

**DIGEST of DECISIONS on APPEAL
from
TRAFFIC COMMISSIONERS**

(including Chronological List of Decisions)

and

**Links to the relevant Acts, Rules and Regulations in
relation to those appeals**

*Decisions on appeal from The Registrar of the Driving Standards Agency
and other 'Transport' Appeals to the First-tier Tribunal will now be found
in the Transport Digest.*

Includes appeals heard up to 30 April 2013

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Introduction

This Digest of decisions in relation to appeals from Traffic Commissioners has been produced in house in order to assist Tribunal users and will be regularly updated. The text directly refers only to decisions from 2000 onwards, all of which are available on-line. All underlined decisions are hyperlinked and may be accessed as directed or by right clicking and then selecting "open hyperlink". The page numbers in the index are also hyperlinked. In addition, a search facility is available under the heading [Decisions and Digest](#) on the web site: it may also be found by following [this link](#) and by entering the numbers: note that it is necessary to enter four numbers for the year and three for the decision – thus to obtain e.g. 2004/23 RJ Mortimer the number 2004 must be entered in full as the year and 023 for the appeal number. Earlier decisions are available from the Tribunal office and an explanation of their numbering is given at the start of [Part Two – Chronological List of Decisions](#). This contains details of hearing dates, chairmen and key words: for explanation also see start of Part Two below.

It should be noted that for the years 2000-2002 the case number preceded the year number: from 2003 onwards this was reversed. For consistency, in the text of the Digest the year number has been put first; but the original numbering has been retained in quotations and in the Chronological List.

The Digest is necessarily selective. Decisions are grouped by subject and inevitably there is overlap between chapters. Not all decisions of the Tribunal are included. However, all decided cases are listed in the Chronological List. Summaries of cases should not be relied upon: the decision itself should be considered if reference to it is to be made at a hearing. References to decisions prior to 2000 will be discouraged by the Tribunal, unless no later decision deals with the point. In any event, most appeals turn on their own facts and reliance on excessive authority is to be deprecated.

Since the post-1999 decisions can easily be obtained online, with the full title then being apparent, references are in abbreviated form, but with sufficient detail to enable identification. Note that "TC" is used to describe the decision-maker throughout, with no distinction being made between a traffic commissioner or a deputy traffic commissioner unless expressly stated. "PI" stands for public inquiry. The following abbreviations are used for legislation (all as amended):

- 1981 Act – Public Passenger Vehicles Act 1981
- 1985 Act – Transport Act 1985
- 1986 Regulations – Public Service Vehicles (Registration of Local Services) Regulations 1986
- 1988 Regulations - Public Service Vehicles (Registration of Local Services) Regulations 1986
- 1995 Act – Goods Vehicles (Licensing of Operators) Act 1995
- 1995 GVLO Regs – Goods Vehicles (Licensing of Operators) Regulations 1995
- 1995 PSVOL Regs – Public Service Vehicles (Operators' Licences) Regulations 1995
- 1999 Regulations - Public Service Vehicles (Enforcement Powers) Regulations 1999
- 2000 Act – Transport Act 2000
- 2001 Act – Transport (Scotland) Act 2001
- 2001 Regs – Goods Vehicles (Enforcement Powers) Regulations 2001

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- 2008 Rules - The Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2698/2008) (As amended)
- 2009 Regs – Public Service Vehicles (Enforcement Powers) Regulations, (SI 2009/1964)
-

All these are available at www.statutelaw.gov.uk But it is important to bear in mind that they have not always been kept up to date.

2009 EC Regulations can be found via the following links

1071/2009: “Establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council directive 96/26/EC”

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0051:0071:EN:PDF>

1072/2009: “On common rules for access to the international road haulage market”

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0072:0087:EN:PDF>

1073/2009: “On common rules for access to the international market for coach and bus services and amending Regulation (EC) No. 561/2006”

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0088:0105:EN:PDF>

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PART ONE: Appeals from Traffic Commissioners & The Department of the Environment for Northern Ireland, (DOENI)

Chapter 1 Traffic Commissioners & DOENI

1. Appointment and Powers

Traffic Commissioners are appointed by the Secretary of State for Transport under a power granted by s. 4 of the Public Passenger Vehicles Act 1981. Their powers, (to grant or refuse applications for operator's licences, to attach conditions to the grant of an operator's licence, to revoke, suspend or curtail operator's licences, to make findings in relation to Transport Managers, to disqualify operators, directors and Transport Managers, to make regulations under s. 7 of the Transport Act 1985 and to order the return of an impounded vehicle), are those set out by Parliament in primary or secondary legislation. Traffic Commissioners have no other powers. Their jurisdiction covers the whole of Great Britain.

2. Senior Traffic Commissioner

Section 4A of the 1981 Act requires the Secretary of State to appoint one of the Traffic Commissioners as 'The Senior Traffic Commissioner'. The Senior Traffic Commissioner has the power to deploy TCs in accordance with s. 4B of the 1981 Act. He or she also has the power to give guidance and general directions in accordance with s. 4C of the 1981 Act.

The power to give guidance includes guidance as to the meaning and operation of any enactment, the circumstances in which and the manner in which a TC should exercise any power to impose any sanction or penalty and the matters which a TC should or should not take into account.

Where guidance is relied on in any particular decision it will be for the Tribunal to decide whether or not the guidance is correct. Where guidance has not been followed it will be for the Tribunal to consider whether or not the reasons given for not following the guidance justify that course.

The guidance issued by the STC under s. 4C can be found at:

<https://www.gov.uk/government/publications/senior-traffic-commissioners-statutory-guidance-and-statutory-directions>

3. Independence

In [Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#) (see paragraphs 228-231) "it was made very clear on behalf of the Secretary of State that the independence of Traffic Commissioner's is recognised, valued and considered to be a matter of great importance. The Tribunal shares those views".

4. Framework Document

The role of Traffic Commissioners and the relationship between Traffic Commissioners, the Department for Transport and VOSA is set out in a Framework Document, which can be found at:

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<https://www.gov.uk/government/publications/framework-document-for-the-traffic-commissioners-and-department-for-transport-including-its-agencies>

5. DOENI

In Northern Ireland applications for Goods Vehicle Operator's licences are made to the Department of the Environment for Northern Ireland, (DOENI), under the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010, which can be found at:

<http://www.legislation.gov.uk/nia/2010/2/contents> 

In practice powers similar to those conferred on Traffic Commissioners are exercised by 'The Traffic Regulation Unit' ("TRU"), which forms part of DOENI.

Further information about the TRU can be found at:

http://www.doeni.gov.uk/index/road_users/tru.htm

Section 35 of the 2010 Act provides for a right to appeal to the Upper Tribunal in similar terms to the right to appeal against decisions made by Traffic Commissioners.

The decisions set out in the Chapters which follow will apply to appeals from decisions made in Northern Ireland unless it can be shown that the legislation applying in Northern Ireland differs in a material respect from that which applies in Great Britain.

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Chapter 2 The Requirement to hold an Operator's Licence

1. Heavy Goods Vehicles

Section 2(1) of the 1995 Act provides that:

“Subject to subsection (2) and section 4, no person shall use a goods vehicle on a road for the carriage of goods-

- (a) for hire or reward, or
- (b) for or in connection with any trade or business carried on by him,

except under a licence issued under this Act: and in this Act such a licence is referred to as an ‘operator’s licence’.”

There are various exemptions from this general rule some of which were considered in [Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#) see [Chapter 16 International Issues](#)

Sections 1 and 13 of the 1995 Act give Traffic Commissioners the power to grant an HGV operator’s licence.

Section 2(5) makes it a summary offence punishable with a fine not exceeding level 5 on the standard scale to use a vehicle in contravention of s. 2.

2. Public Service Vehicles

Section 1(1) of the 1981 Act provides that:

“Subject to the provisions of this section, in this Act ‘public service vehicle’ means a motor vehicle (other than a tramcar) which-

- (a) being a vehicle adapted to carry more than eight passengers, is used for carrying passengers for hire or reward; or
- (b) being a vehicle not so adapted, is used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers”.

For the meaning of ‘adapted’ see [Chapter 15 Public Service Vehicles](#) and [T/2012/53 Clayton Car Sales Ltd](#)

Section 12(1) of the 1981 Act provides that:

“A public service vehicle shall not be used on a road for carrying passengers for hire or reward except under a PSV operator’s licence granted in accordance with the following provisions of this Part of this Act”.

Section 12(2) gives the relevant Traffic Commissioner power to grant a PSV operator’s licence.

Various exemptions to this general rule are set out in the 1981 Act.

Section 12(5) makes it a summary offence punishable with a fine not exceeding level 4 on the standard scale to use a vehicle in contravention of s. 12(1).

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Chapter 3 Applications

(see also [Chapter 7 Repute](#) for cases involving incorrect or incomplete statements in application forms and [Chapter 8 Financial Standing](#) for cases in which no adequate financial information was supplied)

1. Senior Traffic Commissioner's Statutory Guidance

On "Legal Entities" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4328/no-4-oc.pdf

2. Essential requirements

Premature to apply without necessary supporting documents (certificate of qualification of transport manager omitted)

[2004/21 Carway Haulage](#)

(see also [2004/93 R Williams](#) (financial information))

Own correspondence address must be given – not enough to give that of representative

[2006/61 Chillway Express](#)

Advertisement – location of operating centre must be properly identified – s.11 of 1995 Act

[2003/116 A Reid](#) (misdescription of operating centre)

"It is important to those entitled to make a statutory objection under s.12(1) of the 1995 Act and it is, perhaps, even more important to those entitled to make representations under s.12(4), because it is only the 'owner or occupier of land in the vicinity' of the proposed operating centre who is given the right to make representations. It follows that a misdescription of the proposed operating centre in the advertisement may prompt representations from those who do not, in fact, qualify, because they are not owners or occupiers of land in the vicinity or it may exclude representations from others, who do not realise until too late, that the land that they own or occupy is, in fact, in the vicinity of the operating centre."

[2003/117 G Patrick](#) (insufficient detail of variation sought)

[2003/250 Anglian Removals](#) (omission of detail not prejudicial)

[2003/336 Win-For-Far Travel](#) (incorrect postal address was prejudicial)

[2004/237 B Gillivan](#) (misdescription of operating centre)

"In setting out the facts we have made reference to the requests for a large scale Ordnance Survey map showing the operating centre and the surrounding area. The documents which were, in fact, provided by the Appellant were woefully inadequate. One of the most important purposes which the map or plan must serve is to enable the Traffic Commissioner to determine whether or not a person seeking to make representations is or is not 'the owner or occupier of land in the vicinity of the proposed operating centre'. It follows that the map or plan must show all the properties which could come within that category and that it must accurately reflect their relationship to the proposed operating centre. A large scale Ordnance Survey map is likely to provide the best solution since any form of sketch will need to be drawn with great care. In addition the map or plan must be capable of producing legible copies. One of the plans produced by the Appellant was on such a small scale that it was impossible to glean any useful information from

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it. The others were sketch plans, which copied very badly. They appeared to show little more than the Star Inn and its car park.”

[2004/374 A Coid](#) (movement of operating centre by 100 yards - advertisement not misleading)

[2006/400 Win-For-Far Travel](#) (wrong road name)

[T/2012/59 Kevin Smith t/a/ Midland Marble Ltd](#) (omission of “or occupiers” from mandatory passage in advertisement clearly prejudicial)

Advertisement – must be within time limit – s.11(3) of 1995 Act

[2003/120 JCM Print Services](#)

[2003/169 Project 2000 Europe](#)

Delay in receipt of advertisement by TC – misunderstanding – remitted for consideration of merits

[2002/006 JC Stokes](#)

Confusion over detail and number of authorised vehicles

[2004/063 J&B Fryer Farms](#)

3. Miscellaneous points

Validity of objection by County Council considered

[2003/145 Norfolk CC v. Woodgrove](#)

(see also [2005/488 Norfolk CC](#))

Imposition of condition preventing employment of named disqualified persons

[2005/457 LJ Ings](#)

Letter querying request for information requests should be treated as request for PI

[2008/792 K Oxley](#)

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Chapter 4 Call-up letters

1. Notice of Issues

Omission in a call-up letter does not preclude subsequent reliance by the TC on new or overlooked material so long as proper notice is given.

[2001/72 AR Brooks](#)

“We do not accept that the call-up letter was defective but, even if it was, we think that the provisions of s.27(3) of the 1995 Act should be seen in context. Similar provisions are contained in reg.9 of the Public Service Vehicles (Operators’ Licences) Regulations 1995. Mr Duckworth submitted that only matters raised in the call-up letter could be relied upon at the subsequent public inquiry. But this is not what the provisions state. The Traffic Commissioner is obliged to give “notice in writing that he is considering” revocation of the licence for e.g. loss of good repute. The notice must state the grounds on which the Traffic Commissioner “is considering” such revocation and that representations may then be made by the licence holder. We think that it is plain that the reference to grounds goes further than mere mention of the subsection of s.27(8) of the Act relied upon. However, it is also plain that the wording is in the present tense (“is considering”) and does not preclude subsequent reliance on new or overlooked material, so long as notice in accordance with the rules of natural justice is given. Thus, a fresh call-up letter is unnecessary, as long as the position is clear.

“Mr Duckworth referred us to 1990 B26 Mighty Hire Ltd and 1996 H9 Bristol Benzol plc and these decisions should be viewed in the light of our observations. If a point does arise which has been previously overlooked, we see no difficulty with this, as long as the operator is given an opportunity of having an adjournment if he has been taken by surprise and cannot then deal with it.”

(see also [2006/313 D Lloyd](#)

[2006/405 Transclara](#) (see para.4)

[2007/104 S Lloyd](#))

“Essentially the position is one of fairness”.

[2009/516 F Ahmed & H Ahmed](#)

“The Tribunal has recognised (see [2001/72 AR Brooks](#) and Chapter 2 in the Tribunal’s Digest, available on its website) that new points may arise during a hearing. It is not fatal that these have not been raised in the call-up letter as long as those affected are given the opportunity, if present, of having time to consider them, with an adjournment if appropriate. But the situation must be viewed differently if those likely to be affected are not present. We do not say that an adjournment must be ordered in all such cases because it may be clear that those affected, be it operator, director or transport manager, have no intention of appearing or making representations in any event; but the need for notice of allegations to have been given must always be borne in mind.

Essentially the position is one of fairness. We have to say that in the present case the way in which the evidence developed was entirely one-sided, with all fault being attributed to the Appellants. They were not put on notice to this effect and the call-up letter to Slumber Dream put the allegations in very general terms. No reference is made to the alleged non-disclosures in Elkdale’s application form, to which the Deputy Traffic Commissioner understandably took objection; at its highest the call-up letter merely mentions the “apparent connection” between the two companies in wording which can best be described as bland. It is plain from his very short decision that the Deputy Traffic Commissioner took a serious view of the non-disclosures and

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we have to say that had he paused for more thought and opted to give a written decision he might have realised that it was necessary that the two Appellants should have been put on express notice of the position that had arisen”.

Failure to refer to possibility of disqualification in a call-up letter was not cured by subsequent opportunity to make representations – adjournment and further hearing necessary

[2001/11 Pagoda Travel](#)

[2008/48 T & T Coaches](#)

[T/2010/022 Coachman Travel Ltd & Saunders](#)

“The Traffic Commissioner’s comments at the end of the first hearing were indicative of her then state of mind. As can be seen, her attitude towards Mr Saunders was different and we think that he could reasonably have thought, if the subject was in his mind at all, that an order for disqualification against him was unlikely.

..... but have to say that in the light of the history it was necessary for Mr Saunders (and for that matter Mr A Berry, if it were not done) to be given notice of the evidence and of the Traffic Commissioner’s intention to consider disqualification before she went on to make the order itself. The best course would have been to sent out a transcript of the second hearing but a summary of the evidence would have been sufficient. Representations should have been invited, together with an opportunity for oral evidence if requested.”

Operator taken by surprise by contents of previously undisclosed report – TC should have ordered adjournment of own volition – “chaotic” hearing

[2000/5 M Williams](#)

Although not all convictions were listed in call-up letter they were all put to operator at PI and admitted without complaint or application for adjournment

[2001/53 M Williams](#)

A finding that a Transport Manager is not of good repute or not professionally competent cannot be made unless notice has been given in accordance with paragraph 15(1) of Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995

[T/2010/015 GAP Container Services Ltd & Evans](#)

TC is not obliged personally to consider terms of call-up letters – see s.74 Deregulation and Contracting Out Act 1994

[2001/72 AR Brooks](#)

2. Giving Notice

Sufficient if call-up letter sent to proper address without proof of receipt (para.19(1) 1995 PSVOL Regs) but preferable to obtain one.

[2000/34 Solent Travel](#)

(see also Muck It case in [Chapter 17 Appeals from Tribunal](#))

[2006/459 Miranda Jones](#))

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Paragraph 6(1) of Schedule 4 to the Goods Vehicles (Licensing of Operators) Regulations 1995 provides for similar arrangements to those set out in Paragraph 19(1) of the 1995 PSVOL Regulations

[T/2012/6 Goodman Hitchens PLC](#)

It is generally inappropriate to rely on the 'deemed receipt' provisions where it is known that a letter has not been received.

[T/2012/6 Goodman Hitchens PLC](#)

Service of notice on transport manager of proceedings affecting his good repute satisfied by notice to company of which sole director was transport manager (para.15(1) Schedule 3 1995 Act) – requirement directory not mandatory

[2000/59 Dolan Tipper Services](#)

(see also [Chapter 7 Professional Competence and Transport Managers](#))

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Chapter 5 Requirements for the Grant of a Licence - General

1. Heavy Goods Vehicles

On an application for a standard licence s.13(1) of the 1995 Act provides that the Traffic Commissioner must consider whether the requirements of ss. 13A and 13C are satisfied and, “if he thinks fit” whether the requirement of s. 13D is satisfied.

On an application for a restricted licence s. 13(2) of the 1995 Act provides that the Traffic Commissioner must consider whether the requirements of ss. 13B and 13C are satisfied and, “if he thinks fit” whether the requirement of s. 13D is satisfied.

Section 13A deals firstly with the requirements: (i) to have an effective and stable establishment, (see [Chapter 6 Establishment](#)), (ii) to be of good repute, (see [Chapter 7 Repute](#)), (iii) to have appropriate financial standing, (see [Chapter 8 Financial Standing](#)) and (iv) to be professionally competent (see [Chapter 9 Professional Competence and Transport Managers](#)). Secondly this section deals with the requirement to have a designated Transport Manager, who is of good repute and professionally competent and, where relevant not prohibited from being designated by the TC and/or not designated for too many undertakings or for too many vehicles, (see [Chapter 9 Professional Competence and Transport Managers](#)).

Section 13B sets out the requirement that an applicant for a restricted licence is “not unfit” to hold an operator’s licence.

Section 13C sets out a number of other factors about which a TC must be satisfied before an operator’s licence can be issued.

Section 13D, (which can only be considered if the Traffic Commissioner “thinks fit”, see [T/2012/46 Pradeep Kumar Sharma t/a RS Fruitstore](#), deals with arrangements for maintaining authorised vehicles in a fit and serviceable condition. The requirement of the section is met if this will “not be prejudiced by reason of the applicant having insufficient financial resources for that purpose”.

2. Public Service Vehicles

On an application for a standard licence s.14(1) of the 1981 Act provides that the Traffic Commissioner must consider whether the requirements of ss. 14ZA and 14ZC are satisfied.

On an application for a restricted licence s. 14(2) of the 1981 Act provides that the Traffic Commissioner must consider whether the requirements of ss. 14ZB and 14ZC are satisfied.

Section 14ZA deals firstly with the requirements: (i) to have an effective and stable establishment, (see [Chapter 6 Establishment](#)), (ii) to be of good repute, (see [Chapter 7 Repute](#)), (iii) to have appropriate financial standing, (see [Chapter 8 Financial Standing](#)) and (iv) to be professionally competent (see [Chapter 9 Professional Competence and Transport Managers](#)). Secondly this section deals with the requirement to have a designated Transport Manager, who is of good repute and professionally competent and, where relevant not prohibited from being designated by

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the TC and/or not designated for too many undertakings or for too many vehicles, (see [Chapter 9 Professional Competence and Transport Managers](#)).

Section 14ZB sets out the requirement that an applicant for a restricted licence is (i) of good repute, (see [Chapter 7 Repute](#)), and (ii) of appropriate financial standing, (see [Chapter 8 Financial Standing](#)).

Section 14ZC sets out a number of other factors about which a TC must be satisfied before an operator's licence can be issued.

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Chapter 6 Establishment

(see also [Chapter 3 Applications](#) for cases involving incorrect advertisements or mis-descriptions and [Chapter 16 International Issues](#))

1. General

Section 13A(2)(a) of the 1995 Act and section 14ZA(2)(a) of the 1981 Act each provide that the existence of “an effective and stable establishment in Great Britain” is to be determined in accordance with Article 5 of Regulation 1071/2009.

The existence of “an effective and stable establishment in Great Britain” is a continuing requirement. If at any time it appears to the Traffic Commissioner who issued the licence that the licence holder no longer satisfies this requirement revocation of the licence is mandatory, (see, [Chapter 12 Revocation, Suspension and Curtailment](#)).

2. Senior Traffic Commissioner’s Statutory Guidance

On “Operating Centres, Stable Establishments and Address for Service” can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4328/no-4-oc.pdf

3. Operating Centres

(i) Availability

It is for the applicant to prove that an operating centre is available because s.13(5)(d) of the 1995 Act uses the present tense

[T/2010/060 Subic Solutions](#)

(ii) ‘Normally kept’

Where vehicles “normally kept” (s.7(1) 1995 Act) is a question of fact in each case.

[2000/18 Euroline Transport](#)

(see also [2002/144 Abbeycheer](#))

Where vehicles “normally kept” is likely to be in country where registered

[2000/14 Reids Transport](#)

But vehicles may be kept in UK despite operator’s residence in Spain

[2006/392 G Brandon](#)

(see also [2006/405 Transclara](#))

Persistent failure to use operating centre – vehicles not “normally kept”

[2003/147 WC Hockin](#)

[2006/277 MJ Fenlon](#) (parking outside own house)

[2008/268 Funstons](#) (driver parking outside home during week)

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Vehicles “normally kept” in Greece – failure to use operating centre in UK
[2003/176 Sigma Trans](#)

Authorised numbers of vehicles exceeded capacity of operating centre – suitability
[2003/252 Thomas Transport](#)

4. Environmental Issues

(i) Suitability

Suitability of operating centre and imposition of conditions (s.21 1995 Act) considered – an inspection of operating centre is good practice

[2001/56 Surrey CC v. P Williams](#)

(see comments of Court of Appeal in [Chapter 17 – Appeals from Tribunal](#))

[2005/356 Edwards Transport \(Shropshire\)](#)

(TC must ignore planning objections when planning authority has chosen not to appear)

[2008/407 Surrey CC v. Rybak-Rajewski](#) (attachment of conditions made OC suitable)

[2008/542 Absolute Scaffolding Services](#) (imposition of conditions)

[T/2011/50 A Tucker & Son Ltd](#)

After quoting s. 23(1) of the 1995 Act, at paragraph 8, the Tribunal said:

“8) It follows that, if a Traffic Commissioner has any doubts as to the suitability of an operating centre, careful thought should be given to the question of whether practical, realistic and enforceable conditions can be devised to prevent or minimise any adverse effects on environmental conditions arising from the use of a place as an operating centre. In undertaking this analysis a Traffic Commissioner is bound to have regard to the nature and degree of the environmental concerns, the commercial context and the nature of the operator’s business model that is put forward to justify the desired use of the operating centre.

9) As the tribunal made clear in [2008/542 Absolute Scaffolding Services](#) Traffic Commissioners have extensive powers to attach conditions to a licence if, by doing so, they can achieve a balanced outcome that will have the effect of sufficiently reducing any noise or other relevant environmental impact of the operation on local residents, especially during unsocial hours, whilst not seriously damaging the operator’s business. But when considering whether conditions are practical and realistic, Sections 23(4) and (5) make it clear that the effect on the operator’s business will be a highly relevant factor. It follows that there is little point in a Traffic Commissioner spending much time thinking about conditions that will seriously undermine the whole commercial rationale for the proposed use of the operating centre or will, otherwise, have an extremely damaging effect on the operator’s actual or anticipated business”.

The stance adopted by the operator discouraged the TC from looking for a compromise. At paragraph 11 the Tribunal said:

“Unfortunately, in adopting this approach, the operator ran the risk that the Deputy Traffic Commissioner would resolve the matter in the way that she did. Our view is that, having required the Deputy Traffic Commissioner to make a hard choice, the operator cannot now complain that she made it –

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and cannot now suggest that she should have embarked on a process of attempted mediation or forced compromise that, on the evidence she had been given, was almost bound to fail. Given the way the matter had been put to her by the operator, and given the findings that the Deputy Traffic Commissioner properly made in relation to the evidence from the representors, it is unsurprising that the Deputy Traffic Commissioner concluded that there was little to be gained by proposing, or commencing the procedure that may lead to imposing, conditions that the operator had firmly declared would be entirely inconsistent with the imperatives of its business model”.

Suitability an issue for TC to decide as a question of fact

[2001/41 Tate Fuel Oils](#)

[2004/295 T & M Plant Hire](#)

Suitability - principles to be applied

[2001/84 GR Way](#)

[2008/335 Greaves Surveying and Engineering](#)

Piecemeal approach by TC to multiple use of operating centre - conflicting interests must be resolved fairly

[2005/185 British Benzol](#)

see also [2005/203 Balfour Beatty Group](#)

Objection – validity and suitability of access considered

[2003/145 Norfolk CC v. Woodgrove](#)

Failure to permit operator to comment on VOSA report

[2005/357 J Bayne & Sons](#)

Power to impose conditions limiting movements and maintenance of vehicles considered but TC failed to set out findings of fact when inviting representations on effect of conditions on business (s.23)(4) 1995 Act)

[2000/32 T Saunders & Sons](#)

Authorised numbers of vehicles exceeded capacity of operating centre – suitability

[2003/252 Thomas Transport](#)

(ii) Legal and Planning issues

Undesirable for TC to become involved in issues of law

[2004/202 D Holloway](#)

“We have quoted at length from these earlier decisions to stress once again that Traffic Commissioners should not be invited or expected to investigate or resolve outstanding questions of property law. It is for the operator to prove, on the balance of probability, facts which would entitle the Traffic Commissioner to conclude that the place to be used as an operating centre is lawfully available for that purpose, in the sense that it is lawfully within the reach of the operator. Other dictionary definitions of ‘available’ are: ‘capable of being used’, ‘at one’s disposal’, and ‘accessible’. When preceded by the word ‘lawfully’ they all convey exactly the same meaning.

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“If the operator shows that he is the owner or tenant of the land in question there is no obligation on the Traffic Commissioner to study the title deeds to ensure, for example, that they do not contain a covenant which would prevent the land being used as an operating centre. On the other hand if it became clear to the Traffic Commissioner that proceedings had been commenced, which would decide whether or not the land could, lawfully, be used as an operating centre, the Traffic Commissioner would need to consider very carefully whether or not it was appropriate to wait until those proceedings had been resolved. While the likely delay could be a relevant consideration any attempt at assessing the outcome must be resisted. Where proceedings are threatened it may be important to attempt to assess whether they will actually be issued but once again any attempt to assess the merits must be avoided.”

Effect of lawful development certificate under s.191(2) of Town & Country Planning Act 1990 considered – undesirable for TC to become involved in planning law

[2003/87 J Hansford](#)

“We have to say that we disagree with this approach. We considered the effect of a Lawful Development Certificate in *1999 L34, L37 & L41 Norman Marshall Ltd v. West Sussex CC & Others*. In paragraph 9 of our decision we stated:-

“9. The Respondents’ submission was that the wording of s.19(7)(b) of the Act means what it says, which is that the Certificate is only valid if it complies with the wording, ie. “stating that its use as an operating centre for vehicles used under any operator’s licence is or would be lawful”. S.191 of the Town and County Planning Act 1990 permitted the Company to apply in the terms of s.19(7)(b) so as to obtain a Certificate to cover the proposed use. It was neither necessary nor appropriate for the Traffic Commissioner to have to arbitrate in planning matters and for him to have to consider whether use of an operating centre would have constituted a material change. Submissions to such effect had been made to the Traffic Commissioner by the Company, with supporting case law. An example of the difficulty in this approach is contained in one of the many documents put before the Traffic Commissioner. This is a refusal to permit change of use by the same planning authority, the Second Respondents. The document is dated 23 November 1998, and refers to an application submitted on 20 August 1998 with the development being stated as:

“Change of use to motor salvage contractors depot including parking/storage of plant, vehicles and equipment and use of workshops for vehicle repairs Norman Marshall Ltd, Nowhurst Lane, Broadbridge Heath.”

“The Traffic Commissioner was told that a planning appeal was outstanding. However, it is clear on the face of the document that the Second Respondents as planning authority took the view that the Company’s proposed use was unlawful. It was common ground on the hearing of the appeal that the Certificate itself had been obtained for a different purpose and we think that this demonstrates the need for strict compliance with s.19(7)(b) if the Certificate is to have the intended effect. This Tribunal has stated on previous occasions (see *1997 J 23 & 24 Surrey County Council & Guildford Borough Council v. Alan Greenwood*) that in considering s.13 it is undesirable for a Traffic Commissioner to become involved in questions of land law. We repeat this comment in relation to planning law.”

TC failed to take certificate of lawful use into account when removing operating centre from licence

[2002/29 TC Atkinson](#)

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5. Miscellaneous Points

Desirability of joining residents as parties and hearing related issues to adjoining operating centres at same PI considered

[2001/41 Tate Fuel Oils](#)

Need to consider status of representor

[2004/315 MME Services](#)

Definition of “road” considered

[2003/157 North Kent Recycling](#)

Objection – failure to consider

[2005/488 Norfolk County Council](#)

TC has power to remove operating centre from licence if in breach of conditions

[2002/20 HAUC](#)

Change of operating centre is a material change

[2005/411 Frank Maas \(UK\)](#)

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Chapter 7 Repute & Fitness

1. Heavy Goods Vehicles

The requirement to be 'of good repute' in order to hold a standard licence is now set out, in mandatory terms, in Article 3 of EU Regulation 1071/2009 and sections 13 and 13A of the 1995 Act. Whether an applicant or an operator is of good repute is to be determined in accordance with paragraphs 1 to 5 of Schedule 3 to the 1995 Act. However there are provisions in Articles 3 and 6 of Regulation 1071/2009, which are also relevant.

See [T/2012/34 Martin Joseph Formby t/a G & G Transport](#) (at paragraphs 6-10, which contain quotations from these provisions)

In the case of restricted licences the requirement is that the 'applicant is not unfit to hold an operator's licence by reason of any of the matters set out in s.13B(1)(a) or (b) of the 1995 Act.

2. Public Service Vehicles

Section 14ZA(2)(b) of the 1981 Act, as amended, provides that the mandatory requirement to 'be of good repute' when applying for or holding a standard PSV operator's licence is to be determined "in accordance with paragraph 1 of Schedule 3 to the 1981 Act". Article 6 of Regulation 1071/2009 will also apply. In the case of restricted PSV operator's licences the same requirement to be of good repute is set out in s. 14ZB(a) of the 1981 Act, as amended.

In the case of HGV and PSV operator's licences the requirement to be of good repute is a continuing requirement. If at any time it appears to the Traffic Commissioner who issued the licence that the licence holder no longer satisfies this requirement revocation of the licence is mandatory, (see, [Chapter 12 Revocation, Suspension and Curtailment](#)).

3. Senior Traffic Commissioner's Statutory Guidance

On "Good Repute and Fitness" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4325/no-1-repute.pdf

4. Burden of Proof & Approach

General approach to regulation considered by Court of Session in [Thomas Muir](#) case and by Court of Appeal in [Crompton](#) case – see [Chapter 17 Appeals from Tribunal](#).

Burden of proof - position at time of application and thereafter contrasted by Court of Appeal - see comments in [Muck It](#) case in [Chapter 17 Appeals from Tribunal](#) - burden of proof on applicant for a licence but not in respect of an existing licence - previous decisions of Tribunal that burden of proof on an operator throughout not followed.

See [2006/56 Paul Oven Transport](#)

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Operator's licensing is based on trust

[T/2012/34 Martin Joseph Formby t/a G & G Transport](#) (at paragraph 17)

"Traffic Commissioners must be able to trust those to whom they grant operator's licences to operate in compliance with the regulatory regime. The public and other operators must also be able to trust operators to comply with the regulatory regime".

The approach when dealing with an application is not the same as the approach when deciding whether or not to take regulatory action, see:

[Aspey Trucks Ltd 2010/49](#) (at paragraph 10),

"In a case such as this, the Deputy Traffic Commissioner was not looking at putting someone out of business. Rather, he was deciding whether or not to give his official seal of approval to a person seeking to join an industry where those licensed to operate on a Standard National or Standard International basis must, by virtue of S.13(3), prove upon entry to it that they are of good repute. In this respect, Traffic Commissioners are the gatekeepers to the industry - and the public, other operators, and customers and competitors alike, all expect that those permitted to join the industry will not blemish or undermine its good name, or abuse the privileges that it bestows. What does "Repute" mean if it does not refer to the reasonable opinions of other properly interested right-thinking people, be they members of the public or law-abiding participants in the industry"?

See [T/2012/34 Martin Joseph Formby t/a G & G Transport](#) at paragraph 17

Threatening behaviour after PI held by TC to justify finding of loss of repute – appeal dismissed by Tribunal but allowed by Court of Appeal – proportionality considered – see [Crompton](#) case in [Chapter 22 Appeals from Tribunal](#)

Approach by TCs and Tribunal to repute – proportionality considered

[2002/217 Bryan Haulage \(No.2\)](#)

"In applying *the Crompton case* it seems to us that traffic commissioners and the Tribunal have to reconsider their approach. In cases involving mandatory revocation it has been common for findings to have been made along the lines of "I find your conduct to be so serious that I have had to conclude that you have lost your repute: accordingly, I have also to revoke your licence because the statute gives me no discretion". The effect of the Court of Appeal's judgment is that this two-stage approach is incorrect and that the sanction has to be considered at the earlier stage. Thus, the question is not whether the conduct is so serious as to amount to a loss of repute but whether it is so serious as to require revocation. Put simply, the question becomes "is the conduct such that the operator ought to be put out of business?". On appeal, the Tribunal must consider not only the details of cases but also the overall result."

(for fuller quotation see [Chapter 16 – Transport Tribunal Approach and Procedure](#) and for [Crompton](#) case see [Chapter 17 – Appeals from Tribunal](#)

(see also [2002/25 HJ Lea Oakes](#)
[2003/112 Reliance Coaches](#)
[2003/147 WC Hockin](#)
[2003/157 North Kent Recycling](#)
[2003/350 Al Madina Transport](#)

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[2007/316 Highway Deliveries](#)
[2008/4 H&A Holdings\)](#)

Repute (and other requirements) must be judged as at date of PI

[2001/49 Norbert Dentressangle](#)
[2002/117 S Cotterill](#)
[2002/217 Bryan Haulage \(No.2\)](#)
[2006/342 Courtney Coaches](#)

No power to make interim orders without hearing operator

[2006/487 D & H Travel](#)

TC may have regard to “**all the relevant evidence**” under para. 1(1) of Schedule 3 of the 1981 Act.

[2009/264 A R Brown](#)

“When referring to para.1(1), Schedule 3 of the Act Mr Whiteford referred us only to the wording of sub-para.(b). He did not dwell on the opening words ‘have regard to all the relevant evidence and in particular to’. The relevant evidence included the family background, which the Traffic Commissioner fully reviewed. She had to make an assessment of whether the Appellant would be independent of his family if granted an operator’s licence and in so doing she had to take all matters into account, including his demeanour as a witness”.

[2011/28 Heart of Wales Bus & Coach Ltd and Clayton Francis Jones](#)

“Generally, however, to cross the line, Traffic Commissioners should require evidentially established and relevant conduct that is patently unacceptable in a regulated industry that requires operators and Transport Managers to be of good repute. There will be cases where it is only necessary to set out the conduct in question to make it apparent that the operator ought to be put out of business. We are, however, satisfied that this was not such a case. On the contrary this was a case that called for a careful assessment not only of the weight to be given to the various issues raised, but also of the relevance, having regard to the wording of Schedule 3”.

TC may consider “**conduct**” under para.1(2) Schedule 3 of 1981 Act although no conviction has resulted

[2000/16 Group Taxibus](#)
[2001/10 T Smith](#)
[2006/73 AG Everett](#)

But see [2006/487 D & H Travel](#) (sexual harassment)

5. Examples relating to repute

[2000/15 D Murphy](#) (Loan of disc)

[2000/27 P Brown](#) (Use of out of date discs)

[2000/36 C Clark](#) (Failure to notify changes)

[2000/41 HiKube Transport](#) (Misleading and incomplete statement in application for licence)

[2000/59 Dolan Tipper Services](#) (Failure to disclose conviction)

[2000/66 D Eccles](#) (Refusal to pay vehicle excise duty on vehicles engaged in work abroad)

[2001/7 Alkaline UK](#) (Persistent use of untaxed vehicles)

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- [2001/16 J Webb](#) (Lack of trust from multiple failings)
[2001/57 C Kilpatrick](#) (Fronting for father)
(see also [2005/595 JK Haulage](#)
[2006/235 Crown Cold Store](#)
[2008/410 Brian Hill Waste Management](#) (operating vehicles
of insolvent company)
- [2002/9 G Gollop](#) (Submission of false document to TC)
[2002/18 UK Plant and Haulage \(Services\)](#) (Use of untaxed fuel)
(see also [2003/258 JD Cowan](#) and [2003/315 JJ MacCaffrey](#))
- [2002/27 D Brodie](#) (Unauthorised operation)
[2002/39 Excellent Connections](#) (Co-operation with TC in difficult area of law
should be taken into account – provision of taxibus service with small vehicles
– operator should have been given benefit of doubt)
[2002/75 Hazco Environmental Services](#) (Falsification of hours)
[2004/255 M Oliver](#) (Persistent non-compliance – serious breaches of drivers’
hours regulations – subsequent application by son’s wife a front for
continued control by family)
- [2004/314 Muck It](#) (fly tipping) (see [Chapter 17 Appeals from Tribunal](#))
[2004/362 Britannia Hotels](#) (Failure to attend PI)
[2004/367 N&S Gillman](#) (Failure to disclose previous revocations)
[2004/426 EA Scaffolding](#) (Fronting generally considered)
[2005/50 Rush Travel](#) (Failure to heed police guidelines for buses at football matches)
[2005/87 P Duckmanton](#) (Falsification of maintenance records)
[2005/537 West Mix](#) (Unauthorised operation and false statements)
[2006/56 Paul Oven Transport](#) (Transfer of vehicles from one company to another to
avoid regulatory action)
[2006/73 AG Everett](#) (Cabotage – permanent, not temporary, use in GB – relevant to
GB licence holder’s conduct)
[2006/313 D Lloyd](#) (False bank statements submitted with original application)
[2006/445 J & CM Smith](#) (use of vehicles on road while prohibition notices in force)
[2006/487 D & H Travel](#) (sexual harassment not relevant)
[2007/212 Huxley Travel](#) (concealment of insolvency – unauthorised use)
[2007/370 Phil Smith Transport](#) (disregard of restrictive covenant)
[2007/459 KDL European](#) (tachograph offences – need for deterrence)
[2011/34 Utopia Traction Ltd](#) (at paras 8 & 9). ‘Fronting’ defined.
[T/2012/71 Silvertree Transport Ltd](#) Fronting (see [Chapter 21 Decisions and
Reasons](#) for quotations from both these decisions defining fronting and
explaining why it is a serious matter.)

[T/2010/025 Skip It](#)

The power to make ‘formal’ findings of loss of good repute/loss of fitness to hold an operator’s licence is limited to the holder of an operator’s licence, and to Transport Managers, it does not extend to the directors of a company which holds an operator’s licence or to partners in a firm which holds an operator’s licence. But Traffic Commissioners are entitled, under paragraph 1(2)(b)(ii) of Schedule 3 to the 1995 Act to

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assess the conduct of directors or partners when deciding whether the company or partnership is of good repute.

