA.

Upload example 7: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 10 September 2020 for providing an altered logbook and private hire vehicle licence.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 72 bookings for Ola between 10 and 15 September 2020. He did not have a valid private hire driver licence during this period.

Upload example 8: Driver [REDACTED]

The above driver's licence was revoked with immediate effect on 9 September 2020 for inappropriate conduct and safety related complaints.

According to the booking records obtained from Ola, in the course of the compliance inspection, this driver undertook 117 bookings for Ola between 9 and 25 September 2020. He did not have a valid private hire driver licence during this period.

126. In relation to the eight drivers who had their licences revoked but were able to continue to drive on the Ola platform, in the majority of cases, the drivers in question had had their licence revoked with immediate effect by TfL. Ola could have checked whether the licences had been revoked by confirming that its drivers are active on TfL's online licence checker.
127. TfL recognises that there may be some time lag between a driver losing their licence and an operator checking on the licence checker. It also recognises that the guidance accompanying condition 7 of Ola's licence provides examples of the regularity with which it should check the licence checker - "*e.g. weekly, monthly or quarterly.*" However, that provision also provides that a driver's active status should be determined "*prior to a booking being assigned.*" That is consistent with the requirements of section 4(2) of the 1998 Act, which makes it a criminal offence to provide PHV services via an unlicensed driver (subject to a defence of having carried out all due diligence). Ola has chosen to carry out checks on a quarterly basis and it also seems that it has not employed any other mechanism for confirming that its drivers are still licensed (as far as TfL is aware). As Ola itself recognised in its meeting with TfL on 1 October 2020, that is in

contrast to the approach adopted by other large operators which check their drivers as frequently as possible: in some cases daily. TfL sets out its conclusions on this issue in Part 3 below.

128. As to the provision of PHV services via unlicensed drivers, each of the journeys described above involves two licensing breaches: use of an unlicensed driver and use of an uninsured driver. Each of those breaches presents a substantial risk to the public (in particular the breaches in relation to insurance). This small snapshot alone, therefore, discloses over 1,000 breaches of the licensing regime.

PART 4: ANALYSIS AND TFL'S CONCLUSIONS

129. Part 3 of this Note summarises the relevant material in the following order:

- a) Those matters which suggest that Ola is fit and proper to hold a London PHV operator's licence. The factors that could be capable of supporting a conclusion that Ola is a fit and proper person have been carefully considered and taken into account in the recommendation in this Note.
- b) Those matters that have caused TfL to question whether Ola is a fit and proper person to hold a PHV operator's licence.

Positive Factors that Support Ola's Application

(a) Communication with TfL

130. The relevant background is set out above.

131. TfL did initially have some concerns of the gap between the grant of licence date and the delays in Ola's service launch date. However, Ola engaged regularly with TfL, providing reassurance of its intention to ensure robust systems and processes and to be fully ready prior to any launch so that it could avoid any adverse issues. This was reassuring to TfL. Ola pro-actively sought guidance and clarification from TfL, with meetings held on 15 October and 13 December 2019 with Ola representatives at the Ola operating centre and at TfL offices.

132. The purpose of these earlier meetings was for TfL to explore Ola's launch preparation plans, providing guidance where required, to confirm the clear channels of communication into TfL for guidance and clarification, to receive confirmation of any changes to the approved service and processes, and to provide policy and licensing updates as relevant.
133. TfL has met with Ola on a regular basis throughout the period of the current licence. More recent meetings have also taken place with Ola and other large PHV operators during the coronavirus pandemic, to foster a collaborative approach during the unprecedented times. Ola has also agreed to take part in a trial, along with other large PHV operators in the use of a daily download of the licence checker.
134. Overall, I consider that Ola has adopted a positive approach in its interactions with TfL.

