|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| ***MICHAEL DEMIDECKI & CO SOLICITORS***

|  |
| --- |
| PartnersJ D Luckhurst BSc (Hons), Barrister (non-practising), Solicitor AdvocateC N Collett BA (Hons), MSc, Solicitor |
| ConsultantM R Demidecki–Demidowicz MSc, Solicitor |
| Our Ref: L269055/ac/JL/LTDA Taxi Age Limit  |  |
| Your Ref: |  |

Mr Howard CarterGeneral CounselTransport for London Windsor House 42-50 Victoria Street London SW1H 0TL  |
|  |

11 July 2019

Dear Sirs

**re: Decision dated 5 July 2019 relating to Taxi vehicle age limits and exemptions (Notice 05/19)**

**Proposed Claim for Judicial Review**

1. **To: The Right Honourable Sadiq Khan,**

Mayor of London.

City Hall

The Queen’s Walk

London SEI 2AA

1. **The Claimant:**

**Licensed Taxi Drivers’ Association**

Steve McNamara, General Secretary

1. **The Defendant's Reference details:**

Graham Robinson, Interim General Manager Taxi and Private Hire Transport for London, City Hall, The Queen’s Walk London SEI 2AA

c/o Howard Carter

General Counsel

Transport for London

Windsor House

42-50 Victoria Street

London

SW1H 0TL

1. **Details of the Claimant's legal advisors:**

**John Luckhurst**

Michael Demidecki & Co Solicitors, Taxi House, 11 Woodfield Road LondonW9 2BA

Tel: 020 7266 3607

email: johnl@ltda.co.uk

Ref: L269055/ac/JL/LTDA Taxi Age Limit JR

**5. The details of the matter being challenged:**

1. The licensing authority for London taxis is Transport for London (“**TfL**”) and comes under the jurisdiction of the Mayor of London.
2. In 2010, the Ambient Air Quality Directive set legally binding limits for concentrations in outdoor air of major air pollutants that impact upon public health. The Directive was made part of domestic law and embodied in the Air Quality Standards Regulations 2010. As a consequence, TfL imposed a 15 year age restriction on all taxis with effect from 2012.
3. As a result of subsequent changes, introduced in 2018, diesel versions of taxis, both the TX and Vito models, are not now available for purchase as new for use in London, and TfL will only grant new licenses to Zero emission capable (“**ZEC**”) taxis.
4. In 2015 there was a public consultation and the 15 year age restriction was retained and not reduced as initially proposed.
5. On Friday 5 July 2019, TfL announced by a Notice (05/19), that it had decided to introducing changes to the taxi vehicle age limits and exemptions from 1 November 2019, in order to reduce harmful emissions from taxis and improve air quality in the capital (“**the TfL Decision**”).
6. The TfL decision is likely to adversely impact upon a significant number of Licensed Hackney Carriage Drivers, many of whom are members of LTDA because the changes will require the age limit for Euro 2, 3, 4 and 5 diesel taxis of which a large number remain in use, to be reduced, by one year each year between 1 November 2019 and 1
7. November 2022 as follows:
* 1 November 2020: the age limit will be reduced to 14 years
* 1 November 2021: the age limit will be reduced to 13 years
* 1 November 2022: the age limit will be reduced to 12 years
1. As far as Euro 6 diesel taxis are concerned the 15 year age limit will be retained but from 1 November 2019 no Euro 6 diesel taxi will be relicensed, once it is 14 years or older. Similarly, ZEC taxis will be subject to the same regime as the Euro 6 diesel taxis and so will not be relicensed once 14 years or older.
2. The LTDA has standing to make an application for Judicial Review of the TfL Decision and such decision by a public authority is a reviewable decision.