6. Convictions

Meaning of “serious offence” and “road transport offences” in para.2 Schedule 3 of 1995 Act as amended by 1999 Goods Vehicles Operators (Qualifications) Regs

[2000/9 & 10 Stevenson & Turner and McHugh v. DETR](#)

“We have endeavoured to set out the Department’s submissions in full not only because of their importance but also because they are likely to have application in other cases. We have no hesitation in accepting these submissions, which make sense of a difficult area of law. At the risk of repetition we now set out how we think the law should be applied in future:-

“Paragraph 2(a) of Schedule 3 of the Act

“The words “serious offence” are to be construed in accordance with para.3 of Schedule 3. The words “more than one conviction” mean what they say. They do not require different incidents or different days of commission or of hearing in court. If, for example, two convictions result in a sentence on each count of 2 months’ imprisonment concurrent, imposed on the same day, neither conviction would qualify as “serious” within para.3(ii). If, on the other hand, as with Mr Stephenson and Mr Turner, the sentence was 4 months’ imprisonment on each count concurrent, then each conviction qualifies under para.3 and the combination of two or more qualifies under para.2(a). We think it immaterial that the convictions were on the same day at the same court. On any view the second conviction makes the breach of the law the more serious, since the additional conviction indicates a repetition of wrong-doing which properly affects the issue of general good repute.

“Paragraph 2(b) of Schedule 3 of the Act

“The words “road transport offences” must be construed in the light of the 1998 Directive and considered separately from the general provisions for “serious offences” in para.2(a) and para.3. The Traffic Commissioner has a discretion and para.2(b) is to be read “convicted of road transport offences which in the view of the Traffic Commissioner are serious in the context of the offences set out in paragraph 4”. As above, more than one conviction is required but this may have arisen from a single hearing or incident. In any event the Traffic Commissioner must consider each conviction separately to determine its seriousness.”

(see also [2001/32 M Moseley](#),

[2001/39 BKG Transport](#)

[2001/74 B Clark](#)

[2004/81 C Roffery](#)

[T/2012/34 Martin Joseph Formby t/a G & G Transport](#) (at paragraphs 11-13)

Comparison between position of individual and of company – serious offences – penalties imposed only on director – proportionality not relevant unless stale

[2008/580 TS Dhaliwal](#)

Spent convictions should not be referred to or taken into account – TC has discretion to disregard others – proportionality

[2003/200 AB](#)

[2000/55 ML Smith](#)

[2005/118 M & J Tinworth](#)

[2005/239 JR Williams](#)

Rehabilitation period not extended by further ‘summary only’ offence

[2009/530 Boomerang Travel](#)

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“Serious convictions” are not necessarily “notifiable” as defined in Schedule 2 of 1995 Act

[2001/44 N Hazel](#)

Where good repute has been lost as a result of convictions Article 6.3 of Regulation 1071/2009 is important because it provides that the requirement to be of good repute cannot be satisfied until a rehabilitation measure or measure having equivalent effect has been taken.

[T/2012/34 Martin Joseph Formby t/a G & G Transport](#) (see paragraphs 14-16)

7. Restricted Licences

Although not being unfit to hold a restricted operator’s licence is a different test to good repute it may still be appropriate to ask ‘Priority Freight’ and ‘Bryan Haulage’ type questions, though they may need to be appropriately modified, particularly having regard to the differing requirement of the HGV and PSV regimes in relation to Restricted Licences, (see paragraphs 1 & 2 above).

[T/2013/07 Redsky Wholesalers Ltd](#)

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Chapter 8 Financial Standing

1. Standard Licences

Section 13A(2)(c) of the 1995 Act and section 14ZA(2)(c) of the 1981 Act each provide that an applicant for a standard operator's licence must be of appropriate financial standing "as determined in accordance with Article 7" of Regulation 1071/2009.

Article 7(1) of Regulation 1071/2009 makes it clear that this is a continuing obligation. If at any time it appears to the Traffic Commissioner who issued the licence that the licence holder no longer satisfies this requirement revocation of the licence is mandatory, (see, [Chapter 12 Revocation, Suspension and Curtailment](#)).

2. Senior Traffic Commissioner's Statutory Guidance

On "Finance" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4325/no-1-repute.pdf

On "Legal Entities" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4328/no-4-oc.pdf

3. Burden of Proof

Burden of proof generally - position at time of application and thereafter contrasted - see comments of Court of Appeal in Muck It case [in Chapter 17 Appeals from Tribunal 2005/486 McKillop Trucking](#)
(see also [2006/56 Paul Oven Transport](#))

Burden of proof is on applicant for a licence
[2003/292 AJ Transport](#)

4. Purpose

[2011/36 LWB Ltd](#) (paras 5-7)

"The purpose of this requirement is spelt out in paragraph 2(1) of Schedule 3 to the 1981 Act, (the wording is identical to Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995) which provides that:

'Being of appropriate financial standing consists in having available sufficient financial resources to ensure the establishment and proper administration of the business carried on, or proposed to be carried on, under the licence.'

"The words 'the establishment and proper administration of the business' should not be narrowly construed". It is a continuing obligation, which means that a 'snapshot' of the financial position is usually insufficient.

However see now Article 7 of Regulation (EC) 1071/2009 which can be found at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:300:0051:0071:EN:PDF>

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For the general effect of this Regulation see:

[T/2012/17 NCF \(Leicester\) Ltd](#) (at paragraphs 11 & 12)

“11. Being of appropriate financial standing has always been considered to be a continuing requirement. In other words it is a requirement that the operator must satisfy for the duration of the licence. In our view this is now made crystal clear in Article 7(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council, (“Regulation 1071/2009”), which provides: *“In order to satisfy the requirement laid down in Article 3(1)(c), an undertaking shall at all times be able to meet its financial obligations in the course of the annual accounting year”*.”

12. The purpose of the requirement to be of appropriate financial standing is spelt out, in general terms, in recital 10 to Regulation 1071/2009, which provides: *“It is necessary for road transport undertakings to have a minimum financial standing to ensure their proper launching and administration”*. In our view ‘administration’, for the purposes of this Regulation, means the organisation and running of a haulage business which holds an operator’s licence. In particular the requirement is intended to ensure that vehicles can be operated safely because the operator can afford to maintain them promptly and properly.”

This case goes on to set out five points that flow from the general effect of the Regulation:

- (i) The requirement to be of appropriate financial standing cannot be satisfied by evidence of a ‘snapshot’ of the financial position on a particular day. What is required is evidence that enough money is consistently available to satisfy the requirement, (see paragraph 14). Traffic Commissioners have recognised that this causes difficulty for new operators, they have devised appropriate ways to solve this problem.
- (ii) It is not necessary to show that the requirement is met 365 days each year throughout the duration of the licence. What matters is the overall average and, the speed with which the balance available returns to a level which satisfies or exceeds the amount required, (see paragraph 15)
- (iii) The requirement to be of appropriate financial standing can only be met from assets which are available to pay bills as and when they fall due, hence the guidance that, for example, an account requiring more than 30 days notice should not be taken into account, (see paragraph 16)
- (iv) With specific and limited exceptions assets, (using the term widely), put forward to meet the requirement to be of appropriate financial standing must be owned by and in the name of the operator, (see paragraph 17).
- (v) While it might appear possible, in theory, to put forward physical assets in order to meet the requirement to be of appropriate financial standing the practical difficulties are such that it is unlikely to prove possible in practice, (see paragraphs 18-22)

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5. “Having available”: meaning

Requirement of financial standing and position of financial assessor explained

[2005/7 2 Travel Group](#)

“The words “having available sufficient financial resources” and “has available to him capital and reserves” were considered in the [JJ Adam case](#) (1992 D41) and this decision has long been regarded as the leading authority:

“In our judgment the opening words, namely “having available”, provide the key to the meaning of each expression. “Available” is defined as: “capable of being used, at one’s disposal, within one’s reach, obtainable or easy to get”. In other words an operator only has available financial resources or capital and reserves if he has money in the bank which is capable of being used, (ie. it is not already needed for the payment of debts in the ordinary course of the business) or an overdraft at his disposal in the sense that there is a balance undrawn before the limit is reached or he has debts which are obtainable because they are due and likely to be easy to collect or he has assets from which money is easy to get in the sense that the assets are items which can be readily sold without any adverse effect on the ability of the business to generate money, or he has some other way in which to come up with money at fairly short notice, should it be needed. The above should be regarded as examples and not as a comprehensive list.

“Whether or not an operator has available sufficient financial resources or has available capital and reserves is a question of fact and degree which has to be determined according to the circumstances of each individual case. For example two different operators might each have £50,000 in a bank account. If in the case of the first the money was deliberately kept in a deposit account, in case of emergency, there would be no difficulty in concluding that the operator had available financial resources or capital and reserves of that amount. If in the case of the second the money had been earmarked to meet a VAT or tax bill, which was due in the next few days, there would be little difficulty in concluding that the £50,000 ought not to be included in any calculation of available financial resources or capital and reserves, because it would not meet the requirement of being available. Different conclusions could equally well be justified in the case of the sale of plant, particularly working vehicles. In the case of an operator operating at or near to capacity the outright sale of working vehicles is not a sensible way in which to raise money because it reduces the ability of the operator to operate efficiently and profitably and it means that the operator’s overheads would have to be borne by a smaller number of vehicles. On the other hand an operator who has, or may in the future, have surplus vehicles, may well be able to turn them into cash, if the second-hand market is good, without any adverse effect on the business. In the case of the operator who is working at or near capacity it would not be surprising if the value of his vehicles was excluded from the calculation of available financial resources or capital and reserves. In the case of the other operator it would be surprising if the opposite conclusion was not reached.”

[2005/413 Red Rose Travel](#)

[2006/111 Kent Coach Travel](#)

[2010/81 Natalie Hunt t/a Wild Stretch Limo](#) (paras 4-9)

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Reliance on s.9 of the Partnership Act 1890, in the absence of a Statutory Declaration, and reliance on monthly deposits, without taking account of withdrawals, both rejected.

[2011/36 LWB Ltd](#) (paras 8 & 9) It is important to consider the quotation from JJ Adam in full and not to rely on parts of it out of context. It is the entity which holds the operator's licence which must satisfy the requirement to be of appropriate financial standing. In deciding whether or not it can do so it may be helpful to consider the question posed in paragraph 10, namely: "*Can the holder of the operator's licence make an immediate decision to spend the money in question or must it first ask someone else or some other company, (through its directors) to make the money available?*"

6. Revocation for lack of Financial Standing - Mandatory

Revocation for lack of financial standing is mandatory – proportionality does not arise see comments of Court of Appeal in [Anglorom](#) case in [Chapter 21 Appeals from Tribunal](#) and see [2005/7 2 Travel Group](#) [\(back to Contents\)](#)

Revocation by TC not precluded by administration – provisions in Enterprise Act 2000 explained

[2008/410 Brian Hill Waste Management](#)

Revocation after non-receipt of correspondence from Area Office

[2007/192 L Reeder](#)

It is for the operator not the Traffic Commissioner to specify the number of vehicles for which authority is requested. If the operator is unable to satisfy the requirement for financial standing in relation to that number it is for the operator to decide whether to ask for a reduction in the number authorised. It is not for the Traffic Commissioner to curtail the licence to a number for which the operator can demonstrate financial standing.

[T/2012.17 NCF \(Leicester\) Ltd](#) (see para 10).

However it is open to a Traffic Commissioner, in an appropriate case, to grant a period of grace of up to 6 months under the provisions of Regulation 1071/2009. At the end of whatever period is granted the operator will be expected to demonstrate that the amount required will be met on a permanent basis, see paragraph 55 of the Senior Traffic Commissioner's Statutory Guidance on Finance, available at:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4325/no-1-repute.pdf

Revocation may be made for lack of financial standing even if earlier revocation for loss of repute has been stayed pending appeal

[2003/138 P Coakley](#)

7. Restricted Licences

There are important differences between the 1995 Act and the 1981 Act when considering the 'finance' required by an applicant for or the holder of a restricted licence.

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1995 Act. Under s.13(2)(b) a TC can “if he thinks fit” consider whether the requirement of s. 13D is satisfied. In other words before considering whether the requirement is met the TC must first conclude, in the exercise of his discretion, that it is an appropriate case in which to consider whether the requirement is satisfied. It is important to note that s. 13D uses the expression “financial resources” not “financial standing” and that it is quite apparent that the two are not synonymous, see:

[T/2012/46 Pradeep Kumar Sharma t/a RS Fruitstore](#) (at paragraphs 6 & 11-14)

1981 Act. There is a mandatory requirement under s. 14(2) for the TC to consider whether the requirements of ss 14ZB and 14ZC are satisfied. Since ‘finance’ is dealt with by s. 14ZB(b) there is no need in a case concerning a Restricted PSV licence for any exercise of discretion before considering ‘finance’. The requirement for a restricted PSV licence is to “have appropriate financial standing” but “as determined in accordance with paragraph 2 of Schedule 3 to the 1981 Act” rather than in accordance with Article 7 of EU Regulation 1071/2009, which is the requirement for a standard licence.

8. Miscellaneous points

It may be unfair to refuse a short adjournment to permit financial evidence to be obtained if readily available – proportionality in such circumstances considered

[2003/30 Helms Coaches](#)

[2005/7 2 Travel Group](#)

[2005/205 Eddie Stobart](#)

[2005/306 James Scaffolding Ltd](#) (TC should have assisted in identifying resources)

Restricted licence – unpaid fines of director not a relevant activity to be taken into account in considering financial resources

[2002/24 McFletch Hire Services](#)

It is not acceptable if monies are in wrong bank account

[2003/315 JJ McCaffrey](#)

[2004/373 Rai Transport \(Group accounts\)](#)

[2004/383 Blue Arrow](#)

TC stated that intended to leave issue of financial standing to one side while considered other matters but then made adverse findings on it in his decision without having invited evidence or submissions

[2001/11 Pagoda Travel](#)

[2002/24 McFletch Hire Services](#)

(see also [2006/111 Kent Coach Travel](#))

Lack of cooperation by Area Office

[2005/473 EB Enterprise Waste Management](#)

[2005/423 Hillside Traders](#)

Traffic Area Office required wrong amount

[2005/547 Booze Cabin](#)

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Chapter 9 Professional Competence and Transport Managers

1. Heavy Goods Vehicles

Section 13A(2)(d) of the 1995 Act provides that the requirement to be professionally competent is to be determined “in accordance with paragraphs 8-13 of Schedule 3”. Section 13A(3) of the 1995 Act sets out the requirement to have a designated Transport Manager, as required by Article 4 of Regulation 1071/2009. The criteria, which a Transport Manager must now meet, are set out in s. 13A(2) and Article 4. Article 8 of Regulation 1071/2009 makes further provision in relation to professional competence.

2. Public Service Vehicles

Section 14ZA(2)(d) of the 1981 Act provides that the requirement to be professionally competent is to be determined “in accordance with paragraphs 3, 4 and 6 of Schedule 3”

Section 14ZA(3) of the 1995 Act sets out the requirement to have a designated Transport Manager, as required by Article 4 of Regulation 1071/2009. The criteria, which a Transport Manager must now meet, are set out in s. 14ZA(3) and Article 4. Article 8 of Regulation 1071/2009 makes further provision in relation to professional competence.

3. Senior Traffic Commissioner’s Statutory Guidance

On “Transport Managers” can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4327/no-3-transport-managers.pdf

4. Burden of Proof

Burden of proof - see comments of Court of Appeal in Muck It case in [Chapter 17 Appeals from Tribunal](#)

See [2006/56 Paul Oven Transport](#)

5. Change of Transport Manager

[2011/36 LWB Ltd](#) (para16)

The use of form TM1(G) to notify a change of Transport Manager is important because the contents of the form, the documents required to support it and the declarations made at the end of it provide much of the material needed by a Traffic Commissioner to decide whether or not a person nominated as a Transport Manager will be able to fulfil that role. If Form TM1(G) is not used Traffic Commissioners are entitled to insist on receiving the same information by other means.

Form TM1(G) is downloadable from the internet at:

<http://www.dft.gov.uk/vosa/repository/TM1%20form%20December%202009.pdf>

The resignation or departure of a Transport Manager is a material change in circumstances which must be notified to the Traffic Commissioner within 28 days.

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[2011/36 LWB Ltd](#) (para18)

6. Position of Transport Manager

Position of transport manager considered

[2001/68 Dukes Transport](#)

[2003/94 Dawlish Coaches](#)

[2003/343 Anglorom](#) – see [Chapter 17 Appeals from Tribunal](#)

[2004/255 M Oliver](#)

[2004/313 Yare Haulage](#)

[2006/252 A Hayden](#)

If transport manager overridden by operator TM must give written warning and then resign, rather than carry on when unable to perform his duties

[2003/258 J Cowan](#)

“The thrust of the case against Mr Fenny was the agreement with Mr Cowan to reduce his hours so that he became a transport manager in name only. This had been conceded by him in evidence (see paragraph 3(viii) above) and was then considered in detail. Mr Duckworth sought to persuade us that the reduction in hours was a matter between employer and employee and that it did not affect the performance of Mr Fenny’s duties. But we think that this approach wholly fails to recognise the position of a transport manager as set out in s.58(1) of the Act, as quoted in paragraph 3(x) above: in particular, we emphasise the words “continuous and effective responsibility for the management of the transport operations”. We think that the agreement to reduce hours reflects adversely on both Mr Cowan and Mr Fenny. The latter had accepted the position as transport manager and should have ensured that he did indeed do enough work so as to be able to comply with his duties. Instead of which he allowed himself to be used in name only. We regard the conduct of both Mr Cowan and Mr Fenny to have been a serious breach of their obligations.”

Repute lost by transport manager of convenience in respect of vehicles operating abroad – lack of continuous and effective management

[2000/18 Euroline Transport](#)

Repute not lost by mere association with disqualified operator

[2005/136 P Tagell](#)

Need for notification of change considered - proportionality

[2005/205 Eddie Stobart](#)

If conduct to be considered at PI transport manager is entitled to notice under para.15(1) of Schedule 3 1995 Act

[2003/58 S Sowerby](#) (no notice)

[2008/92 GM Harrison](#) (deemed notice if sent to last known address)

But service of notice on transport manager of proceedings affecting his good repute satisfied by notice to company of which sole director was also transport manager – directory not mandatory

[2000/59 Dolan Tipper Services](#)

[2005/331 Moving Home Co](#)

No power to disqualify transport manager who is not a director

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[2003/45 JJC Bulk Tippers](#)

[2008/4 H&A Holdings](#)

[2008/5 M Skellern](#)

Repute of transport manager lost despite indication that absence at PI was accepted and that issue would not then be decided

[2006/192 S Shirley](#)

Application refused after failure to supply certificate of qualification of transport manager

[2004/21 Carway Haulage](#)

Need for UK Transport Manager of operator resident abroad

[2006/392 G Brandon](#)

[2006/405 Transclara](#)

7. Companies

In the case of a company the mere appointment of a new Transport Manager, (whether before an application for an operator's licence or as an addition to or replacement for an existing Transport Manger) is not, on its own, sufficient to enable the company to meet the requirement to be Professionally Competent. The operator must satisfy the Traffic Commissioner that the person concerned is (i) of good repute, (ii) professionally competent and (iii) is under contract to provide 'continuous and effective responsibility for the transport operations of the business'.

[2011/36 LWB Ltd](#) (para16)

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Chapter 10 Hearings

1. Notice of Hearing

In HGV cases see Schedule 4 to the Goods Vehicles (Licensing of Operators) Act 1995 and [2009/524 Ocean Transport](#)

“The provisions relating to the giving of notice to a public inquiry are set out in Schedule 4, Goods Vehicles (Licensing of Operators) Regulations 1995. By paragraph 1(1) the Traffic Commissioner is obliged to give 21 days’ notice of the date and time fixed for the holding of a public inquiry. The date, time and place may be varied, but, if so, by paragraph 1(2) at least 21 days’ notice must again be given. Paragraph 1(6) provides for seven days’ notice in respect of an adjourned inquiry but this is of no relevance here since the earlier inquiry never began. However, paragraph 7 provides that if there has been an irregularity in the giving of notice ‘the Traffic Commissioner may nevertheless proceed with the inquiry as if notice had been duly given provided he is satisfied that no injustice or inconvenience would be caused’.”

See also the Senior Traffic Commissioner’s Statutory Guidance on “Operating Centres, Stable Establishments and Addresses for Service which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4328/no-4-oc.pdf

2. Burden of proof

Position at time of application for a licence and thereafter contrasted - effect of Council Directive - see comments of Court of Appeal in [Muck It](#) case in [Chapter 22 Appeals from Tribunal](#) - previous decisions of Tribunal not followed

“Per Rix LJ:

“69. Turning back to sections 26 and 27 of the 1995 Act, I would conclude that for revocation to be possible under the former or mandatory under the latter, it is the commissioner who must be satisfied of the ground of revocation, and not the licence holder who must satisfy him to the contrary. That seems to me to be the natural way to regard both the language of those sections, and the situations contemplated in them. The context is that of a licence holder and the possible revocation of his licence. Revocation can only be done on some specified ground (section 26) or because one or other of the three fundamental requirements is no longer satisfied (section 27). Under section 26(4), the commissioner can only act if “the existence of” a ground comes to his notice. It is counter-intuitive to think of a licence holder being required to negative the existence of a ground raised against him. So with section 27. The commissioner must revoke if “it appears to him” that the licence holder is no longer of good repute or of appropriate financial standing or professionally competent. That seems to me to mean that the commissioner must be satisfied that the requirements are no longer fulfilled. If it had been intended to place the same burden on the licence holder as had been placed on the original applicant, then the same language as that found in section 13 would have been used.”

See [2006/56 Paul Oven Transport](#)
[2005/362 M Couzens](#)

Burden of proving exemption that vehicle used mainly on private land is on operator (para.3 Schedule 3 1995 GVLO Regs)

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[2001/58 GM Buckley](#)

Burden of proof in impounding cases – see [Chapter 18 Impounding](#)

3. Human Rights

Accepted by DETR that TC is a public authority and that proceedings involve determination of operator's civil rights and obligations – held that such proceedings are not criminal – held also that the TC's hearing was fair and public and that he is independent and impartial – in any event TC was subject to judicial control by the Tribunal which has full jurisdiction (see para.8 Schedule 4 1985 Act)

[2000/65 AM Richardson v. DETR](#)

See [2005/7 2 Travel Group](#)

(see also comments by Court of Appeal in [Crompton](#) case – [Chapter 22 Appeals from Tribunal](#))

4. Rules of Natural Justice

Non-disclosure of relevant documents available to TC but not supplied to operator – not seen until in appeal bundle – desirability of a check list.

[2001/39 BKG Transport](#)

“This is another appeal which demonstrates the need for careful housekeeping of documents. Mr Laprell referred us to Appeal 1997 J42 Starr Roadways Ltd. More recently the Tribunal has heard [Appeal 13/2001 Frigoline Ltd](#) and Appeal [41/2001 Tate Fuel Oils Ltd](#). We recognise that during the course of his work it is an inevitability that a mass of material will cross a Traffic Commissioner's desk, including material which may have formed the basis for the administrative decision to refer a particular operator to a public inquiry. It would be impracticable for a Traffic Commissioner to have to attempt to disclose everything that he has ever seen in relation to a particular operator and Mr Laprell did not suggest this. We agree that it is at the stage at which a decision is taken to refer an operator to a public inquiry that a line must be drawn. What the Traffic Commissioner is then required to do is to identify the evidence that is being relied upon at the public inquiry and to ensure that the operator is given notice so that he can properly deal with it, to avoid surprises. If as a matter of routine Traffic Commissioners were to produce a check list of the documents not only constituting their brief but also added subsequently we think that this problem is unlikely to recur. Our comments in Appeal [53/2001 Marilyn Williams t/a Cled Williams Coaches](#) should also be kept in mind: if eg. an amended schedule of prohibition notices has recently been sent to an operator, it is desirable that receipt is confirmed.”

[2004/426 EA Scaffolding](#) (nondisclosure of documents must be raised in an amendment of notice of appeal to enable comment by Traffic Area Office and to avoid adjournment)

(see also: [2001/13 Frigoline](#)
[2001/41 Tate Fuel Oils](#)
[2001/53 M Williams](#)
[2002/39 Excellent Connections](#)
[2002/40 Thames Materials](#)
[2003/201 S&V Supplies \(Scotland\)](#)
[2003/258 JD Cowan](#)
[2004/36 G Jenkins](#)
[T/2010/034 W P Commercials](#))

Serious delay in decision making deprecated

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[2005/523 Swallow Coach Company](#)
[2006/351 Caledonian Coaches](#)
[2006/355 Ferguson Transport](#)

TC stated that intended to leave issue of financial standing to one side while considered other matters but then made adverse findings on it without inviting evidence or submissions

[2001/11 Pagoda Travel](#)
(see also [2002/24 McFletch Hire Services](#))

Enquiries made by TC after conclusion of public inquiry were unfair
[2001/65 E Coakley](#) not published on website but see comments by Court of Session in [Chapter 17 – Appeals from Tribunal](#)
[2004/407 PF White-Hide](#)
[2008/472 K Scott](#)

Ensuring fairness when TC makes own enquiries. TC asked for information and only made own enquiries when it was not provided. Operator correctly given opportunity to comment and allowed to request that PI should be reopened. Reliance on a further public document which operator would have found it difficult to contradict upheld but it would have been better to allow operator the opportunity to comment.

[T/2012/34 Martin Joseph Formby t/a G & G Transport](#) (at paragraphs 18 &19)

Failure to permit operator to comment on VOSA report
[2005/357 J Bayne & Sons](#)

No power to make interim orders without hearing operator
[2006/487 D & H Travel](#)

5. Bias by Traffic Commissioner

Bias by TC – law and practice considered

[2004/426 EA Scaffolding](#)
[2003/314 L Robbins](#) (impression that had prejudged issue)
[2003/327 The Fox \(A1\)](#)
[2003/350 Al Madina Transport](#) (expressions of provisional opinions went too far)
[2004/364 Pallas Transport](#)
[2007/318 Eurotaxi](#)
[2008/11 Ansva Holdings](#) (conversation between TC & VOSA)
[2008/60 K Oliver](#) (TC a witness as to fact)

Excessive interruptions by TC may provide grounds for intervention by Tribunal
[2008/60 K Oliver](#) (continual interruptions)
[2003/30 Helms Coaches](#) (unfair not to grant adjournment to obtain financial evidence)
(see also [2005/7 2 Travel Group](#))

Diabetic sugar shortage by TC – fairness of hearing
[2007/428 John Maffia](#)

Unfair to make adverse decision after indication that absence at PI was accepted and

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that issue would not then be decided

[2006/192 S Shirley](#)

6. Practice when Bias or procedural irregularity is alleged

The procedure to be followed if an allegation of bias or procedural irregularity is made has been set out in the first of the cases below. It must be followed.

[2004/426 EA Scaffolding](#)

“Footnote (2) – Allegations of Bias or Procedural Error

If allegations of bias or procedural conduct are made, including, for example, failure to disclose documents, these must be set out in detail in the notice of appeal. In the case of alleged bias, it is essential also that affidavits are served, as in the EAT Practice Direction 2004, so that the Tribunal may seek comments from witnesses and the Traffic Commissioner.

We think that less formality is needed in the case of a failure to disclose documents (see eg. [2001/39 BKG Transport](#), which is available on the Tribunal’s website and see Chapter 3 in the Digest) but if documents are found to be present in the appeal bundle and have not previously been seen by the operator, it is important that the complaint is put into an amended notice of appeal so that this may be served in particular on the Traffic Commissioner in order to enable factual comments to be made. There have been occasions in the past in which, rather than adjourn, the Tribunal has felt it necessary to make an order subject to further information, if any, to be supplied by the Traffic Area Office. It may be, for example, that the particular document was handed to the operator during the hearing and that there is no reference to this on the transcript: if so, we would expect this to be pointed out by the Traffic Area Office.”

[2007/318 Eurotaxi](#) (recording of evidence played to Tribunal)

[2008/11 Ansvar Holdings](#)

7. Miscellaneous points

Concurrent criminal proceedings - whether PI should be stayed

[2004/255 M Oliver](#)

[2006/149 A & C Nowell](#)

Service of notice – deemed service considered

[2004/147 Amenity Horticultural Services Ltd v. Rother DC](#)

[2007/192 L Reeder](#)

Desirability of hearing all related issues at same PI considered – TC has wide powers to join parties

[2000/22 ET Benson Precision Engineering v. Surrey CC \(County Council\)](#)

[2001/41 Tate Fuel Oils \(residents\)](#)

[2003/94 Dawlish Coaches \(transport manager\)](#)

[2008/472 K Scott](#)

Desirability of inquiries relating to operator and to drivers’ conduct being heard together considered

[2002/25 HJ Lea Oakes](#)

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“The question of whether a driver’s conduct inquiry should be held at the same time as an operator’s inquiry was considered in [68/2001 Dukes Transport \(Craigavon\) Ltd v. Vehicle Inspectorate](#) where it was submitted to us that the two inquiries “should have been before different traffic commissioners or they should have been heard together”. We have to say that if there is a possibility of conflicting evidence the latter course is to be preferred, so that all issues of fact are resolved at the same time.”
(see also [2005/56 NR Evans](#) & [2009/240 A M Kydd t/a Sandy Kydd Road Transport](#))

Representation of Vehicle Inspectorate at PI is within TC’s discretion (para.3(6) Schedule 4 1995 GVLO Regs) and is to be encouraged

[2001/49 Norbert Dentressangle](#)

[2001/68 Dukes Transport](#)

Representation by unqualified advocate – standing

[2005/385 K Grant](#)

[2006/252 A Hayden](#)

Not unfair for TC to admit statement by absent traffic examiner

[2001/53 M Williams](#)

[2003/147 WC Hockin](#)

A preliminary hearing in an appropriate case is to be encouraged

[2003/300 Andrews \(Sheffield\)](#)

Operator’s entitlement to a PI considered

[2005/57 M Winspear](#)

[2005/279 TTS Trucking](#)

See [2008/792 K Oxley](#)

Status at PI of father of accident victim considered

[2002/25 HJ Lea Oakes](#)

Rehearing ordered by Tribunal may be by same TC unless contrary stated

[2003/254 A Jones](#) (see comments of CA in [Chapter 17 Appeals from Tribunal](#))

Tribunal hearing in England or Scotland - practice considered

[2004/364 Pallas Transport](#)

See [McCaffrey and Pallas](#) case in [Chapter 17 Appeals from Tribunal](#)

Effect of failure of recording equipment at PI considered

[2004/315 MME Services](#)

A Traffic Commissioner is entitled to explore the possible consequences of a course (or courses) of action but should be careful to keep an open mind.

[2011/35 Professional Transport Ltd](#)

“6. We also find no merit in the argument relating to “indications”. From as far back as 1997, in [J37 Galloway Refrigerated Transport Ltd](#) the tribunal has encouraged Traffic Commissioners, where such a course is practicable and appropriate, to flag up the possible outcomes so as to enable an operator to make representations about the effect on their business. Without such material, it has been suggested, Traffic Commissioners are unable to make an informed judgment as to, for example, th

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effect and proportionality of a lengthy suspension, or a substantial curtailment. Subsequently, this guidance has been tempered by a number of decisions that recognise the inherent difficulties in such a 'rule', and the current position is simply that such an exploration of the effects of regulatory action may or may not be possible or desirable, depending upon the particular circumstances".

"7. In the present case, the operator appears to have mistaken a perfectly proper discussion about current operational needs and the effect of a curtailment (whether time-limited or not) with an indication as to the likely outcome. The Traffic Commissioner was not, in our view, giving an indication, he was merely exploring possibilities. This is an extremely difficult thing to do – not least because, until all evidence and submissions have been heard, the Traffic Commissioner must have an open mind and, in serious cases, Traffic Commissioners should reserve their decision to allow further time for reflection".

8. Impounding hearings

Impounding procedure – procedure before TC considered

[2005/449 WJ Furber](#)

Period of 21 days allowed for making application to return impounded vehicle – directory not mandatory

[2003/90 CPT Commercial](#)

[2005/471 Excel A-Rate Business Services](#)

[2007/414 Barclays Asset & Sales Finance](#)

The general rule is that the same person cannot be an advocate and a witness in the same proceedings

[T/2010/001 Walsh Skip Hire](#)

9. Adjournments

Adjournment refused before and during PI – medical evidence submitted – operator required to attend despite obvious pain – livelihood at stake – principles considered

[2003/350 Al Madina Transport](#)

(see also [2002/196 Swift Mini-Coaches](#)

[Muck It](#) case in [Chapter 17 Appeals from Tribunal](#)

[2005/362 M Couzens](#)

[2006/192 S Shirley](#)

Adjournment refused despite VOSA's failure to release seized documents

[2008/413 Al-Le Logistics](#)

TC should order adjournment on own initiative if obvious operator taken by surprise

[2000/5 M Williams](#)

TC not informed of application to adjourn so unable properly to rule upon it

[2000/2 Grifpack](#)

TC not inform operator of refusal to adjourn - operator failed to attend

[2005/110 G DEM](#)

Steps taken by the Tribunal before hearing in absence

[2009/524 Ocean Transport](#) (see paragraph 3)

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10. Evidence

A written response is desirable when replying to letters/requests from, for example, VOSA, the Central Licensing Unit at Leeds or from the Traffic Commissioner or the office of the Traffic Commissioner because it will provide fuller and more reliable evidence

[T/2010/005 Gary James Transport](#)

Assessment of credibility. The approach of the Deputy Traffic Commissioner, (set out at paragraph 2(xiv) of the decision), was detailed and meticulous. Possible innocent explanations were considered and reasons given for rejecting them. Only then was the conclusion reached that the witness was not credible. Whenever appropriate this approach to the assessment of credibility should be followed.

[T/2011/29 David Pritchard and Vehicle and Operator Services Agency](#)

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Chapter 11 Discretionary Issues

(Maintenance, Drivers' Hours & Rules, Tachographs etc.)

See also [Chapter 12 Revocation, Suspension and Curtailment](#), where reference is made to the legislation.

1. Burden of proof

Application of [Muck It](#) case (see [Chapter 17 Appeals from Tribunal](#))
[2006/56 Paul Oven Transport](#)

2. Drivers' hours and Tachographs

Undertaking to make arrangements to observe rules on drivers' hours and tachographs and to keep proper records requires constant supervision and monitoring so as to ensure that systems work

[2000/45 M Jolly Transport](#)

[2001/6 M-Line](#)

[2001/7 Alcaline UK](#)

[2001/49 Norbert Dentressangle](#)

"We are satisfied that in the light of the enforcement history of this operation, the Traffic Commissioner rightly considered this to be a bad case. The percentage rate of infringements and the nature of those infringements even if one excludes those relating to rest breaks are serious, particularly in the context of the Appellant having been before the same Traffic Commissioner only five months before. The Tribunal has previously indicated in [Alcaline UK Limited \(Appeal 7/2001\)](#) that in most cases there is likely to be some degree of recklessness on the part of a Company that would make it responsible for the failure of its drivers. However, the Tribunal also noted that in the case of persistent breach it is difficult for an operator to contend that its systems are either "appropriate" or "reasonable". In other words, systems should be judged by their results. We also note that in the Nuttall case, Lord Steyn was clear in his judgment that when considering whether there has been a degree of recklessness in the conduct of an Appellant, the circumstances of the particular case must be taken into account. In this case we consider that the very recent and serious enforcement action taken in respect of the licence in June 2000 was highly relevant."

[2001/68 Dukes Transport](#) – see quotation in [Chapter 12 – Directors' Duties](#)

[2004/313 Yare Haulage](#)

[2008/413 Al-Le Logistics](#) (undertaking not absolute)

Falsification of drivers' hours considered

[2008/342 AJ Brown](#) (Ghost drivers)

[2002/75 Hazco Environmental Services](#)

(see also [2006/161 Kent Vale Transport](#))

Proportionality of weekly rest offences considered

[2008/780 South Lincs Plant Hire](#)

Requirement to record other work – Article 6(5) of Regulation 561/2006

[2009/225 Priority Freight](#) (paras 4-6)

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It is the duty of the operator to make proper arrangements

[T/2010/063 CP Hart & A Hart t/a Zulu's Minibus](#)

"The duty upon an operator who undertakes to make proper arrangements so that the rules on driver's hours and tachographs are observed and proper records kept, is clear. It is not for VOSA or anyone else to take responsibility for advising Mr Hart that he must acquire a proper understanding of the driver's hours rules, and that he should not make false records. In seeking to shift blame from Mr Hart, where it rightly belongs, onto the shoulders of VOSA or "the system" demonstrates that Mr Hart still has a lot to learn about his own responsibilities before he can be trusted to hold an operator's licence. We consider that Mr Bowling's arguments on this point did more harm than good, and that Mr and Mrs Hart's representatives at the public inquiry were well advised to avoid making such misguided and misconceived submissions."

3. Maintenance

Proportionality of maintenance defects considered

[2000/57 Yorkshire Rider](#) (see under heading First Bristol)

[2004/36 G Jenkins](#)

[2004/399 First Manchester](#)

[2005/236 N Alldritt](#)

[2005/524 Banga Travel](#)

Serious maintenance defects considered

[2003/142 Thames Bus](#)

[2003/194 Smith's Distribution](#)

Maintenance may not be wholly delegated to a contractor – operator must retain control

[2002/25 HJ Lea Oakes](#)

Undertaking for 6 months' audit properly imposed

[2008/470 Heart of Wales Bus and Coach Hire](#)

Falsification of maintenance records – bad case

[2005/87 P Duckmanton](#)

4. Failure to respond

Failure to reply to letters may lead to conclusion that there has been a material change in circumstances under s.26(1)(h) of 1995 Act

[2001/17 R Hayes](#)

(see also [2003/351 D Silman](#)

[2004/86 A Medford](#)

[2004/95 Clearout](#)

[2005/411 Frank Maas \(UK\)](#)

[2005/472 J McNamara](#)

[T/2010/051 J P Scaffolding](#)

[T/2010/048 Jim Bertie Ltd](#)

"The duty upon an operator to ensure that the Traffic Area Office is able to communicate effectively is particularly important in a case such as this where

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it was fully known and appreciated that a public inquiry had to be re-scheduled for hearing. Mr Edwards only had to telephone the Office of the Traffic Commissioner in order to discover the new date. As it was, properly posted letters were not returned, no alternative postal address was provided, efforts by the Office of the Traffic Commissioner to make contact by phone failed, and the operator and Transport Manager made no effort whatsoever to keep in touch with the office (once an adjournment had been granted at the operator's request) even though they were fully aware of the ongoing proceedings, and the fact that the Deputy Traffic Commissioner had already adjourned the hearing 3 times in order to accommodate a range of difficulties."

[T/2010/056 Instant Freight](#)

"We explained to the Appellant that in addition to the absence of adequate financial evidence we were concerned about the failure to respond to correspondence. The Tribunal has stated on many occasions that operator's licensing depends on trust. One important aspect of that trust is that the Traffic Commissioner must be able to rely on an operator having in place: (a) an address at which he can reliably receive important correspondence, (whether it be from VOSA, the Office of the Traffic Commissioner, the office in Leeds or any other significant source), and, (b) a system which ensures that correspondence is fully answered, within any time limit which has been set, or else within a reasonable time and that if documents are requested that they are sent."

5. Material change in circumstances

Change of operating centre is a material change

[2005/411 Frank Maas \(UK\)](#)

Use of drivers without community licence (from Turkey) in UK is a material change

[2000/46 Armondi](#)

6. Miscellaneous points

Double jeopardy does not arise if operator dealt with by TC while possibility of criminal charge continues

[2000/48 JC Evans](#)

[2004/255 M Oliver](#)

Culture of non-compliance with rules is serious

[2002/167 A Cooper](#)

[2004/255 M Oliver](#)

Duty to co-operate with VOSA and TC's

[T/2010/064 JWF \(UK\) Ltd](#)

"Having regard to all the circumstances, the tribunal is of the view that, for the reasons she gave, the Traffic Commissioner's decision to revoke this licence was plainly right. This operator had ample opportunity to engage in a professional and co-operative way with VOSA and with the Traffic Commissioner. If operators fail to do so, they cannot complain when such repeated and obvious avoidance of engagement results in the loss of a licence. In this case, serious questions relating to maintenance and road safety remained unanswered, quite apart from the other matters that seriously

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undermined the ability of VOSA ,and the Traffic Commissioner, to investigate and regulate the activities of this operator, effectively.”