(b) Reporting driver behaviour and police engagement

135. Ola has established four roles (a Compliance Manager; two Safety and Compliance Associates and a Director of Legal and Compliance) that focus specifically on safety and compliance to ensure complaints are assessed appropriately and reported to the Metropolitan Police Service when required.
136. PHV/105 driver suspension and dismissal notifications from Ola were not being received in the expected way in the initial weeks following launch. Following advice and guidance taken from TfL on the best practice methods to share this information in a secure and timely manner, Ola's processes were refined and driver/vehicle notifications continued to be received as directed. However, it should be borne in mind that it was not possible to carry out a comprehensive review of Ola's complaints process at the recent compliance inspections and therefore we have not been able to undertake an exercise to ensure safety related complaints are being appropriately handled and a corresponding PHV/105 driver dismissal form, where relevant, is provided to TfL. TfL will continue this review.

(c) Ola's service and change management processes and procedures

137. On 21 January 2020, TfL wrote to Ola to obtain details of its service management and change management processes and procedures. The request was made because Ola is an operator which relies on online platforms, processes and applications. These give rise to additional risks when compared with 'traditional' operators. Ola was required to provide a response along with supplementary evidence setting out the appropriate measures in place both for the ongoing management of the app and to prevent any cyber security breaches.
138. On 2 March 2020, and in its application to renew its London PHV operator's licence in August 2020, Ola provided TfL with a detailed description of its systems, the implementation, testing and regression phases and how any elements link with its operating model. Within this, Ola has set out its service and change management processes. It also provided this information as part of TfL's initial assessment of its application which resulted in the grant of a licence in July 2019.
139. Ola has shared details of the additional product features since application in addition to its technical documentation and service management processes.
140. Given the overall pattern of breaches set out below, and the relatively late notification of Ola's system failures, TfL has not had the opportunity to carry out detailed assessments of the material produced by Ola. A review of Ola's systems, processes, data management and record keeping may be necessary in order to fully understand how it operates and whether there are any ongoing vulnerabilities.

(d) Taxi fares and fees guidance

141. Since being granted a licence, Ola have been proactive in approaching TfL to seek guidance for its planned taxi services. Ola sought to understand the trade, clarifying guidance and policy related to pre-booked fares, the suburban sectors and how to ensure customer clarity on the Ola app, to minimise confusion and complaints.

(e) Ola's improvements and amendments to its systems and processes

142. As set out above, Ola has explained in its letter of 25 August the efforts it has made and are proposed to both fix the problems identified in that letter and to improve its systems overall. These include:

Process enhancements and changes:

- i. All of Ola's standard operating procedures have been internally reviewed and strengthened
- ii. New resource allocation has been added to its central verification team
- iii. Sample check of two per cent of operator upload records

Process enhancements:

- i. Agent retraining
- ii. Using TfL-provided CSV for private hire driver licence/vehicle licence checks as available
- iii. Mystery audit of drivers to physically check documents
- iv. Sample check of one per cent of cases with insurance companies (with driver consent)

Product enhancements:

- i. API integration with insurance companies.
- ii. A guided flow diagram for verification of agents to avoid data entry issues.

143. Subsequently, Ola has also confirmed in the meeting of 30 September and in correspondence provided on 2 October that it commits to use the daily download of the licence checker on a daily basis both during and after the pilot has completed. Ola will explore the ability to use the daily download three times a day after an assessment of its systems and implementation of the required processes.

144. As part of its commitment to use the data from the daily download Ola has clarified that it will carry out activities on a daily basis to verify both their driver

and vehicle databases, to ensure the robustness of their data. This will include processes to deal with temporary off-roading and reporting to TfL where any material difference arises. TfL will monitor the introduction of these processes to ensure they are embedded into Ola's day to day processes.

145. Given the recent nature of these changes, and the short period of time between the 25 August letter, 11 September Assurance Report and this Decision Note, it has been difficult for TfL to gain a clear picture of the efficacy of these changes, some of which have yet to be implemented. Nonetheless, it is fair to say that Ola has recognised the need for changes to its processes and systems and appears to be taking steps to do so.
146. As explained above at paragraph 124 TfL analysed the weekly upload data submitted by Ola for the weeks commencing 7 and 14 September 2020. Although TfL found a number of drivers that remained available for bookings even though TfL had immediately revoked their licences, TfL did not identify any drivers with expired licences that had continued to be available for bookings. This gives some confidence that the systems and process changes put in place have resolved the issues identified by Ola in its letter of 25 August 2020. It is noted that the period TfL considered was relatively short and further monitoring and review of the weekly upload would be appropriate to give further confidence that the changes are embedded and preventing the expired licence issues from reoccurring.