**6. Details of any interested parties:**

**N/A -**

**7. The issue:**

1. LTDA made detailed representations in the consultation, in which they challenged the proposals and suggested that the impact on air quality and emissions of older diesel taxis had not been fairly represented.
2. In addition, the LTDA proposed, as an alternative to the proposals to reduce the age limits, that a scheme of grant assisted retrofit of Euro 5 vehicles be introduced so as to bring those vehicles up to Euro 6 specification
3. The TfL decision would have a serious adverse impact upon a significant number of Licensed Hackney Carriage Drivers, whose vehicles will have a shorter lifespan than they could have envisaged when they acquired them. It should also be noted that all the TX model Taxis and Vitos whether ZEC or not are specifically designed for disabled passengers and access. A reduction in the current fleet size of Hackney Carriages as a result of the age limit reduction would have an adverse impact on the disabled who have protected characteristics. The consultation was issued without a cost impact assessment. The LTDA’s cost impact assessment clearly shows that the TfL proposal will have a significant impact on Hackney Carriage Owners whether as owner driver or proprietor.
4. The TfL Decision will diminish the residual values of vehicles and render taxis effectively unsaleable in the licensed market both in London and in the major provincial centres. This loss of equity will make it uneconomic to buy a new ZEC or a late model Euro 6 vehicle, so as to upgrade. It will push up the rental costs for non-owner drivers, as fleets begin to shrink.
5. The Decision is irrational and unreasonable. The LTDA submission in April 2019 was well-reasoned and evidence based. The LTDA understands the public health concerns and the obligations of recent legislation, however, as was demonstrated by the LTDA, the aims of reduction of emissions would equally be achieved by the LTDA proposals without the necessity of a reduction in age limits and subsequent losses to the trade if TfL proposals were adopted.
6. On 12 June 2019 Mr McNamara wrote to the Mayor about the proposed announcement of the TfL Decision and complained of pre-judgment and irregularities in the consultation process. The Mayor’s response dated 1 July 2019 did not adequately address Mr McNamara’s concerns.
7. The TfL Decision has frustrated a legitimate expectation and therefore amounts to an abuse of power:-
	1. In 2015 and in response to continuing concerns about air quality in London, following a public consultation on a proposal to reducing the taxi age limit from 15 years to 12 or 10 years TfL decided to retain the existing 15-year age limit.
	2. Other measures were introduced such as setting a target of 9000 ZEC taxis to be in service by the end of 2020 was set and grants were made available from January 2018 to assist drivers to purchase ZEC vehicles.
	3. LTDA members and other licensed taxi drivers relied on the decision to retain the 15 year age limit and bought new and used vehicles expecting them to have 15 years use. Their business plans, retirement terms and financial arrangements including the financing of the vehicle purchase, would have been based on such forecasts and assumptions.
	4. The 2012 decision gave rise to a legitimate expectation that those vehicles bought and Licensed, would enjoy a full 15-year life cycle.
	5. TfL was under a duty to consider the drivers’ legitimate expectation in its decision making process but it has failed to do so.

**8. The action that the defendant is expected to take:**

We require you:

1. to reconsider TfL Decision and retain the pre-existing 15 year age limit for all vehicles; and/or
2. adopt the LTDA proposals; and/or
3. Engage in a process of mediation as set out below.

**9. ADR proposals:**

The LTDA is willing to refer the issues raised above to mediation.

If you are willing to engage in mediation then it is proposed that a mediator be appointed immediately and that an agreed public statement be issued to the effect that the LTDA is seeking to challenge the TfL Decision and that the dispute has been referred to mediation.

We are willing to withhold taking further steps in respect of the Judicial Review claim whilst the mediation process is continuing, subject to ensuring that the delay does not prejudice such claim.

**10. Details of any information sought:**

(1) An exact breakdown of current Taxi fleet by age and euro standard as of 1st July and the expected breakdown by age and euro standard (on 1st November 2019) taking into account the numbers of Taxis expected to have been voluntarily decommissioned.

(2) All documentation relating to the decision taken and all responses to the consultation.

**11. Details of any documents considered relevant and necessary:**

See above

**12. The address for reply and service of court documents**

Michael Demidecki & Co Solicitors Taxi House, 11 Woodfield Road LondonW9 2BA

**13. Proposed reply date:**

Please respond within seven days of the date of this letter.

Yours faithfully



**MICHAEL DEMIDECKI & CO**