All operators have a positive duty to co-operate with VOSA and the Traffic Commissioner. This operator has manifestly failed to do so.

TC wrong to rely on stale evidence and to ignore recent improvements
[2006/149 A & C Nowell](#)

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Chapter 12 Revocation, Suspension and Curtailment.

1. Heavy Goods Vehicles

Section 26(1) of the 1995 Act gives the Traffic Commissioner, who issued the operator's licence, discretion to direct that it be "revoked, suspended or curtailed", if any of the grounds set out in s. 26 are made out.

Section 27 of the 1995 Act provides that the Traffic Commissioner who issued a standard licence "shall direct that it be revoked if at any time it appears to him that the licence-holder no longer satisfies the requirements of section 13A(2), (see [Chapter 5 Requirements for the Grant of a Licence](#)), or that the transport manager designated in accordance with Article 4 of the 2009 Regulation no longer satisfies the requirements of section 13A(3)".

2. Public Service Vehicles

Section 17(1) of the 1981 Act provides that the Traffic Commissioner by whom a standard licence was issued must revoke it if it appears, at any time, that the holder of the licence no longer satisfies the requirements of section 14ZA(2), (see [Chapter 5 Requirements for the Grant of a Licence](#)), or that the transport manager designated in accordance with Article 4 of the 2009 Regulation no longer satisfies the requirements of section 14ZA(3)".

Section 17(2) of the 1981 Act provides that, without prejudice to subsection (1) the TC by whom a PSV operator's licence was granted may revoke or suspend the licence, or vary any condition attached under s.16(1), (specifying the maximum number of vehicles authorised), or attach any such condition. The grounds on which such action can be taken are set out in s. 17(3) of the 1981 Act.

3. Revocation

(i) Lack of Financial Standing - Mandatory

Revocation for lack of financial standing is mandatory – proportionality does not arise see comments of Court of Appeal in [Anglorom](#) case in [Chapter 22 Appeals from Tribunal](#) and see [2005/7 2 Travel Group](#) and [Chapter 8 Financial Standing](#)

4. Curtailment

Circumstances where curtailment appropriate considered

[2003/85 Nostalgia Bus](#)

[2003/112 Reliance Coaches](#)

[2003/142 Thames Bus](#)

(See also [2006/161 Kent Vale Transport](#))

5. Suspension

Approach to need for investigation into likely consequences if suspension ordered considered – not mandatory but dependant on circumstances

[2002/167 A Cooper](#)

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“Mr Whiteford’s second submission was founded on the appeal *1997 J37 Galloway Refrigerated Transport Ltd* in which the Tribunal stated:-

“It is apparent that the Traffic Commissioner took, and was entitled to take, a very serious view of the Appellants’ conduct. Nevertheless, suspension of the licence as ordered would have had the effect that the whole fleet of 25 vehicles and 16 trailers was put off the road for 4 weeks, which we regard as action of the sort that few firms could be expected to survive. If the Traffic Commissioner intended so to suspend we think that in the particular circumstances it was incumbent upon him to have given warning of this or at least generally to have stated the options that he was considering so as to have enabled the Appellants to make representations about the effect of suspension on their business. Without such material we consider that the Traffic Commissioner was unable properly to decide on the appropriate length of suspension and whether it should have been total.”

“This appeal was the subject of comment in appeal *1999 L47 Hinchcliffe Bros Skip Hire 1985 Ltd*:-

“In the course of argument Mr Ward expanded these assertions to include an argument, based on the decision of the Tribunal *in 1997 J37 Galloway Refrigerated Transport Ltd*, to the effect that the Deputy Traffic Commissioner should have investigated the likely financial effect of a suspension before imposing it. We do not regard the *Galloway* decision as having laid down a principle of universal application; much depends upon the particular circumstances of each case.”

“The *Galloway* case has also been referred to in two recent cases ([81/2001 K Transport Services \(Midlands\) Ltd](#); and [144/2002 Abbeycheer Ltd](#)) in which it is suggested that it is “incumbent” upon a traffic commissioner to make the appropriate enquiries as to the likely effect of his proposed action on the Appellant’s business. The *Galloway* case is stated to be the basis for this assertion but we must emphasise that as is clear from its wording, and as is stated in the *Hinchcliffe* case, the *Galloway* case turned on its particular facts. It did not decide a principle of general application.”

(see also [2003/287 Malco Freight](#)
[2003/327 The Fox \(A1\)](#)
[2005/56 NR Evans](#) (specialist vehicles)

[2007/133 Recycled Packaging \(Scotland\)](#) (non specialist vehicles)

But TC must consider such evidence as to consequences as is available and give reasons

[2002/197 Mason Haulage](#)
[2004/36 G Jenkins](#)

6. Interim orders

No power to make interim orders without hearing operator

[2006/487 D & H Travel](#)

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Chapter 13 Disqualification

1. Heavy Goods Vehicles

Section 28 of the 1995 Act gives Traffic Commissioners discretion to disqualify “any person who was the holder of a licence” either indefinitely or for such period as he thinks fit. The power extends to disqualifying the directors of a company where the company was the holder of the licence and to any partner where the holder of the licence was a partnership. The power to disqualify can only be exercised after a direction that the licence is to be revoked.

Paragraph 16(1) of Schedule 3 to the 1995 Act provides that if a Traffic Commissioner determines that a Transport Manager is no longer of good repute or professionally competent he must order that person to be disqualified.

2. Public Service Vehicles

Section 28 of the Transport Act 1985 gives Traffic Commissioners discretion following revocation of an operator’s licence to disqualify the former holder of the licence either indefinitely or for such period as he thinks fit. The power extends to disqualifying “any officer of a company” where the company was the holder of the licence and to any partner where the holder of the licence was a partnership.

Paragraph 7B(2) of Schedule 3 to the 1981 Act provides that if a Traffic Commissioner determines that a Transport Manager is no longer of good repute or professionally competent he must order that person to be disqualified.

3. Approach

Proper approach considered – “additional feature” not necessary – earlier decisions disapproved – Court of appeal approach in the Anglorom case (see Chapter 21 [Appeals from Tribunal](#)) not followed

[2005/355 Danny W Poole International](#)

“We have to say that it appears that the *Anglorom* case was decided without consideration of all relevant cases. In particular, we have also to say that references in the Court of Appeal to “punishment” and to “this most draconian order” are not consistent with the approach of the five-judge Court of Session decision in the *Thomas Muir* case. Until the matter is considered again by an appellant court we consider that the *Thomas Muir* approach should be followed, as we endeavoured to do in the *BE Clark* case.”

[2001/74 BE Clark](#)

“We were also referred to [5/2000 Marilyn Williams](#) and [18/2000 Euroline Transport Ltd](#), in the first of which the Tribunal stated that “an order for disqualification does not necessarily follow revocation but requires some additional feature which should be identified in the decision”. In mentioning the need for “an additional feature” we have to say that we consider that those two decisions go too far. The reasoning was based on *1995 G 36 Greylands Waste* which was decided before the decision in *Thomas Muir (Haulage Ltd v. Secretary of State* (1998 SLT 666): this held that traffic commissioners’ powers are to be exercised “to achieve the objectives of the system” rather than by way of punishment, with assessment of culpability and use of words

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such as “penalty” being inappropriate. The power to disqualify is contained in s.28(1) of the Act and no requirement for any additional feature is specified. On the contrary, the provisions are in general terms, consistent with the *Thomas Muir* case. Of course, disqualification is not always ordered in addition to revocation. However, there are cases in which the seriousness of the conduct is such that a traffic commissioner may properly consider that both revocation and disqualification are necessary for the purposes of enforcing the legislation. We think that this is just such a case and hope that operators and drivers will be in no doubt as to the view which traffic commissioners and the Tribunal take of this type of conduct.”

(see also [2002/133 R Bryan](#)
[2004/373 Rai Transport](#))

Principles derived from earlier decisions

[T/2010/029 David Finch Haulage](#)

“The principles that derive from these and other cases on the point can be simply stated. The imposition of a period of disqualification following revocation is not a step to be taken routinely, but nor is it a step to be shirked if the circumstances render disqualification necessary in pursuit of the objectives of the operator licensing system. Although no additional feature is required over and above the grounds leading up to revocation, an operator is entitled to know why the circumstances of the case are such as to make a period of disqualification necessary. Additionally, periods of disqualification can range from comparatively short periods to an indefinite period, and can be confined to one traffic area or be extended to more than one. An operator subject to a period of disqualification is entitled to have some explanation, or a glimpse into the Traffic Commissioner’s mind, so that he understands why a particular order for disqualification has been made. The giving of brief but adequate reasons will also promote a consistent approach, and explain why distinctions are made as between different cases and different people.”

The decision in *David Finch Haulage* helpfully summarises earlier decisions on the correct approach to disqualification but the actual decision to reduce the length of the disqualification turns on the particular facts of that case. It is unlikely to be of assistance in determining whether or not a particular period of disqualification is appropriate in another case

[T/2012/56 & 57 Deep Transport Ltd & Midland Transport Ltd](#) (see paragraphs 14 & 15)

Traffic Commissioners should assess the level of risk which arises from the way in which an operator operates and the degree of responsibility of those in charge. In appropriate cases they are entitled to disqualify on the basis of the degree of risk. They are not compelled only to act after death or serious injury or damage has resulted from the method of operation. (This approach is also appropriate in cases where suspension, curtailment or revocation are under consideration).

[T/2012/44 Highland Car Crushers Ltd](#)

Revocation of the licence is an essential pre-condition to disqualification

[2009/498 G. Sunderland and J. Warburton](#)

In an appropriate case disqualification can be ordered following the revocation of an interim licence

[T/2012/13 Russet Red Ltd](#)

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Partners disqualified for different periods without explanation

[2005/367 K Jaggard](#)

Disqualification is a significant infringement of rights and procedures must be properly addressed – notice of possibility of disqualification must be given and the start date and duration must be specified

[2000/6 AJ Cassells](#)

(see also [2001/77 Wilton \(Contracts\)](#))

Period of disqualification must be specified – there is no power to impose a minimum period

[2001/6 M-Line](#)

Failure to refer to possibility of disqualification in call-up letter not cured by subsequent opportunity to make representations – in circumstances TC should have offered adjournment and further hearing

[2001/11 Pagoda Travel](#)

(see also [2002/40 Thames Materials](#))

Disqualification for indefinite period – limited conduct – not proportionate

[2002/30 S Lloyd](#)

(see also [2004/81 C Roffey](#)

[2005/355 Danny W Poole International](#)

[2005/426 KS Oakhal](#))

But disqualification for an indefinite period may be necessary in circumstances where a Transport Manager ought to be compelled to re-qualify

[T/2012/71 Silvertree Transport Ltd](#)

TC overstated evidence – misdirection – disqualification set aside

[2001/69 KG Farrow](#)

[2008/471 RJ Dobb](#)

Position of wife considered – joint operator with husband – equal responsibility

[2001/40 P Gilliar](#)

No power to disqualify secretary of company who is not a director

[2002/94 BKG Transport](#)

Imposition of condition on grant of licence preventing employment of named disqualified persons

[2005/457 LJ Ings](#)

Review under s.28(6) of 1995 Act

[2007/61 R D Land](#)

[2008/593 MJ Graves](#) (principles to be applied – bad case)

Reluctance of Tribunal to vary order of disqualification because it has not seen the witnesses

[2001/15 K Malone](#)

For collective responsibilities of directors see [Chapter 12 – Directors' Duties](#)

[2001/68 Dukes Transport](#)

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[2002/75 Hazco Environmental Services](#)

“During the course of his submissions Mr Allan referred us to *Thomas Muir (Haulage) Ltd v. Secretary of State for the Environment, Transport and the Regions (1999 SC86)* and we noted the following:

“..... it does not follow that a traffic commissioner is prevented from taking into account, where appropriate, some considerations of a disciplinary nature and doing so in particular for the purpose of deterring the operator or other persons from failing to carry out their responsibilities under the legislation. However, taking such considerations into account should not be for the purpose of punishment *per se*, but in order to assist in the achievement of the purpose of the legislation. This is in addition to the obvious consideration that a direction may be used to provide direct protection to the public against dangers arising from the failure to comply with the basis on which the licence was granted. Whether or not such disciplinary considerations come into play must depend upon the circumstances of the individual case.”

“We emphasise Lord Cullen’s reference to deterrence and have to say that all operators should realise that conduct of the sort in question here is not to be tolerated.

“.....

“Lastly, we were asked to scrutinise the disqualifications and their length. As we have indicated, this was a bad case in which we think that mandatory revocation followed an inevitable finding of loss of repute. In applying the *Thomas Muir case* a period of disqualification was also inevitable. In our view a period of three years for the Company and for Mr Torrens was in no way excessive. As to Miss Garnett, she was present throughout the public inquiry: she gave evidence in relation to financial standing and could earlier have been called to give evidence on the general issues if this had been thought to be desirable. As the Tribunal stated in *Appeal 1999 G36 Greylands Waste Ltd*:

“..... directors have collective responsibility for the company which they manage. It is their responsibility to set the standards which employees are expected to meet, it is their responsibility to ensure that those standards are met. Accordingly in our judgment, a Licensing Authority is entitled to assume, unless the contrary is proved, that directors are all equally responsible for the management of a company, with the result that they are all equally culpable for bad management. A director may be able to show, for example, by production of the minutes of directors’ meetings that he warned against the very problem which has given rise to the public inquiry but that he was out-voted. It might be very unfair in those circumstances to disqualify the director who gave a timely warning but all the more necessary to disqualify those who ignored the warning. It may be possible to show in a large company that individual directors have well defined roles, so that, for example, one director was very much more responsible for maintenance and road safety than others. That might enable some or all of the directors to avoid disqualification but it will not necessarily do so. It will be for the individual Licensing Authority to assess the culpability of directors on the basis of the evidence put before him in each individual case.”

“As we also stated in [Appeal 6/2001 M-Line](#) “It is not enough for directors merely to perform on a reactive basis: their obligations are pro-active”. We think that on the evidence available the Deputy Traffic Commissioner properly distinguished between the positions of Mr Torrens and Miss Garnett and that his conclusion that she should be disqualified for one year cannot be faulted.”

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4. Transport Managers.

Disqualification is mandatory following a finding that a Transport Manager is no longer of good repute or no longer professionally competent. A Transport Manager's Certificate of Professional Competence is to be treated as 'not valid' while the disqualification is in force. It is open to a Traffic Commissioner to impose a 'rehabilitation measure' under paragraph 17(2) of Schedule 3 to the 1995 Act. The effect is to prevent the disqualified person from applying to cancel or vary the disqualification before the measure has been complied with.

At the end of a fixed period of disqualification a CPC regains its validity and any rehabilitation measure ceases to have effect. The provisional view expressed by the Tribunal was that an indefinite period of disqualification may be the only effective method of ensuring that the rehabilitation measure was complied with. See paragraphs 11-16 of:

[T/2012/71 Silvertree Transport Ltd](#)

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Chapter 14 Termination by Law, Withdrawal & Surrender

1. Bankruptcy & Winding up

Power to direct that licence be continued under s.45(5) of 1995 Act not limited to non-payment of fees but may be used as basis for orders of revocation on other grounds and for disqualification – operator not entitled to allow licence to lapse so as to avoid adverse finding

[2000/6 AJ Cassells](#)

Termination by winding up – reg.23 of 1995 PSVOL Regs considered

[2003/138 P Coakley](#)

2. Non-payment of Fees

The Tribunal accepts that there is a right of appeal

[2009/518 Rose and Sons Ltd](#)

General guidance

[T/2010/016 & 021 Alan Cooper Haulage & Woodhouse Furniture](#)

Failure to pay in time – exceptional circumstances under s.45(5) 1995 Act considered. These cases should all be read in the light of [T/2010/016 & 021 Alan Cooper Haulage & Woodhouse Furniture](#)

[2001/62 TSG Smith](#) (moving house)

[2002/28 FTM Specialist Services](#) (bereavement)

[2002/50 DJ Richardson](#) (accident – delay)

[2004/23 RJ Mortimore](#) (notice sent to business address)

[2004/30 TR McPhee](#) (delayed and unstamped envelope)

[2004/43 RK Wholesale](#) (misleading conduct by Area Office)

[2004/211 Plumbing & Heating Co](#) (postal delay)

[2006/266 Sussex Demolition Services](#) (payment of annual but not continuation fee)

[2007/27 Suffolk Gate](#) (delay in applying to set aside)

[2008/569 D Collingwood](#) (cases reviewed – Act does not require reminders)

Deliberate non-payment to cause termination in order to avoid PSV penalty payment

[2006/482 Alison Jones](#)

3. Withdrawal

Withdrawal of an application does not prevent TC from making a determination but TC must then ensure that operator aware of decision to continue

[2002/8 Alcaline](#)

[2008/688 D Pritchard](#)

4. Surrender

Circumstances in which surrender of licence should be accepted considered

[2004/362 Britannia Hotels](#)

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[2004/129 Buzy Bus](#)

[2005/426 KS Oakhal](#)

[2006/482 Alison Jones](#) (attempt to avoid penalty payments)

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Chapter 15 Public Service Vehicles

1. Senior Traffic Commissioner's Statutory Guidance

The Practice Direction on "Standards for Local Bus Services" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4324/practice-direction-standards.pdf

2. Burden of Proof & General approach

Burden of proving reasonable excuse for failures under s.6 of 1985 Act is on operator – TC may take global approach in appropriate case – regulation of buses considered generally – see comments of Court of Appeal in Ribble case in [Chapter 17 Appeals from Tribunal](#) – but for burden of proof generally see Muck It case in [Chapter 17 Appeals from Tribunal](#)

Size of samples of failures under s.6 of 1985 Act and meaning of "window of tolerance" and "reasonable excuses" considered – (see *Ribble* case above)

[2000/24 Arriva Tees & District](#)

[2000/57 Yorkshire Rider](#)

[2001/31 Arriva Derby](#)

[2003/254 A Jones](#)

[2003/300 Andrews \(Sheffield\)](#)

3. Repute

"Conduct" within Schedule 3 of 1981 Act may include matters on which no conviction has resulted – s.26 of 1985 Act is not exhaustive and may support findings under s.17 of 1981 Act

[2000/16 Group Taxibus](#)

[2000/29 Harveys' Coaches](#)

4. Miscellaneous points

Operation of PSVs at airport – difficult area of law – TC should give operator benefit of doubt rather than speculate

[2000/28 Excellent Connections](#)

(see also [2002/39 Excellent Connections](#))

Extended journey to overcome condition requiring 15 miles or more

[2006/321 1st Call Limousines](#)

Identity of operator – s.81(1) of 1981 Act considered – TC entitled to investigate

[2003/62 Tachograph Centre](#)

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Vehicle hiring agreements – ‘disc swapping’ – a disc alone cannot be hired by one operator to another – a ‘detailed paper-trail’ is needed to demonstrate legitimate use of a disc belonging to another operator - guidance as to the correct approach:-

[2010/84 & 86 Coach Express Ltd](#) (paras 72-75).

5. Stretch Limos

The operator of a stretch limo only requires a PSV operator’s licence if the vehicle in question falls within the definition of a Public Service vehicle set out in s. 2(1) of the 1981 Act, namely: a vehicle ‘adapted’ to carry ‘more than eight passengers’, which is used to carry passengers ‘for hire or reward’.

[T/2012/53 Clayton Car Sales Ltd](#)

- (i) “Adapted” means “fit and apt for the purpose” of carrying more than eight passengers, or “suitable” for that purpose, (see paragraph 7)
- (ii) Whether or not a vehicle is ‘adapted’ within this definition is a question of fact which will turn on the purpose for which a particular vehicle is being used, how it is equipped and all the other relevant circumstances, (see paragraph 8-12)
- (iii) Evidence that the vehicle in question has never in fact carried more than 8 passengers is irrelevant because the question is whether or not it is fit and apt or suitable to do so, (see paragraph 17)
- (iv) In an impounding case it will be for VOSA to prove that the vehicle in question comes within the definition in s. 2(1), (see paragraph 13)
- (v) Using the minimum requirement of 400 mm per seated passenger provided by the PSV (Condition of Fitness etc) Regulations 1981 may be appropriate in the case of a mini-bus but is not necessarily appropriate in the case of a stretch limo, (see paragraphs 10-14)
- (vi) Whether or not a front passenger seat is fit and apt or suitable for carrying a passenger will depend on the circumstances of an individual case. It may be suitable in the case of a minibus but it is likely to be unsuitable in the case of a stretch limo because the person in the front passenger seat is likely to be isolated from the party in the back, (see paragraphs 13-15)

Stretch limos - no need for certificate of initial fitness

[2004/209 Home James Limousine](#)

Stretch limos – ‘dry hiring’

[2009/527 1st Class Limos](#)

The longer the operator of a stretch limo has remained outside the system the greater the care required on an application for an operator’s licence.

[2010/81 Natalie Hunt t/a wild Stretch Limousines](#) (para 11)

“We sympathise with the Appellant’s frustration that whilst operator’s such as herself are attempting to bring themselves into the licensing system, others are continuing to operate outside of the system, without expending the considerable capital required to “COIF” their vehicles which is a necessary step to ensure that the vehicles are roadworthy. It appears that some operator’s are being allowed to continue to operate without any sanctions being imposed upon them. It may be small comfort to the Appellant, but the longer such unlawful operations remain outside the licensing system, the more difficult it will be for

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them to be granted licenses if and when they choose to apply for them. Each application should now be considered with great care to ensure that the applicants are not taking advantage of a phoenix operation and/or a corporate veil in order to shroud previous unlawful operation from the Traffic Commissioners”.

6. Repayments & Penalties

The approach to the imposition of penalties under s. 155 of the Transport Act 2000 was considered in detail in [T/2012/15 First Manchester Ltd](#) from which the following principles are derived:

- (i) Before a Traffic Commissioner can impose a penalty under s. 155 of the Transport Act 2000 he or she must be satisfied that the operator has ‘failed to operate a local service etc’ without reasonable excuse, or that the operator has failed on one or other of the other two grounds set out in paragraph 4. In other words proof of reasonable excuse is a complete defence not a method of mitigating the size of the penalty, (see para 6).
- (ii) Once satisfied that the operator had no reasonable excuse the Traffic Commissioner ‘may impose a penalty’. In other words the Traffic Commissioner must exercise this discretion and give reasons for so doing, (see para 8).
- (iii) Having decided to impose a penalty the Traffic Commissioner has a further though limited discretion as to the amount of the penalty. In exercising that discretion the Traffic Commissioner must take into account ‘all the circumstances of the case’. The discretion is limited because Parliament has imposed an upper limit to the amount of the penalty, (see para 9).
- (iv) Once the Traffic Commissioner has determined the amount of the penalty per vehicle this figure must be multiplied by the number of vehicles in the fleet. There is no discretion to take the course, for which many operators argue namely to multiply the penalty by the number of vehicles on the monitored route, (see paragraph 10).
- (v) Paragraphs 11-18 set out the general approach to calculating the amount of a penalty, identifying some of the factors that should be taken into account and others which ought not to be taken into account.

Order for repayment of fuel duty rebate under s.111 of 1985 Act as amended by s.158 2000 Act considered

[2002/92 D Bailey](#)

[2003/254 A Jones](#)

Payment of penalty under s.155 of 2000 Act considered

[2003/300 Andrews \(Sheffield\)](#)

[2004/330 RH & DT Edwards](#)

[2004/373 Rai Transport](#)

[2005/323 Eurotaxis](#)

[2006/482 Alison Jones](#)

[2007/311 Stagecoach](#) (penalty inappropriate)

[2007/318 Eurotaxis](#) (bad case – objects of penalty considered)

[2008/151 Tuc Tuc](#) (motorised rickshaws – penalty punitive)

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Payment of penalty under s.39 Transport (Scotland) Act 2001 considered

[2006/19 Bayview Enterprises](#)

[2006/351 Caledonian Coaches](#) (serious delay in giving decision – order set aside)

7. Cancellation of Registered Services

Notice to cancel registered services. Test to be applied where operator applies for period of notice to be abridged and relies on ‘circumstances which could not have been foreseen’.

[2009/030 Pilkingtons Accrington](#)

“This raises the question: at what point is this test to be applied? In our view the wording of the sub-paragraph provides the answer. The test is not to be applied to the situation as at the date when the application for short notice cancellation is actually made. Instead the reference to ‘failed to make an application’ makes it clear that the test has to be applied at an earlier stage, namely at the date on which the operator would have made the application if he had been able to foresee the events which were

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not reasonably foreseeable. In our view any other construction would be liable to produce unfortunate and/or unfair results. It seems to us that the policy of the legislation is to ensure that operators take all reasonable steps to keep services operating but that if they do so and still find that it is not possible to operate a particular service that the Traffic Commissioner should have the power to abridge the period of notice. In other words the operator should be entitled to come to the Traffic Commissioner and to say: ‘I thought I would be able to keep this service running by doing ‘a’, ‘b’ and ‘c’, I did all those things but none of them worked, if I had foreseen that they would not work I would have applied to cancel the moment the problems arose’. In our view any other approach would discourage operators from trying to keep services running and encourage early applications for cancellation, many of which would fail because the Traffic Commissioner would say: ‘but you have not tried to do this, that or the other and it is reasonably foreseeable that one or more of those steps will enable you to continue to operate’.”

“In our view if, by the time that the application comes to be decided, an operator can satisfy the Traffic Commissioner that ‘everything possible’ has been tried, but that it is still impossible to run the service in question, it seems to us that this is likely to be a strong pointer towards the fact that, due to circumstances which it could not reasonably have foreseen, the operator failed to make an application in sufficient time for the full period of notice to operate. The reason is that operators are only likely to take steps to keep a service running if, when they take those steps, they foresee that they are likely to be successful. In other words, if and when it becomes clear that apparently reasonable steps have been taken but have failed, the conclusion is likely to be that it was not reasonably foreseeable when the operator decided to take those steps that they would fail and that, if it had been, then an application to cancel the service would have been made, at that stage.”

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Chapter 16 International Issues

International operators must comply with law of the member state, which has granted their licence – issue of Community Authorisation – need for operation to permit proper and effective regulation in the UK where operator applies for or holds an operator's licence in GB.

[2006/405 Transclara](#)

“..... in our view the correct questions for the Traffic Commissioner to consider were (a) whether the authorised operating centre was still being used as an operating centre so that the Traffic Commissioner retained jurisdiction to issue a Community Authorisation and (b) whether the Appellant was operating in a way which allowed for proper and effective regulation by the Traffic Commissioner in accordance with the 1995 Act, the Regulations made under that Act and all the relevant EU Regulations.”

(see also [2000/18 Euroline Transport](#) (UK manager of convenience)

[2003/176 Sigma Trans](#) (failure to use UK operating centre)

[2006/392 G Brandon](#) (need for UK transport manager)

[2007/172 Romantiek](#) (Belgian licensed vehicles impounded in UK)

Decision upheld by Court of Appeal – see [Chapter 17 Appeals from Tribunal](#) – and passage quoted

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)

“Unless permitted to do so under an exemption it is unlawful, in Great Britain (“GB”), to use a goods vehicle on a road, for the carriage of goods, either for hire or reward or for or in connection with any trade or business carried on by the user of the vehicle, without holding a licence, (known as ‘an operator’s licence), issued under the Goods Vehicles (Licensing of Operators) Act 1995, [“the 1995 Act”]. See s.2 of the 1995 Act”.

A number of exemptions were considered in detail in this decision. Earlier decisions need to be considered in the light of what was decided in Nolan and in the light of Regulation (EC) No. 1072/2009 of the European Parliament and of the Council.

International carriage, (Nolan paras 13-16).

The two main features are first, that the journey must start in one Member State and end in another Member State, and second, that the journey must be undertaken by a vehicle. For these purposes a vehicle means the tractor unit, whether or not coupled to a trailer. An uncoupled trailer cannot undertake international carriage.

Cabotage, (Nolan paras 17-26 & 53).

The right to conduct cabotage begins when the unloading of an international carriage has been completed. The basic rule is that within 7 days of the unloading the tractor unit can undertake 3 cabotage operations. The 7 day rule is not qualified in any way but the 3 cabotage operations rule is qualified by ‘groupage’, see para 55. Article 8.3 of Regulation 1072/2009, (para 18), requires an operator who is claiming to conduct cabotage operations to produce a very full ‘paper trail’. The Tribunal concluded that the ‘clear evidence’ of this paper trail had to be kept in the vehicle so that it was available for inspection at the roadside, (paragraphs 27-52 set out the justification for that conclusion).

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Combined Transport, (Nolan paras 59-68).

This involves a journey between Member States in three sections. In the case of Nolan Transport the first or last section took place on the roads of the Republic of Ireland, where Nolan held the equivalent of an operator's licence. The middle section involved a maritime journey, which exceeded 100km, as the crow flies, (but Combined Transport applies also to a middle section by rail or inland waterway). The third section of the journey, which can be the first or last leg, took place in the case of Nolan Transport on roads within GB. The relevant Directive provides that this section must take place "within a radius not exceeding 150kms as the crow flies" of the port etc of loading or unloading. The Tribunal decided that this meant what it said and that the whole of the journey in the host Member State had to be within the 150kms radius. The practical effect in the Nolan case was that they could not deliver to areas within the radius but on the English side of the Severn Bridge because the bridge itself is more than 150kms from Fishguard and Pembroke Dock, the ports used by Nolan's vehicles.

Unaccompanied trailers, see Nolan paragraph 69.

The general conclusion reached in Nolan in relation to exemptions, (paragraph 70) was that:-

"In our view there is a common feature running through all the exemptions to which we have referred, namely that they permit the temporary use of HGV's in Great Britain by operators from other Member States, who hold a Community Authorisation but who do not hold an operator's licence issued in GB. We are satisfied that these exemptions, whether taken singly or in combination, are not intended to allow an operator, who does not hold an operator's licence issued in GB, to operate in parallel to but outside the operator's licensing regime created by the 1995 Act and the Regulations made under it".

Same vehicles cannot be specified in both Irish and Scottish licences

[2000/14 Reids Transport](#)

see also [2000/63 Reids Transport](#)

Protest by refusal to pay vehicle excise duty on vehicles mainly operating abroad – loss of repute

[2000/66 D Eccles](#)

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Chapter 17 Duties of Directors

1. Directors, shareholders and 'shadow directors'

- (i) A company can only act by a resolution of its members in general meeting or by its agents.
- (ii) A duly appointed director is the agent of the company. The company secretary can bind the company in relation to administrative matters and employees may be given authority to act on behalf of the company.
- (iii) Unless an exceptional provision has been included in the Articles of Association a shareholder, (even a 100% shareholder), is not the agent of the company. Before the actions of a shareholder can be attributed to the company it will first be necessary to show that 'the corporate veil' should be pierced or that s. 251 of the Companies Act 2006 applies.
- (iv) Section 251 refers to 'Shadow Directors and provides that: *"In the Companies Acts 'shadow director', in relation to a company, means a person in accordance with whose directions or instructions the directors of the company are accustomed to act"*. However where directors act on advice given in a professional capacity the person giving the advice is not to be regarded as a Shadow Director, see s. 251(2).

Directors have collective responsibility

[2001/68 Dukes Transport](#)

"Mr Phillips' first main submission was that "the directors of Dukes honestly and reasonably believed that its system of managing and supervising the drivers' hours legislation was proper and worked well". He took us through references in the evidence to external analysis of tachograph charts and emphasised to us that Mr Scroggie had been responsible for supervising and checking the work of depot managers in relation to the enforcement of drivers' hours legislation. It was now clear that Mr Scroggie had failed properly to discharge his duties but this was not known to the directors, who had no reason to doubt that Mr Scroggie was not fulfilling his duties. The directors believed that the systems in place were operating properly and that the depot managers were being properly supervised. However, we do not think that this submission goes to the heart of the case. When dealing with the undertaking given by the Company (quoted in paragraph 2(xviii) above) the Traffic Commissioner's decision states:-

"57. this requires that an operator take positive action, not only upon the issue of a licence but thereafter, to fulfil this undertaking. It is not enough to set up a system and then walk away from it, assuming that others will fulfil it. This is confirmed by the Transport Tribunal in *Appeal 1999 L56 Alison_Jones t/a Jones Motors*: "in our view this statutory undertaking requires more than that the operator should set up adequate systems and then leave them to run themselves; what is required is constant supervision and monitoring to ensure that the systems work". It is such a fundamental requirement of a road transport operator, for reasons both of road safety and of fair-trading, that it must be to the forefront in planning and executing of all his business. There was much discussion during this Inquiry about proper delegation, but this must be for the licence holder to decide. Although the company told me throughout the Inquiry that this function was totally delegated to depot managers and that there had been thought to be no need to audit them, it was equally clear from the statements of Mr Diamond and Mr Scroggie

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that there was some rather vague and ill-defined duty upon Mr Scroggie to carry out some checks. I accept significant failure by depot managers, but I do not accept that the Directors can be exonerated from the massive failure evident throughout the company in regard to drivers' infringements and missing tachographs: they failed to ensure "constant supervision and monitoring" and so the systems failed."

"We affirm our view that the *Alison Jones* case correctly states the position. The Tribunal has subsequently repeated this in [45/2000 Martin Jolly Transport Ltd](#), [6/2001 M-Line Ltd](#) and [7/2001 Alcaline UK Ltd](#). We are a specialist tribunal, with lay members with business experience in transport. We think it right to point out that the *Alison Jones* case does indeed represent our view of an operator's duties.

.....

"We agree with the Traffic Commissioner's comments. We were reminded of what the Tribunal stated in *1999 G36 Greylands Waste Ltd*:-

"..... directors have collective responsibility for the company which they manage. It is their responsibility to set the standards which employees are expected to meet, it is their responsibility to ensure that those standards are met. Accordingly in our judgment, a Licensing Authority is entitled to assume, unless the contrary is proved, that Directors are all equally responsible for the management of a company, with the result that they are all equally culpable for bad management. A director may be able to show, for example, by production of the minutes of directors' meetings that he warned against the very problem which has given rise to the Public Inquiry but that he was out-voted. It might be very unfair in those circumstances to disqualify the director who gave a timely warning but all the more necessary to disqualify those who ignored the warning. It may be possible to show in a large company that individual directors have well-defined roles, so that, for example, one director was very much more responsible for maintenance and road safety than others. That might enable some or all of the other directors to avoid disqualification but it will not necessarily do so It will be for the individual Licensing Authority to assess the culpability of directors on the basis of the evidence put before him in each individual case."

"We can understand how the board may have chosen to show a common front to the Traffic Commissioner but we do have to observe that there is no evidence to enable distinctions to be made. We do not doubt that overall this was a case in which disqualification was necessary. Moreover, we think that the periods imposed by the Traffic Commissioner were appropriate."

[2002/75 Hazco Environmental Services](#) – see quotation in [Chapter 14 -](#)

[Disqualification](#)

[2002/217 Bryan Haulage \(No.2\)](#)

[T/2010/71 \(Eurofast \) Europe\) Ltd](#)

"Mr Harris challenged the Deputy Traffic Commissioner's reliance on [Dukes Transport 2001/68](#) and [1999 L56 Alison Jones](#). We consider that the Deputy Traffic Commissioner was entirely right to have regard to the important principles laid down in these long accepted cases. Directors have collective responsibility for the company that they manage. It is their responsibility to set the standards that employees are expected to meet; it is their responsibility to ensure that those standards are actually met, and that undertakings and promises made in their name are complied with. They have a duty, whether the company is large or small, to take proper steps to ensure that there are directors with appropriate knowledge of, and accountability for, the company's arrangements for securing and monitoring compliance, even where day-to-day

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management of the transport operation is delegated to others. Accordingly, in our judgment, a Traffic Commissioner is entitled to assume, unless the contrary is proved, that an operator company is responsible and accountable for the actions and failures of its employees, and that directors are all equally responsible for the management of a company, with the result that they are all equally culpable for bad management.”

TC's jurisdiction extends to past and present directors

[2008/688 D Pritchard](#)

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Chapter 18 Impounding

(See also [Chapter 16 International Issues](#) for cases, and, in particular [Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#) involving vehicles owned or licensed abroad

and [Chapter 22 Appeals from Tribunal](#) for the [Romantiek case](#))

1. Senior Traffic Commissioner's Statutory Guidance

On "Impounding" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4331/no-7-impounding.pdf

2. The Right to Impound

In the case of Heavy Goods Vehicles this is set out in Regulation 3(1) of the Goods Vehicles (Enforcement of Powers) Regulations 2001, ("the 2001 Regulations"). It is important to remember that the 2001 Regulations have been amended in significant ways by the Goods Vehicles (Enforcement of Powers) (Amendment Regulations) 2009. Some of these provisions are set out in paragraphs 81-89 of the Nolan decision. However paragraph 86 is incorrect to this extent, Regulation 10(4) has been removed from the 2001 Regulations. Instead the grounds for return are set out in what is now Regulation 4(3) of the 2001 Regulations. They are in identical terms to those set out as Regulation 10(4) at paragraph 86 of Nolan.

There is now a right to impound Public Service Vehicles, see the Public Service Vehicles (Enforcement of Powers) Regulations 2009.

3. The Right to Apply for Return

The only person entitled to apply, (under Regulation 10 of the 2001 Regulations for the return of an HGV or under Regulation 11 of the 2009 Regulations for the return of a PSV), is the owner. If there is any doubt as to whether or not the person applying for the return of the vehicle is in fact the owner of the vehicle the issue must be resolved first because the TC has no jurisdiction to order the return of the vehicle to anyone else.

[T/2012/58 Alan Knight Transport B.V. & Alan Michael Knight](#) (paragraph 7)

4. Hearings

If the person applying for the return of an impounded vehicle requests a hearing or the Traffic Commissioner decides that it would be appropriate to hold a hearing Regulation 11(1) of the 2001 Regulations provides that: "the Traffic Commissioner shall hold a hearing within 28 days of receipt of the application". However this is subject to the power to extend time under Regulation 23. Regulation 12 imposes a mandatory requirement to give a written decision and mandatory time limits within which it must be given, again subject to the power to grant an extension under Regulation 23. What happens if the time limits are not met and no extension of time is granted? This was considered in:

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[T/2012/18 & T/2012/19 Smith & Graham v VOSA & the Department of Transport.](#)

The Tribunal decided that the Traffic Commissioner retained jurisdiction notwithstanding the failure to comply with the mandatory time limits. It pointed out that the Traffic Commissioner only had power to order the return of an impounded vehicle under Regulation 14. In other words if the TC has no jurisdiction to act under the Regulations the impounded vehicle will remain in the possession of VOSA unless and until the owner is successful in civil proceedings to order its return. However owners will need to consider, before embarking on such proceedings, whether VOSA will succeed on the ground that they had the right to impound so that they have not acted unlawfully or wrongly.

The practical consequences of non-compliance with the time limits were considered by the Tribunal in paragraph 23. In view of those consequences it is to be hoped that this situation will not arise again.

5. Burden of Proof

Burden of proof on owner – reg.10(4)(c) of 2001 Regs considered

[2002/56 J Tote](#)

[2002/98 S Grayson](#)

[2005/259 RJ Evans](#)

[2005/385 K Grant](#)

[2007/30 & 31 Industrial & Corporate Finance](#)

[2007/62 Thomas McKinney](#)

Proof of ownership necessary

[2005/218 B Menear](#)

[2005/231 HSBC Equipment Finance \(UK\)](#)

[2005/565 Construction Access UK Ltd](#)

6. General

[Asset 2 Asset Ltd](#) (para 21)

- (i) Impounding is not a penal provision.
- (ii) The purpose of the regulations is to prevent owners knowingly permitting or facilitating the unlawful use of their vehicles. With that in mind a purposive interpretation of the regulations is to be preferred.
- (iii) While an owner is not required to make 'all reasonable inquiries' this does not mean that they are excused from making 'any reasonable inquiries'.
- (iv) A specific finding of dishonesty is not required in cases coming within categories (ii) or (iii), (as to which see below), 2011/21 Lombard North Central PLC not followed.
- (v) The law relating to impounding is the same in both HGV and PSV cases. Decisions relating to the one are equally applicable to the other, (para 22).