(e) Conclusion

147. The above factors all support the conclusion that Ola could be deemed fit and proper to hold a London PHV operator's licence. These factors have been considered when reaching the recommendation set out below.

Matters that have caused TfL to question whether Ola is a fit and proper person

148. The relevant background (and some of TfL's provisional conclusions) is set out above. The following matters have caused TfL to doubt whether Ola is a fit and proper person.

(a) Delay in communication with TfL

149. Ola failed to notify TfL of the failures in its systems when it first identified them. That was inconsistent with its previous conduct: frequent and ongoing communication with TfL. In its letter dated 22 September 2020, Ola has explained that its intention was to inform TfL of all issues when it had confidence and assurance that it understood the scale and depth of the issues and had taken action to address them. However, a responsible operator should notify concerns of such magnitude to the regulator as soon as reasonably possible. The more important the issue, the more necessary it is to ensure that communication is clear, timely and transparent.

(b) The system issues and failures identified

150. This issue raises four separate concerns.

151. First, as set out above, all historic breaches of the licensing regime, whether remedied or otherwise, are relevant to the determination of whether an operator is a fit and proper person.

152. Ola's letter of 25 August 2020 identified a considerable number of systems flaws. Those failings resulted in drivers and vehicles being allowed to provide PHV services when the operator had no record available to it (or at the very least had not synced that record within the relevant system) that they were licensed to do so.

153. Breaches of this kind raise serious safety concerns. If a driver's licence has expired, they will be providing PHV services uninsured. Furthermore, there may be good reasons why they have not sought to renew their licence: they may no longer be able to satisfy the medical requirements or they may have been convicted of a serious criminal offence and no longer be eligible for a licence,

etc. The provision of services via unlicensed drivers raises very significant safety concerns for PHV passengers.

154. The number of underlying systems failures, and the total number of affected journeys, was very significant. Furthermore, they all arose within a relatively short period of time: between February and August 2020. The sheer volume of these errors must be weighed in its own right.
155. Second, it took too long to identify these flaws. TfL recognises that a new operator might have ‘teething problems’. For that reason, it also expects new operators to maintain a particularly vigilant approach to monitoring during their early months of operation. Ola launched in February 2020 but did not commence its audit until June 2020 (the audit then identified a number of different and independent failures within its systems that had affected tens of thousands of journeys).
156. Third, as set out above, the TfL staff on the call of 16 September formed the impression that Ola had not appreciated the significance of the matters outlined in the 25 August letter until they were explained. I recognise that this is only an impression, and it might not be fully accurate. However, it is recorded here for completeness.
157. Fourth, Ola’s correspondence has placed considerable emphasis on the fact that in all but 21 cases, it has now been able to confirm that the relevant licence (or other information) was actually in place at the relevant time. For obvious reasons, that provides some level of reassurance to TfL (and indeed the wider public). However, even where the relevant documents were actually in place:
- a) Ola did not have them in its possession at the relevant time. As a result, it should not have provided that driver/vehicle for PHV services which is in breach of the statutory regime.
 - b) To the extent that those documents were in place, that is a matter of pure good fortune (from the perspective of the public). In any event, TfL is aware of a number of cases – set out above – where the relevant documents were

not in place at the relevant time. All those journeys were undertaken without valid insurance cover, placing the passengers and public at considerable risk.

158. Taking all the above into account, in the round, TfL considers that these breaches are a weighty matter which militate against the conclusion that Ola is a fit and proper person to hold a London PHV operator's licence.

(c) Ola's breaches of the licensing framework

(i) Independent Assurance Report – Condition 1

159. In accordance with condition 1 (attached to their current licence) Ola was required to provide TfL with an independently verified assurance report by 3 July 2020. However, owing to challenges that have arisen due to the coronavirus pandemic, Ola sought an extension to this deadline. TfL granted more than one extension after July. They were not met. Ola's independent Assurance Report was submitted to TfL on 11 September 2020.