Even apparently simple and straightforward impounding cases can give rise to some of the most difficult decisions that TCs are called upon to make. The importance of considering the need for representation, thorough preparation and full evidence was stressed in:

[T/2012/37 F & M Refrigerated Transport Ltd](#) (at paragraph 17)

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7. Approach

(i) The impounding of different vehicles on different occasions can be considered together providing that there is a sufficient connection between them

[T/2010/044 AJ Long Services](#)

(ii) However where that is done separate findings must be made in relation to each vehicle

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)

(see paragraph 124)

(iii) Notwithstanding this requirement a finding in relation to one vehicle can be taken into account in relation to another vehicle provided that it is relevant to an issue in relation to that vehicle

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)

(see paragraph 125)

(iv) When considering a claim for return on the basis that the owner had no knowledge of use in contravention of s. 2 of the 1995 Act Traffic Commissioners are not confined to making findings on one category of knowledge. They should make findings on all relevant categories.

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)

(see the Tribunal's approach to the assessment of the facts at paragraphs 188-218)

8. Knowledge

Lack of knowledge by owner – “knowledge” in reg.10(4)(c) of 2001 Regs is wider than “actual knowledge” because owner may not shut eyes to obvious – but high degree of fault required

[2003/3 Close Asset Finance](#)

“The question was what was meant by the word “know” in reg.10(4)(c) of the Regulations. It could not be limited to actual knowledge because Parliament could not have intended that an owner could be permitted to shut his eyes to the obvious. We were invited to consider *Commission for the New Towns v. Cooper (GB) Ltd* 1995 2All ER 929 at 946 where Stuart-Smith LJ said:

“Did CoopInd have actual knowledge of the mistake? The judge held not; they merely suspected it. Mr Wood submits that the judge was in error and he should have found actual knowledge. His attention was drawn to the analysis of various forms of knowledge made by Peter Gibson J in *Baden v. Societe Generale pour Favoriser le developpement du Commerce et de l'Industrie en France SA* (1982) [1992] 4All ER 161, [1993] 1WLR 509 and cited by Millett J in *Agip (Africa) Ltd v. Jackson* [1992] 4All ER 385 at 405, [1990] Ch 265 at 293:

“Knowledge may be proved affirmatively or inferred from circumstances. The various mental states which may be involved were analysed by Peter Gibson J in *Baden's* case [1992] 4All ER 161 at 235 as comprising: “(i) actual knowledge; (ii) wilfully shutting one's eyes to the obvious; (iii) wilfully and recklessly failing to make such inquiries as an honest and reasonable man would make; (iv) knowledge of

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circumstances which would indicate the facts to an honest and reasonable man; (v) knowledge of circumstances which would put an honest and reasonable man on inquiry.”

According to Peter Gibson J, a person in category (ii) or (iii) will be taken to have actual knowledge, while a person in categories (iv) or (v) has constructive notice only. I gratefully adopt the classification but would warn against over refinement or a too ready assumption that categories (iv) or (v) are necessarily cases of constructive notice only. The true distinction is between honesty and dishonesty. It is essentially a jury question. If a man does not draw the obvious inferences or make the obvious inquiries, the question is: why not? If it is because, however foolishly, he did not suspect wrongdoing or, having suspected it, had his suspicions allayed, however unreasonably, that is one thing. But if he did suspect wrongdoing yet failed to make inquiries because “he did not want to know” (category (ii)) or because he regarded it as “none of his business” (category (iii)), that is quite another. Such conduct is dishonest, and those who are guilty of it cannot complain if, for the purpose of civil liability, they are treated as if they had actual knowledge.”

“After referring to this passage, the judge continued:

“I do not think that case assists him. Whatever view the courts may take in relation to other remedies, the Court of Appeal has emphasised in recent years that in cases of unilateral mistake nothing less than actual knowledge will do; in that context someone with less than actual knowledge will not in my judgment be taken to have actual knowledge (see *Agip SpA v. Navigazione Alta Italia Spa, The Nai Genova* [1984] 1 Lloyd’s Rep 353 and *Morsil Properties Ltd v. Allied-Lyons plc* [1986] CA Transcript 1132).”

The judge appears therefore to be holding that only Peter Gibson J’s category (i) is sufficient. But with all respect to him, this is not so; categories (ii) and (iii) also constitute actual knowledge in law.”

“We were also referred to *White v. White* (2001 2All ER 43, HL at 48) where Lord Nicholls stated:-

“There is one category of case which is so close to actual knowledge that the law generally treats a person as having knowledge. It is the type of case where, as applied to the present context, a passenger had information from which he drew the conclusion that the driver might well not be insured but deliberately refrained from asking questions lest his suspicions should be confirmed. He wanted not to know (‘I will not ask, because I would rather not know’). The law generally treats this state of mind as having the like consequences as would follow if the person, in my example the passenger, had acted honestly rather than disingenuously. He is treated as though he had received the information which he deliberately sought to avoid. In the context of the directive that makes good sense. Such a passenger as much colludes in the use of an uninsured vehicle as a passenger who actually knows that the vehicle is uninsured. The principle of equal treatment requires that these two persons shall be treated alike. The directive is to be construed accordingly.

“Thus far I see no difficulty. I consider that it is acte clair that these two categories of case fall within the scope of the exception permitted by the directive. Conversely, I am in no doubt that ‘knew’ in the directive does not include what can be described broadly as carelessness or ‘negligence’. Typically this would cover the case where a passenger gave no thought to the question of insurance, even though an ordinary prudent passenger, in his position and with his knowledge, would have made inquiries. He ‘ought’ to have made

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inquiries, judged by the standard of the ordinary prudent passenger. A passenger who was *careless* in this way cannot be treated as though he *knew* of the absence of insurance. As Lord Denning MR said in *Cia Maritima San Basilio SA v. Oceanus Mutual Underwriting Association (Bermuda) Ltd, The Eurysthene* [1976 3All ER 243 at 251, [1977] QB 49 at 68, negligence in not knowing the truth is not equivalent to knowledge of it. A passenger who was careless in not knowing did not collude in the use of an uninsured vehicle, and he is not to be treated as though he did. To decide otherwise would be to give a wide, rather than a narrow, interpretation to the exception permitted by the directive. This also seems to me to be *acte clair*.”

“In considering the meaning of the word “know” Mr McCreddie accepted that in categories (ii) and (iii), as mentioned, the meaning of the word “wilful” should be taken from *R v. Senior* (1899 1QB 283): “‘Wilfully’ means that the act is done deliberately and intentionally, not by accident or inadvertence, but so that the mind of the person who does the act goes with it”. He accepted also on behalf of the Respondent that a distinction was properly to be made between honesty and dishonesty. He submitted that “mere failure to make all reasonable inquiries is not of itself sufficient to constitute knowledge, which is actual knowledge; negligence is not enough”. In considering the issue of knowledge traffic commissioners should pose questions of the sort suggested by Millett J. If an owner suspects wrongdoing and then puts his head in the sand, he shuts his eyes to the obvious; but “a high degree of fault” is required for the failure to be wilful so as to constitute actual knowledge.”

See [2007/205 Evergreen Leasing](#) (VOSA’s approach to knowledge by leasing companies set out)

(see also [2003/70 Capital Bank](#)

[2003/77 NL Commercials](#)

[2003/139 WC Commercials](#)

[2003/201 S&V Supplies](#)

[2003/338 AS Deacon](#)

[2005/412 Capital Bank](#) (no positive steps by finance house required)

[2006/268 London Office Furniture Warehouse](#)

[2007/30 & 31 Industrial & Corporate Finance](#)

[2011/21 Lombard North Central PLC](#)

[2011/25 Asset 2 Asset Ltd](#)

The decision in Lombard North Central prompted a detailed re-consideration of this topic in the case of Asset 2 Asset Ltd. The five categories were re-stated using slightly different language, though the word ‘wilfully’ has been added to the quotation from paragraph 24 to make it clear that the change in language is not intended to reflect a change in meaning. Paragraph 27 stresses the importance of the motivation for an owner’s conduct or failure to take steps, and the need to assess any explanation prompted by the question ‘why did you take or refrain from taking the step in question?’ Paragraph 28 makes the point that the findings required to put an owner within categories (ii) or (iii) are findings which inherently involve conduct which is dishonest, (deliberately and with a high degree of fault shutting your eyes to the obvious or deliberately, recklessly and with a high degree of fault failing to make the inquiries which an honest and reasonable person would have made), with the result that no additional finding of dishonesty needs to be made.

The five categories are:

- (i) Actual knowledge;
- (ii) Knowledge that the person would have acquired if he had not (wilfully) shut his eyes to the obvious;

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- (iii) Knowledge that the person would have acquired if he had not wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make;
- (iv) Knowledge of circumstances that would indicate the facts to an honest and reasonable person; and
- (v) Knowledge of circumstances that would put an honest and reasonable person on inquiry.

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)
(paragraphs 110-121)

The 'lack of knowledge' ground for seeking the return of an impounded vehicle was considered in detail. As a result the approach in *Asset 2 Asset Ltd* is preferred to *Lombard*.

- (a) Cases of 'imputed actual knowledge' ie those falling into categories (ii) or (iii) involve action or inaction which is inherently dishonest with the result that no further finding of dishonesty is required
- (b) Cases of 'constructive knowledge' ie those falling into categories (iv) or (v) may arise through negligence. All cases in either of these categories require a separate finding of dishonesty, (or a dishonest motive for the action or inaction in question), if an adverse finding is to be made against a claimant.
- (c) It is advisable in all cases whether of imputed actual knowledge or constructive knowledge to make findings on the individual factors which show that a case comes into a particular category. This is particularly important in categories (ii) and (iii) because the more clearly the case is shown to come into one or other category the more obvious it will be that the action or inaction was inherently dishonest.
- (d) If, as in *Nolan*, the evidence justifies findings showing that more than one category of knowledge can be proved Traffic Commissioners should feel free to make such findings, they are not compelled to select only one category of knowledge.

Effect of lack of caution and of acquittal considered – meaning of “reason to believe”
[2003/309 B Smith](#)

9. Procedure

Procedure before TC considered
[2005/449 WJ Furber](#)

Refusal on paper – no hearing – need for reasons
[2005/542 J Thorogood](#)

Hearing before Tribunal is not a rehearing – exemption relating to carriage of goods for purposes of examination under para.29 of Schedule 3 of 1995 GVLO Regs considered – tractor unit is a “good vehicle” and the hauling of an unladen trailer is “carriage of goods” – misdirection on knowledge of owner

[2002/134 WC Commercials](#)
(see also [2003/139 WC Commercials](#))

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No residual discretion – impounding is not disproportionate

[2004/152 F Meager](#)

(see also [2003/139 WC Commercials](#))

(see also comments by CA in *Anglo Rom* case in [Chapter 17 – Appeals from Tribunal](#))

See also [Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#) (paragraphs 232-273) where the matter was considered in detail after full argument

- (i) The impounding regime is a well-balanced and carefully crafted scheme. If properly operated it offers the owner of an impounded vehicle the opportunity to challenge the decision to impound and the opportunity to claim the return of the vehicle on four different grounds. No further element of ‘discretion’ or ‘proportionality’ is required nor should such elements be ‘read into’ the scheme.
- (ii) Paragraph 263 in the Nolan decision refers to Section 48 of a VOSA document which sets out their policy on ‘Deciding who to Impound’. The safeguards that resulted from compliance with this policy were one of the factors, which helped to persuade the Tribunal that no further element of discretion or proportionality was required.

Period of 21 days allowed for making application to return vehicle is directory not mandatory – technical approach to documents to be avoided – amendment of name of owner considered

[2003/90 CPT Commercials](#)

[2005/471 Excel A-Rate Business Services](#)

[2005/449 WJ Furber](#)

[2007/414 Barclays Asset & Sales Finance](#) (23 weeks too long)

10. Miscellaneous points

Power to stop vehicle considered

[2003/262 GW Elliot](#)

Meaning of “contents”

[2007/75 MJ Cooney](#) (attached HIAB crane not returnable)

Wording on application form misleading

[2005/464 Secure Transport & Trading](#)

Proof of ownership necessary

[2005/218 B Menear](#)

[2005/231 HSBC Equipment Finance \(UK\)](#)

[2005/565 Construction Access UK Ltd](#)

11. Exemptions

Legal status of “recovery vehicle” considered

[2008/11 Ansvar Holdings](#)

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[2003/286 KW Richards](#)

[2005/373 S Ellis](#)

Exemption of vehicles with 'fitted equipment' where the 'only other goods or burden carried are required for use in connection with the fitted equipment'.

[2009/023 Howard Collins](#)

"The important words are these: 'the only other goods or burden carried are required for use in connection with the fitted equipment'. The underlining of 'only' and 'required' is ours because those words stress the two points, which need to be made in relation to this passage. First, the 'other goods or burden', (ie everything in addition to the equipment fitted) must be carried because it is 'required', in connection with the fitted equipment. Typically that would mean that the other goods or burden were carried because they were needed to make the equipment fitted work. Second, the expression 'the only other goods or burden' means that if the vehicle carries a mixed load, only part of which is required for use in connection with the fitted equipment, then it is not exempt".

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Chapter 19 Decisions and Reasons

For the approach to regulation generally and proportionality see the Thomas Muir and Crompton cases in [Chapter 22 Appeals from Tribunal](#)

1. Senior Traffic Commissioner's Statutory Guidance

On "The Principles of Decision Making & the Concept of Proportionality" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4334/no-10-decision-making.pdf

On "Written Reasons, Decisions and Publication" can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4335/no-11-written-reasons.pdf

2. Proportionality

Approach to proportionality considered

[2002/217 Bryan Haulage \(No.2\)](#)

"In applying the *Crompton* case it seems to us that traffic commissioners and the Tribunal have to reconsider their approach. In cases involving mandatory revocation it has been common for findings to have been made along the lines of 'I find your conduct to be so serious that I have had to conclude that you have lost your repute: accordingly, I have also to revoke your licence because the statute gives me no discretion'. The effect of the Court of Appeal's judgment is that this two-stage approach is incorrect and that the sanction has to be considered at the earlier stage. Thus, the question is not whether the conduct is so serious as to amount to a loss of repute but whether it is so serious as to require revocation. Put simply, the question becomes 'is the conduct such that the operator ought to be put out of business?'. On appeal, the Tribunal must consider not only the details of cases but also the overall result."

(For fuller quotation see [Chapter 16 Transport Tribunal Approach and Procedure](#); for Crompton case see [Chapter 17 Appeals from Tribunal](#))

(see also [2003/147 WC Hockin](#)
[2003/157 North Kent Recycling](#))

A preliminary question may be helpful

[2009/225 Priority Freight](#)

"The third point taken by Mr. Laprell was that the Traffic Commissioner gave no reasons for concluding that 'the conduct was such that the Appellant company ought to be put out of business'. There will be cases where it is only necessary to set out the conduct in question to make it apparent that the operator ought to be put out of business. We are quite satisfied that this was not such a case. On the contrary this was a case which called for a careful assessment of the weight to be given to all the various competing factors. In our view before answering the 'Bryan Haulage question' it will often be helpful to pose a preliminary question, namely: how likely is it that this operator will, in future, operate in compliance with the operator's licensing regime? If the evidence demonstrates that it is unlikely then that will, of course, tend to

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support a conclusion that the operator ought to be put out of business. If the evidence demonstrates that the operator is very likely to be compliant in the future then that conclusion may indicate that it is not a case where the operator ought to be put out of business. We recognise, of course, that promises are easily made, perhaps all the more so in response to the pressures of a Public Inquiry. What matters is whether those promises will be kept. In the present case the Appellant company was entitled to rely on that old saying that 'actions speak louder than words'.

But in relation to applications, as opposed to regulatory action see:
[T/2010/049 Aspey Trucks](#)

3. Reasoning

Reasoning must be set out – TC may not proceed from narrative of evidence to conclusions without assessing effect of evidence – but concise reasons may be sufficient

[2007/459 KDL European](#) (cases reviewed and references to [South Bucks](#) case in HL made)

(see also [2008/130 Lorna Eddie](#))

[2000/57 Yorkshire Rider](#) & [2000/62 First Bristol Buses](#) The quotation which follows is taken from that part of the decision which determined the appeal of First Bristol Buses.

“We have to say that the Traffic Commissioner does not give any analysis of his reasoning at all. He sets out what has occurred at the public inquiry and says that he has taken everything into account. But he then goes directly into his conclusions. What weight did he attach to the monitors' evidence? To what extent did he accept their conclusions? What did he make of Mr Buchanan's warnings about the unreliability of the sampling? What about traffic conditions in Bristol itself? There was overwhelming evidence to the effect that traffic congestion in the city is particularly bad: did he accept that it was a special case? We recognise the difficulties that the Traffic Commissioner faced but think that some analysis was necessary in the light of the evidence which was presented to him. In reality, all these matters were left in the air. We think that the details mentioned needed to be considered by him and that if they had been they would have driven him inexorably to the conclusion that a case for finding a failure to operate a local service was unsustainable, and outside the ambit of reasonableness. The effect of this is that the finding itself, the attachment of the condition and the determination under s.111 of the Act must all be set aside.”

see also [2002/1 Bryan Haulage \(No.1\)](#)

[2002/69 WC Hockin](#)

[2004/439 Surrey CC v. Ripley](#)

[2005/203 Balfour Beatty Group](#)

[2005/466 Nijjar Dairies](#)

[2005/504 J Harrison](#)

[2006/147 Castleton Turf](#)

[2006/171 Black & White Motorways](#)

[2006/399 RM Marshall](#)

[2007/104 S Lloyd](#)

[2009/008 Severn Valley Transport](#)

“The one criticism we have of the decision is that it was given at the end of the public inquiry without a written decision being produced subsequently. This Tribunal has previously stated that when an operator's licence is to be revoked, a written decision should accompany or follow any oral determination. It is only after the full documentation has been thoroughly

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read, that there can be any understanding of why the Traffic Commissioner reached his decision in this case. Decisions should contain sufficient detail to allow a person with experience of the haulage industry to understand the basis upon which the decision was arrived at. Having said that, this was such a bad case that the Appellant could not have failed to understand why the Traffic Commissioner came to the conclusions that he did".

[2009/030 Pilkingtons Accrington](#)

The only record of the decision was in an internal minute. The Traffic Commissioner took the view that it ought not to have been disclosed. The Tribunal disagreed, on the basis that the Appellant was entitled to know the reasons for refusing the application and whether or not the correct test had been applied.

[T/2010/036 Suzanne Stoneman](#)

[T/2010/052&053 S A Taylor and M Taylor](#)

Where written reasons are promised to supplement an oral decision they should be provided before the 28 day period for appealing has expired.

– [Surrey County Council v. Paul Williams \(T/a Garden Materials Landscaping\) and Secretary of State for Transport](#) [2003] EWCA Civ 599 (28

At paragraph 24 Laws LJ said:-

"I would merely endorse, as for his part did the Secretary of State in the skeleton argument prepared by counsel on his behalf, what was said by the tribunal at paragraph 3 of the decision:

□'It is regrettable that the statement of reasons in this case was not provided before the expiry of the 28 day period for the lodging of an appeal and it is clearly desirable that all objectors should receive the statement of reasons as soon as is possible within the 28 day period to avoid allegations that the Traffic Commissioner has tailored his/her reasons to meet the grounds of appeal'."

"What matters most is what the Traffic Commissioner thinks and why he thinks it"

[2010/71 Eurofast \(Europe\) Ltd](#)

An applicant for a licence, whose application has been refused, is entitled to know which of the statutory criteria have not been met and why. Where a TC relies on the cumulative effect of a number of factors it is necessary to show how one factor strengthens another and why that means that one or more of the statutory criteria have not been met

[T/2012/68 Peter Nicholas Wenzel Priedel t/a Sandwich Statics](#) (paragraph 7)

4. Miscellaneous points

Impounding – TC refused return without a hearing – need for reasons – comments of House of Lords in [South Bucks DC v. Porter \(No.2\)](#) (2004 1 WLR 1953 @ 1964 HL) quoted

[2005/542 J Thorogood](#)

TC wrong to defer decision and to make it dependent on untested maintenance report

[2006/134 Recycled Waste Transport](#)

TC wrong to rely on stale evidence and to ignore recent improvements

[2006/149 A & C Nowell](#)

[2006/280 Cassells Transport](#)

[2006/342 Courtney Coaches](#)

[2006/399 RM Marshall](#)

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Revocation ordered although operations in question were “very small part of overall operations” – no proper balancing exercise (note: this would now be held to have been “disproportionate”)

[2000/16 Group Taxibus](#)

TC stated that he intended to leave issue of financial standing to one side while considered other matters but then made adverse findings on it in decision without having invited evidence or submissions

[2001/11 Pagoda Travel](#)

[2002/24 McFletch Hire Services](#)

(see also [2006/111 Kent Coach Travel](#))

A phrase such as “one last chance” does not in itself fetter a TC’s discretion and repute (and other requirements) must be judged as at date of Public Inquiry

[2001/49 Norbert Dentressangle](#)

(see also [2002/117 S Cotterill](#)

[2006 146 S Holt](#))

Failure to balance and explain favourable result in linked PI

[2008/472 K Scott](#)

TC wrong to blame operator for failure to volunteer information when operator acting on legal advice and advocate present

[2002/22 S Garforth](#)

Lies told by one brother do not necessarily implicate the other – reasoning must be properly set out

[2001/45 D Crompton](#)

Following a decision to grant an application a written statement of reasons under reg.22 of the 1995 GVLO Regs should be sent promptly to objectors

[2001/56 Surrey CC v. P Williams](#) – see [Chapter 17 Appeals from Tribunal](#)

Effect of findings by TC at earlier PI considered

[2003/132 JB Hoggar](#)

(see also [2003/201 S&V Supplies](#))

Decision that “a deliberate attempt to circumvent” earlier revocation made without a hearing or any proper evidential basis

[2002/125 Bellfield Transport](#)

Notice must have been given of allegation on which TC proposes to act

[2000/42 AJ Cassells](#)

[2006/457 Rex Haulage](#) (unauthorised use of operating centre)

Details of decision may be corrected by TC

[2001/77 Wilton Contracts](#)

Serious delay in giving decision deprecated

[2005/523 Swallow Coach Company](#)

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[2006/351 Caledonian Coaches](#)

[2006/355 Ferguson Travel](#)

No power to make interim orders without hearing operator

[2006/487 D & H Travel](#)

Expressions such as “phoenix operation” and “fronting” should be used with caution unless properly defined

[2011/23 Taj The Grocer Ltd](#)

[2011/34 Utopia Traction Ltd](#) (paras 8 & 9).

“We consider that Traffic Commissioners, (and the Tribunal), should, at some stage and preferably on the first occasion, explain what they mean when using shorthand expressions such as ‘front’ or ‘fronting’. There are two reasons why this is necessary. First, while most people in the industry will know what the shorthand expression means, others, and those not in the industry, who may still have an interest in the case, may not know. Second, it is only by explaining what the expression is understood to mean that it is possible to assess whether the findings of fact which have been made support the conclusion that the use of the shorthand expression is justified”.

“In the context of vehicle operator’s licensing ‘fronting’ means that a person, partnership or company, which does not have an operator’s licence, uses the operator’s licence held by another entity to conceal the fact that they are behaving in a way which requires them to have an operator’s licence of their own. In other words it deprives the Traffic Commissioner of the right to control an ‘operator’, when Parliament has said that such an entity should be within his or her jurisdiction”.

This approach was followed in [T2012/71 Silvertree Transport Ltd](#), at paragraph 4 of that decision the Tribunal provided another description of ‘fronting’:

“Another way in which to describe the same situation would be to say that: ‘fronting’ occurs when appearances suggest that a vehicle, (or fleet), is being operated by the holder of an operators licence when the reality is that it is being operated by an entity, (i.e. an individual, partnership or company), which does not hold an operators licence and the manner in which the vehicle is being operated requires, if the operation is to be lawful, that the real operator holds an operator’s licence”.

The Tribunal went on to explain that once a Traffic Commissioner is satisfied that the evidence establishes that ‘fronting’ has taken place he is entitled to take a serious view of such conduct, firstly because fronting involves deception and secondly because it is conduct which can seriously undermine the effectiveness of the regulatory regime.

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Chapter 20 Stays

1. Decisions by T C's

The procedure for applying for a stay of a decision by a TC is governed by statute. In the case of Heavy Goods Vehicles the relevant provisions are set out in s.29(2)&(3) of the 1995 Act. In the case of Public Service Vehicles the relevant provisions are set out in s.50(6)-(8) of the 1981 Act.

Both these sections require that an application for a stay should be made to the TC. The jurisdiction of the Tribunal only arises if and when the TC has refused to grant a stay.

Detailed guidance on the considerations to be taken into account when a TC or the Tribunal is invited to consider the grant of a stay was given in the ruling on an application by Ptarmigan Solutions Ltd t/a Bankfoot Buses in these terms:-

"Approach to applications to Stay Decisions

1. A number of factors need to be considered whenever an application for a stay is decided. The degree of relevance and the weight to be given to individual factors will vary from case to case and will depend on the circumstances of each individual case.
2. The starting point must be that there is an unfettered right to appeal decisions made by Traffic Commissioners, in the sense that permission to appeal is not required. In addition appeals are not limited to points of law. In other words the AAC is entitled to consider, for example, whether there was evidence to support a particular conclusion and whether an exercise of discretion has been shown to be unreasonable, in the sense that it was a decision which no reasonable Traffic Commissioner could have reached having correctly directed him or herself about the law and having properly assessed the evidence.
3. Where the licence has been revoked and, perhaps in some other situations, the refusal of a stay is likely to bring the operator's business to an end before an appeal can be heard, even if the hearing is expedited. The prospects of a successful appeal, (a factor which is considered below), are very important when considering whether it is appropriate to run the risk of putting an Appellant out of business before it is possible for an appeal to be heard. Where an appeal is obviously not going to succeed an Appellant cannot expect to 'postpone the inevitable', by relying on his unfettered right to appeal, in a case where there are concerns sufficient to warrant refusing a stay. On the other hand where there appear to be arguable grounds of appeal it may be difficult to justify not granting a stay because refusal of a stay may effectively put the Appellant out of business before the matter can be tested on appeal.
4. The Transport Tribunal made it clear on many occasions that appeals from Traffic Commissioners do not involve a complete re-hearing of all the evidence. Instead such appeals involve a review of the material put before the Traffic Commissioner at the Public Inquiry and the conclusions, which he or she reached on the basis of that material. There is nothing to suggest that this approach should be changed following the transfer of the jurisdiction of the Transport Tribunal to the AAC. Indeed the statutory prohibition against taking into account, when hearing an appeal from a decision of a Traffic Commissioner, "any circumstances which did not exist at the time of the determination which is the subject of the appeal", was not altered by the legislation which transferred the Tribunal's jurisdiction to the AAC, [see paragraph 9(2) of Schedule 4 to the Transport Act 1985]. Because an appeal from a decision of a Traffic Commissioner concentrates on the question of whether the decision was justified on the material before the Traffic Commissioner the right to put forward new

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evidence, which was not before the Traffic Commissioner at the Public Inquiry, is limited. In the Transport Tribunal decision [2002/40 Thames Materials](#), (see page 44 of the Digest), the Tribunal confirmed the position, consistently applied over many years, that fresh evidence could only be admitted if it passed the test for the admission of fresh evidence, laid down by the Court of Appeal, as long ago as 1954, in the case of Ladd-v-Marshall. In particular an Appellant has to show that “the evidence could not have been obtained, with reasonable diligence, for use at the Public Inquiry”. Any application for a stay, which is supported by new material, has to be considered with those matters in mind.

5. The Transport Tribunal frequently stressed that Traffic Commissioners have the advantage of seeing and hearing the witnesses, with the result that it is only in the clearest cases that the Tribunal or the AAC will differ from the Traffic Commissioner when it comes to assessing the credibility of a witness. In addition providing that there is evidence to support a particular conclusion it is for the Traffic Commissioner to decide what weight, if any, to give to that evidence. Grounds of appeal, which state expressly or by implication that the Traffic Commissioner gave too much or too little weight to a particular piece of evidence, have no prospect of success.
6. The test applied by the Transport Tribunal and the test, which will be applied to appeals to the AAC, is to consider whether the decision of the Traffic Commissioner was ‘plainly wrong’. This is particularly important in cases involving the exercise of discretion. It is not sufficient to seek to persuade the AAC that another Traffic Commissioner might have come to a different decision on the same material. The appeal will only succeed if it is shown that the decision was ‘plainly wrong’ in the sense that no reasonable Traffic Commissioner, properly considering the evidence and correctly applying the law, could have reached the same conclusion. That test needs to be considered whenever the prospects of success on an appeal fall to be considered.
7. In Public Service Vehicle cases the safety of the public in general and the safety of passengers in particular will be an important consideration when considering whether or not it is appropriate to grant a stay. (Similar considerations will apply in Heavy Goods Vehicle cases). A Traffic Commissioner, who has seen and heard the evidence, will be in a better position than a Judicial Member of the AAC, to assess the extent to which safety is likely to be compromised by granting a stay. If the Traffic Commissioner concludes that safety will be compromised to the point where a stay should be refused it will be important to provide a sufficient explanation to justify that conclusion.
8. The operator’s licensing system is built on trust. Traffic Commissioners must be able to trust operators to operate within the rules laid down by the licensing regime established by Parliament. Operators must be able to trust their competitors to comply with the regulatory regime. If it appears that an operator is able to flout the regime, without any adverse consequences, trust will break down and others will also feel compelled to flout the regime in order to avoid being put at a competitive disadvantage. It follows that fair competition and trust are also important considerations in deciding whether or not to grant a stay. Again the Traffic Commissioner will be in a better position than a Judicial Member of the AAC, to assess the extent to which fair competition is at risk and trust has been lost. Again if it is concluded that the risk to fair competition and/or the loss of trust justify refusing a stay it will be important for the Traffic Commissioner to provide a sufficient explanation to justify that conclusion.
9. The most important consideration of all involves an assessment of the prospects of a successful appeal. Appellants and their advisers should understand that anyone who is asked to stay a decision will consider the grounds of appeal with great care. If it is clear that no grounds have been advanced which might lead to the conclusion that the Traffic Commissioner was plainly wrong then the conclusion will be that the appeal is likely to fail. In those circumstances other factors, especially safety and fair competition, are likely to carry greater weight. On the other hand if it appears that

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there are arguable grounds of appeal then the risk that, if a stay is not granted, the Appellant will be deprived of his right of appeal should carry great weight. It is important to remember that there will be cases where, if the appeal succeeds, the fact that it has succeeded will mean that the risk to safety or the threat to fair competition was not as great as had been feared.

10. In contrast to the assessment of safety, the risk to fair competition or loss of trust the Judicial Member of the AAC, dealing with an application for a stay, is likely to be in a better position to assess the prospects of success on an appeal than the Traffic Commissioner whose decision is being appealed. Where a novel point of law has been raised before a Traffic Commissioner it may be relatively easy to conclude that there are arguable grounds for appeal. But where an exercise of discretion is attacked it is much more difficult to expect the Traffic Commissioner, who has reached a considered decision which he or she genuinely believes to be correct, to stand back and say 'in the light of this ground of appeal perhaps, on reflection, I was wrong'. The Judge of the AAC, on the other hand, is in a position to take a detached and impartial view. In addition the Judge of the AAC may have the benefit of more detailed grounds of appeal and, if requested, a skeleton argument.
11. How should these factors be applied to individual cases? I understand that the practice adopted by Traffic Commissioners is to grant a stay, if requested to do so, unless they have concerns that road safety, the safety of passengers, fair competition or the proper observance of the regulatory regime, will be sufficiently seriously compromised that it is inappropriate to grant a stay. In my judgment this is the correct approach for a variety of reasons. It avoids the problem of the Traffic Commissioner having to assess the prospects of a successful appeal against a decision, which the Traffic Commissioner concerned will genuinely believe to be correct. It recognises that the Traffic Commissioner concerned will be in a better position than a Judge of the AAC to assess the reasons why a stay is being refused and to explain them. It also recognises that an Appellant who has been refused a stay by the Traffic Commissioner can apply, as of right, to a Judge of the AAC for a stay to be granted. The Judge dealing with such an application must give a decision within 14 days of the application being received. Where a decision is due to come into effect very shortly after a stay has been refused it will be appropriate for the Traffic Commissioner to consider whether to defer the coming into effect of his or her decision to enable a Judge of the AAC time to give the matter proper consideration. The almost inevitable result of the refusal of a stay and the refusal to defer the coming into effect of a decision, in that situation, will be the immediate grant of a short stay to preserve the existing position pending a decision on the merits of the application for a stay. A further reason for concluding that this is the correct approach is that providing there are no concerns about road safety, the safety of passengers, fair competition or the observance of the regulatory regime, it is difficult to see any justification for not granting a stay. In that situation there is no sufficiently compelling reason for putting the Appellant out of business before an appeal can be heard, even if the grounds of appeal appear to be weak.
12. A Judge of the AAC dealing with an application for a stay must, of course, give careful consideration to the reasons given by the Traffic Commissioner for refusing to grant a stay. In particular he or she must assess their validity and whether the concerns are sufficiently serious to justify the refusal of a stay. In addition it will be important for the Judge of the AAC to assess the grounds of appeal. If there are matters of sufficient gravity to justify the refusal of a stay, and there is no realistic prospect that the appeal will succeed, a stay will obviously be refused because the grant of a stay, in those circumstances, simply enables the Appellant to postpone the inevitable. On the other hand the more likely it is that an appeal will succeed the greater the justification required if a stay is to be refused; otherwise there is a risk that the Appellant will be put out of business before a potentially successful appeal can be heard. This consideration is all the more important in a case where a ground of appeal with reasonable prospects of success will, if it succeeds, allay the concerns about, for example road safety, where road safety has been the justification for the refusal of a stay

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2. Decisions by the Tribunal

The question of whether the Transport Tribunal had the power to stay one of its decisions, pending an appeal to the Court of Appeal, arose in the case of Anglorom (UK) Ltd and Paramount Kitchens Ltd. In that case the application for a stay was initially made to the Court of Appeal but the Lord Justice, who considered the application, directed that it should be considered, first, by the judicial member of the Tribunal who had presided over the appeal. When the matter returned it was fully argued. The following quotation from the ruling in an application for a stay by A 2 Z Travel (UK) Ltd provides a summary of the position in relation to applications to stay decisions of the Transport Tribunal pending an appeal to the Court of Appeal:

“The question of whether or not the Tribunal has power to stay one of its orders pending an appeal to the Court of Appeal was fully argued before another Judicial Member of the Tribunal, (Miss Jacqueline Beech, as she then was), when she decided the application for a stay made by Anglorom (UK) Ltd and Paramount Kitchens Ltd. I have had the advantage of considering a copy of that ruling, which is not reported nor does it feature on the Tribunal’s website. In summary the position is this. Paragraph 8(2)(c) of Schedule 4 to the Transport Act 1985 gives the Tribunal, in relation to the enforcement of its orders, ‘all such powers, rights and privileges as are vested in the High Court’. The case management powers vested in the High Court, by CPR Part 3.1 include a discretion to stay ‘the whole or part of any proceedings or judgment, either generally or until a specified date or event.’ In addition CPR Part 52.7 provides that ‘unless the appeal court or the lower court orders otherwise an appeal shall not operate as a stay of any order or decision of the lower court’.

The current position is similar in that under Rule 5(3)(l) of the Tribunal Procedure (Upper Tribunal) Rules 2008 the Tribunal has the power to:- “suspend the effect of its own decision pending an appeal or review of that decision”.

It follows that, in the first instance, an application to stay a decision pending an appeal to the Court of Appeal, should be made to the Tribunal and not to the Court of Appeal.

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Chapter 21 Tribunal Approach & Procedure

1. Grounds of Appeal

Given the approach which the Tribunal is required to adopt, (see below), generalised grounds of appeal do not assist and are to be discouraged

[T/2010/006 Fisher Tours](#)

“By way of a footnote, we have previously attempted to discourage legal representatives from lodging generalised grounds of appeal. In this appeal, paragraph 1 of the amended grounds read as follows:

The Traffic Commissioner for Scotland in reaching her decision erred in fact and law, and misdirected herself in law by: misconstruing and failing to observe the requirements of the relevant statutory provision and regulations; taking into account irrelevant factors and leaving out of account relevant factors; applying the wrong tests in respect of local services and their provision; failing to have regard to the evidence before her; having regard to her own speculations and reaching a decision which no reasonable Commissioner, properly directing herself could have reached in all the circumstances and on the evidence before her;”

Ground 2 was “in addition to and without prejudice to the foregoing” and pleaded acts of ultra vires, misdirections on the law, errors of law and of course bias on the part of the Traffic Commissioner. Such generalised grounds of appeal as that set out above, are of no assistance to the Tribunal in identifying the issues in an appeal and are to be discouraged.”

Grounds of appeal should be fully set out in notice of appeal – grounds on proforma basis are to be deprecated and may lead to adjournments

[2001/41 Tate Fuel Oils](#)

(see also [2001/45 D Crompton](#)
[2006/146 S Holt](#))

Allegation of bias must be set out in notice of appeal and supported by statements – practice considered

[2004/426 EA Scaffolding](#)

(see also [2007/318 Eurotaxi](#)
[2008/11 Ansvar Holdings](#))

2. Right to Appeal

In an impounding case only those who were validly parties to the proceedings before the TC are given a right to appeal under Regulation 13 of the 2001 Regulations

[T/2012/58 Alan Knight Transport B.V. & Alan Michael Knight](#) (paragraph 8)

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3. Approach to Appeals

The following is a summary of the decision of the Court of Appeal in the case of [Bradley Fold Travel Ltd & Peter Wright –v- Secretary of State for Transport \[2010\] EWCA Civ. 695](#) (See also [Chaper 22 Appeals from Tribunal](#) where quotations from this decision will be found).

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1. The Tribunal is not required to rehear all the evidence by conducting what would, in effect, be a new first instance hearing. Instead it has the duty to hear and determine matters of both fact and law on the basis of the material before the Traffic Commissioner but without having the benefit of seeing and hearing the witnesses.
2. The Appellant ‘assumes the burden’ of showing that the decision appealed from is wrong.
3. In order to succeed the Appellant must show not merely that there are grounds for *preferring* a different view but that there are objective grounds upon which the Tribunal ought to conclude that the different view is the right one. Put another way it is not enough that the Tribunal might *prefer* a different view; the Appellant must show that the process of reasoning and the application of the relevant law *require* the Tribunal to adopt a different view.

Earlier decisions of the Transport Tribunal and the Upper Tribunal must be considered in the light of this decision, though it confirms the approach taken in earlier appeals.

Whether TC plainly wrong – proportionality considered
[2002/217 Bryan Haulage \(No.2\)](#)

“This brings us to consider the approach to be adopted by the Tribunal in appeals from traffic commissioners. Until *the Crompton case* (David Crompton Haulage v. Dept of Transport (2003) EWCA Civ.64) the Tribunal only interfered with a traffic commissioner’s decision if it was shown to be “plainly wrong”. This approach was based on well-established principles and was referred to in *Appeal 1999 L29 A R Williams Properties Ltd* where we quoted from Lord Hoffman’s speech in *Pigłowska v. Pigłowski* (1999 1WLR 1360; 1999 3 All ER 632):

“In *G v. G (Minors: Custody Appeal)* [1985] 1 WLR 647, 651-652, this House, in the speech of Lord Fraser of Tullybelton, approved the following statement of principle by Asquith LJ in *Bellenden (formerly Satterthwaite) v. Satterthwaite* [1948] 1 All ER 343, 345, which concerned an order for maintenance for a divorced wife:

“It is, of course, not enough for the wife to establish that this court might, or would, have made a different order. We are here concerned with a judicial discretion, and it is of the essence of such a discretion that on the same evidence two different minds might reach widely different decisions without either being appealable. It is only where the decision exceeds the generous ambit within which reasonable disagreement is possible, and is, in fact, plainly wrong, that an appellate body is entitled to interfere.”

“This passage has been cited and approved many times but some of its implications need to be explained. First, the appellate court must bear in mind the advantage, which the first instance judge had in seeing the parties and the other witnesses. This is well understood on questions of credibility and findings of primary fact. But it goes

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further than that. It applies also to the judge's evaluation of those facts. If I may quote what I said in *Biogen Inc. v. Medeva Ltd* [1997] RPC 1:-

“The need for appellate caution in reversing the trial judge's evaluation of the facts is based upon much more solid grounds than professional courtesy. It is because specific findings of fact, even by the most meticulous judge, are inherently an incomplete statement of the impression, which was made upon him by the primary evidence. His expressed findings are always surrounded by a penumbra of imprecision as to emphasis, relative weight, minor qualification and nuance of which time and language do not permit exact expression, but which may play an important part in the judge's overall evaluation.”

“The second point follows from the first. The exigencies of daily courtroom life are such that reasons for judgment will always be capable of having been better expressed. This is particularly true of an unreserved judgment such as the judge gave in this case but also of a reserved judgment based upon notes, such as was given by the District Judge. These reasons should be read on the assumption that, unless he has demonstrated the contrary, the judge knew how he should perform his functions and which matters he should take into account. An appellate court should resist the temptation to subvert the principle that they should not substitute their own discretion for that of the judge by a narrow textual analysis which enables them to claim that he misdirected himself.”

“The decision in *the Crompton case* is dated 31 January 2003, which was nearly 4 months after the public inquiry in this case, and is of application both to traffic commissioners and to the Tribunal itself. The leading judgment by Kennedy LJ restates the accepted position that both are public authorities for the purposes of s.6 of the Human Rights Act 1998. Accordingly they must act in ways compatible with Convention Rights and, so far as possible, read and give effect to domestic legislation in a manner which is compatible with such rights. The judgment goes on also to accept that an operator's licence is a possession for the purposes of Article 1 of the First Protocol, so that a person is not lightly to be deprived of it. The law is reviewed and the judgment continues by stating that although a licence “can be revoked lawfully in pursuit of a legitimate aim, the action must be proportionate”. It concludes by regarding as non-contentious the following proposition:-

“That if loss of repute is found the inevitable sanction is revocation, possibly followed by an application for a fresh licence which may or not be granted. There must therefore be a relationship of proportionality between the finding and the sanction, and that relationship has a direct bearing on the approach to be adopted in any set of circumstances to the question of whether or not the individual has lost his repute.”

“In applying *the Crompton case* it seems to us that traffic commissioners and the Tribunal have to reconsider their approach. In cases involving mandatory revocation it has been common for findings to have been made along the lines of “I find your conduct to be so serious that I have had to conclude that you have lost your repute: accordingly, I have also to revoke your licence because the statute gives me no discretion”. The effect of the Court of Appeal's judgment is that this two-stage approach is incorrect and that the sanction has to be considered at the earlier stage. Thus, the question is not whether the conduct is so serious as to amount to a loss of repute but whether it is so serious as to require revocation. Put simply, the question becomes “is the conduct such that the operator ought to be put out of business?”. On appeal, the Tribunal must consider not only the details of cases but also the overall result.”

(For Crompton case see [Chapter 17 Appeals from Tribunal](#))

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[2002/55 John Slattery](#)
[2005/7 2 Travel Group](#)

4. Tribunal's powers

These are now set out in paragraphs 17(1), (2) & (3) of Schedule 4 to the Transport Act 1985, as amended. These paragraphs replace paragraph 9 of Schedule 4. The powers set out in paragraphs 9(1) & (2) are identical to those now set out in paragraphs 17(2) & (3). Paragraph 17 provides as follows:

“(1) The Upper Tribunal are to have full jurisdiction to hear and determine all matters (whether of law or of fact) for the purpose of the exercise of their functions under an enactment relating to transport.

(2) On an appeal from any determination of a traffic commissioner other than an excluded determination, the Upper Tribunal is to have power-

- (a) to make such order as it thinks fit; or
- (b) to remit the matter to the traffic commissioner for rehearing and determination by the commissioner in any case where the tribunal considers it appropriate.

(3) The Upper Tribunal may not on any such appeal take into consideration any circumstances which did not exist at the time of the determination which is the subject of the appeal”.

Before remitting a case for rehearing and determination by the TC the Tribunal must consider whether or not it is “appropriate” to take that course. Unless and until it is satisfied that remitting the matter is the appropriate course the Tribunal should ‘make such order as it thinks fit”.

[Nolan Transport v VOSA & Secretary of State for Transport T/2011/60](#)
(at paragraphs 104 & 132)

Tribunal has power to make such order as it thinks fit under para.9 of Schedule 4 of 1985 Act and will do so in appropriate cases rather than remit to TC

[2002/92 D Bailey](#) (reduction in amount of rebate)

[2006/405 Transclara](#) (Tribunal may only impose lawful conditions)

[2007/459 KDL European](#) (tachograph offences – need for deterrence)

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(see also [2003/85 Nostalgia Bus](#)
[2003/107 RA Meredith](#)
[2003/271 M Jarvis](#)
[2004/241 DM Alexander](#)
[2004/371 Euroventure](#)
[2004/450 R Kime](#)
[2005/21 First West Yorkshire](#)
[2007/428 J Maffia](#))

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Tribunal can conduct its own balancing exercise, where, for example some findings are overturned but others stand.

[Bradley Fold Travel Ltd & Peter Wright –v- Secretary of State for Transport \[2010\] EWCA Civ. 695](#) (See also Chapter 17 where quotations from this decision will be found).

5. Human Rights

The position of TC and Tribunal considered – accepted by DETR that TC is a public authority and that proceedings before TC involve determination of operator’s civil rights and obligations. Held by Tribunal that such proceedings are not criminal. Held also that the TC’s hearing was fair and public and that he is independent and impartial – in any event the TC was subject to judicial control by the Tribunal which has full jurisdiction

[2000/65 AM Richardson v. DETR](#)

Tribunal hearing in England or Scotland – practice considered

[2004/364 Pallas Transport](#)

(See Opinion of Court of Session in [McCaffery and Pallas](#) case in [Chapter 22 Appeals from Tribunal](#))

6. Fresh Evidence

Two factors are relevant to every application to put fresh evidence before the Tribunal. First, paragraph 9(2) to Schedule 4 to the 1985 Act, (replaced, using the same words, by paragraph 17(3) of Schedule 4 to the 1985 Act as amended), provides that: “The tribunal may not on any such appeal take into consideration any circumstances which did not exist at the time of the determination which is the subject of the appeal”. The prohibition is absolute. The Tribunal has no discretion to take into consideration anything which did not exist at the time of the decision under appeal. Second, and subject to the first point, the tribunal has consistently followed the practice of the Court of Appeal when deciding whether or not to admit fresh evidence.

Admission of new evidence on appeal considered: the tribunal’s practice and approach

[2002/40 Thames Materials](#)

“Subject to paragraph 9(2) to Schedule 4 to the 1985 Act Rule 32(2)(b) gives the Tribunal discretion to allow “evidence not given before the Traffic Commissioner to be admitted”. In deciding whether or not to admit fresh evidence the Tribunal has consistently applied the conditions laid down by the Court of Appeal in *Ladd v. Marshall (1954) 1 WLR 1489*, the most recent of many decisions on the point being [Dukes Transport \(Craigavon\) Limited v. Vehicle Inspectorate Appeal 68/2001](#) and [Goldwings \(Wales\) Limited Appeal 60/2001](#). The relevant *Ladd v. Marshall* conditions, bearing in mind the prohibition on taking into account circumstances which did not exist at the time of the determination subject to appeal, are as follows:-

- (i) The fresh evidence must be admissible evidence.
- (ii) It must be evidence which could not have been obtained, with reasonable diligence, for use at the public inquiry.
- (iii) It must be evidence such that, if given, it would probably have had an important influence on the result of the case, though it does not have to be shown that it would have been decisive.
- (iv) It must be evidence which must be apparently credible though not necessarily incontrovertible.

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“We would have thought that the first condition hardly needed to be stated but it is quite apparent from the terms of Mr Clarke’s statement that it needs to be stressed. There are authorities which indicate that condition (ii) is the critical condition.”

(See Opinion of the Court of Session in the *McCaffrey and Pallas* case in [Chapter 22 Appeals from Tribunal](#))

(see also [2002/75 Hazco Environmental Services](#)
[2005/118 M & J Tinworth](#))

7. Parties and Representation

Tribunal has wide powers to join parties

[2000/22 ET Benson Precision Engineering v. Surrey CC](#)

TC may not be joined as a party to appeal to Tribunal or above

(see the comments by the Court of Session in the *Coakley* case (No.1) in [Chapter 17 Appeals from Tribunal](#))

Representation of Vehicle Inspectorate (now VOSA) at PI and appeal is of assistance

[2001/68 Dukes Transport](#)

[2001/49 Norbert Dentressangle](#)

[2002/20 HAUC](#)

Representation by unqualified advocate – standing

[2005/385 K Grant](#)

[2006/252 A Hayden](#)

8. Practice

Contents of appeal bundle considered – inappropriate for appellant to produce own bundle

[2000/34 Solent Travel](#)

[2002/6 JC Stokes](#)

[2002/40 Thames Materials](#)

[2003/254 A Jones](#)

“At the hearing of the appeal Miss Sinclair again appeared for the Appellant. She had only been supplied with a bundle of documents as made up by her solicitors. Copies of this had been received by the Tribunal that morning and as we made clear in [40/2002 Thames Materials Ltd](#) we are only prepared to consider a bundle of documents which has been provided in accordance with rule 15 of the Transport Tribunal Rules 2000. If it is hoped to produce further documents, an application must earlier be made to the Tribunal. It is necessary for the Tribunal to pre-read all cases and this is impractical if new bundles are provided by Appellants on the morning of the appeal. In fact, no new documents were in the Appellant’s solicitors’ bundle but the conflict in numbering put Miss Sinclair at an initial disadvantage.”

Judicial member may sit alone (rule 20)

[2002/56 J Tote](#)

(see also [2003/178 G Booth](#))

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Challenge to PI transcript must be made formally in an application to the Tribunal

[2000/1 Gray v. Graham](#)

(see also [2001/59 S Ashton](#))

Absence of transcript – available notes incomplete – new hearing ordered

[2005/347 JM Jones](#)

Re-hearing ordered by Tribunal may be by same TC unless contrary stated

[2003/254 A Jones](#) (see comments by CA in [Chapter 22 Appeals from Tribunal](#))

[2003/314 L Robbins](#)

Tribunal may correct its decisions

[2001/77 Wilton \(Contracts\)](#)

Time for compliance with order to dismiss appeal considered

[2004/372 Maple Industries](#)

Stay pending appeal after revocation for loss of repute does not prevent order for revocation for lack of financial standing

[2003/138 P Coakley](#)

Failure to appear on hearing of appeal – decision to dismiss in absence – refusal to set aside decision

[2001/1 RC Milton](#)

(see also [2002/2 B Edgington](#))

Reluctance of Tribunal to substitute own order of disqualification because it has not seen the witnesses

[2001/15 K Malone](#)

Tribunal is not bound by previous decisions

[2003/309 B Smith](#)

[2004/426 EA Scaffolding](#)

Order for costs when appeal unreasonable – repudiation of regulatory regime – rule 3 considered

[2001/72 AR Brooks](#)

(see also [2002/118 IS Scaffolding](#) and [2003/262 GW Elliot](#))

No appeal to Tribunal from formal warning

[2008/268 Funstons](#)

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Chapter 22 Appeals from Tribunal

The Transport Tribunal is a superior court of record and is not subject to judicial review. Appeals are to the Court of Appeal or the Court of Session and are on points of law only (see para.14 Schedule 4, 1985 Act). Although reports of these appeals may be found elsewhere, the most convenient free website seems to be that of the British and Irish Legal Information Institute (<http://www.bailii.org/>). The following appeals have been heard in recent years, with full title and references being given in the text:

1. [Thomas Muir \(1998\)](#)
2. [Ribble \(2000\)](#)
3. [Crompton \(2000\)](#)
4. [Surrey CC v. Williams \(2003\)](#)
5. [Coakley \(1\) \(2003\)](#)
6. [Coakley \(2\) \(2003\)](#)
7. [Anglorom \(2004\)](#)
8. [Alison Jones \(2005\)](#)
9. [Muck It \(2005\)](#)
10. [McCaffrey and Pallas \(2006\)](#)
11. [Banga Travel \(2008\)](#)
12. [Romantiek \(2008\)](#)
13. [Bradley Fold Travel \(2010\)](#)

1. Thomas Muir

25 September 1998 – [Thomas Muir \(Haulage\) Limited v. The Secretary of State for the Environment, Transport and the Regions](#) [1998] ScotCS 13 (25 September, 1998); [1999] SC 86; [1999] SLT 666; (on appeal from 1997 J1); Approach to regulation of goods vehicles under 1995 Act considered generally – convictions, prohibitions and undertakings relating to drivers' hours & rules and tachographs – purpose of directions under s.26 is to achieve objectives of the system – deterrence may be a factor – no need to determine culpability – not to be treated as if punishment in a criminal court – court of 5 judges – earlier decision of Court of Session overruled.

Per Lord Cullen, Lord Justice Clerk:

“This appeal requires us to consider the underlying purpose for which the power given by Section 26(1) is provided. That section forms part of a system for the regulation of the operation of goods vehicles, by means of the control exercised over the licences without which that operation could not lawfully take place. Section 13 requires that an applicant for a licence is to be of good repute, of the appropriate financial standing and professionally competent, in accordance with Schedule 3. Under Section 27 revocation of the licence is mandatory if he ceases to fulfil any of these requirements. The applicant also has to show that the various requirements set out in sub-section (5) of Section 13 are met. These relate, for example, to drivers' hours, the avoidance of overloading of vehicles, the maintenance of vehicles in a fit and serviceable condition, and the availability, suitability and sufficiency of the operating centre. Section 26(1) contains a wide range of grounds for a direction apart from those with which the present appeal is concerned. It may be noted that in Section 178 of the Road Traffic Act 1960, which was a predecessor of Section 26, it was stated in sub-section (4) that a direction should not be given on the ground of a conviction or a prohibition unless the licensing authority was satisfied “that owing to the frequency of such convictions or prohibitions as are referred to in that paragraph, or the wilfulness of the act or omission leading to the conviction or prohibition in question, or the danger to the public

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involved in that act or omission, such a direction should be given". No such qualification appears in Section 26(1).

"In the light of that background it is clear that the underlying purpose of a direction under Section 26(1) can only be stated in very broad terms, namely that it is intended to be used, so far as may be appropriate, to achieve the objectives of the system. The proper question is whether in that context the direction is appropriate in the public interest. The objectives of the system

plainly include the operator's adherence to the various requirements of section 13(5). In the case of prohibition and conviction it is plain that the protection of the public is a very important consideration.

"We can see no justification for treating the direction under Section 26(1) in the same way as if it were a punishment administered by a criminal court and hence arrived at by reference to the full range of considerations which such a court would take into account. This appears to us to involve a confusion in roles. When Parliament intends to invoke the criminal law, it does so expressly by enacting provisions which define the offence and its penal consequences.

"On the other hand, it does not follow that a traffic commissioner is prevented from taking into account, where appropriate, some considerations of a disciplinary nature and doing so in particular for the purpose of deterring the operator or other persons from failing to carry out their responsibilities under the legislation. However, taking such considerations into account would not be for the purpose of punishment *per se*, but in order to assist in the achievement of the purpose of the legislation. This is in addition to the obvious consideration that a direction may be used to provide direct protection to the public against dangers arising from the failure to comply with the basis on which the licence was granted. Whether or not such disciplinary considerations come into play must depend upon the circumstances of the individual case.

"How then is the question of possible direction under Section 26(1) to be approached in the present type of case? It is important to bear in mind that the grounds with which we are concerned state that it is the conviction, the prohibition or the non-fulfilment of the undertaking which forms the basis for the direction. In other words, it is envisaged by the section that each of these by itself should be sufficient to justify the making of the direction. The section does not require the traffic commissioner, either expressly or by necessary implication, to determine "the degree of culpability" in order to enable him to act on any of these grounds. Whether the past conduct of the operator is blameworthy is not the determining or critical factor. We are unable to agree with the First Division's view that without assessing the degree of culpability the traffic commissioner cannot form a sound decision as to whether any, and if so, which direction should be given. Likewise, we cannot agree with their observation that fault on the part of the operator is not simply to be inferred from the existence of a prohibition, since this is to seek the answer to the wrong question. Further we disagree with the implication which they drew from the legislation that the licensing authority could not reach a proper determination without distinguishing between fault on the part of the driver and fault on the part of the operator. This appears to suggest that the operator is not responsible when the driver is at fault. It is important, in our view, to observe a clear distinction between questions of responsibility and questions of culpability. It was correctly maintained on behalf of the respondent that the operator cannot avoid responsibility for a conviction for prohibition by seeking to lay the blame on the driver or on those by whom his vehicles have been maintained. Doing so would provide no answer to proceedings taken in respect of them. A prohibition qualifies as a prohibition

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for the purposes of Section 26(1) whether it arises from the fault of the operator or from that of someone else for whom the operator is responsible.”

2. Ribble

23 February 2001 – [Ribble Motor Services Limited v. Traffic Commission for North Western Traffic Area](#) [2001] EWCA Civ/2001/267 (23 February 2001); 2001 RTR37; on appeal from 1999 L44);

Regulation of bus services considered generally – approach to ss.6, 26 & 111 of 1985 Act – sizes of samples, windows of tolerance and reasonable excuses reviewed – burden of proving excuses is on operator – TC and Tribunal may bring own specialist knowledge to bear.

Per Simon Brown LJ:-

“This appeal concerns timetabled bus services and their operators. Those of us who travel by public transport need these services but we need them to be reliable. The Transport Act, 1985, (the Act) brought in a new approach to the problem. Its policy was to deregulate the initial provision of bus services but then exercise some control over them once in operation. By s.6 of the Act any operator holding a public service vehicles (PSV) operator’s licence may register as a local service any route he chooses to whatever timetable he chooses. A registered service is subject to no scrutiny prior to its operation. Once registered, however, any services are subject to the controls provided for by ss.26 and 111 of the Act. When invoked, s.26 allows a condition to be attached to the PSV licence prohibiting the provision of services; s.111 provides for a determination which results in the operator forfeiting 20% of his entire fuel duty rebate for the previous three months.

“These controls are exercised by a Traffic Commissioner against whose decision the operator can appeal whether on fact or law to the Transport Tribunal. A further appeal lies directly to this Court by only in point of law. The present is the first such appeal ever brought.

.....

“The appellants complain that the Commissioner put the burden on them to prove that they had a reasonable excuse for their failures. It is Mr King’s submission that once the operator puts forward evidence of a reasonable excuse, “it is for the traffic area to eliminate the existence of that defence to the satisfaction of the Traffic Commissioner and the Transport Tribunal”. He relies in support of this submission upon cases in the criminal law such as *R v. Clarke* [1969] 1WLR 1109 which held in the context of breathalyser legislation, that once there is some evidence of reasonable excuse for failing to provide a specimen it is for the prosecution to eliminate the existence of such a defence to the satisfaction of the jury. In my judgment, however, that principle has no application in the present situation. Rather I would regard this as a classic case for holding that the burden lies squarely upon the operator to prove that he had reasonable excuse for his overall failure to meet the timetabling requirements. Three considerations to my mind combine to support such a view. First, even in a criminal case, if an ingredient of an offence relates to a matter peculiarly within the accused’s own knowledge (as must existence of a reasonable excuse), the onus is generally on the accused to prove the exculpatory fact. Secondly, throughout the law, there is a general rule that those who seek to rely on exceptions (which include excuses) must establish them (on the balance of probabilities). Thirdly, the Traffic Commissioner’s jurisdiction is essentially inquisitorial rather than adversarial in nature, and, there being no one to adopt a prosecutor’s role of seeking to disprove any excuses proffered, it should be for the operator to establish them.

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“Valiantly though Mr King strove to pray in aid those decisions in support of the present appeal, in my judgment their reasoning on the contrary militates against it. The critical difference between those two cases and this is, of course, that whereas in them specific evidence was called as to realistic reliability rates, here it was not. The Transport Tribunal itself (under the same President throughout) did not regard the later cases as invalidating their own earlier decision. On the contrary, one of the reasons they gave for distinguishing the present case from Yorkshire Rider was the latter’s much smaller sampling size. To my mind those decisions throw no doubt upon the lawfulness of the Commissioner’s approach in the present case given as his decision expressly noted, “the absence [before him] of persuasive research as to what level of adherence to timetable it is reasonable to expect a city centre operator to achieve”.

“That conclusion, however, is not of itself necessarily fatal to Mr King’s arguments which still fall to be considered on their intrinsic merits. Was it, then, unlawful in the pre-research era to fix on the 95% benchmark? In my judgment it was not and nor was it unlawful in doing so to have regard to such general experience as could be gleaned from (a) other traffic commissioners’ experience and decisions (at the time of the commissioner’s decision in the present case solely that of the Senior Traffic Commissioner in Midland Blackbird but later, as the Commissioner in the Yorkshire Rider case observed, “the collective experience of [all] the traffic commissioners”), and (b) whatever information he as an individual traffic commissioner had acquired in the course of inquiries he himself had held. Traffic Commissioners and, of course, the Transport Tribunal, exercise a specialist jurisdiction and inevitably build up a body of expertise in this field. It seems to me quite unrealistic to suggest that they must put this aside when adjudicating on any particular case and confine themselves solely to such evidence as may be called in that case. Equally it seems to me unnecessary for them to notify the operator whose services they are investigating of the experience or information they have acquired or the particular approach they propose to adopt. In all these cases the operator knows in detail what the monitoring exercise has revealed. It is for him then to decide what evidence to call to escape penalty under the Act.

“It follows that I for my part would reject each one of the grounds advanced by Mr King on this appeal. As already indicated, I recognise that the Commissioners’ approach to the exercise of their ss.26 & 111 powers is likely in future to be more scientifically based than at the time of this decision. That, however, is not a criticism of earlier attitudes, merely a reflection of the operators’ practice nowadays of adducing properly researched evidence at the inquiry. And I would add this. It remains important that these statutory powers should not be emasculated by an over-elaborate approach to the investigation or an unnecessary attention to detail. Ultimately, broad judgments have to be made as to the adequacy and reliability of an operator’s published services. Commissioners should continue to impose sanctions on those who seriously fail the travelling public.”

Per Lord Phillips of Matravvers, MR:-

“I also agree that this appeal should be dismissed, for the reasons given by Lord Justice Simon Brown. I would simply add the following observations on the ground of the appeal which Mr King QC put at the forefront of his case – that the Traffic Commissioner had based his conclusions upon a global assessment of the results of the total journeys monitored rather than on an assessment of each of the 26 services on which journeys were monitored. The effect of this was that a finding of a 12.5% failure rate did not indicate that each of the 26 services was subject to this rate of failure. Some services performed better than the 12.5% failure rate and others worse. The Traffic Commissioner was, of course, well aware of this. The individual services received individual consideration when examining the matters put forward by

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the Respondent as constituting “reasonable excuse”. I can see no reason why, when considering the adequacy of operations of the 26 services that were monitored, it was not open to the Traffic Commissioner to consider this question in the round by adopting a global approach.”

(Note – the title to this appeal is misleading. There is no such body as the “Traffic Commission” and counsel for the respondent was instructed on behalf of the Department of Transport. See the Coakley case (No.1) (4 April 2003) below)

3. Crompton

21 January 2003 – [Crompton \(T/a David Crompton Haulage\) v. Department of Transport North Western Area](#) ; [2003] EWCA Civ 64 (31 January 2003); 2003 RTR34; (on appeal from [2001/78](#));

Effect of Human Rights Act 1998 on findings of good repute considered – “loutish and intimidating behaviour by an operator of good character at the end of a public inquiry” – whether could be regarded as depriving the operator of good repute – need for relationship of proportionality between finding and sanction

Per Kennedy LJ:-

“Mrs Outhwaite points out, rightly, that both the Traffic Commissioner and the Transport Tribunal are public authorities for the purposes of section 6 of the Human Rights Act 1998. They must therefore act in ways compatible with Convention Rights, and so far as possible, read and give effect to domestic legislation in a manner which is compatible with Convention Rights (see section 3(1) of the 1998 Act).

“An operator’s licence is a possession for the purposes of Article 1 of the First Protocol, so the appellant was not to be deprived of it –

“..... except in the public interest and subject to the conditions provided for by law, and by the general principles of international law”

“The Article goes on to say that those provisions shall not –

“..... in any way impair the right of a state to enforce such law as it deems necessary to control the use of property in accordance with the general interest”

.....

“The amended wording of the domestic statute, the 1995 Act, is based on European Council Directive 96/26/EC as amended by Directive 98/76/EC. The 1996 Directive on the admission to the occupation of road haulage operator was itself a consolidating directive, and it is clear from the recitals that there was a perceived need for Member States to provide rules for road haulage operators dealing with good repute, financial standing and professional competence. The Directive envisaged certain minimum requirements, and provided for inter-state recognition. Part of Article 3, as amended, reads –

“1. Undertakings wishing to engage in the occupation of road transport shall

(a) be of good repute;

“2. Member States shall determine the conditions which must be fulfilled by undertakings established within their territory in order to satisfy the good repute requirement. They shall provide that this requirement is not satisfied, or is no longer satisfied, if the natural person or persons who are deemed to satisfy this condition under paragraph 1:

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- (a) have been convicted of serious criminal offences, including offences of a commercial nature;
- (b) have been declared unfit to pursue the occupation of road transport operator under any rules in force;
- (c) have been convicted of serious offences against the rules in force concerning:
 - the pay and employment conditions in the profession, or
 - road haulage or road passenger transport, as appropriate, in particular the rules relating to drivers' driving and rest periods, the weights and dimensions of commercial vehicles, road safety and vehicle safety, the protection of the environment and the other rules concerning professional liability."

"It is clear from the first sentence of Article 3 paragraph 2, and from the cross-border recognition provisions in Article 8 to which our attention has helpfully been drawn by the skeleton argument provided by Mr Sheldon on behalf of the Secretary of State, that provided the minimum requirements are met individual states can decide for themselves what is necessary to be of good repute. There is no definition to be found in the Directive and its provisions are not exhaustive, as Mrs Outhwaite now accepts.

"That brings us back to the 1995 Act, which also contains no definition of good repute, but it is noticeable that in schedule 3 the opening words of paragraph 1(2) dealing with a company are more restrictive than the opening words of paragraph 1(1) dealing with an individual. When a traffic commissioner is considering if an individual is of good repute he can have regard to "any matter", but if he is considering a company he must confine himself to "all the material evidence". The difference in wording is a little surprising but Parliament cannot have intended a traffic commissioner ever to have regard to immaterial evidence, so the conclusion must surely be that the schedule requires the traffic commissioner when considering alleged loss of repute to focus on matters relevant to the individual's fitness to hold a licence, bearing in mind –

"(a) that an existing licence is a possession safeguarded by Article 1 of the First Protocol, and –

"(b) that if loss of repute is found the inevitable sanction is revocation, possibly followed by an application for a fresh licence which may or not be granted."

"There must therefore be a relationship of proportionality between the finding and the sanction, and that relationship has a direct bearing on the approach to be adopted in any set of circumstances to the question of whether or not the individual has lost his repute.

"All of that seems to me to be in the end non-contentious.

.....

"The Transport Tribunal, having set out the facts and summarised the submissions made on behalf of the appellant, said that his solicitor "repeatedly referred to the loss of the appellant's good repute as too high a penalty or sanction, although he accepted the use of such terminology in the context of the jurisdiction and powers of Traffic Commissioners was inappropriate." The terminology may have been inappropriate, but no doubt it was used because of the approach adopted by the Traffic Commissioner, whose decision in part is reminiscent of a judgment in proceedings for contempt of court. I recognise, as did the Tribunal, that the Traffic Commissioner had the benefit of seeing the operator, but to my mind little now turns on that because the Traffic Commissioner made her conclusions clear. The Tribunal recognised that "her decision may be viewed as harsh", but does not seem to have asked itself why it should be viewed in that way. In my judgment the reason was that the approach adopted by the Traffic Commissioner faltered in the way that I have described. That was an error of law."

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4. Surrey CC v. Williams

28 March 2003 – [Surrey County Council v. Paul Williams \(T/a Garden Materials Landscaping\) and Secretary of State for Transport](#) [2003] EWCA Civ 599 (28 March 2003); (on appeal from [2001/56](#));

Suitability of operating centre under s.13(5)(d) of 1995 Act and imposition of conditions under ss.13(9)&21 of 1995 Act considered – appeal by County Council against grant of restricted licence for two vehicles

Per Rix LJ:-

“In my judgment, Mr Main-Thompson’s submission that the commissioner and the tribunal were both perverse in their attitude to this sight line methodology is not capable of success in this court. This court cannot properly say that an experienced transport commissioner and an expert transport tribunal have been perverse in the way in which they dealt with these guidelines, especially when Mr Main-Thompson himself accepts, as he does in his grounds of appeal, that:

“(i) The Traffic Commissioner has a discretion and is not bound to apply government guidance for new development to an established access;

“(ii) The fact that a Traffic Commissioner has visited the location before reaching a decision is often a matter to which much weight will attach;

“(iii) The vehicle movements proposed were very limited.”

“It may be noted that the decision whether the operating centre was “suitable for use as such” was ultimately a matter for the commissioner’s, and on appeal for the Tribunal’s, discretion, and that in exercising that discretion they were not required by the Act to have particular regard or give special consideration to the Design Bulletin 32 guidelines: of the terms of s.21(4) cited above.

.....

“At the end of the day Mr Main-Thompson was asking this court to impose its own inexpert views, on whether or not Mr Williams’ operating centre was suitable or not, on an expert transport commissioner and an equally expert transport tribunal. He submitted that on the facts found there was, in the colloquial phrase, “an accident waiting to happen”. He invited the court to speculate, contrary to the findings, that the personal injury accidents that had occurred in West Park Road were associated with the access. This, however, would be at least mere speculation, but in fact on the findings which I have recorded in this judgment, contrary to what both the commissioner and the tribunal stated. If the council is really concerned with accidents on this stretch of the road it has of course the power, as the local highway authority, to reduce the speed limit on West Park Road. This, at any rate to date, it has not done.

“In sum, when regard is had to the expertise of the commissioner and the tribunal below; to all the facts carefully taken into account by the commissioner and the tribunal; to the fact that the commissioner visited the site immediately before the public inquiry which gave rise to his decision; and to the circumstances that he took into account and gave his view upon all the material put before him, and came to an answer in his discretion which reflected both that this operating centre had operated entirely successfully for over a dozen years and that the additional use for which application was now being made was limited to only in total four movements a day; it seems to me, for my part, that it is not at all a matter of surprise that the commissioner and the tribunal came to the decisions that they did, and in any event it is quite

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impossible to say that in doing so they arrived at a decision that was perverse, plainly wrong or one that no reasonable tribunal could arrive at.”

Per Simon Brown LJ:

“As Lord Justice Rix noted at the outset of his judgment, an appeal to this court from the Transport Tribunal lies only in point of law. The sole complaint in point of law now sought to be advanced on this appeal is that the decisions reached here successively by the traffic commissioner and the Transport Tribunal were perverse. Mr Main-Thompson’s argument can only be that on the undisputed fact of the case those respective bodies each had no alternative but to refuse the licence: they could not properly regard this operating centre as suitable, notwithstanding its successful past use; notwithstanding its very limited proposed further use; and notwithstanding the stringent conditions and undertakings to which the licence was being made subject. For the reasons given by Lord Justice Rix I too agree that this complaint cannot be made good and that the appeal must therefore fail.

“All I wish to add is that it seems to me almost impossible to conceive of any perversity-based appeal from the Transport Tribunal to this court being successful where, as here, there have been two successive fact-based decisions, each to the same effect, and each reached by a body whose relevant expertise and experience is inevitably greater than that which this court can bring to bear on the matter. I express the hope that few, if any, such appeals will be ventured in future.”

5. Coakley (1)

4 April 2003 – [Edward Coakley; Coakley Bus Company Limited and Central Bus Company Limited](#) (No.1) ; [2003] ScotCS 101 (4 April 2003); 2003 SC 455; 2003 SLT 1367; (on appeal from [2001/65, 66 & 67](#));

Position of TC considered – whether entitled to appear as party on appeal – whether Secretary of State entitled to appear

Per Lord Kirkwood:

“When a traffic commissioner issues a decision in relation to an application for a PSV operator’s licence, or the revocation or suspension of such a licence, it is common ground that, for the purpose of an appeal, a transcript of the proceedings before the traffic commissioner, and his rewritten reasons for his decision, are available to the parties. In terms of paragraph 8 of schedule 4 to the Transport Act 1985, in the event of an appeal to the transport tribunal, the tribunal has full jurisdiction “to hear and determine all matters whether of law or of fact”. In terms of paragraph 14(1) an appeal lies to the Court of Session but in terms of paragraph 14(2) it is provided that no appeal shall lie from the tribunal upon a question of fact or *locus standi*. Further, in terms of Rule 14 of the Transport Tribunal Rules 2000 it is expressly provided that the traffic commissioner may not be a party to an appeal to the tribunal, although the notice of appeal has to be served on him. It was submitted on behalf of the traffic commissioner and the Secretary of State that the traffic commissioner was the proper contradictor in the Court of Session and that he should be entitled to have an opportunity of defending his decision on the merits. However, when he is, in terms of the Transport Tribunal Rules, not entitled to appear before the tribunal to defend his decision, either on the facts or on an issue of law, it is very difficult to find any justification for giving him a right to appear in the Court of Session in order to deal for the first time with questions of law. A further consideration is that the traffic commissioner may well, in relation to a particular decision, have dealt with disputed questions of fact, which could involve issues of credibility and reliability, and if he appeared to

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defend his decision on the merits, it would not be appropriate for the case to be remitted back to him for a rehearing, a course which is admittedly open to the Court of Session, although in that connection a remit may be able to be made to a deputy traffic commissioner.

.....

“For the foregoing reasons I move your Lordships to hold (1) that in an appeal from the transport tribunal to the Court of Session in relation to a decision of the traffic commissioner taken under the 1985 Act in respect of a PSV operator’s licence, the traffic commissioner has no locus to appear in the Court of Session; (2) that in such an appeal, the Secretary of State is entitled to appear in the Court of Session if he had been represented before the tribunal and (3) that, if he had not been represented in the proceedings before the tribunal, he is entitled to appear in the Court of Session at the hearing of the appeal only with the leave, or at the invitation, of the court.”

(Note: it would seem that the Court of Session was confused by the title in the Ribble case (above): although this refers to the “Traffic Commission for the North West Traffic Area” counsel was in fact instructed on behalf of the Department of Transport)

6. Coakley (2)

17 December 2003 – [Edward Coakley: Coakley Bus Company Limited and Central Bus Company Limited](#) (No.2); [2003] ScotSC 315 (17 December 2003); (on appeal from [2001/65, 66 & 67](#));

Undesirability of TC making own investigations – rules of natural justice – TC made inquiries after conclusion of PI and failed to give appellants proper opportunity to react to new material

Per Lord Osborne:

“Against this background, it is necessary to consider what occurred in the present case. As has been indicated, the public inquiry was held on two days, 3 July 2001 and 13 September 2001. However, the Traffic Commissioner’s enquiries did not end there. At paragraphs 23 to 26 of his decision, he narrates what is described as “Actions since 13 September”. This included his making enquiries of the fuel duty rebate section in the Department of Transport, Local Government and the Regions concerning payments made to the appellants in the preceding two years. As a result of that enquiry, he narrates that over a period of time such payments were made into an account held by the second named appellants, about which the Traffic Commissioner had not up till then been told. In paragraph 26 of his decision, the Traffic Commissioner explains the action which he took following upon the acquisition of this and other information. As we see it, correspondence was still taking place regarding those matters on the date when the Traffic Commissioner’s decision was actually issued, 12 October 2001. We see from paragraphs 40 and 41 of the Traffic Commissioner’s decision that he reached conclusions highly adverse to the first named appellant and hence to the second named appellants in the light of a number of matters, including the information which he had ascertained from the fuel duty debate section. Having carefully considered the Traffic Commissioner’s decision, we are not satisfied that either the first named appellant or the second named appellants were given a proper opportunity to react to that material, which was plainly important in the Traffic Commissioner’s decision. In these circumstances the conclusion which we have reached is that the principles of natural justice were breached by the Traffic Commissioner’s proceedings. In particular, we are not satisfied that the first and second named appellants had an effective opportunity to disabuse the Traffic Commissioner of the unfavourable impressions which he had formed, based upon the information concerned.

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“Since the present appeals are brought from the decision, not of the Traffic Commissioner, but of the Transport Tribunal, it is necessary to examine how they approached this aspect of the case. So far as we can see, their approach to the matter is set out in paragraph 22 of their decision where, after referring to *Regina v. Gaming Board of Great Britain ex parte Benaim and Khaida* and *Errington v. The Minister of Health*, they say of the Traffic Commissioner’s enquiries following upon the conclusion of the inquiry hearings:

“But he was open about what had been done and invited comments on the results of his enquiries, both during the hearings and later. Mr McAteer duly wrote his letter of 1 October 2001 and did not suggest the Traffic Commissioner’s procedure had been unfair. Although we think that it is preferable if traffic commissioners resist personal research and rely upon a written statement, we see no unfairness in what occurred.”

“Looking at what is said in paragraph 26 of the Traffic Commissioner’s decision, we cannot agree with the conclusion that there was no unfairness in what occurred. Accordingly, we conclude that the Transport Tribunal erred in law in reaching the opposite conclusion.

“Before parting with this matter, we think it appropriate to make observations on two aspects of what has occurred in this case. First, having regard to the requirements of natural justice which we consider apply to a situation in which a Traffic Commissioner conducts a public inquiry, we have been concerned by the conduct by the Commissioner here in pursuing investigations of his own following upon the closure of the inquiry proceedings on 12 September 2001. Where investigations are made at such a stage in proceedings, no doubt it would be possible for the requirements of natural justice to be observed if the applicants were to be given a full and effective opportunity to rebut any adverse inferences which might be drawn by the Traffic Commissioner on the basis of the results of his investigations, which we do not think was done in the present case. That might be achieved either by the reconvening of the oral proceedings and the giving of full notice to the applicants of the nature of the material elicited, or, alternatively, by the full disclosure of that material and the affording of a full and effective opportunity to comment upon it. However, we think that the better course might well be for such investigations not to be conducted at all, unless there exists a compelling reason for the taking of such a course, which is stated. We consider that, in cases where such investigations are conducted, there may be a serious danger that the proceedings will not satisfy the requirements of natural justice, as we have explained them, unless great care is taken to follow one or other of the courses which we have mentioned.

“Unfortunately, in these appeals, matters did not proceed in the manner contemplated by the Extra Division. Despite what had been said in their decision, the Secretary of State decided to confine the submissions which he was prepared to make to this court to what were described as human rights issues, being submissions in relation to the compliance of the system of Traffic Commissioners and the Transport Tribunal with international requirements. The result of that posture and the earlier decision of the Extra Division has been that no person was represented before the court who was both able and willing to make submissions concerning the appellants’ contentions in relation to what might be called the merits of the appeals themselves, leaving aside human rights issues. The unfortunate result has therefore been that this court has had the disadvantage of requiring to make a decision on the appeals without the benefit of a contradictor in relation to, *inter alia*, the matters which have formed the grounds of its decision. That state of affairs inevitably has an effect upon the standing of this court’s decision.”

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7. Anglorom

30 July 2004 – [Anglorom Trans \(UK\) Limited v. Secretary of State for Transport](#); 2004 EWCA Civ 998 (30 July 2004 on appeal from [2003/343](#))

Position of transport manager considered – transport manager prevented from carrying out duties by operator’s managing director – company failed to meet requirement of professional competence – proportionality under the *Crompton case* has no application if as a question of fact requirement of professional competence has not been met.