160. Ola instructed CMS to begin work on the independent audit on 27 August 2020. While TfL acknowledges the challenges that Ola no doubt faced in producing an independently verified assurance report amidst a global pandemic, it is concerning to TfL that Ola did not take the necessary initial steps to begin a key part of that work until 27 August 2020, the day before the new agreed deadline with TfL. The result was that the report was produced and submitted to TfL on 11 September 2020, close to Ola's licence expiry on 3 October 2020 and allowing little time for considered analysis.

161. In carrying out its evaluation, CMS conducted telephone interviews with Ola personnel and analysed documentation provided by Ola. Those documents included copies of Ola's standard operating procedures (SOPs) and correspondence with TfL. Any specific queries from CMS regarding the documentation provided by Ola were passed on to Ola by way of email and recorded in a query tracker, a copy of which is provided as part of the report (IAR Appendix 3).

162. CMS outlined the scope and limitations of its evaluation, confirming that its analysis of Ola's obligations was limited to a review of the documents provided by Ola and answers to questions that were raised by CMS in relation to these documents. CMS also confirmed that its review was *'limited to an assessment of whether Ola has appropriate policies and procedures in place in order to address the obligations and requirements of the Licence and the Handbook, as opposed to whether these policies operate effectively in practice or if there are any technical errors.'* Furthermore, CMS *'assumed that all statements made by Ola are correct and complete, and CMS did not test any processes or examine the veracity of any statements'* that were made to it by Ola.
163. The assurance report focussed on the systems, processes and policies in place in order to satisfy the conditions of Ola's licence, and its obligations listed under the TfL Private Hire Vehicle Operator Handbook. The report listed each condition and obligation and outlined the available evidence provided by Ola to meet it.
164. The report also provided a summary of Ola's processes and recommendations where possible improvements could be made, along with further details of its analysis (IAR Appendix 1). CMS provided a total of 34 recommendations, listed under nine headings.
165. Ola's licence condition (1) states:
- "The operator shall maintain an independent assurance procedure designed to review and validate the effectiveness of its systems, policies, procedures and oversight mechanisms for promoting compliance with its obligations as a licensed operator in accordance with the 1998 Act as well as any prescribed or non-prescribed conditions."*
166. TfL considers that Ola should have ensured that CMS tested not just the existence of but also the effectiveness of Ola's processes. This is a necessary element of fulfilling this condition. Furthermore, CMS does not conclude whether it is satisfied that Ola's processes, policies and systems are sufficient to meet its licensing obligations.

167. The report outlines errors caused by systems failures and technical faults within Ola's systems. One of those faults led to driver and vehicle documents being recorded erroneously (with incorrect, omitted or incomplete data) as part of the driver registration ('onboarding') process. Further errors meant that Ola's systems did not synchronise effectively which enabled drivers to continue taking bookings with expired documents.
168. There is a high degree of overlap between the matters reported to TfL in Ola's letter of 25 August 2020 and the system errors and technical failures identified by CMS. Ola's position is that those errors are now fixed.
169. In conclusion, the Assurance Report was delivered late (even allowing additional time due to the difficult circumstances) and did not address certain key issues adequately or at all. CMS formed a positive view of Ola's systems, to the extent that it had reviewed them. However, when considered in the round, the CMS Report has not offered TfL the assurance necessary to conclude that Ola is a fit and proper person.

(ii) Driver and vehicle licence checks – Condition 7

170. Section 4(2) of the 1998 Act requires operators to "secure" that any vehicle used for the provision of PHV services has a licence and is not driven by a person holding a London PHV driver's licence. It is an offence to provide unlicensed services. Section 4(6) provides a defence to the offence of failing to secure the above if the operator can demonstrate that it exercised "*all due diligence*" to avoid committing the offence.
171. Condition 7 of the licence requires Ola to check driver licenses against the TfL licence checker, both when they are originally provided and after the event (to confirm that the individual is still licensed). It states:

"The operator shall seek to confirm the validity of both:

i) The London PHV driver's licence; and

ii) The London PHV licence

Before making that driver and that vehicle available to carry out private hire bookings using TfL's Licence Checker."

172. In association with the licence conditions, TfL also sets out some guidance to help an operator to understand what TfL means by this licence condition. In the case of condition 7 the wording is as follows:

"Upon a driver registering with an operator, the operator should enter the details included on the driver's and vehicles licence on to the Licence Checker in order to confirm its validity.

We recommend that the operator carries out the checks on a regular basis (e.g. weekly, monthly or quarterly) for new and existing drivers and vehicles in order to determine the active status prior to a booking being assigned."

173. The backdrop to this condition is that drivers may have their licence revoked by TfL. Any such revocation would be reflected on the Licence Checker within a couple of hours (at most) of being made.
174. TfL has set out the dialogue between the parties on this point in some detail above. As noted above, Ola indicated to one of TfL's compliance officers that it had not started to carry out checks of existing drivers until June or July 2020. It then began quarterly checks. Ola says that it had previously informed TfL that it would carry out quarterly checks and TfL did not object.
175. TfL accepts that one of the examples given by TfL in the guidance accompanying Ola's conditions included quarterly checks of the licence checker. In the meeting with Ola on 1 October 2020, Ola suggested that it has previously made TfL aware that it was carrying out checks every three months. TfL has not been able to confirm that this was the case in the time available. In any event, even if that were the case, TfL considers that it would have been highly preferable if Ola had conducted checks more regularly. The consequences of carrying out such irregular checks is demonstrated by the fact that TfL identified eight drivers on Ola's platform in September 2020 who had their licences revoked. Given:

- a) The importance of the statutory obligation to ensure that drivers and vehicles are licensed; breach of which is a criminal offence;
- b) The size of Ola's operations, which involve the provision of tens of thousands of journeys per day involving over 10,000 vehicles;
- c) Ola's knowledge that other comparable operators conduct much more frequent checks of the licence checker (in some cases daily);
- d) That Ola does not appear to have any other mechanisms in place to confirm that drivers and vehicles remain licensed;
- e) The fact that it is highly likely that some drivers will have had their licenses revoked in a three-month period and that this information will be reflected (almost immediately) on TfL's licence checker; and
- f) The fact that those revocations might well be for serious issues that relate to public safety;
- g) The assurances that Ola has given to TfL on multiple occasions that it puts passenger safety first (and it strives for no events of non-compliance to the maximum extent possible);

176. TfL considers that Ola's decision to carry out no checks at all against the licence checker before June or July 2020 is unacceptable. TfL understands that Ola may have been onboarding drivers in considerable numbers before it launched in February 2020. If that is correct, the time lag between onboarding and the first check of some of these drivers will have been considerable. That is not consistent with the licensing regime.

177. As to the period thereafter, TfL considers that Ola's decision to carry out checks on a three-monthly basis is unsatisfactory. TfL is conscious that it should not hold Ola to a higher standard than that set out in the guidance to the licence conditions. On the other hand, Ola has elected to adopt a path of minimal compliance. Such an approach – on the part of such a large operator – is not consistent with Ola's assertion (for example in its letter of 27 September 2020)

that it considers the provision of any services via non-compliant drivers and vehicles to be unacceptable.

178. TfL expects operators to be pro-active and to take a considered view of the appropriateness with which it conducts checks by reference to the size and nature of their operations. A more pro-active approach – consistent with that of other operators of Ola’s size – could have identified the eight drivers whose licences had been revoked in September 2020. Ola appears to have recognised that it should conduct more regular checks and has now agreed to do so daily.
179. Given the wording of the guidance accompanying condition 7, TfL considers that the carrying out of quarterly checks after June/July 2020 cannot weigh heavily against Ola. Nonetheless, the overall picture of Ola’s approach to licence checking (both before and after that point) weighs marginally against the conclusion that it is a fit and proper person.

(d) Reporting driver behaviour and police engagement

180. Although there are positive features of Ola’s conduct in this area referred to above, TfL has some concerns regarding Ola’s process for reporting serious safety related driver behaviour related complaints which may have resulted in police engagement. TfL gave Ola the Independent Assurance procedure guidance which sets out how operators should submit the report on 11 May 2020 including the data that should be provided as an appendix. TfL also wrote to Ola on 13 July 2020 specifically requesting that the Assurance report should include data extract of each driver and vehicle that the operator had suspended or dismissed between 4 July 2019 and 3 July 2020 due to adverse reports and/or behaviours. However, Ola’s Independent Assurance Report did not contain such data.
181. Ola has informed TfL that between February and September 2020 it reported 117 serious complaints and 20 dismissals to TfL via the appropriate channels. (See Appendix IAR page 56). This seems remarkably low given the number of bookings being undertaken. Furthermore, this does not match with the number of driver dismissal forms that TfL has received from Ola over the same period.