Per Laddie J:-

“Schedule 3 paragraph 8(2) provides that a company must employ a transport manager. As a matter of common sense, this cannot mean that it simply has to employ an individual with the relevant qualifications. It must be a reference to employing someone who not only has the necessary qualifications but uses them for and on behalf of the company. If the employee does not perform the relevant transport management functions, he is not acting as a transport manager. The result is that the company fails to meet the requirements of Schedule 3 paragraph 8(2)(a) because, in substance, it has no transport manager. For that reason it does not have the necessary professional competence, as defined by the Act. If this is so, it fails to meet the requirements of section 13(3)(c) and its application for a licence **must** fail. Alternatively, if it already has a licence, it falls within section 27(1)(c) and the Traffic Commissioner has the power to revoke. In this case, both the Traffic Commissioner and the Transport Tribunal have held, in effect, that the relevant companies had no transport manager because Mr Briggs, whatever his qualifications, was not acting as one.

“In my view, the Traffic Commissioner and the Transport Tribunal cannot be faulted on this issue. The approach is consistent with the definition of transport manager in section 58(1). He is a person who “has continuous and effective responsibility” for the management of the transport operations. Someone who does not have such continuous and effective responsibility is not, for these purposes, a transport manager. Mr Maclean also points to the fact that Schedule 3 paragraph 8(2)(a) requires the company to have a transport manager “in respect of its road transport undertaking”. He points to the provisions of section 58(4)(a)(ii) which stipulate that this is only fulfilled if, in the relevant business, the transport manager is given “responsibility for the operation of goods vehicles” used under the licence. If he is not given that responsibility, the requirements of paragraph 8(2)(a) are not met.

.....

“It should be noticed that *Crompton* decides that, once there has been a finding of loss of repute, revocation is inevitable. First Protocol considerations come into play in determining whether there has been a loss of repute.

It seems to me that these principles have little application in this case. Here there is no question of balancing various factors to determine whether the Appellants conducted themselves so badly as to justify a finding of loss of repute. This is a case where no balancing is appropriate or possible. The Appellants have lost their licences because they have failed to use a transport manager as required by the legislation. Had that finding been made at the stage when they were applying for their licences, it would not have been open to the Traffic Commissioner to have granted them. The position can be no different simply because the Appellants have secured licences. It follows that, once it has been determined as a question of fact that the Appellant had failed to comply with this core statutory requirement, a finding of loss of repute was inevitable as was the consequential order for revocation.”

(Note (i) – the transport manager had not appealed and the conclusion that the finding of loss of repute against him could not be supported was obiter. It would seem that the CA was not referred to cases such as [2003/258 J Cowan](#) where it was held

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that a transport manager who is overridden by an operator is obliged to give a written warning and then to resign, rather than to carry on when unable to perform his duties – see [2004/255 M Oliver](#);

(ii) – the CA was not referred to the [Thomas Muir](#) case (see in [Chapter 17](#) above) or to [2001/074 BE Clark](#) (see [Chapter 14](#) above) and the comments on disqualification must be viewed accordingly – see [2005/355 Danny W Poole International](#) where CA approach not followed:- “We have to say that it appears that the *Anglorom* case was decided without consideration of all relevant cases. In particular, we have also to say that references in the Court of Appeal to “punishment” and to “this most draconian order” are not consistent with the approach of the five-judge Court of Session decision in the *Thomas Muir* case. Until the matter is considered again by an appellate court we consider that the *Thomas Muir* approach should be followed, as we endeavoured to do in the *BE Clark* case.”

8. Alison Jones

18 January 2005 – [Alison Jones t/a Shamrock Coaches v. Department of Transport Welsh Traffic Office](#) ; (2005) EWCA Civ 58 (18 January 2005) on appeal from [2003/254](#);

Regulation of bus services – imposition of financial penalty – appeal to Tribunal – remission to Traffic Commissioner for rehearing of part – whether rehearing should be before different Traffic Commissioner – whether Traffic Commissioner should have recused himself.

Per Smith LJ:

“On the question of whether the Transport Tribunal must have intended that the second hearing should be conducted by a different Commissioner, it seems to me that the evidence is clear. They did not. It is common ground that the practice of the Tribunal, if intending to make such a direction, is that it will be explicitly spelled out. The absence of any such direction implies that the second hearing is to be conducted by the same Traffic Commissioner as before. Here matters went further because the appellant’s solicitors sought clarification of the Tribunal’s order, and the reply certainly does not suggest that the Tribunal had intended that there should be a change of Traffic Commissioner. Indeed, everything points to the conclusion that the Tribunal did indeed intend that Mr Dixon should conduct the second hearing and confine himself to the limited issues that they had identified.

“That, however, is not conclusive of the issue as to whether Mr Dixon was right to refuse the appellant’s application that he should recuse himself. The appellant submitted that he should have done so on the ground that his decision had been criticised and found fundamentally flawed. She argued before this court, as she had argued before him, that he was no longer in a position to do justice to the appellant’s case.

“It is well established that there will be cases where a new decision-maker is required on a re-hearing, and when those circumstances arise the re-hearing will of necessity have to be de novo. Whether that is necessary and appropriate depends upon the circumstances of the individual case. Typically those circumstances arise where the decision-maker has shown bias against the losing party or has expressed a view about the case from which it would be difficult or impossible for him or her to depart. It will also be appropriate where the decision is fundamentally flawed.

“However, in my view those circumstances did not arise in this case.”

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Per Judge LJ:

“Paragraph 9 of Schedule 4 of the Transport Act 1985 provides that the Transport Tribunal:

“..... shall have power --

(a) to make such order as they think fit; or

(b) to remit the matter to the traffic commissioner for re-hearing and determination by him in any case where they consider it appropriate and any such order shall be binding on the traffic commissioner.”

“In my judgment, on its proper construction these provisions are wide enough to allow the Transport Tribunal to remit the case for full reconsideration generally or for such limited purposes as the Tribunal thinks fit and, if so, to direct either that the hearing should take place before the same or before a differently constituted Tribunal as appropriate. In short, the jurisdiction point was rightly addressed and decided by the Transport Tribunal

“At the hearing of this appeal, Ms Sinclair decided that she should not seek to sustain the submission to the contrary to be found in her skeleton argument. That concession, based on a closer analysis of the statutory provisions than she had been able to address earlier, was in my judgment rightly made and sensibly dealt with.”

9. Muck It

15 September 2005 – [Muck It Ltd and Others v. Secretary of State for Transport](#) (2005) EWCA Civ 1124 on appeal from [2004/314](#);

Revocation for loss of repute considered – burden of proof – distinction made between repute at time of application for a licence and subsequently – effect of Council Directive 92/26/EC of 29 April 1996 (as amended) considered – on facts appeal dismissed on issue of repute but allowed on issue of disqualification of (absent) directors.

Per Rix LJ:

“52. The essential submission of Mr Nesbitt on behalf of Muck It is that there is a difference in statutory language between the 1995 Act’s provisions relating to applications for a licence on the one hand and revocations of an existing licence on the other hand. He submits that that distinction is to be found in the EU Directive as well. When making an application, it is the applicant who has to satisfy the authorities, here the traffic commissioner, of the three fundamental requirements. However, when revoking an existing licence, the burden is the other way round in that the commissioner now has to be satisfied that the requirements are no longer met. Mr Nesbitt also supports these submissions by reliance, in the light of *Crompton*, on article 1 of the First Protocol of the ECHR and section 3 of the Human Rights Act 1998 (the “HRA 1998”): since a licence is a species of property, the 1995 Act should not be construed, unless it is inevitable, as permitting its revocation and thus loss by a disproportionate imposition of a burden of proof on the licence holder.”

.....

“60. It will have been observed that the critical language under section 26 is that a commissioner may direct that a licence be revoked “on any of the following grounds”; and under section 27 that a commissioner shall direct that a licence be revoked “if at any time it appears to him that” the licence holder “no longer” meets any of the three fundamental requirements. Those expressions do not replicate the language of section 13, namely that the commissioner “must be satisfied” that an applicant meets the three requirements, and the contrast has led to the current dispute between Muck It and the Secretary of State.”

.....

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“67. It is, however, article 6 of the Directive that is of most interest to the present issue. That provides:

‘1. Decisions taken by the competent authorities of the Member States pursuant to the measures adopted on the basis of this Directive and entailing the rejection of an application for admission to the occupation of road transport operator shall state the grounds on which they are based.

Member States shall ensure that the competent authorities check regularly and at least every five years that undertakings still fulfil the requirements of good repute, financial standing and professional competence.

If the requirement of financial standing is not fulfilled at the time of checking the authorities may where the undertaking’s other economic circumstances give grounds for assuming that the requirements of financial standing will again be sustainably fulfilled within the foreseeable future on the basis of a financial plan, give further notice of not more than one year.

2. Member States shall see to it that the competent authorities withdraw the authorization to pursue the occupation of road transport operator if they establish that the conditions of Articles 3(1)(a), (b) or 9(c) are no longer satisfied. In this case, however, they shall allow sufficient time for a substitute to be appointed.’

“68. Article 6.1 clearly relates to applications and article 6.2 clearly relates to revocations. Article 6.1 is neutral as to where the burden of proof lies, but of course in the case of applications it is natural to think that it lies on the applicant. Article 6.2, however, dealing with the case of revocation, expressly states that this shall follow “if [the competent authorities] establish”. That seems to me to be language inconsistent with a conclusion that the burden of satisfying the authorities remains on the licence holder. In between the situations of application and revocation lies that of the five year review, dealt with in the second and third paragraphs of article 6.1, but not replicated in the 1995 Act, although we were informed that as a matter of practice five year reviews are carried out by the transport commissioners. There again the language of the article remains neutral.

“69. Turning back to sections 26 and 27 of the 1995 Act, I would conclude that for revocation to be possible under the former or mandatory under the latter, it is the commissioner who must be satisfied of the ground of revocation, and not the licence holder who must satisfy him to the contrary. That seems to me to be the natural way to regard both the language of those sections, and the situations contemplated in them. The context is that of a licence holder and the possible revocation of his licence. Revocation can only be done on some specified ground (section 26) or because one or other of the three fundamental requirements is no longer satisfied (section 27). Under section 26(4), the commissioner can only act if “the existence of” a ground comes to his notice. It is counter-intuitive to think of a licence holder being required to negative the existence of a ground raised against him. So with section 27. The commissioner must revoke if “it appears to him” that the licence holder is no longer of good repute or of appropriate financial standing or professionally competent. That seems to me to mean that the commissioner must be satisfied that the requirements are no longer fulfilled. If it had been intended to place the same burden on the licence holder as had been placed on the original applicant, then the same language as that found in section 13 would have been used.

“70. In *Richardson* the transport tribunal had decided otherwise (see para 9): ‘It must be borne in mind that the burden of proving compliance with the many requirements set out in s.17 of the 1981 Act’ [the Public Passenger Vehicles Act 1981, which contains provisions in similar

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terms to sections 26 & 27 of the 1995 Act] “is and remains on the operator. Thus, at the time of applying for a licence, it is for the operator to satisfy the Traffic Commissioner that he meets the specified requirements (see s.14 [the passenger vehicle equivalent of section 13 of the 1995 Act]). Thereafter the Traffic Commissioner may at any time put the requirements in issue. Once raised, it is for the operator then to satisfy the Traffic Commissioner that he continues to satisfy those requirements. The burden of proving this remains throughout on the operator

“71. I must state, with respect, that I do not find that reasoning compelling. The argument proceeds from the language of section 14 (the passenger vehicle equivalent of section 13 of the 1995 Act, then as now put in terms of the need for the commissioner to be satisfied, to the different language of section 17 (the passenger vehicle equivalent of sections 26/27 of the 1995 Act), without any recognition of the fact that the language is different. Not is there any consideration of the language now contained in article 6 of the Directive.”

10. McCaffrey and Pallas

2 June 2006 – [JJ McCaffrey t/a Montana Freight Services and Sylvia Pallas t/a Pallas Transport](#) (2006) CS1H 32 X A 100/04 on appeal from [2003/315](#); Appeal allowed on basis that Tribunal failed properly to consider admission of new evidence; and that it failed to apply correct burden of proof on issue of financial standing – see [Muck It](#) case above. Case remitted for rehearing on issue of repute.

11. Banga Travel

15 January 2008 – [PR Banga t/a Banga Travel v. Secretary of State for Transport](#) (2008) EWCA Civ 188 on appeal from [2006/481](#); appeal dismissed – no points of law raised:

“18. He says that the tribunal erred in finding the Traffic Commissioner’s decision proportionate. This frankly is, as a point of law, a non-runner. What is proportionate in any given case does not normally give rise to any issue of law. It is a matter for the decision-maker to balance all the various considerations that are involved in a decision on proportionality: see, in a very different context, this court’s decision in [Mukarkar v. SSHD](#) [2006] EWCA Civ 1045 at paragraph 11. It is only if a decision on proportionality adopts the wrong legal approach or is perverse that there will be an error of law. [Counsel] does not shrink from arguing that revocation and disqualification here was so disproportionate as to be perverse; that is to say in the true *Wednesbury* unreasonable sense that it was a decision to which no reasonable tribunal, properly instructing itself, could on the evidence have come.

“19. Frankly, to my mind, that is a hopeless submission. There plainly were legitimate options open to the Traffic Commissioner on the facts involving revocation and disqualification. The Transport Tribunal from which this appeal is brought is a specialist body. This court will be reluctant to find that it has been perverse in reaching a decision on the merits and certainly there is no basis for us so finding in this case. The safety of the travelling public is not only a legitimate consideration to balance against the business

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interest of the appellant, it is a matter of great importance and clearly weighed heavily both with the Traffic Commissioner and the Transport Tribunal. There is no possible argument that these decisions were perverse. For my part I can see nothing of merit in these various points which were pursued before the Transport Tribunal.”

12. Romantiek

16 May 2008 – [Romantiek Transport BVBA & Others v. Vehicles and Operator Services Agency](#) (2008* EWCA Civ 534 on appeal from [2007/172](#) etc; appeal dismissed – Belgian licensed vehicles impounded when not carrying out temporary work (cabotage) in the UK – no UK operator’s licence – refusal to return vehicles upheld:

“If the vehicles is not performing cabotage at all but in truth operating full time in a Member State (in which, as it happens, its authority to operate has been revoked) and not in its State of purported establishment, it cannot be intended that that activity can continue unlicensed. Paragraph 23 must therefore be read as requiring the cabotage actually to exist before the exemption applies. Any other reading would, in my view, border on the absurd.”

13. Bradley Fold

18 June 2010 – [Bradley Fold Travel Ltd & Peter Wright –v- Secretary of State for Transport \[2010\] EWCA Civ. 695](#) (on appeal from 2009/289 etc; appeal dismissed – correct approach on the part of the Tribunal when hearing an appeal from a decision by a Traffic Commissioner explained, Appellant ‘assumes the burden of shewing that the Traffic Commissioner’s decision was wrong, to succeed the Appellant must show that there are objective grounds on which the Tribunal is required to reach a different view. The Tribunal is entitled to exercise its own discretion on the basis of the findings which are either unchallenged or upheld. The judgment of the Court of Appeal was given by Leveson LJ, who said:

“34. The first issue raised by this ground is to identify the breadth of the review which the Transport Tribunal (and, thus, now the Upper Tribunal) must undertake. On behalf of the Operator and Mr Wright, it is argued that the language of paragraph 8 of Schedule 4 to the 1985 Act (“full jurisdiction to hear and determine all matters whether of law or of fact”) did not permit the Transport Tribunal to limit itself simply to a review of the ‘reasonableness/rationality’ of the Deputy Commissioner’s conclusions but required the actual evidence to be addressed and consideration given to the extent to which relevant features of the case had been ignored. This requires an analysis of the effect of the jurisdiction and its proper function as an appellate body from the decision of the Deputy Commissioner.

35. The first point to make (the contrary not being suggested) is that the function of the Transport Tribunal is not equivalent to an appeal to the Crown Court against a conviction in criminal proceedings in the magistrates’ court which is treated, in effect, as a new first instance hearing with evidence (which may or may not be the same as was called before the magistrates) being called a second time. Although there is a power to permit further evidence (see para. 8(2), subject to para. 9(2) which does not permit any appeal to take into consideration any circumstances which did not exist at the time of the

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determination subject of the appeal), whether or not to permit such evidence is clearly a matter for the tribunal: it does not arise in this case as no attempt was made to rely on it.

36. Thus, although the jurisdiction is to hear and determine matters of both fact and law, the material before the Transport Tribunal will consist only of the documents placed before the Deputy Commissioner and the transcript of the evidence; the Tribunal will not have the advantage that the Deputy Commissioner had of seeing the parties and the witnesses, hearing them give evidence and assessing their credibility both from the words spoken but also the manner in which the evidence was given. Recognising that advantage both in relation to credibility and findings of fact, in *Biogen Inc. v. Medeva Ltd* [1997] RPC 1, Lord Hoffmann explained (at 45):

“The need for appellate caution in reversing the trial judge’s evaluation of the facts is based upon much more solid grounds than professional courtesy. It is because specific findings of fact, even by the most meticulous judge, are inherently an incomplete statement of the impression which was made upon him by the primary evidence. His expressed findings are always surrounded by a penumbra of imprecision as to emphasis, relative weight, minor qualification and nuance ... of which time and language do not permit exact expression, but which may play an important part in the judge’s overall evaluation.”

37. The extent to which those considerations are appropriate was considered in *Assicurazioni Generali SpA v. Arab Insurance Group* [2002] EWCA Civ 1642, [2003] 1 WLR 577, in which Clarke LJ (as he then was) gave guidance in relation to appeals based on errors of fact in these terms:

“15. In appeals against conclusions of primary fact the approach of an appellate court will depend upon the weight to be attached to the findings of the judge and that weight will depend upon the extent to which, as the trial judge, the judge has an advantage over the appellate court; the greater that advantage the more reluctant the appellate court should be to interfere. As I see it, that was the approach of the Court of Appeal on a ‘re-hearing’ under the Rules of the Supreme Court and should be its approach on a ‘review’ under the Civil Procedure Rules.

16. Some conclusions of fact are, however, not conclusions of primary fact of the kind to which I have just referred. They involve an assessment of a number of different factors which have to be weighed against each other. This is sometimes called an evaluation of the facts and is often a matter of degree upon which different judges can legitimately differ. Such cases may be closely analogous to the exercise of a discretion and, in my opinion, appellate courts should approach them in a similar way.”

38. The approach to appeals in cases such as this was further considered in *Subesh & ors v. Secretary of State for the Home Department* [2004] EWCA Civ 56, [2004] INLR 417 in relation to the statutory regime then in force by which an appeal lay from the Adjudicator (who heard the evidence) to the Immigration Appeal Tribunal. Para. 22 of Schedule 4 of the Immigration and Asylum Act 1999 conferred an unqualified right of appeal on any party, not limited by reference to any particular issue.

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39. Giving the judgment of the court, Laws LJ analysed the authorities (both general and specific to asylum and immigration). Having made the preliminary points that the IAT's jurisdiction was not limited by *Wednesbury* considerations (see [1948] 1 KB 223) and that it was "commonplace" that "an appellate court which has not heard the material oral testimony must be slow to impose its own view" (see [40] and [41]), he approached the question of what was meant by error – as opposed to mere disagreement – sufficient to justify interference with its decision. He said, the emphasis being his (at [44]):

"The answer is, we think, ultimately to be found in the reason why (as we have put it) the appeal process is not merely a re-run second time around of the first instance trial. It is because of the law's acknowledgement of an important public interest, namely that of finality in litigation. The would-be appellant does not approach the appeal court as if there had been no first decision, as if, so to speak, he and his opponent were to meet on virgin territory. The first instance decision is taken to be correct until the contrary is shown. As Lord Davey put it in *Montgomerie* [[1904] AC 73 at 82-3], "[i]n every case the appellant assumes the burden of shewing that the judgment appealed from is wrong" (our emphasis). The burden so assumed is not the burden of proof normally carried by a claimant in first instance proceedings where there are factual disputes. An appellant, if he is to succeed, must persuade the appeal court or tribunal not merely that a different view of the facts from that taken below is reasonable and possible, but that there are objective grounds upon which the court ought to conclude that a different view is the right one. The divide between these positions is not caught by the supposed difference between a perceived error and a disagreement. In either case the appeal court disagrees with the court below, and, indeed, may express itself in such terms. The true distinction is between the case where the appeal court might prefer a different view (perhaps on marginal grounds) and one where it concludes that the process of reasoning, and the application of the relevant law, require it to adopt a different view. The burden which an appellant assumes is to show that the case falls within this latter category."

40. Thus, Laws LJ made it clear that the question was whether the appellate tribunal "concluded on objective grounds that that a different view from that taken by the Adjudicator was the right one, or (and we mean it to be the same thing) whether reason and the law impelled them to take a different view" ([53]). For my part, this reasoning applies equally and with as much force to appeals from the Commissioner to the Transport Tribunal; neither do I read the recent decisions emanating from that tribunal to which we have been referred as suggesting to the contrary".

"46. The Operator and Mr Wright also argue that the decision of the Transport Tribunal is flawed because of its failure to deal with the case they advanced regarding pre-MOT inspection, the circumstances of MOT failures, contradictory treatment by the Deputy Commissioner of the meaning of 'advisory' items and the real relevance of Mr Wright's history as a whistleblower. For the reasons that I have sought to outline, that argument starts from the wrong position. The Transport Tribunal set out the facts in summary form and analysed the complaints which were advanced to it. The judgment is conspicuous for its clarity and its demonstrable attention to the detail. In a number of respects, the Tribunal accepted the submissions made about the conclusions reached by the Deputy Commissioner (both in relation to the undertaking to have in place a contractor who would rectify all defects found at safety inspection and the errors in relation to the dating of the tachographs). The Tribunal then considered the extent to which those errors invalidated or undermined the overall conclusions reached. The determination that they did not was entirely open to the tribunal and reflective of the appropriate approach to issues of primary fact and

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inference: it does not even start to generate any issue of law which would justify intervention by this court”.

PART TWO – Chronological List of Decisions

This list combines the pre-2000 list in the earlier Digest with the new list which was prepared for the provision of key-words in the database. For this purpose certain words are selected as lead-words and italicised. Whilst every decision from 2000 is available on the website, it should be noted that not every decision is descriptively key-worded. This is apparent from the lack of italics, although such cases are in the sub-category “miscellaneous”. The software only permits two key-words per case and it is regretted that the detail given is of limited value; but it is hoped that the details of title, dates of hearing and decision, chairmen and key-words will enable the list to be used as a check-list. Of course, entries in Part One of the Digest are under subject headings and should also assist identification of relevant decisions: all such entries are hyperlinked as set out in the Introduction. Since the decisions are available on the website the titles of appeals from 2000 onwards are not necessarily given in full. Note that for the years 2000-2002 the case number preceded the year number: from 2003 onwards this was reversed. However, in Parts One and Two of the Digest the year precedes the appeal number throughout, as is the position when searching for a decision on the website. As explained earlier, when using the search facility it is necessary to put four numbers for the year and three for the appeal e.g. for 2004/23 RJ Mortimer it is necessary to enter 2004 in full as the year and then 023 for the case number. Earlier decisions are available from the Tribunal office. Prior to 2000 a prefix number was given for each year:

W	1985	Z	1988	C	1991	F	1994	J	1997
X	1986	A	1989	D	1992	G	1995	K	1998
Y	1987	B	1990	E	1993	H	1996	L	1999

Key-Words

Traffic Commissioner Cases

Costs

Decision – inadequate reasons

Directors duties

Disqualification

Drivers hours and tachographs

Financial standing

Human Rights

Impounding

International issues

Maintenance

Miscellaneous

Notice of issues and evidence

Operating centre

Procedure

Professional competence

PSV

Repute

Suspension

Termination by non-payment or withdrawal

Driving Instructor Cases

Check tests

Fit and proper person – assault

Fit and proper person – dishonesty

Fit and proper person – drugs

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Fit and proper person – imprisonment

Fit and proper person indecency

Fit and proper person – motoring offences

Procedure

Trainee licences

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1985-1999 List from previous Digest

1985

- W1 Troup J
- W3 Morrison Herbert
- W4 Nightingale RA (T/A Anglia Fruiterers)
- W7 Thrapston Warehousing Company Ltd
- W8 Bown RG (T/A RGB Transport)
- W9 Borough of Haringey v. AT Michli
- W10 Swain PA (Waterloo) Limited
- W11 Brimley RG (T/A Retailset)
- W12 Cryer J & Sons Ltd
- W13 Carryfast Ltd
- W14 Chalker R (The Potato Man) Ltd
- W15 "See You" Transport Ltd
- W16 British Road Services Ltd (T/A BRS Southern Ltd) Canterbury v. City Council & Canterbury City Council v. BPS Southern Ltd
- W17 Surrey Heath Borough Council v. NFT Distribution Ltd
- W18 Geddes Andrew
- W19 House M & G
- W21 Basildon Council v. Rees Haulage
- W22 Constructive Ltd
- W23 D&A Transport Ltd, F Burns (Transport) Ltd and JT Greenwoods Transport Ltd v. Lancashire County Council and South Ribble Borough Council
- W24 Hunt GB
- W25 Clarityrole (T/A Nottingham Service Contractors)
- W26 Firemeadow (T/A B Wren & Son)
- W30 Strathkelvin District Council v. Fife Forwarding Co Ltd

1986

- X1 Smith C (T/A A1 Demolition)
- X2 Cowan Bros (Haulage) Ltd
- X3 Furrowstone Limited
- X4 Troup John
- X7 Bradstep Limited
- X8 R Rudge & Sons Limited
- X9 Trevisse JF and AJ (T/A John Trevisse & Sons)
- X10 West Lancashire DC v. Ken Abram Ltd Ken Abram Ltd v. West Lancashire DC
- X11 Lodge DH (T/A Tiptree Union Haulage) v.Colchester Borough C'l
- X14 Darrens Ices Limited
- X15 Turbostar Limited
- X16 Martley Landscapes and Driveways
- X17 Brown JH & Brown CF (T/A Fox Lane Metals) v. Hart District C'l
- X17 Sunnyside Removals v. Hart D. C.
- X25 Surrey CC & Surrey Heath BC v. Express Hay & Straw Services
- X26 West Lancashire DC v. Dures Brothers
- X27 Wellingborough BC V. W Brown (Leather Goods)
- X28 Moorhead Kenneth James
- X29 Kirk Brothers Ltd v. Macclesfield BC
- X30 Atkinson W R (Transport) Ltd
- X31 Kitchen RH Ltd
- X34 Jury RG and MT (T/A R&G Transport) v. Devon County Council
- X35 Tarnbrook Limited

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1987

- Y2 Daventry District Council v. Wrights Road Haulage
- Y3 Eskett Quarries v. Dr B Courtney
- Y5 Hague CE & B (Platt Common) Ltd
- Y6 Expo Removal
- Y7 Mather JB (T/A Easyway Bus)
- Y9 Clayton Jones Transport services; Clayton Jones Tours & Shamrock Private Hire Services (Newport) Ltd
- Y11 Day Henry (T/A Happy Day Tours)
- Y12 Mid Suffolk DC v. A Dowell, Junior (T/A A Dowell & Sons (Bury))
- Y13 Lunar Module Limited
- Y14 Hastings and District Transport Ltd
- Y17 Scorpio International Ltd v. Lancashire CC and South Ribble BC
- Y19 Autojade Limited (T/A Exeline Travel)
- Y24 Clayton Jones Coach Tours
- Y25 Wessex Construction & Plant Hire Ltd
- Y26 Kirklees Metropolitan C'I v. Geoffrey Beaumont
- Y27 Morris Stephen and Morris Thomas
- Y28 Chesney PT (T/A C & H Carriers)
- Y29 Bonner Terence Keith (T/A TK Bonner Transport)
- Y31 Tower Hamlets (LB of) v. London Tipping Services
- Y32 Maun International Coachway Ltd
- Y37 DFC International Ltd & DF Collison -& JM Collison
- Y39 Jones Trevor (Haulage Contractor)
- Y41 Willmott David
- Y42 Campbell John (T/A CampbellCoaches)
- Y43 Richmond Mrs AS (T/A R Richmond)
- Y45 Khami Metals Company Limited v. Basingstoke and Deane B C
- Y46 Epping Forest D C v. PB Freeman
- Y47 Camm A Ltd
- Y48 Bayles Geoffrey (T/A Geoff Bayles Transport)
- Y49 Weekway Limited
- Y51 Lincoln Haulage Limited

1988

- Z1 Goldsmith F (Sicklesmere) Limited
- Z2 Bown RG (T/A RB Transport) v. Leicester C C et al
- Z3 Balch AJ (T/A AJB Motor Services) v. Hampshire Constabulary
- Z5 NFT Distribution Ltd
- Z8 Sage AF
- Z10 Troup John
- Z11 Monmouth DC v. F, DM & FA Baldry(T/A Greenlands Transport)
- Z12 Griggs RI Transport v. Canterbury C.C.
- Z13 Benbay Civil Engineering Group Ltd v. Horsham D C'I
- Z15 Daniels N (T/A/ Daniels Transport) v. Canterbury City Council
- Z16 Bocking FH (T/A Red ways Coaches)
- Z19 Gilbert Chapple Haulage Ltd
- Z20 County Travel (Leicester) Ltd
- Z22 Ceasar Ca v. Surrey C C
- Z23 Brown AH and MJ (T/A Harry Brown)
- Z24 Ken Lane Transport Limited
- Z27 Van Hee Transport Ltd

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- Z28 Dean Christopher John (T/A Dean Haulage)
- Z32 Wear Valley D C v. RH Linsley (T/A Linsley & Son)
- Z34 Duncan Lacey & Bros Ltd V. Mid Sussex D C et al
- Z37 Ings Transport Ltd v. New Forest D C et al
- Z39 Martin WH Ltd v. Mr & Mrs Forman et al
- Z40 Fezcourt (Felixstowe) Ltd v. Suffolk Constabulary
- Z44 St Helens Metropolitan B C v. G Moon (T/A Moon Haulage)
- Z46 Transag Haulage Ltd v. L Mayers et al
- Z47 Edwards NM (T/A N Edwards Transport)
- Z48 Grace Christopher

1989

- A3 Narwood Limited
- A5 Beckside Haulage Limited
- A12 Essex C C v. Barrie Stone
- A17 Gant Norman Roy
- A20 St Ivel Limited
- A22 Middlesbrough BC v. TPM McDonagh (Civil Engineering) Limited
- A25 Crone NC and Crone DM v. Lea Valley Regional Park Authority
- A26 JHP Transport V. Essex Police
- A27 Mair Transport (Tilbury) Ltd v. Essex Police
- A29 Surrey C C and Spelthorne B C v. DC Morris
- A30 Campbell J (T/A Cairnapple Coaches)
- A32 EC Transport (Wimborne) Ltd
- A37 Emmett R (T/A Emmfield Coaches)
- A38 Hollingsworth SS and S (T/A Otterspool Travel & Day Nursery)
- A39 Lambkin RC (T/A Lambkin's Coaches)
- A41/1 Shamrock Private hire Services (Newport) Ltd
- A41/2 Rhondda Travel
- A41/3 CF & IE Jones (T/A Clayton Jones Coach Tours)
- A41/4 Celtic Connection Ltd

1990

- B2 Houseman L & M (T/A L & M Waste Disposal Services) v. City of Bradford Met. Ccl.
- B3 Williams Glyndwr John (T/A Glyn Williams Travel)
- B7 Torfaen B C v. Collingbourne Contractors (Cwmbran) Ltd
- B10 George Allinson (Transport) Ltd
- B12 Hetherington A V. Gateshead Metropolitan B C
- B14 O'nion PG (T/A AMD Haulage)
- B19 Lambert K (T/A Kevin Lambert's Coaches)
- B20 Parker DJ and Bird DJ (T/A Chilton Grounds Farm)
- B23 Crosskeys Coach Hire Ltd (T/A Glyn Williams Travel)
- B24 Hi-line Transport Ltd
- B25 Shamrock Private Hire Services (Newport) Ltd
- B26 Mightyhire Ltd
- B27 Portors S (Haulage) Ltd
- B29 Lincoln City Transport Ltd
- B30 East Hertfordshire D C v. BW Pallett
- B33 Evans Coaches Ltd
- B35 Lane Gareth John (T/A Gary's of Tredegar)
- B39 Dulnain Bridge Plant Ltd
- B40 Russell D (T/A Amberline Taxis)
- B41 Price DC and Price MW (T/A Cabs Padarn)

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- B49 L B of Havering v. E Hawkes (Ceramic Tiles) Ltd
- B52 Simms J (T/A Ilkeston Haulage and Storage) v. Nottinghamshire C C
- B53 Jebb JJ (T/A Jebb Transport)
- B54 Oliver PGM and Oliver SE (T/A C&F Industrial)

1991

- C2 Target Travel (Coaches) Ltd
- C3 O'Donovan (Waste Disposal) Ltd
- C5 Simms J (T/A Ilkeston Haulage and Storage) v. Nottinghamshire CC et al;
Sherwood DW (T/A Sherwood Transport Services)
- C7 Jeal M (T/A Panther Buses)
- C8 LC Skips Ltd
- C9 Surrey CC and Mole Valley DC v. N Marshall Ltd
- C10 Surrey CC and Mole Valley DC v. N Marshall Ltd
- C13 St Helen's Metropolitan BC v. JOS Millican (Penton) Ltd
- C14 Williams BL (T/A/ European Roadways)
- C16 Chambers JK
- C17 Lambkin RC (T/A Lambkin's Coaches)
- C19 Vaines C & Sons Ltd
- C20 J Irlam & Sons Ltd
- C21 Waveney Coaches Ltd
- C23 Inverclyde Transport Ltd
- C27 Jones P (T/A JE Jones & Sons)
- C31 Newton Mr and Mrs (T/A Melrose Coaches)

1992

- D1 Lupton Brothers Ltd
- D3 Johnston RI (T/A R Johnston Construction)
- D4 Road Haulage Association v. John Dee Ltd
- D5 Enterprise & Silver Dawn Bus Co
- D7 Pilbeam NJP Transport
- D8 Bradford Cargo Terminal Ltd
- D12 HSW Timber Co Ltd
- D13 Harris Coaches (Summer Court) Ltd
- D16 Macpherson & Colburn Ltd
- D17 Road Equipment Rental Ltd
- D21 Cobden LR
- D23 Colledge CT (T/A CT Transport Services)
- D25 Hobson Bros (Refractories) Ltd
- D30 O'Sullivan DF
- D31 S & P Plant Contractors Ltd
- D32 Crewe & Nantwich BC v. A Yoxall (T/A Yoxall Farm Feeds)
- D33 Craven RF (T/A Cravens Transport)
- D34 Baldry HE Ltd v. Surrey C C and Tandridge D C
- D36 Cooper AG and Rooney AJ (T/A CT Supplies)
- D37 Wilton Contracts Ltd
- D38 Aldridge J
- D41 Adam JJ (Haulage) Ltd

1993

- E1 Northavon D C v. M&N Plant Ltd
- E2 Brian Rust Haulage v. Norfolk C C et al
- E4 Middleton Carstone Ltd
- E3 Sayani RF (T/A Salimar Travel)
- E7 Hull MA (T/A Hullmark Courier Services)
- E11 Shaw G (T/A Moorland Travel) v. PMT Ltd

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E13 Ward R (T/A B & I Travel)
E14 Yuill & Dodds
E16 Basingstoke and Deane BC v. AG & D Bayliss (T/A Bayliss Tspt)
E18 Proculture Plants Ltd
E19 Harber Transit Co Ltd
E27 Moores
E30 Nagle RMP (T/A Cable Transport)
E31 Collingbourne Contractors Ltd
E34 European Express Cargo Ltd
E36 Smith RB & D
E40 Featherstone L, Featherstone B and Hammond K
E41 Roedemer GA

1994

F2 Sprigcourt Ltd
F3 Keen SJ (T/A Keen Heavy Haulage)
F5 Veertran Ltd
F7 Taylor JE Ltd
F8 Holley PI & RM (T/A Holley)
F10 Brooker MJ & RD (T/A Brooker Transport)
F12 Miller FR Ltd v. Surrey C C and Guildford B C
F16 Godfrey RH (T/A Blackhurst Wade) v. Essex C C
F17 Rogers WP (T/A Rogers Transport)
F18 Rooney JA
F19 Janaway J (T/A Janaway Farms Ltd)
F20 Road Haulage Association AC & TM Dale (T/A Hambleton Tspt)
F21 Temple Ad (T/A Temples Transport)
F23 Moore S (I/a S M Trucking)
F24 Eye Valley Transport Co Ltd
F26 Winn Gregg (T/A Gregg Winn Family Grocer)
F30 Nelson J(T/A Nelson Taxi Service)
F31 Singh B (T/A GBD Reproduction Furniture Ltd) v.E Northants
F32 Laser International Transport Ltd
F33 Strutt TF & TA (T/A TFS Tipping) v.Surrey C C and Runnymede B C
F34A Bayliss AG & D (T/A Bayliss Transport) v Basingstoke & Deane
F34 B C v. AG & D Bayliss (T/A Bayliss Transport)
F40 Perth Carriers Ltd
F42 McKay MPA (T/A Dalbeg Coaches)
F43 Croydon Bus & Coach Co Ltd (T/A Ranger Travel)
F46 Haley William & Partners (T/A WD & A Haley Transport)
F47 London Haulage Contractors Ltd
F49 Road Haulage Association v. Bulmans Bulk & Haulage Ltd and Bulmans (Penrith) Ltd
F53 MCG Landfill (Contractors) Ltd v. Surrey C C

1995

G2 Burns Mr & Mrs DW (T/A Burns & Sons)
G5 John Shaw & Son (Silverdale) Ltd (T/A Shaw Hadwin)
G6 Morris CA (T/A Elite Cars & Travel)
G14 Ashvale Transport Ltd
G16 Deadman Transport Ltd v. Canterbury City C'I
G19 Drummond TG (T/A Nairbank Scaffolding Services)
G20 Turriff Transport Consultants Ltd
G22 Davidson & Wilson Ltd

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- G23 Wynter-M Transport & Trading Ltd, James Moore, Paul Moore
- G24 Berkshire Royal County of v. BJ Gibson
- G26 Thomas Muir (Haulage) Ltd
- G28 Limebourne Travel Ltd
- G31 Lewis SG
- G32 Mcmillan AJ (T/A Anthony's Coaches)
- G34 Argyll & Bute Council
- G37 Chambers Waste Management v. Surrey C C
- G38 Wynne K (T/A Wynne Haulage)
- G41 Cassar D (T/A DC Transport)
- G43 Stokes Removals Ltd
- G43 Graham RA (T/A Roy Graham International)
- G45 Economic Excavations Ltd
- G46 DN & AK Hosie
- G47 Winspear ML (T/A Win -For -Far Transport)
- G48 Tattersall PD
- G49 Mckenna AG & H (T/A Mullover Ltd)
- G50 Linhart H (T/A Transhaul)
- G51 Co-operative Wholesale Society Ltd v. Sevenoaks D C
- G52 Coakley E (T/A E & P Coakley Coaches)

1996

- H9 British Benzol Plc
- H10 Scott P (T/A Transcare)
- H11 Rushmoor Bc v. MKG (Food Products) Ltd
- H12 Grant A (T/A Sapphire Mini Coaches)
- H19 New Forest D C v. MR & TG Elvy
- H22 Hoskin DE (T/A Falmouth Boat Transport)
- H23 Mounthooly Transport Ltd
- H24 British Benzol Ltd
- H26 Styrene Packaging & Insulation Ltd
- H27 Gardiner DW (T/A Silver Choice Coaches)
- H28 Heal PJ (T/A Weston Plant & Tipper Hire)
- H29 Perry ME (T/A Mike Perry Transport)
- H32 Goldthorpe P (T/A P & R Coaches)
- H33 Semmence H & Co Ltd
- H34 Brake GW (T/A GB Haulage)
- H35 Taylor J & Partners
- H36 Greenwood A D
- H37 Miller FR
- H38 Lewis Land Services Ltd
- H39 Thomas KSH (T/A Ivanhoe Coaches)
- H40 Georgiades P J
- H41 George P International Ltd
- H43 Cert Plc
- H44 Skinner P J (T/A Skinners Transport)
- H45 Constable D
- H46 Browne M A
- H47 Anderson A J (T/A A J Anderson)
- H48 Win-for-far Travel and Transport Services Ltd
- H49 Docklands Waste Disposal Ltd

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- J1 Thomas Muir (Haulage) Ltd
- J4 Ketchen A (T/A Belleza Coaches)

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J5 Win-for-far Travel and Transport Services Ltd
J6 Killornan Demolition Ltd
J8 Surrey County Council v.JA Ford (T/A Ford Contractors)
J9 Strath Paving
J11 Surrey C C v.Roke M R E (T/A Frosbury Sawdust and Shavings)
J12 Robinson R C Haulage Ltd
J13 Banham GA
J14 O'Brien TJ
J16 Taylor J A & Partners
J18 Ace Freight Limited
J20 Slorach I & Baker A (T/A A B Couriers)
J21 Power DV (T/A A-2-B Rubbish Clearance)
J22 Simpson A
J23 Surrey CC & Guildford BC v. Greenwood A (T/A Greenwood & Co)
J24 Surrey CC & Guildford BC v. Mallins MS & Smith CJ (T/A C&M Haulage)
J26 Duragate Limited
J27 Bakewell P (T/A P. Bakewell Haulage)
J28 Feakins RJ (T/A Feakins Oil Recoveries)
J31 Graham A B (T/A Grahams of Gretna)
J37 Galloway Refrigerated Transport C (T/A Zion Coaches)
J39 Benney TR
J42 Starr Roadways Limited

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K2 Elliott L & Lewis C (T/A Zion Coaches)
K7 Fuggles of Benenden
K10 Charlton S A & Spencer M A (T/A Weybus)
K11 Clifford George Walker
K12 Nicol J S (T/A United Radio Cabs)
K13 Conwy County BC v.Murphy S A (T/A Rapid Removal & Storage)
K14 Harris J E (T/A Harris Transport)
K15 Randall & Co Ltd (T/A Durham Transport Services)
K17 Megatrade Limited
K22 GAD Howells & RA Draper (T/A Sunburst Leisure Ltd)
K25 Rixon M H (T/A James Transport Services)
K26 Central Scotland Recycling Co Ltd
K27 Muirhead Brothers (Lesmahagow) Ltd
K28 F Sherwood & Sons (T'spt) Ltd, J Curtlidge & A Sherwood
K30 RA Drury (T/A King Automotive Systems) Ltd
K31 BW & ER Gregg (T/A Brylaine Travel)
K33 Craig T Colledge (T/A CT Transport Services)
K35 Derek Bertram
K37 David Alfred Trucks
K40 APPS Lts
K41 W Wilson (T/A Glen Coaches Ltd)
K42 Ribert Tompkins (T/A Tompkins Travel)
K43 MK Byrne (T/A M & L Courier Service Ltd)
K46 MT Cooper (T/A MT Cooper Demolition)
K47 Simon Thompson & Terry Gillam (T/A S & T Roofing)
K48 Nicos Tsokas
K50 L Hussain & M Arshxd
K51 Hughes Waste Management
K52 John James Smith (T/A Smith International)

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- L2 M Smith (T/A Mike Smith Transport)
- L3 Messrs H & R Gray
- L6 Mark Lewis & Michael Glastonbury (T/A Direct Timber)
- L7 Headlight Bus Company
- L9 T J Hunt (Contracting) Ltd
- L11 Malcolm Stonehouse
- L12 MRD Jude (T/A D G Coach Travel)
- L13 J E Taylor
- L14 D I Semp (T/A Curtains of Quality)
- L18 M K Byrne (T/A M & L Courier Services Ltd)
- L21 Caroline M Wilson (T/A Kenmore Coaches)
- L22 John William Hobbs (T/A Hemel Reproductions)
- L23 Richard S Watson (T/A Chapel Roofing)
- L25 R H Coalter (T/A HMC International Transport)
- L27 Steven John Dean
- L28 Midland Bluebird Ltd
- L29 A R Williams (Properties) Ltd
- L31 Shane Murphy (T/A Rapid Removals & Storage)
- L32 A Williams (T/A Williams International)
- L33 A Khan (T/A Khawaja Poultry)
- L34 Horsham D C v. Norman Marshall
- L35 Shaun Standen
- L36 J E Taylor
- L37 Norman Marshall Ltd
- L38 J & K Brennam (T/A Brennan Paving Co)
- L39 Stagecoach Cambus Ltd
- L40 Graham Ing (T/A Sureway Travel)
- L41 West Sussex CC v. Norman Marshall
- L43 R & M Cooper (T/A Dennis's Coaches & Travel)
- L44 Ribble Motor Services Ltd
- L45 Spencer Wood Demolition
- L47 Raven Skip Hire Dewsbury
- L48 L Wardle Transport
- L49 Pennington Haulage
- L50 Deospeed International Ltd
- L51 J B Weaver (T/A John Weaver (Machinery Transport))
- L53 Bryan J Nunn Haulage Ltd
- L54 Mrs Christine Andrews
- L55 A A Griggs & Co Ltd
- L56 Alison Jones (T/A Jones Motors et al)
- L57 David McLoughlin (T/A Cadet Transport)
- L58 Gary Littten (T/A Junction Autospares)
- L59 Ian Cocklin (T/A Hampton Coaches (Westminster))
- L61 L N Gale (T/A Bosithow Farm Mushrooms)
- L62 Georgina Allan (T/A Allan Haulage)
- L64 George Thirwell & James Callister (T/A Aspatria Skip Hire)
- L66 BLC Turner (T/A Greenway Travel)
- L67 T Kyriacou (T/A Roadway Transport)
- L68 Tuncay Silahsor (T/A Civan Transport)

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2000

1/2000 R Gray Senior, RA Gray & JC Gray (T/a H&R Gray v. Colin & Fiona Graham)
HGV – HC – 15.2.00 – 25.2.00 – Dismissed

Operating centre – suitability – s.31 review

Transcript – challenge to accuracy – suggestion that part was “off the record”

2/2000 Grifpack Limited

HGV – JM – 22.3.00 – 27.3.00 – Remitted

Procedure – operator failed to appear – PI heard in absence – TC not informed of written application to adjourn

5/2000 Marilyn Williams (T/A Cled Williams Coaches)

PSV – JM – 16.5.00 – 25.5.00 – Allowed

Notice of issues and evidence – call-up letter – Operator taken by surprise

6/2000 AJ Cassels

HGV – HC – 25.4.00 – 15.5.00 – Remitted

Disqualification – need for procedures and detail of order to be addressed.

Termination by non-payment or withdrawal – exceptional circumstances in s.45(5) for extending not limited to inadvertent non-payment – operator not entitled to allow licence to lapse so as to avoid adverse finding

8/2000 Montague (Euro) Limited (T/A A1 Buses)

PSV – HC – 26.4.00 – 15.5.00 – Dismissed

Procedure – conduct of PI – TC entitled to stop operator from interrupting

9 & 10/2000 JC Stevenson & TE Turner (T/A J&T Transport) and Thomas Mchugh v. Department of the Environment, Transport and the Regions

HGV – HC – 26.4.00 – 15.5.00 – Dismissed (9) – Remitted (10)

Repute – convictions – mandatory loss – meaning of Schedule 3, 1995 Act – meaning of 1999 Goods Vehicles Operators (Qualifications) Regs in giving effect to 1998 Directive – definitions of ‘serious offences’ and of ‘road transport offences’ – “more than one conviction” may refer to same day

12/2000 Alansway Coaches

PSV – JM – 17.5.00 – 25.5.00 – Dismissed

Maintenance – adequacy of reasons

13/2000 M&S Transport

HGV – JM – 17.5.00 – 25.5.00 – Allowed

Disqualification set aside – No additional feature

14/2000 Reids Transport Limited

HGV – HC – 3.8.00 – 8.9.00 – Remitted

International issues – vehicles licensed in both Scotland and Ireland

Operating centre – where normally kept

Notice of issues and evidence – call-up letter – point not mentioned

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- 15/2000 D Murphy (T/A Ashley Coaches)
PSV – HC – 31.7.00 – 5/9/00 – Dismissed
Repute – general – conviction for loan of disc
- 16/2000 Group Taxibus Limited and Richard Matthews
PSV – HC – 31.7.00 – 5.9.00 – Allowed
PSV – buses – local services – breach of s.6 of 1985 Act may constitute
“conduct” under Schedule 3 of 1981 Act and thus be basis for finding
of loss of *repute* under s.17 of the 1981 Act – definitions – plying for
hire – need for balancing exercise – must be proportionate
Decision – inadequate reasons
Notice of issues and evidence – taking into account matters which TC said
would not consider Operator no opportunity to deal with
- 18/2000 Euroline Transport Limited
HGV – JB – 21.11.00 – 15.12.00 – Dismissed
International issues – use of British vehicles in Greece to avoid Greek control
– Meaning of Community Authorisation – need to comply with law of
member state which has granted licence
Operating centre – where normally kept – in England but never used – TM an
appointment of convenience – failure to comply with undertakings on
maintenance or drivers’ hours rules
Financial standing – burden on operator to establish
- 22/2000 ET Benson Precision Engineering Limited v. Surrey County Council
HGV – HC – 1.8.00 – 5.9.00 – Allowed
Procedure – joinder of parties – discretion by TC and Tribunal – advantage of
hearing arguments on both sides
Operating Centre – no material change in circumstances – description
in lease remained accurate
- 24 & 25/2000 Arriva Tees & District Limited and Arriva Teesside Limited
PSV – HC – 13.6.01 – 26.6.01 – Allowed(25/2000) – Dismissed (24/2000)
PSV – buses – local services – direction made under s.26 of 1985 Act but
size of sample too small to support failure to comply with s.6
– “Window of tolerance” – meaning in light of CA decision in Ribble case
– determination under s.111 of 1985 Act – see Chapter 17 – Appeals
from Tribunal
- 26/2000 Maddern Transport Limited
HGV – HC – 1.8.00 – 5.9.00 – Dismissed
Maintenance and financial standing – adequacy of reasons – Tribunal’s approach
- 27/2000 PJ Brown (T/a Leroy Coaches)
PSV – HC – 1.8.00 – 5.9.00 – Dismissed
Repute – general – use of out of date discs – deliberate attempt to mislead –
adequacy of reasons

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- 28/2000 Excellent Connections Limited
PSV – HC 3.8.00 – 8/9/00 – Allowed/remitted
PSV – definitions – use of private hire cars at Edinburgh Airport – TC accepted legal advice from Council that operator would be in breach – but such advice was selective and TC not properly directed – ought to have given operator benefit of doubt
- 29/2000 Harveys Coaches Limited and John Hardie
PSV – HC – 3.8.00 – 8.9.00 – Dismissed
PSV – buses – local services – dispute between operators – alleged intimidation – breach of s.6 of 1985 Act not restricted to sanctions in s.26 – TC may also revoke under s.17 of 1981 Act
Disqualification – need self-evident
- 32/2000 T Saunders Sons Limited
HGV- JB – 3.10.00 – 24.11.00 – Remitted
Operating centre - suitability – increase in numbers – complaints of noise – imposition of conditions – power to do so under s.23 of 1995 Act considered – need to give opportunity for representations on effect of conditions on business under s.23(4)
- 34/2000 Solent Travel Limited
PSV – MB – 14.9.00 – 10.10.00 – Allowed
Notice of issues and evidence – call-up letter – consideration of reg.9 of 1995 PSV Regs
– Service of notices under 1981 Act – sufficient if sent to proper address
– meaning of para 19(1) of 1995 PSV Regs
Procedure – appeal – contents of bundles
- 35/2000 Continental Road Haulage and Warehouse Limited
HGV – JB – 3.10.00 – 24.10.00 – Dismissed
Operating centre – where normally kept – operator ceased to trade so vehicles no longer kept at operating centre – material changes as TC not informed of disposal of vehicles
- 36/2000 Chris Clarke & Co
HGV – JB – 3.10.00 – 24.10.00 – Dismissed
Operator ceased to trade – material changes not notified to TC – loss of repute
- 41/2000 Hi Kube Transport Limited
HGV – JB – 21.11.00 – 15.12.00 – Dismissed
Repute – general – false statement in application for new licence – “went to heart of system” – proportionate
- 42/2000 Alexander John Cassels
HGV – HC – 4.1.01 – 15.1.01 – Allowed
Disqualification – allegation of unlawful operation not considered – disproportionate

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- 45/2000 Martin Jolly Transport Limited
HGV – HC – 17.11.00 – 8.12.00 - Dismissed
Drivers' hours and tachographs – meaning of undertakings to make arrangements to observe – numerous convictions of drivers – knowledge of directors
HGV – HC – 4.1.01 – 15.1.01 – Dismissed
- 46/2000 Armondi Limited
International issues – use of non-EC qualified drivers in UK – unlawful operations – revocation
- 48/2000 John Ceri Evans (T/A J&E Evans)
HGV – JB – 3.10.00 – 9.10.00 – Dismissed
Maintenance – undertakings concerning maintenance and overloading breached
Procedure – joinder of issues – separate drivers' conduct inquiries
- 51/2000 Express Deliveries By Roadrunners Merseyside Limited
HGV – JB – 19.2.01 – 12.3.01 – Allowed
Operating centre – suitability – accident free history – TC decision plainly wrong
- 55/2000 Michael Leslie Smith (T/a Mike Smith Transport)
HGV – HC – 4.1.01 – 15.1.01 – Allowed
Repute – convictions – whether “serious” or for a “road transport offence” – failure to disclose – when spent – meaning of para.5(2), Schedule 3 of 1995 Act
- 57 & 62/2000 Yorkshire Rider Limited And First Bristol Buses Limited v. Department of the Environment Transport and the Regions
PSV – HC – 8.1.01 – 22.1.01 – Allowed
PSV – buses – local services – size of sample – window of tolerance – special case of congestion – need for TC to evaluate and to give reasons for rejecting evidence
Decision – inadequate reasons
Maintenance – improvement after interview not taken into account
- 58/2000 Gurdev Singh
HGV – HC – 8.1.01 – 22.1.01 – Allowed
Financial standing – ground for revocation not properly specified
- 59/2000 Dolan Tipper Services Limited
HGV – HC – 4.1.01 – 15.1.01 – Dismissed
Repute – general – non-disclosure of overloading conviction in application
Professional competence – failure to give notice to TM pursuant to para.15, Schedule of 1995 Act – directory not mandatory
- 63/2000 Reids Transport Company Limited
HGV – JB – 19.1.01 – 20.2.01 – Allowed
International issues – vehicles registered in Ireland in order to gain excise duty advantage
Operating centre – where normally kept – whether “normally kept” at operating centre in Scotland

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65/2000 AM Richardson (T/a DJ Travel Consultants) v. Department of the Environment Transport and the Regions
PSV – HC – 23.4.01 – 11.5.01 – Dismissed
Repute – general – conflict of evidence over responsibility for false statements on inspection records – burden of proof on operator – balance of probabilities not criminal standard
Human rights – positions of TC and Tribunal

66/2000 DL Eccles & J Heads (T/a Eurohaul)
HGV – JB – 19.2.01 – 16.3.01 - Dismissed
Termination by non-payment or withdrawal – non-payment of vehicle excise duty for vehicles used internationally as a protest
Repute – general

2001

1/2001 RC Milton (T/a Bob Milton)
HGV – HC – 29.3.01 – 11.4.01 – Dismissed
Financial standing - burden of proof.
Procedure – appeal – procedure – failure to attend

3/2001 Sumo Overland Direct International Transport Limited
HGV – JB – 20.2.01 – 19.3.01 – Dismissed
Repute – convictions and non-disclosure

5/2001 George Mair Mckay Limited
HGV – HC – 29.3.01 – 11.4.01 – Dismissed
Repute – convictions – drivers' hours and tachographs – call-up letter – notice of disqualification

6/2001 M-Line Limited
HGV – HC – 15.3.01 – 30.3.01 – Varied
Directors' duties
Disqualification – detail of orders

7/2001 Alcaline UK Limited
HGV – HC – 15.3.01 – 30.3.01 - Varied
Drivers' hours and tachographs – meaning and effect of undertaking – *repute*
Disqualification – recent directors

8/2001 Russell Alan Read and Norma Gwendoline Barks
PSV – JB – 19.2.01 – 26.3.01 – Allowed
Disqualification – remitted case – new hearing or a review

9/2001 AG McKenna (T/a AG Travel)
PSV – JB – 19.4.01 – 14.5.01 – Dismissed
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Maintenance – notification of changes

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- 10/2001 Thomas Smith
HGV – JB – 19.4.01 – 14.5.01 - Dismissed
Drivers hours and tachographs – consideration – TC entitled to take into account criminal charges which had not been proceeded with at trial –
repute
- 11/2001 Pagoda Travel
PSV – HC – 23/24.4.01 – 11.5.01 – Remitted
Notice of issues and evidence – call-up letter – failure to mention
disqualification as a possible outcome – effect on PI – need to adjourn
public inquiry generally and not merely to invite submissions after
notice of disqualification given
Financial standing – adverse finding after TC discouraged submissions
- 12/2001 Anthony James Curtis (T/a Silver Wing Travel)
PSV – MB – 31.5.01 – 13.6.01 - Dismissed
Financial standing – failure to supply information
- 13/2001 Frigoline And Geoffrey Royle & Geoffrey Hart
HGV – MB – 31.5.0 – 13.6.01 – Allowed
Notice of issues and evidence – TC in possession of documents not disclosed
to operator – need for checklist
- 15/2001 Kevin Malone (T/a Transfreight Services Limited)
HGV – MB – 31.5.01 – 21.6.01 – Remitted
Decision – inadequate reasons
Disqualification – detail of order – Tribunal reluctant to substitute own views
- 16/2001 Jack Webb (T/a Cooks Tours)
PSV – HC – 7.8.01 – 22.8.01 – Dismissed
Repute – general – operator's inability to cope – lack of trust
- 17/2001 R Hayes (T/a B&S Tyre and Courier Services)
HGV – JB – 5.7.01 – 23.7.01 – Dismissed
Decision – adequate reasons – failure to reply to letters or to attend PI
- 19/2001 S Whittaker (T/a SW Freight)
HGV – JB – 19.4.02 – 14.5.01 – Dismissed
Repute – overall conclusion.
- 20/2001 William James Jolly (T/a BJ Transport)
HGV – HC – 24.5.01 – 14.6.01 – Dismissed
Repute – misconduct
- 28/2001 JD Owen (T/a JD Owen Transport)
HGV – JB – 5.7.01 – 23.7.01 – Dismissed
Suspension – consequences
- 29/2001 Grouptravs Limited & Borneyard Limited (T/a Buffalo Travel)
PSV – HC – 24.10.01 – 8.11.01 – Dismissed
Maintenance – curtailment – appeal heard in absence

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- 31/2001 Arriva Derby Limited
PSV – HC – 8.8.01 – 22.8.01 – Dismissed
PSV – buses – local service – size of sample
- 32/2001 Michael Moseley (T/a Midas International Freight)
HGV – HC – 8.8.01 – 22.8.01 – Dismissed
Repute – conditions – disclosure
- 33/2001 Ian Barry Coward (T/a Bestway Travel)
PSV – HC – 8.8.01 – 2..8.01 – Dismissed
Financial standing – failure to supply information
- 39/2001 BKG Transport Limited
HGV – HC – 5.11.01 – 8.11.01 – Remitted
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to operator – need for checklist
Decision – inadequate reasons
- 40/2001 Philip & Eileen Gilliar
HGV – HC – 6.9.01 – 20.9.01 – Dismissed
Disqualification – wife
- 41/2001 Tate Fuel Oils Limited
HGV – HC – 6.9.01 – 20.9.01 – Dismissed
Notice of issues and evidence – TC in possession of documents not disclosed
to operator
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similar applications together
– joinder of parties – permission to residents to be joined as parties on appeal
– notice of appeal – need for particularity
– extent of Tribunal’s powers – dismissal of appeal as application to TC
bound to fail.
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- 43/2001 RHC White & TL White (T/a CA White & Sons) and RHC White (T/a CA
White & Sons
HGV – JB – 27.9.01 – 22.10.01 – Dismissed
Decision – adequacy of reasons
- 44/2001 Neil Hazel (T/a JRS Freight)
HGV – HC – 24.10.01 – 6.11.01 - Dismissed
Repute – convictions – notifiability
- 45/2001 D Crompton (T/a D Crompton Haulage)
HGV – MB – 13.9.01 – 25.9.01 – Allowed
Decision – inadequate reasons
- 48/2001 J&M Head and SJ Johns (T/a Reliance Coaches)
PSV – MB 13.9.01 – 25.9.01 – Dismissed
Decision – adequacy of reasons

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- 49/2001 Norbert Dentressangle UK Limited
HGV – JB – 28.9.01 – 22.10.01 - Remitted
Drivers hours and tachographs – meaning and effect of undertaking
Repute – general – assessment to be made as at date of PI
Procedure – joinder of parties – representation at PI by Vehicle Inspectorate
- 52/2001 Michael & James Sutherland (T/a Sutherland's Garage)
PSV – HC – 4.12.01 – 13.12.01 – Dismissed
Decision – adequacy of reasons
- 53/2001 Marilyn Williams (T/a Cled Williams Coaches)
PSV – HC – 24.10.01 – 31.10.01 – Dismissed
Notice of evidence – TC in possession of documents not disclosed to operator – need to raise issues before hearing of appeal
Decision – adequacy of reasons
- 54/2001 Douglas Guy Wilkins (T/a G Wilkins Haulage)
HGV – JB – 19.12.01 – 21.1.02 – Dismissed
Decision – adequacy of reasons
- 56/2001 Surrey County Council v. Paul Williams (T/a Garden Materials Landscaping)
PSV – JB – 19.12.01 – 22.1.02 - Varied
Operating centre – suitability – imposition of conditions and undertakings – wording
Appeal to Court of Appeal dismissed – see [Chapter 17 Appeals from Tribunal](#)
- 57/2001 Christopher Kilpatrick (T/a 4 Seasons Coach Hire)
PSV – HC – 4.12.01- 13.12.01 – Dismissed
Repute - general – son fronting for father
Professional competence
- 58/2001 Graham Michael Buckley
HGV – JB – 19.12.01 – 22.1.02 – Dismissed
Maintenance – exemption for agricultural use – burden of proof.
Decision – adequacy of reasons
- 59/2001 Stephen Ashton (T/a Bank View Travel)
PSV – JB – 10.1.02 – 13.2.02 – Dismissed
Decision – adequacy of reasons
- 60/2001 Goldwings (Wales) Limited (T/a Thomas Oil Distributors)
HGV – HC – 6.2.02 – 18.2.02 – Dismissed
Procedure – appeal – admission of new evidence
Decision – adequacy of reasons
- 62/2001 TSG Smith (T/a Western International)
HGV – HC – 6.2.02 – 11.2.02 – Dismissed
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- 63/2001 John Troup
HGV – HC – 4.12.01 – 13.12.01 – Dismissed
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- 64/2001 Philip Beckwith & Jennifer Dennison (T/a Beckwith Haulage)
HGV – JB – 10.1.02 – 13.2.02 – Dismissed
Decision – adequacy of reasons
- 65, 66 & 67/2001 Edward Coakley & Coakley Bus Company Limited & Central Bus Company Limited v. Secretary of State for the Department of Transport Local Government and the Regions
PSV – HC – 14/15.1.02 – 6.2.02 – Dismissed
(Decision not to be published)
Appeal to Court of Appeal allowed – see [Chapter 17 Appeals from Tribunal](#)
- 68/2001 Dukes Transport (Graigavon) Limited v. Vehicle Inspectorate
HGV – HC – 16/18.1.02 – 6.2.02 – Dismissed
Procedure – joinder of issues – desirability of inquiries relating to operator and to drivers' conduct being heard together
– appeal procedure – admission of new evidence
– joinder of parties – representation at PI – Vehicle Inspectorate
Drivers hours and tachographs – not enough to set up systems – operator obliged to supervise and monitor performance – meaning of undertaking
Professional competence – transport manager – loss of repute
Directors duties – non delegable supervision
Disqualification – collective responsibility of directors
- 69/2001 KG Farrow & Sons Limited
HGV – HC – 6.2.02 – 18.2.02 – Allowed
Disqualification – evidence in support
- 72/2001 Alan R Brooks
HGV – HC – 16.4.02 – 10.5.02 – Dismissed
Notice of issues and evidence – call-up letter – failure to mention point not preclude reliance on it if notice given
Decision – adequate reasons – powers of TC - delegation to staf
Costs – order against Appellant - repudiation of regulatory regim
- 74/2001 Brian Edward Clark
HGV – HC – 17.4.02 – 24.4.02 – Dismissed
Repute – convictions – mandatory revocation
Disqualification – no need for “additional feature”
- 76/2001 Malcolm & Steven Hurst & Valerie Leak (T/a Hurst Coaches)
PSV – JB – 13.3.02 – 16.4.02 – Dismissed
(Decision not to be published)
- 77/2001 Wilton Contracts (London) Limited
HGV – HC – 17.4.02 – 10.5.02 – Allowed
Decision – inadequate reasons
Procedure – subsequent alteration by TC without explanation – proper procedure considered

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78/2001 D Crompton (T/a Crompton Haulage)
HGV – JB – 25.4.02 – 13.5.02 – Dismissed
Repute – general – effect of outburst by operator at PI
Appeal to Court of Appeal allowed – see [Chapter 17 Appeals from Tribunal](#)

81/2001 K Transport Services (Midlands) Limited
HGV – JB – 13.3.02 – 24.4.02 – Remitted
Suspension – need to invite submissions before ordering curtailment or suspension – proportionality
Drivers' hours and tachographs – meaning of undertaking
Decision – TC entitled to take into account full enforcement history

82/2001 Gussion Transport Limited
HGV – HC – 17.5.02 – 21.5.02 – Dismissed
Decision – adequacy of reasons

84/2001 Gary Royston Way (T/a Gary Way)
HGV – JB – 14.3.02 – 15.4.02 – Remitted
Operating centre – suitability – principles to be applied
Decision – inadequate reasons

2002

1/2002 Bryan Haulage Limited (No.1)
HGV – JB – 17.6.02 – 25.6.02 – Remitted
Decision – inadequate reasons.
Procedure – appeal – procedure – disorganised state of bundle

2/2002 Brian Edgington Limited
PSV – MB – 7.3.02 – 18.3.02 – Dismissed
Procedure – appeal – procedure – adjournment refused – principles

6/2002 Mrs JC Stokes (T/a The Woman's Touch)
HGV – MB – 7.3.02 – 18.3.02 – Remitted
Procedure – advertisement of application – letter by TAO to wrong address
appeal – disorganised state of bundle

8/2002 Alcaline Limited
HGV – JB – 25.4.02 – 22.5.02 – Allowed
Termination by non-payment or withdrawal – withdrawal of application to TC – principles.
Procedure – appeal – permission to serve notice of appeal out of time

9/2002 George Gollop & Direct Movement Services Limited
HGV – JB – 25.4.02 – 13.5.02 – Dismissed
Repute – general – submission of false document to TAO with intent to deceive

11/2002 Sharon Ponder (T/a Comprehensive Passenger Services)
PSV – HC – 31.7.02 – 20.8.02 – Remitted
Financial standing – misunderstanding about necessary information

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- 14/2002 William Rees Davies & Partners
HGV – JB – 16.5.02 – 16.6.02 – Dismissed
Termination of licence by non-payment or withdrawal – fee
- 15/2002 Bingley Travel Air Limited
PSV – HC – 28.6.02 – 16.7.02 – Allowed
Decision – inadequate reasons
- 16/2002 John Peter Hills (T/a Motorama Car Sales)
HGV – HC – 20.5.02 – 10.6.02 – Dismissed
Operating centre – suitability
Decision – adequacy of reasons
- 17/2002 Western Welsh (1998) Limited
PSV – HC – 20.5.02 – 10.6.02 – Dismissed
Decision – adequacy of reasons
- 18/2002 UK Plant And Haulage (Services) Limited
HGV – HC – 20.5.02 – 10.6.02 – Dismissed
Repute – general – dispute over untaxed fuel – burden of proof on operator
- 19/2002 Raymond Hazlewood (T/a Haze UK)
HGV – JB – 8.4.02 – 10.5.02 – Dismissed
Maintenance – adequacy of reasons
- 20/2002 H.A.U.C. Limited
HGV HC – 28.6.02 – 16.7.02 – Allowed
Operating centre – removal from licence for breach of conditions
- 21/2002 JD Zieba & GS Fyfield (T/a Mayfare Tours)
PSV – HC – 9.7.02 – 30.7.02 – Dismissed
Repute and maintenance – adequacy of reasons
- 22/2002 S Garforth (T/a Ainsdale Transport)
HGV – HC – 30.7.02 – 20.8.02 – Allowed
Decision – inadequate reasons – TC misdirected herself by blaming operator for non-disclosure when relying on solicitor’s advice
- 23/2002 RJ Barber (T/a J&R Autos (Haulage))
HGV – HC – 9.7.02 – 30.7.02 – Dismissed
Operator out of touch with Traffic Area Office
- 24/2002 McFletch Hire Services Limited
HGV – HC – 30.7.02 – 25.11.02 – Remitted
Financial standing – restricted licence – financial resources – unpaid fines by director

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- 25/2002 HJ Lea Oakes Limited
HGV – HC – 10.7.02 – 30.7.02 – Allowed
Procedure – joinder of issues – joinder of inquiries relating to operator and to drivers' conduct – confusion – joinder of parties – participation of accident victim's parent
Maintenance – delegation to contractor
Decision – *inadequate reasons* – TC plainly wrong
- 27/2002 Duncan Brodie (T/a Duncan Brodie Transport)
HGV – HC – 17.5.02 – 22.5.02 – Dismissed
Decision – adequacy of reasons
- 28/2002 F T M Specialist Services Limited
HGC – HC – 10.7.02 – 30.7.02 – Dismissed
Termination of licence from non-payment or withdrawal – fee – no exceptional circumstances
- 29/2002 Trevor Christopher Atkinson & Christopher Atkinson (T/a TC Atkinson & Sons)
HGV – HC – 31.7.02 – 20.8.02 – Varied
Operating centre – suitability – failure to consider lawful use
- 30/2002 Steven Lloyd (T/a London Skips)
HGV – HC – 10.7.02 – 30.7.02 – Varied
Disqualification – inappropriate
- 34/2002 WP Rogers
HGV – HC – 9.7.02 – 30.7.02 – Allowed
Operator out of touch with TAO
- 37/2002 Benzies Transport Limited
HGV – JB – 16.8.02 – 3.9.02 – Dismissed
Repute – general – burden of proof – effect of silence by operator
- 39/2002 Excellent Connections Limited
PSV – JB – 22.8.02 – 18.9.02 – Allowed
Notice of issues and evidence – natural justice – failure by TC to disclose legal advice received from DTLR
PSV – definitions – separate fares – operation of “local services” – meaning
Repute – general – inappropriate to find loss after co-operation with TC in clarifying difficult area of law
- 40/2002 Thames Materials Limited
HGV – MB – 12.9.02 – 15.10.02 – Remitted
Procedure – appeal – not appropriate to produce own bundle – admission of fresh evidence – principles.
Notice of issues and evidence – desirability of checklist of documents
- 46/2002 Mark Cray (T/a M&M Delivery Service & Light Removals)
HGV – JB – 23.8.02 – 11.9.02 – Dismissed
Decision – adequacy of reasons

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- 47/2002 D Lowton (T/a Rainhill Express Deliveries) and A Woods (T/a Premier Scaffolding)
HGV – FB – 19.9.02 – 5.11.02 – Dismissed
Operating centre – suitability
- 49/2002 JR Tyres Collection & Disposal Limited
HGV – JB – 8.7.02 – 29.7.02 – Dismissed
Decision – adequacy of reasons
- 50/2002 DJ Richardson (T/a Project 2000 Europe Limited)
PSV – JB – 23.8.02 – 1.10.02 – Dismissed
Termination of licence by non-payment or withdrawal – fee – no exceptional circumstances
- 51/2002 Michell Thomas (T/a Safeplay After School Club)
PSV – HC – 10.7.02 – 30.7.02 – Dismissed
Application for licence – failure to supply information – burden of proof on applicant
- 55/2002 John Slattery Waste Services Limited And John Slattery
HGV – MB – 12.9.02 – 15.10.02 – Dismissed
Procedure – appeal – not appropriate to produce own bundle – admission of fresh evidence – nature of hearing
- 56/2002 Jeffrey Tote
HGV – HC – 4.7.02 – 9.7.02 - Remitted
Impounding – time of knowledge of unlawful use – burden of proof
Procedure – appeal – Tribunal consisting of one member
- 62/2002 Thomas Allan
HGV – FB – 10.10.02 – 22.11.02 – Dismissed
Order of revocation not received by operator – file destroyed
- 68/2002 First Western National Buses
PSV – FB – 19.9.02 – 5.11.02 – Allowed
PSV – buses – local services – TC failed to give reasons for rejecting operator's evidence
Decision – inadequate reasons
- 69/2002 William C Hockin Limited
HGV – FB – 10.10.02 – 22.11.02 – Remitted
Decision – inadequate reasons
- 75/2002 Hazco Environmental Services Limited
HGV – HC – 29.10.02 – 13.11.02 – Dismissed
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Disqualification – responsibility of directors
Procedure – appeal – admission of new evidence

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- 81/2002 James Heaver & Maurice Heaver (T/a Heaver Brothers)
HGV – FB – 19.9.02 – 5.11.02 – Remitted
Decision – inadequate reasons
International issues – meaning of cabotage – misdirection
Notice of issues and evidence – non-disclosure of documents by TC – natural justice
- 82/2002 Alison Jones (T/a Shamrock Coaches), RH & DT Edwards (T/a Bridgend Bus Company Limited & Venture Travel) AND Clayton Jones (T/a Wales And The Marches Bus Company)
PSV – FB – 11.10.02 – 29.11.02 – Remitted
PSV – buses – local services – determination under s.111 TA 1985 – need for consideration of actual amount payable
Decision – *inadequate reasons* – need for analysis of detail and for reasons
- 85/2002 CS Barber
HGV – FB – 19.9.02 – 5.11.02 – Dismissed
Decision – adequacy of reasons
- 92/2002 D Bailey (T/a DSP Travel)
PSV – HC – 6.11.02 – 25.11.02 – Allowed
PSV – buses – local services – repayment of fuel duty rebate – wrong approach
- 94/2002 BKG Transport Limited
HGV – FB – 10.10.02 – 22.11.02 – Remitted
Decision – *inadequate reasons*
- 98/2002 Stephen William Grayson
HGV – JB – 23.8.01 – 11.9.02 – Dismissed
Impounding – no unlawful use
- 99/2002 M Williams & C Williams (T/a Haydn's Tours & Travel)
PSV – HC – 6.11.02 – 25.11.02 – Dismissed
Decision – adequacy of reasons
- 114/2002 PC Morgan (T/a Morgan Transport)
HGV – HC – 6.11.02 – 25.11.02 – Dismissed
Decision – adequacy of reasons
- 117/2002 Stephen Cotterill and K&S (428) Limited
HGV – JB – 19.02.03 – 24.03.03 – Allowed
Decision – inadequate reasons – need for balancing exercise
Repute – general – failure to assess as at date of PI
- 118/2002 LS Scaffolding Limited
HGV – FB – 11.12.02 – 10.1.03 – Dismissed
Decision – *inadequate reasons*.
Costs – application refused
- 120/2002 Patrick John & Katrien Tangney (T/a Tangney Tours)
PSV – JB – 10.1.03 – 5.2.03 – Dismissed
Decision – adequacy of reasons

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- 125/2002 Bellfield Transport Limited
HGV – HC – 17.12.02 – 23.12.02 – Allowed
Decision – inadequate reasons – findings on refusal to grant licence – no hearing
- 132/2002 Benjamin Smith
HGV – FB – 11.12.02 – 10.1.03 – Allowed
Impounding – adequacy of reasons – lack of caution
- 133/2002 Richard Bryan
HGV – JB – 19.02.03 – 20.03.03 – Dismissed
Disqualification – no additional features required
Decision – inadequate reasons – overwhelming case
- 134/2002 WC Commercials Limited
HGV – JB – 19.02.03 – 24.03.03 – Remitted
Impounding – no need for full hearing at Tribunal – misdirection on meaning of knowledge of unlicensed use – applicability of exemption if load being carried for testing
- 136/2002 Oakley Road Services Limited
PSV – FB – 11.12.02 – 10.1.03 – Dismissed
Decision – adequacy of reasons
- 144/2002 Abbeycheer Limited
HGV – JB – 10.1.03 – 3.2.03 – Allowed
Operating centre – where normally kept
- 145/2002 AMD Transport Solutions Limited
HGV – FB – 29.01.03 – 12.2.03 – Dismissed
Repute – convictions
- 150/2002 FWS Carter & Sons Limited
HGV – FB – 29.01.03 – 12.02.03 – Allowed
Repute – convictions
Decision – inadequate reasons
- 151/2002 Coachmaster Limited (T/a Wingate Tours)
PSV – JB – 20.02.03 – 31.03.03 – Dismissed
(Decision not to be published)
- 154/2002 F Francis (T/a Advance)
HGV – FB – 11.12.02 – 23.12.02 – Dismissed
Financial standing – failure to supply information.
Decision – adequacy of reasons
- 167/2002 A Cooper (T/a C-Fare (Oban))
HGV – HC – 28.02.03 – 12.03.03 – Dismissed
Drivers hours and tachographs
Suspension – consideration of consequences – guidelines
- 175/2002 Haart.EU.Com.UK
PSV – FB – 29.01.03 – 27.02.03 – Dismissed
Repute – general – veil of incorporation – involvement with others

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186/2002 Panther Distribution Limited & Wilson Barrett
HGV – JB – 10.04.03 – 14.05.03 – Adjourned
Repute – general – unauthorised move of operating centre
Operating centre – where normally kept – unauthorised movement

196/2002 Frank Booth (T/a Swift Minicoaches)
PSV – MB – 4.03.03 – 18.03.03 – Dismissed
Decision – adequate reasons
Procedure – conduct of PI – refusal to adjourn

197/2002 Mason Haulage (A Mason T/a Mason Haulage)
HGV – MB – 4.03.03 – 18.03.03 – Allowed
Operating centre – where normally kept
Decision – inadequate reasons
Suspension – failure to consider submissions on consequences

217/2002 Bryan Haulage Ltd v Vehicle Inspectorate (No.2)
HGV – HC – 12.06.03 – 23.06.03 – Allowed
Repute – correct approach – proportionality
Disqualification – directors – correct approach
Drivers hours and tachograph – lack of follow-up

221/2002 W Sleeman
HGV – HC – 12.06.03 – 23.06.03 – Dismissed
Decision – adequacy of reasons

239/2002 Jubilee Mount Limited, Michael Hodgson & Agnus Gaylor
HGV – JB – 11.04.03 – 9.05.03 – Dismissed
Decision – adequacy of reasons

250/2002 Northampton Transport Limited
PSV – FB – 9.04.03 – 8.05.03 – Dismissed
PSV – buses – local services

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2003/2 First Bristol Buses Limited
PSV – FB – 8.05.03 – 5.06.03 – Dismissed
PSV – local services – size of sample – calculation of penalty

2003/3 Close Asset Finance Limited v. Secretary of State for Transport
HGV – HC – 28.02.03 – 12.03.03 – Remitted
Impounding – extent of knowledge of unlawful use by finance house – high degree of fault required

2003/4 Leisurenotice Limited
HGV – FB – 9.04.03 – 28.04.03 – Dismissed
Professional Competence – Transport manager – loss of repute

2003/8 GP Travel
PSV – FB – 8.05.03 – 2.06.03 – Mixed
Decision – adequacy of reasons