182. Ola was reminded about the need to provide the supporting data extract on 13 July 2020 and without the provision of the extract requested, containing the licence numbers of each driver and vehicle implicated in a serious complaint or dismiss from Ola, we are unable to validate this information any further.

(e) Ola's data management

183. TfL also has concerns about Ola's data management and information systems. In particular:

- a) Some of the information Ola has provided to TfL has not been accurate. For example, in the case of the six drivers described above who were allowed to drive without a licence in May/June 2020, Ola's original assessment of the number of journeys that had been carried out was wrong.
- b) Ola has also had to resubmit the majority of its weekly uploads due to basic errors made. This will have impacted any verification checks carried out on the data or any data analysis carried out with this data included.
- c) Ola also appears to have made certain fairly basic mistakes within the data it holds, such as confusing the UK and US conventions for dates, and also confusing or conflating times in India and those in the UK, with serious consequences.
- d) While TfL recognises the challenges presented by the pandemic, it was concerned that it took Ola as long as it did to generate a list of complaints and lost property incidents during the first compliance inspection. Furthermore, as explained above, the information provided was itself limited (albeit it recognises that Ola did hold more comprehensive data on its systems at its offices).
- e) On other occasions, it appears that Ola has not been able to access certain data because access to that data, and retrieval of it, requires input from individuals outside Ola's London offices and in another jurisdiction (India).

- f) Section 4(3) of the 1998 Act requires all operators to keep at the specified operating centre records of all private hire bookings and such other records as are prescribed of the private hire vehicles and drivers available to them. This does not mean that the information must be physically held in the operating centre, or on servers in the operating centre. However, TfL considers that this does mean that the information should be readily available within the operating centre. Ola has not always been able to provide such information immediately (or even within a relatively short time frame).
- g) TfL has also noted, during the two compliance inspections, that certain data is held on different systems. That has made it more difficult for Ola and for TfL to interrogate that data.
- h) As explained above, Ola has provided a number of spreadsheets over time (following the 25 August letter). Both the content of those spreadsheets and the relationship between the data set out in each successive document has not always been clear to TfL. This is partly due to the number of records being described and referred to by Ola changing. Ola has recognised this lack of clarity and sought to explain why the underlying data has changed.
- i) As described above, Ola has described as 'resolved' at least one case in which TfL has identified that journeys were carried out when the driver was unlicensed. TfL does not consider it is appropriate to describe cases of this kind as 'resolved.' Furthermore, as explained above it is possible that there are several other cases of this kind.

184. Accurate holding, storage and retention of data is a basic obligation within the operator licensing regime. Inadequate data management can directly undermine public safety. Likewise, the failure to properly characterise a past mistake may result in a distorted view of its seriousness. None of the above matters is critical to TfL's assessment on its own. However, the overall result of the above is that TfL currently lacks confidence in the reliability and strength of Ola's data systems. TfL notes the positive assessment of Ola's systems in the CMS Report. However, TfL considers that it may be necessary to assess the reliability and effectiveness

of Ola's systems, processes, data management and record keeping given the concerns that have been identified in this Decision Note.

PART 5: TFL'S OVERALL CONCLUSION IN RESPECT OF OLA'S FITNESS AND PROPRIETY

185. It is recommended that TfL concludes that Ola is not fit and proper to hold a London PHV operator's licence at the current time and its licence should not be renewed. In making that recommendation, I take account of all the information set out above and in particular:

- a) The serious historic breaches of the licensing regime. TfL always takes these into account. In other cases, TfL has relied on criminal prosecutions for breaches of the regime as a key factor when declining to renew a licence. No such prosecutions have taken place in this case but the breaches themselves are serious. Even if it transpires that none of the individuals in question were actually unlicensed at the time, that will be a matter of 'good fortune' from Ola's perspective, rather than a reflection of the quality of its systems and processes. Furthermore, whether or not the individual driver was actually licensed – and this is identified after the event – does not change the fact that Ola did not hold the relevant information at the time and was, therefore, in breach of the licensing regime.
- b) The underlying weaknesses in Ola's systems that facilitated those breaches. These breaches were numerous and contributed to a large number of breaches which placed a considerable number of Londoners at risk. Ola says that it has addressed all those underlying breaches. However, the Assurance Report did not offer TfL a solid basis for concluding that this was clearly the case. For the avoidance of doubt, TfL has taken into account the changes that Ola has introduced in order to remedy the historic systems failures and the process and product enhancements set out in its correspondence to TfL.
- c) Ola's failure to draw these important flaws to TfL's attention as soon as they arose

- d) The relatively small time window within which such a large number of flaws and breaches occurred.
- e) The apparent weaknesses within Ola's data and information management systems described above

PART 6: NEXT STEPS

186. Section 3(7) of the 1998 Act provides that an applicant for a London PHV operator's licence may appeal to a magistrates' court against a decision not to grant such a licence. Section 25(4) of the 1998 Act provides that the time in which such an appeal may be brought is 21 days from the date on which notice of the decision appealed against is served on the applicant.

187. Section 26(1) of the 1998 Act states:

"If any decision of the licensing authority against which a right of appeal is conferred by this Act –

a) involves the execution of any work or the taking of any action;

b) makes it unlawful for any person to carry on a business which he was lawfully carrying on at the time of the decision.

the decision shall not take effect until the time for appealing has expired or (where any appeal is brought) until the appeal is disposed of or withdrawn."

188. The purpose of section 26(1) is to allow an existing licensee such as Ola, whose application for renewal of its licence is refused, to continue to carry on business until such time as its appeal is disposed of or withdrawn. It follows that, where (as here) the decision in question is a decision not to renew a licence, the effect of s. 26(1) is to treat that decision, until the time for appealing has expired or an appeal is disposed of or withdrawn, as if it had been a decision to renew. As such, Ola would be able to continue to operate – pursuant to a deemed licence – pending any appeal process. TfL retains the power to revoke that deemed licence, with immediate effect, pursuant to sections 16 and 17 of the 1998 Act.

Should TfL take that step, the 'suspensive' provisions of s. 26 do not apply (see s. 26(2)). In the interests of protecting public safety, Ola would be expected to comply the 7 conditions imposed on its licence granted on 4 July 2019 until the time for appealing has expired or an appeal is disposed of or withdrawn.

189. TfL has considered whether it is necessary, in the interest of public safety, to revoke Ola's licence with immediate effect pursuant to sections 16 and 17 of the 1998 Act. It has decided that – on the evidence currently available to it – it is not necessary to do so. TfL will keep that decision under review and will continue to closely scrutinise Ola and its compliance with the seven conditions for the duration of any appeals process.

PART 7: EQUALITIES

190. In reaching the recommendations in this Note, due regard has been given to TfL's obligations under equalities legislation including the public sector equality duty in section 149 of the Equality Act 2010. TfL is obliged to have due regard to:

- a) The need to eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Equality Act.
- b) Advance equality of opportunity between people who share a protected characteristic and those that do not.
- c) Foster good relations between people who share a protected characteristic and those that do not.

191. The PHV trade attracts a high number of drivers from BAME groups. That is confirmed by the national census, which shows that a high proportion of taxi and private hire drivers are from BAME groups. Analysis of the market for PHV drivers indicates that a particularly high percentage of PHV drivers were born outside the UK.

192. The private hire industry is mostly made up of male drivers. For the PHV market, the most recent figures available estimates the number of female drivers is 2,361 compared with 105,352 male drivers. Private hire drivers tend to be self-employed and free to move between private hire operators or work for more than one operator at a time. Many private hire drivers work in the industry part-time to supplement other income. However, we do not have statistics to understand how many are part-time, how many are full-time and how many work solely for Ola.
193. A decision not to grant Ola a PHV operator's licence may have a disproportionately negative and substantial impact on BAME groups, and male drivers. Assuming that a decision not to grant Ola a PHV operator's licence is upheld, those drivers will no longer be able to work for Ola, as it will no longer have an operator's licence.
194. This impact has been carefully considered, and its seriousness is recognised. It is considered that the impact will be mitigated, at least in part, by the following factors:
- a) The appeal process. Should Ola appeal, it will – pursuant to section 26(1) of the 1988 Act - be entitled to continue to operate pending the determination of that appeal. We consider that Ola would be likely to do this. Nonetheless, if the decision is upheld, this will only delay the impact on Ola drivers, who may ultimately lose their livelihood. If an appeal is brought, they will have the benefit a longer period of forewarning about the possible permanent loss of Ola's licence.
 - b) The opportunity to drive for another operator. If Ola's appeal against the loss of its licence is not successful, some PHV drivers are likely to be able to find work with other operators, noting that there are now several large app-based operators in the London PHV market. PHV drivers are entitled to drive for any operator, or more than one operator, and it is considered that at least some drivers already do or will take advantage of that opportunity.

195. None of this undermines the serious impact that a decision not to grant a licence to Ola could have on BAME and female Ola drivers. We do not consider that this can be mitigated in its entirety and recognise that it may have a detrimental impact on their livelihoods.
196. We have carefully considered the obligation to advance equality of opportunity between persons who share a protected characteristic and those who do not. We consider that many of the factors set out above are also relevant to this element of our s. 149 duty.
197. The demographic of Ola's customers is unknown but a higher proportion of disabled Londoners use PHV services at least once a week compared to non-disabled Londoners. Therefore TfL's licensing decision may have a disproportionately adverse impact on those Ola customers who are disabled and who rely on Ola's services for transportation across London.
198. We have also had regard to TfL's obligation to have due regard to the need to eliminate discrimination, harassment and victimisation. A decision not to grant a licence to Ola, which may lead to an overall decrease in the availability of PHV services in London, may contribute to an increase in on-street harassment, particularly in the evenings after some of the Underground lines have shut and the bus services have shifted to the Night Service. There is a small risk that this could lead to a temporary shortfall in PHV services, in relation to demand, in the near future (given the size of Ola's share of the market) and we recognise that this may lead to an increase in individuals being unable to travel home during that period. This makes them increasingly vulnerable to on-street harassment, particularly in unfamiliar locations. Such negative effects may be pronounced for disabled persons, women, pregnant women and members of ethnic minority.
199. We have had regard to the need to foster good relations between persons who share protected characteristics and those who do not. We do not consider that a decision as to Ola's licence will have a meaningful impact in this respect.
200. Despite the impacts set out above, the statute requires TfL to be satisfied that an applicant is 'fit and proper' before granting that applicant a licence. For the

reasons set out in this note, it is considered that Ola is not fit and proper, and therefore TfL would be obliged to refuse the licence, notwithstanding the impacts identified.

PART 8: RECOMMENDATIONS

201. It is recommended to TfL that it makes the following decisions:

- a) TfL concludes that Ola is not a fit and proper person to hold a PHV operator's licence and refuses to grant Ola a London PHV operator's licence at the expiry of its current licence.
- b) TfL does not exercise its powers under sections 16 and 17 of the 1998 Act to suspend or revoke Ola's licence with immediate effect, as it is not necessary to do so at this time.

PART 9: DECISION

202. Pursuant to the general delegation given to the Director, Licensing, Regulation and Charging, by the General Counsel's written consent made under TfL Standing Order 131A to discharge any function of TfL relating to private hire vehicles, and taking into account the above, I make the following decisions that:

- Ola is not a fit and proper person to hold a London PHV operator's licence and refuses to grant Ola a London PHV operator's licence at the expiry of its current licence; and
- TfL does not exercise its powers under sections 16 and 17 of the Private Hire Vehicles (London) Act 1998 to suspend or revoke Ola's licence with immediate effect, as it is not necessary to do so at this time.

Signed

A solid black rectangular box redacting the signature of the Director.

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Helen Chapman
Director, Licensing, Regulation and Charging

Dated: *3.10.2020*
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