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2003/16&17 Faircharm Limited & Red Lion Transport Limited
HGV – FB – 8.05.03 – 2.06.03 – Dismissed
Decisions – adequacy of reasons

2003/30 Helms Coaches Limited
PSV – MB – 29.05.03 – 26.06.03 – Allowed
Human Rights – proportionality – correct approach – financial standing
Procedure – continual interruptions – no opportunity for final submissions

2003/34 Wasco Limited
HGV – HC – 7.05.03 – 13.05.03 – Dismissed
Impounding – adequacy of reasons

2003/45 JJC Bulk Tippers Limited
HGV – JB – 16.05.03 – 4. 07.03 – Mixed
Professional Competence – transport manager – no power to disqualify
Disqualification – no power to disqualify transport manager

2003/46 The Fox (A1) Limited
HGV – MB – 29.05.03 – 26.06.03 – Allowed
Decision – inadequate reasons

2003/56 T A Jones
HGV – HC – 6.05.03 – 13.05.03 – Dismissed
Impounding – adequacy of reasons
Human Rights – proportionality

2003/58 S Sowerby
HGV – HC – 12.09.03 – 23.09.03 – Allowed
Notice of issues and evidence – notice to transport manager
Professional competence – position of transport manager

2003/61 Mohammad Iqbal (T/a M&M Coaches)
PSV – FB – 18.07.03 – 30.07.03 – Dismissed
PSV – fuel duty rebate
Decision – adequate reasons

2003/62 Tachograph Centre Limited
PSV – JB – 16.06.03 – 9.07.03 – Dismissed
Repute – refusal to grant licence – previous revocation of associated company
PSV – definitions – identity of operator

2003/64 Cambus Limited
PSV – FB – 18.07.03 – 30.07.03 – Allowed
PSV – fuel duty rebate
Decision – inadequate reasons

2003/70 Capital Bank Plc
HGV – HC – 6.05.03 – 13.05.03 – Allowed
Impounding – financial house – extent of knowledge

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- 2003/71 Trapstar Limited
HGV – JB – 24.07.03 – 20.08.03 – Dismissed
Repute – deliberate falsification of tachographs
- 2003/73 M Waddington
HGV – JB – 16.06.03 – 2.07.03 – Dismissed
Professional competence – transport manager – extent of duties
Procedure – suggestion of bias
- 2003/77 NL Commercials Limited
HGV – HC – 10.06.03 – 23.06.03 – Allowed
Impounding – hire company – extent of knowledge
- 2003/80 ASJ (Euro) Logistics Limited
HGV – FB – 18.07.03 – 30.07.03 – Dismissed
Financial standing
Decision – adequate reasons
- 2003/85 Nostalgiabus Limited
PSV – HC – 12.09.03 – 23.09.03 – Dismissed
Decision – *inadequate reasons* – not sufficient to set aside decision
- 2003/87 Jonathan Hansford (T/a Jonathan Hansford Plant Hire)
HGV – HC – 6.08.03 – 14 .08.03 – Dismissed
Operating centre – suitability – effect of Lawful Development Certificate
- 2003/90 & 122 CPT Commercials (Stockport) Ltd and CPT & Sons Transport UK Ltd
HGV – HC – 3.07.03 – 15.07.03 – Remitted
Impounding – identity of applicant – amendment of form
Human rights – revocation without notice – consideration of merits
- 2003/94 Dawlish Coaches Limited
PSV – JB – 24.07.03 – 20.08.03 – Allowed
Repute – long operating history – revocation disproportionate
Professional Competence – representation of transport manager
Drivers' hours and tachographs – serious failures
Decision – inadequate reasons
- 2003/95 T White
HGV – HC – 10.06.03 – 23.06.03 – Allowed
Impounding – extent of knowledge
Decision – inadequate reasons
- 2003/107 R A Meredith & Son (Nurseries) Limited
HGV – JB – 25.07.03 – 20.08.03 – Varied
Repute – proportionality – new transport manager in place
Suspension – ordered by Tribunal
Decision – inadequate reasons
- 2003/112 Reliance Coaches
PSV – MB – 1.09.03 – 1.10.03 – Allowed
Repute – proportionality – confrontation with VI

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- 2003/116 A Reid
HGV – MB – 1.09.03 – 1.10.03 – Dismissed
Procedure – advertisement of application
Operating centre – need for correct advertisement of application
- 2003/117 G Patrick & M Patrick (T/a Michelle's Catering Service)
HGV – JB – 24.07.03 – 20.08.03 – Dismissed
Procedure – advertisement of application
Operating centre – application for transfer – advertisement
- 2003/120 JCM Print Services Limited
HGV – JB – 4.09.03 – 30.09.03 – Dismissed
Procedure – advertisement of application
- 2003/132 J B Hogger
HGV – MB – 1.09.03- 1.10.03 – Dismissed
Impounding – ownership – burden of proof on applicant
Procedure – conflicting decisions by Traffic Commissioner
- 2003/138 P Coakley
PSV – HC – 16.09.03 – 23.09.03 – Dismissed
Procedure – determination of identity of operator
- 2003/139 W C Commercials Limited
HGV – HC – 9.01.03 – 27.10.03 – Allowed
Impounding – knowledge – high degree of fault necessary
- 2003/142 Thames Bus Limited
PSV – JB – 4.09.03 – 30.09.03 – Dismissed
Decision – adequate reasons – proportionate
Maintenance – serious defects
- 2003/145 Norfolk CC v. Woodgrove Limited
HGV – JB – 25.07.03 – 20.08.03 – Dismissed
Operating centre – suitability
Procedure – validity of objection – no need for public inquiry
- 2003/147 WC Hockin (Transport) Limited
HGV – JB – 20.10.03 – 12.11.03 – Allowed
Repute – revocation disproportionate
- 2003/157 North Kent Recycling Limited
HGV – MB – 1.09.03 – 1.10.03 – Dismissed
Drivers' hours and tachographs – definition of "road"
Repute – revocation proportionate
- 2003/169 Project 2000 Europe Limited
HGV – JB – 4.09.03 – 30.09.03 – Dismissed
Procedure – advertisement of application

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- 2003/176 Sigma Trans Limited
HGV – HC – 9.10.03 – 27.10.03 – Dismissed
Operating centre – where normally kept
International issues – vehicles continually on move
- 2003/194 Smith’s Distribution Limited
HGV – JB – 21.01.04 – 25.02.04 – Dismissed
Decision – adequate reasons
- 2003/200 AB
HGV – HC – 3.12.03 – 15.12.03 – Remitted
Repute – spent convictions - disclosure
- 2003/201 S&V Supplies (Scotland) Limited
HGV – JB – 18.11.03 – 11.12.03 – Allowed
Impounding – knowledge – need for high degree of fault
Notice of issues and evidence – reliance on earlier undisclosed decision
- 2003/250 Anglian Removals Limited
HGV – JB – 20.01.04 – 9.02.04 – Allowed
Procedure – advertisement of application – consideration of necessary details
- 2003/252 Thomas Transport Limited v. Rother District Council & Others
HGV – HC – 3.12.03 – 22.12.03 – Allowed
Operating centre – suitability – review
- 2003/254 A Jones (T/a Shamrock Coaches)
PSV – HC – 14.04.04 – 27.04.04 – Dismissed
Buses – penalties – excuses – burden of proof
Procedure – rehearing – when different TC is necessary
Appeal to Court of Appeal dismissed – see [Chapter 17 Appeals from Tribunal](#)
- 2003/255 Heavypack Haulage Limited
HGV – FB – 17.12.03 – 23.01.04 – Mixed
International issues – cabotage
Procedure – bias – test to be applied
- 2003/258 JD Cowan & AD Fenny
HGV – HC – 5.11.03 – 18.11.03 – Dismissed
Professional competence – loss of repute by transport manager
Repute – revocation proportionate
- 2003/262 GW Elliott
HGV – JB – 18.12.03 – 15.01.04 – Dismissed
Impounding – power to stop vehicle
- 2003/271 M&S Jarvis (T/a Globe Coaches)
PSV – JB – 18.12.03 – 15.01.04 – Mixed
Decision – inadequate reasons
- 2003/272 B Mord
HGV – FB – 17.12.03 – 23.01.04 – Dismissed
Impounding – ownership

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- 2003/273 CPT & Sons Transport Limited
HGV – FB – 17.12.03 – 29.01.04 – Dismissed
Decision – adequate reasons
- 2003/284 Team C Couriers Limited
HGV – FB – 9.01.04 – 3.02.04 – Dismissed
Decision – adequate reasons
- 2003/285 B Varney
HGV – FB – 9.02.04 – 3.02.04 – Dismissed
Decision – adequate reasons
- 2003/286 K Richards
HGV – FB – 9.01.04 – 3.02.04 – Dismissed
Impounding – recovery vehicle
- 2003/287 Malco Freight Limited
HGV – FB – 9.01.04 – 6.02.04 – Dismissed
Decision – adequate reasons
- 2003/288 B Makins (T/a Tittleshall Coachways)
PSV – JB – 20.01.04 – 19.02.04 – Dismissed
(Decision not to be published)
- 2003/292 AJ Transport
HGV – FB – 8.01.04 – 15.01.04 – Dismissed
Decision – adequate reasons
- 2003/300-301-302 Andrews (Sheffield) Limited & Others
PSV – HC – 11.02.04 – 26.02.04 – Dismissed
PSV – penalties under s.155 TA 2000
- 2003/307 J C Lee (T/a CF Transport)
PSV – JB – 20.01.04 – 9.02.04 – Allowed
(Decision not to be published)
- 2003/309 B Smith
HGV – JB – 20.01.04 – 24.02.04 – Dismissed
Impounding – lack of caution – effect of acquittal
Procedure – Tribunal not bound by previous decisions
- 2003/314 L Robbins & R Gillett
PSV – JB – 21.01.04 – 14.02.04 – Allowed
Repute – convictions
Procedure – natural justice – not allowing case to be put
- 2003/315 JJ McCaffrey (T/a Montana Freight Services) & S Pallas (T/a Pallas Transport)
HGV – HC – 18.06.04 – 2.07.04 – Dismissed
Repute – use of untaxed fuel
Financial standing – monies in wrong bank account

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- 2003/327 The Fox (A1) Limited
PSV – JB – 10.03.04 – 5.04.04 – Dismissed
Human rights – bias – test to be applied
- 2003/335 J Falk
HGV – JB – 12.03.04 – 20.04.04 – Allowed
Repute - disproportionate
- 2003/336 Winforfar Travel & Transport Services Limited
HGV – FB – 26.02.04 – 11.03.04 – Dismissed
Procedure – advertisement of application – consideration of necessary details
- 2003/338 AS Deacon
HGV – FB – 26.02.04 – 11.03.04 – Allowed
Impounding – knowledge – subjective not objective
Decision – inadequate reasons
- 2003/343 Anglo Rom Trans (Uk) Limited; Team Kitchens Limited & Paramount
Kitchens Limited
HGV – JB – 12.04.04 – 21.04.04 – Mixed
Professional competence – need for control of operations
Operating centre – where vehicles normally kept
International issues – Romanian drivers
Appeal to Court of Appeal allowed in part – see [Chapter 17 Appeals from Tribunal](#)
- 2003/344 A Roffey
PSV – JB – 12.03.04 – 20.04.04 – Allowed
Disqualification – reduced
Procedure – adjournment
- 2003/350 AL Madina Transport Limited
HGV – MB – 6.04.04 – 12.05.04 – Allowed
Procedure – perception of bias – refusal to adjourn
Decision – inadequate reasons
- 2003/351 D Silman (T/a Park Tours)
PSV – JB – 10.03.04 – 4.04.04 – Dismissed
Decision – adequate reasons
- 2003/369 JE Keeping
HGV – FB – 26.02.04 – 11.03.04 – Dismissed
Impounding – lack of grounds for return of vehicle
- 2004**
- 2004/13 Finance Leasing (London) Limited
HGV – HC – 23.04.04 – 7.04.04 – Dismissed
Impounding – express finding of knowledge
- 2004/21 Carway Haulage Limited
HGV – HC – 6.05.04 – 18.05.04 – Dismissed
Professional competence – failure to supply certificate of qualification of
transport manager

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- 2004/22 R J Jack (T/a RSJ Transport)
HGV – HC – 31.03.04 – 14.04.04 – Dismissed
Impounding – express finding of knowledge
- 2004/23 R J Mortimer
HGV – HC – 23.03.04 – 7.04.04 – Dismissed
Termination by non-payment or withdrawal – fee – no exceptional circumstances
- 2004/24 Booker Coaches Limited
PSV – JB – 20.05.04 – 14.06.04 – Dismissed
Decision – adequate reasons
- 2004/30 T McPhee
HGV – MB – 6.04.04 – 30.04.04 – Dismissed
Termination by non-payment or withdrawal – fee – no exceptional circumstances
- 2004/34 A & S Transport (London) Limited
HGV – MB – 6.04.04 – 30.04.04 – Dismissed
Decision – adequate reasons
- 2004/36 George Jenkins Transport Limited
HGV – JB - 5.07.04 – 10.08.04 – Allowed
Maintenance – inadequate reasons
Suspension – inadequate consideration of issues
Notice of issues and evidence – undisclosed documents
- 2004/43 R K Wholesale Limited
HGV – HC – 14.04.04 – 27.04.04 – Remitted
Procedure – unreasonable refusal of application – alleged lack of information
- 2004/62 Dolphin Express Freight & Caravan Storage Limited
HGV – JB – 20.05.04 – 28.06.04 – Dismissed
Decision – adequate reasons
- 2004/63 J & B Fryer Farms
HGV – FB – 7.07.04 – 4.08.04 – Allowed
Procedure – confusion over number of authorised vehicles
- 2004/74 Michael Jones
PSV – FB – 7.07.04 – 4.08.04 – Allowed
Decision – inadequate reasons
- 2004/81 C Roffey
PSV – JB – 21.05.04 – 28.06.04 – Mixed
Repute – convictions not serious road traffic offences
Disqualification – proportionality – reduction
- 2004/86 A Medford
HGV – JB – 21.05.04 – 14.06.04 – Dismissed
Decision – adequate reasons
- 2004/93 R Williams
HGV – FB – 7.07.04 – 4.08.04 – Dismissed
Financial standing – failure to supply information

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- 2004/95 Clearout Limited
HGV – JB – 21.05.04 – 14.06.04 – Dismissed
Decision – adequate reasons
- 2004/96 B Nutter
HGV – FB – 23.09.04 – 18.10.04 – Dismissed
Decision – adequate reasons
Impounding
- 2004/98 WH Vaughan
PSV – FB – 7.07.04 – 2.08.04 – Dismissed
Decision – adequate reasons
- 2004/101 G Boyd
HGV – FB – 6.10.04 – 2.11.04 – Dismissed
Decision – adequate reasons
Professional Competence
- 2004/127 BV Zainudeen (T/a Langley Transport Services)
HGV – HC – 4.08.04 – 16.08.04 – Dismissed
Decision – adequate reasons
- 2004/129 & 272 Buzy Bus Limited & Catch Me Bus.Com Limited & S Bailey
PSV – FB – 14.12.04 – 10.01.05 – Dismissed
Termination by non-payment or withdrawal – surrender not accepted
- 2004/138 Parkash Ram Banga (T/a Banga Travel)
PSV – JB – 13.08.04 – 6.09.04 – Dismissed
Decision – adequate reasons
PSV – imposition of penalty
- 2004/141 B Cutmore (T/a A Trip In Time)
PSV – HC – 29.09.04 – 14.10.04 – Dismissed
Decision – adequate reasons
PSV – imposition of penalties and curtailment
- 2004/145 G Wright (T/a Wright Transport Services)
PSV – FB – 23.09.04 – 2.11.04 – Allowed
Repute – genuine subcontract with disqualified operator
Decision – inadequate reasons
- 2004/147 Amenity Horticultural Services Limited v. Rother DC
HGV – JB – 27.10.04 – 18.11.04 – Dismissed
Operating Centre – condition limiting movements
Notice of issues and evidence – deemed service of documents under 1995
GVLO Regs
- 2004/152 Frank Meager
HGV – FB – 7.07.04 – 2.08.04 – Dismissed
Impounding – no residual discretion – not disproportionate

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- 2004/160 HG Stanhope
HGV – JB – 13.08.04 – 5.09.04 – Remitted
Impounding – new evidence of ownership
- 2004/161 J Shenton
HGV – FB – 23.09.04 – 18.10.04 – Dismissed
Decision – adequate reasons
Impounding
- 2004/164 T Senior (T/a Tim's Private Hire)
PSV – JB – 13.08.04 – 31.08.04 – Remitted
Financial standing – failure by Traffic Area Office to assist
- 2004/187 Enko Limited
HGV – HC – 4.11.04 – 19.11.04 – Dismissed
Decision – adequate reasons – late supply of information
- 2004/191 Vivian Williams (T/a Vivian Williams & Sons)
HGV – JB – 2.09.04 – 29.09.04 – Dismissed
Decision – adequate reasons
- 2004/202 D Holloway
HGV – MB – 30.09.04 – 22.10.04 - Dismissed
Operating Centre – available for use – issues of law to be avoided
- 2004/209 & 252 Home James Limousines Limited & Phillip Harries (T/a Dynevor
Wedding Cars
PSV – JB – 2.09.04 – 29.09.04 – Allowed
PSV – Stretch limos – no need for certificate of initial fitness if maximum 8
passengers
- 2004/211 Plumbing & Heating Co (Norwich) Limited
HGV – JB – 2.09.04 – 29.09.04 – Dismissed
Termination by non-payment or withdrawal – postal delay
- 2004/230 PA Ball (T/a Glenearn Plant Hire)
HGV – HC – 4.11.04 – 19.11.04 – Dismissed
Decision – adequate reasons
- 2004/231 S Cole
HGV – FB – 14.12.04 – 10.01.05 – Dismissed
Impounding – knowledge that licence required
- 2004/237 B Gillivan (T/a Gillivan Skip Hire)
HGV – MB – 30.09.04 – 22.10.04 – Dismissed
Procedure – inaccurate advertisement of application
Operating Centre – must be clearly identified on plans or maps supplied
- 2004/241 D M Alexander (T/a Alexander Transport International)
HGV – HC – 3.11.04 – 19.11.04 – Dismissed
Decision – inadequate reasons – conclusion inevitable so appeal dismissed

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- 2004/248 S Hart (T/a Hamill Transport)
HGV – FB – 23.09.04 – 30.10.04 – Dismissed
Decision – adequate reasons – failure to supply information
- 2004/255-258-292-293 & 349-350 Martin Oliver, Marion Oliver & Stuart Oliver And
Revilo Logistics Limited
HGV – HC – 26&29.11.04 – 21.12.04 – Dismissed
Repute – very serious case – multiple issues
Drivers hours and tachographs – conspiring with drivers to falsify
- 2004/265 J & M Heaver (T/a Heaver Bros Limited)
HGV – FB – 24.11.04 – 20.12.04 – Dismissed
Decision – adequate reasons
- 2004/267 First West Yorkshire Limited
PSV – HC – 19.11.04 – 9.12.04 – Dismissed
Decision – adequate reasons
- 2004/277 Bison Freight Limited
HGV – JB – 13.01.05 – 7.02.05 – Dismissed
Financial standing – failure to provide information
- 2004/295 T & M Plant Hire Limited
HGV – JB – 7.12.04 – 13.01.05 – Dismissed
Operating Centre – safety of access & egress – TC's own observations
Decision – adequate reasons
- 2004/296 Sun Yan Lee
HGV – HC – 4.11.04 – 19.11.04 – Dismissed
Decision – adequate reasons – late supply of information
- 2005/299 First Manchester Limited
PSV – FB – 31.03.05 – 28.04.05 – Allowed
Maintenance – curtailment – proportionality
- 2004/307 A B Castle Limited
HGV – HC – 3.11.04 – 19.11.04 – Dismissed
Decision – adequate reasons – late supply of information
- 2004/313 Yare Haulage Limited & Peter Pawlett
HGV – HC – 4.11.04 – 19.11.04 – Allowed
Drivers' hours and tachographs – failure to take action
Repute – need to judge as at date of public inquiry
- 2004/314 Muck It Limited
HGV – HC – 19.11.04 – 7.12.04 – Dismissed
Repute – burden of proof – position at time of application and thereafter
contrasted
Disqualification – absent director – representations
Appeal to Court of Appeal allowed in part – see [Chapter 17 Appeals from Tribunal](#)

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- 2004/315 MME Services Limited
HGV – JB – 11.05.05 – 29.06.05 – Allowed
Procedure – effect of failure of recording equipment at PI
Operating Centre – failure to consider status of representor
- 2004/324 CJ Evans t/a Shovel and Shift
HGV – JB – 13.01.05 – 1.02.05 – Dismissed
Financial standing - failure to provide information
- 2004/330 RH & DT Edwards Limited
PSV – JB – 13.01.05 – 24.12.05 – Dismissed
PSV – financial penalty upheld
Decision – adequate reasons
- 2004/362 & 72 Britannia Hotels Limited & A Langsam T/a Britannia Airport Hotel
PSV – JB – 7.12.04 – 12.01.05 – Allowed
Repute – effect of non-attendance by directors at PI
Termination by law or withdrawal – acceptance of surrender considered
- 2004/364 Pallas Transport Limited
HGV – JB – 7.12.04 – 12.11.05 – Dismissed
Procedure – bias – hearing of appeal in England not Scotland
Repute – burden of proof on applicant – result of Customs raid
- 2004/36 N & S Gillman
HGV – JB – 13.01.05 – 7.02.05 – Dismissed
Repute – failure to disclose previous revocations
- 2004/371 Enviroventure Limited
HGV – JB – 13.01.05 – 11.02.05 – Allowed
Procedure – decision disproportionate – new order substituted
- 2004/372 Maple Industries Limited
HGV – FB – 14.12.04 – 14.01.05 – Dismissed
Procedure – dismissal of appeal – time for compliance
- 2004/373 Rai Transport (Midlands) Limited and Amardip & Daljit Singh Rai
PSV – MB – 27.01.05 – 26.02.05 – Mixed
Disqualification – effect of AngloRom case (CA)
Financial standing – distinction between company and person upheld
- 2004/374 A Coid T/a Magpie Services
HGV – JB – 13.01.05 – 1.02.05 – Allowed
Procedure – advertisement of operating centre - not misleading
- 2004/383 Blue Arrow Limited
PSV – MB – 27.01.05 – 26.02.05 – Dismissed
Financial standing – failure to provide information – group accounts insufficient
- 2004/384 Central Couriers & Light Haulage Limited
HGV – JB – 13.01.05 – 11.02.05 – Dismissed
Financial standing – failure to provide information

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- 2004/391-395-396 Cleansing Service Group Limited & Others
HGV – FB – 31.03.05 – 28.04.05 – Allowed
Repute – proportionality
- 2004/407 PF White-Hide T/a Victoria Coaches
PSV – HC – 9.02.05 – 18.02.05 – Allowed
Notice of issues and evidence – incorrect information supplied to TC
- 2004/409 AC Watts
HGV – HC – 9.02.05 – 24.02.05 – Dismissed
Decision – adequate reasons
- 2004/426 & 377 EA Scaffolding & Systems Limited & EA Contract Services Limited
HGV – HC – 10 & 11.03.05 – 4.04.05 – Allowed
Procedure – allegation of bias – law and practice considered
Repute – fronting – identity of operator – law considered
- 2004/427 PA Moyse T/a PA Moyse Asphalt And Tarmacadam
HGV – MB – 27.01.05 – 26.02.05 – Dismissed
Decision – adequate reasons
- 2004/431 Carleton House Limited
HGV – FB – 11.02.05 – 26.02.05 – Dismissed
Impounding – knowledge that use unlawful
Decision – adequate reasons
- 2004/439 Surrey County Council v. DJ Willis & J Ripley T/a Ripley & Willis
HGV – JB – 22.02.05 – 24.03.05 – Allowed
Decision – *inadequate reasons* – detail not considered
- 2004/450 R Kime & Company Limited T/a Kime's Coaches
PSV – HC – 9.02.05 – 24.02.05 – Varied
Maintenance – order disproportionate
Procedure – substitution of own order by Tribunal
- 2005**
- 2005/7 2 Travel Group Plc
PSV – HC – 24.02.05 – 10.03.05 – Allowed
Financial standing – requirements explained – proportionality
Procedure – position of financial assessor considered
- 2005/8 JA Hogger T/a JCA Transport
HGV – FB – 7.04.05 – 28.04.05 – Dismissed
Decision – adequate reasons – application by inexperienced operator
- 2005/11 Lincolnshire Haulage Limited
HGV – JB – 22.02.05 – 24.03.05 – Dismissed
Decision – adequate reasons – fronting
- 2005/21 First West Yorkshire
HGV – JB – 8.03.05 – 4.04.05 – Allowed
Procedure – Tribunal substituting own order

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- 2005/29 D Hawkins T/a Station Coaches
PSV – JB – 21.04.05 – 1.06.05 – Dismissed
Decision – adequate reasons – multiple failings
- 2005/39 Zia Rehman
HGV – FB – 31.03.05 – 29.04.05 – Dismissed
Decision – adequate reasons – finances
- 2005/45 S Lean T/a Budget Skip Hire
HGV – HC – 27.04.05 – 12.05.05 – Dismissed
Decision – adequate reasons – change of address
- 2005/46 Mercian Skip Hire Limited
HGV – FB – 7.04.05 – 22.04.05 – Dismissed
Decision – adequate reasons – late payment of fee
- 2005/47 Timeline Limited
PSV – FB – 20.05.05 – 18.06.05 – Allowed
PSV – reduction in financial penalty
- 2005/50-157 Rush Travel Limited
PSV – HC – 27.04.05 – 12.05.05 – Dismissed
Repute – failure to heed police guidelines for buses at football matches
- 2005/56 NR Evans & Son Limited
HGV – HC – 27.04.05 – 12.05.05 – Allowed
Suspension – need for TC to consider consequences
Procedure – joinder of inquiries relating to operator and to drivers' conduct
- 2005/57 M Winspear
HGV – JB – 11.05.05 – 29.06.05 – Allowed
Procedure – operator's entitlement to a PI before order of revocation
- 2005/64 AC Williams Limited
HGV – MB – 1.06.05 – 28.06.05 – Dismissed
Decision – adequate reasons – multiple failings
- 2005/87 P Duckmanton T/a Cartrans
HGV – JB – 21.04.05 – 3.06.05 – Dismissed
Repute – falsification of maintenance records – imprisonment
Maintenance – falsification of records – bad case
- 2005/88 KPG Site Services Limited
HGV – FB – 20.05.05 – 18.06.05 – Allowed
Termination by non-payment or withdrawal – surrender
- 2005/110 G Dem Limited
HGV – JB – 11.05.05 – 9.06.05 – Allowed
Procedure – failure by TC to respond to application for adjournment of PI

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- 2005/118 M & J Tinworth
HGV – MB – 1.06.05 – 10.07.05 – Dismissed
Procedure – refusal to admit fresh evidence
Repute – convictions – disregard for lapse of time
- 2005/122 Galaxy Travel
PSV – MB – 1.06.05 – 28 06.05 – Dismissed
Decision – adequate reasons – multiple failings
- 2005/136 P Tagell
HGV – MB – 1.06.05 – 28.06.05 – Allowed
Professional competence – repute not lost by mere association with disqualified operator
- 2005/146 A Hughes
HGV – FB – 22.06.05 – 8.07.05 – Dismissed
Impounding – adequate reasons
- 2005/156 N Rafiq T/a Traveline
PSV – JB – 8.07.05 – 1.08.05 – Dismissed
Decision – adequate reasons – application refused – failure to answer letters
- 2005/161 S Warren
HGV – FB – 22.06.05 – 8.07.05 – Dismissed
Impounding – adequate reasons
- 2005/164 A Dale
PSV – FB – 18.07.05 – 5.08.05 – Dismissed
Professional competence – failure to notify resignation
- 2005/165 JJ McCaffery T/a Montana Transport
HGV – FB – 22.06.05 – 14.07.05 – Dismissed
Decision – adequate reasons – refusal of licence – previous loss of repute
- 2005/167 Daju Limited
HGV – FB – 22.06.05 – 8.07.05 – Dismissed
Decision – adequate reasons – multiple failings
- 2005/185 British Benzol PLC
HGV – FB – 18.07.05 – 18.08.05 – Allowed
Operating centre – failure to resolve conflicting interests
- 2005/186 AJ Jones Tipper & Grab Hire
HGV – FB – 22.06.05 – 8.07.05 – Allowed
Repute – revocation disproportionate – no intent to avoid regulation
- 2005/203 Balfour Beatty Group Limited
HGV – FB – 18.07.05 – 18.08.05 – Allowed
Decision – inadequate reasons – inconsistent detail
Operating centre – failure to resolve detail

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- 2005/205 Eddie Stobart Limited
HGV – FB – 18.07.05 – 18.08.05 – Allowed
Financial standing – proportionality
Professional competence – need for notification of changes – proportionality
- 2005/218 BL Menear
HGV – JB – 8.07.05 – 22.07.05 – Dismissed
Impounding – need to prove ownership of vehicle
- 2005/219 P Smith
HGV – JB – 17.08.05 – 20.09.05 – Dismissed
Decision – adequate reasons – operator’s failure to answer letters
- 2005/231 HSBC Equipment Finance (UK) Limited
HGV – JB – 17.08.05 – 20.09.05 – Allowed
Impounding – consideration of proof of ownership of vehicle
- 2005/236 N Alldritt T/a Maple Motors
PSV – JB – 17.08.05 – 20.09.05 – Dismissed
Drivers’ hours and rules – revocation appropriate
- 2005/239 JR Williams T/a JRW Services
HGV – JB – 17.08.05 – 22.09.05 – Dismissed
Repute – consideration of disregard of convictions
- 2005/259 RJ Evans
HGV – JB – 16.08.05 – 20.09.05 – Dismissed
Impounding – proof of ownership of vehicle
- 2005/279 TTS Trucking Limited
HGV – JB – 16.08.05 – 20.09.05 – Dismissed
Procedure – need to hold PI if requested by operator
- 2005/291 Thompson Tours Limited
PSV – JB – 22.09.05 – 14.10.05 – Dismissed
(Decision not to be published)
- 2005/300 Paragon Travel Limited
HGV – JB – 22.09.05 – 14.10.05 – Allowed
Decision – correction of detail
- 2005/301 & 327 RH & DT Edwards Limited (T/a Eros Travel) and C Jones (T/a
Wales & Marches Bus Company)
PSV – JB – 21.09.05 – 19.10.05 – Dismissed
Practice – status and effect of warnings
- 2005/306 James Scaffolding Limited
HGV – JB – 22.09.05 – 14.10.05 – Allowed
Financial standing – TC should have assisted in identifying resources
- 2005/323 Eurotaxi Limited
PSV – JB – 21.09.05 – 19.10.05 – Dismissed
PSV – financial penalty upheld

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- 2005/331 Moving Home Company Limited
HGV – HC – 23.11.05 – 15.12.05 – Dismissed
Professional competence – no power to disqualify transport manager
Disqualification – no power to disqualify transport manager
- 2005/334 Pilkingtons Accrington Limited
HGV – FB – 30.11.05 – 31.12.05 – Dismissed
Decision – adequate reasons
- 2005/335 K Everard T/a Lewdown Scaffolding
HGV – JB – 21.09.05 – 1.11.05 – Dismissed
Decision – adequate reasons – impounding – no lack of knowledge
- 2005/347 JM Jones (T/a A1 Skips)
HGV – FB – 30.11.05 – 29.12.05 – Allowed
Procedure – absence of transcript – notes provided incomplete – new hearing ordered
- 2005/355 Danny W Poole international limited
HGV – HC – 12.10.05 – 8.11.05 – Remitted
Disqualification – CA approach in Anglo-Rom case (see [Chapter 17 Appeals from Tribunal](#)) not followed – “special features” not required
- 2005/356 Edwards Transport (Shropshire) Limited
HGV – HC – 12.10.05 – 8.11.05 – Allowed
Operating centre – TC must ignore planning objections when planning authority has chosen not to appear
- 2005/357 John Bayne And Sons Limited
HGV – JB – 14.10.05 – 8.11.05 – Allowed
Procedure – failure to permit operator to comment on VOSA report
- 2005/359 Gipping Container Services Limited & A Hussein
HGV – FB – 1.12.05 – 28.12.05 – Allowed
Suspension – need for consideration of likely consequences
- 2005/362 M Couzens and D Swain T/A Dawns Transport
PSV – HC – 22.11.05 – 6.12.05 – Allowed
Repute – burden of proof – operator not present – effect of CA Muck It decision (see [Chapter 17 Appeals from Tribunal](#))
- 2005/367 K Jaggard
HGV – HC – 23.11.05 – 15.12.05 – Allowed
Disqualification – different periods for partners – no explanation given
- 2005/373 S Ellis
HGV – HC – 23.11.05 – 15.12.05 – Dismissed
Impounding – not a recovery vehicle – operator disbelieved
- 2005/385 K Grant
HGV – HC – 23.11.05 – 15.12.05 – Dismissed
Procedure – status of unqualified advocates
Impounding – burden of proof

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- 2005/393 C Gaskin
HGV – HC – 22.11.05 – 6.12.05 – Dismissed
Impounding – adequate reasons
- 2005/411 Frank Maas (UK) Limited
HGV – FB – 1.12.05 – 28.12.05 – Dismissed
Operating centre – change of centre is a material change
- 2005/412 Capital Bank PLC
HGV – FB – 1.12.05 – 28.12.05 – Allowed
Impounding – high degree of fault required – no positive steps by finance house required
- 2005/413 Red Rose Travel Limited
HGV – FB – 1.12.05 – 29.12.05 – Remitted
Financial standing – requirement considered
- 2005/422 Topcoat Uk Limited
HGV – FB – 1.12.05 – 28.12.05 – Dismissed
Decision – adequate reasons
- 2005/423 Hillside Traders Limited
HGV – JB – 8.03.06 – 20.04.06 – Allowed
Financial standing – lack of assistance by Area Office
- 2005/426 Kuldev Singh Oakhal T/a Premier Transport Services
HGV – JB – 20.12.05 – 11.01.06 – Remitted
Termination by law or withdrawal – surrender – conditions must be met
Disqualification – wrong to impose automatic indefinite period in absence of operator
- 2005/433 MG Hodgkins
PSV – MB – 4.01.06 – 16.01.06 – Dismissed
Decision – adequate reasons
- 2005/449 WJ Furber Limited
HGV – HC – 19.01.06 – 8.02.06 – Dismissed
Impounding – statutory notice – wording considered
Impounding – procedure before TC considered
- 2005/457 LJ Ings T/a Ings Transport
HGV – JB – 20.12.05 – 17.01.06 – Dismissed
Disqualification – condition on grant of licence preventing employment of named disqualified persons
- 2005/464 Secure Transport and Trading Limited
HGV – MB – 4.01.06 – 16.01.06 - Allowed
Impounding – misleading wording on application form
- 2005/466 Nijjar Dairies Limited
HGV – HC – 19.01.06 – 31.01.06 – Allowed
Decision – inadequate reasons – not enough to give conclusions

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- 2005/471 Excel A-Rate Business Services Limited
HGV – MB – 4.01.06 – 16.01.06 - Allowed
Impounding – time limit for application to return – directory not mandatory
- 2005/472 Jason McNamara T/a JMC Transport
HGV – MB – 4.01.06 – 16.01.06 – Dismissed
Procedure – failure to notify change of address
- 2005/473 EB Enterprise Waste Management Limited
HGV – HC – 19.01.06 – 31.01.06 – Allowed
Financial standing – lack of co-operation by Area Office
- 2005/485 RE Price & MJ Perry T/a Village Green Motor Services
HGV – HC – 31.01.06 – 8.02.06 – Dismissed
Financial standing – need to supply adequate documents
- 2005/486 McKillop Trucking Limited
HGV – JB – 11.01.06 – 31.01.06 – Allowed
Financial standing – burden of proof – revocation
- 2005/488 Norfolk County Council
HGV – HC – 31.01.06 – 8.02.06 – Allowed
Operating centre – failure to consider objection
- 2005/504 J Harrison T/a J Harrison Car Sales
HGV – HC – 11.01.06 – 24.01.06 – Remitted
Impounding – legal status of recovery vehicle
Decision – inadequate reasons – refusal on paper needs reasons
- 2005/505 W H Counsell
HGV – HC – 8.02.06 – 16.02.06 – Dismissed
Impounding – knowledge of unlawful use
- 2005/523 Swallow Coach Company Limited
PSV – HC – 8.02.06 – 16.02.06 – Allowed
Human rights – serious delay in decision making
Procedure – delay of 8 months in giving decision deprecated
- 2005/524 PK Banga T/a Banga Transport
PSV – JB – 7.03.06 – 7.04.06 – Allowed
Maintenance – TC's reaction must be proportionate
- 2005/532 Kundal Lal
HGV – HC – 19.01.06 – 8.02.06 – Dismissed
Financial standing – failure to supply evidence
- 2005/537 West Mix Limited
HGV – JB – 14.02.06 – 31.03.06 – Dismissed
Repute – unauthorised use over long period and false statements

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2005/542 James Thorogood
HGV – HC – 19.01.06 – 8.02.06 – Dismissed
Decision – inadequate reasons
Impounding – TC refused return without hearing – need for reasons

2005/547 Booze Cabin Limited
HGV – JB – 14.02.06 – 13.03.06 – Allowed
Financial standing – Traffic Area Office required wrong amount

2005/554 Koos Limited
HGV – JB – 25.05.06 – 5.07.06 - Dismissed
Decision – adequate reasons – failure to provide evidence

2005/565 Construction Access UK Limited
HGV – JB – 14.02.06 – 22.03.06 – Dismissed
Impounding – proof of ownership necessary

2005/595 JK Haulage Limited
HGV – JB – 8.03.06 – 20.04.06 – Dismissed
Repute – fronting for father – sham operation

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2006/1 D O'Donnell
HGV – JB – 8.03.06 – 20.04.06 – Dismissed
Decision – adequate reasons – failure to keep in touch

2006/19 Bayview Enterprises Limited T/a PD Travel
PSV – HC – 1.03.06 – 14.03.06 – Dismissed
PSV – payment of penalty under s.39 Transport (Scotland) Act 2001

2006/20 Graystone Limited
HGV – JB – 14.02.06 – 31.03.06 – Dismissed
Decision – adequate reasons

2006/56 Paul Oven Transport Services Limited
HGV – JB – 5.04.06 – 24.05.06 – Dismissed
Repute – burden of proof – application of Muck It case – see [Chapter 17 Appeals from Tribunal](#)

2006/61 Chillway Express Specials Limited
HGV – JB – 5.04.06 – 18.05.06 – Dismissed
Operating Centre – must give own correspondence address – not enough to give that of representative

2006/73 Anthony George Everett T/a S & A UK v. Secretary of State for Transport
HGV – HC – 3.05.06 – 16.05.06 – Dismissed
International issues – cabotage – meaning of “temporary use”
Repute – permanent use of Dutch vehicles in GB relevant to GB licence holder’s conduct

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- 2006/84 Iain Scott Fairbairn T/a Eurolink
HGV – JB – 25.05.06 – 30.06.06 – Dismissed
Decision – adequate reasons – financial standing
- 2006/104 Dave Graham Barfoot T/a Dave Barfoot International
HGV – JB – 5.04.06 – 18.05.06 – Dismissed
Decision – adequate reasons – revocation after failure to answer correspondence
- 2006/110 Julia Lawler
HGV – MB – 26.04.06 – 1.06.06 – Dismissed
Decision – adequate reasons – impounding
- 2006/111 Kent Coach Travel Limited
PSV – MB – 14.06.06 – 4.07.06 – Remitted
Notice of issues and evidence – adequacy of call-up letter
Financial Standing - requirement explained
- 2006/133 Iuanina Parr T/a Parr Plant
HGV – JB – 26.10.06 – 8.12.06 – Dismissed
Decision – adequate reasons
- 2006/134 Recycled Waste Transport Limited
HGV – MB – 14.06.06 – 4.07.04 – Allowed
Procedure – wrong to defer decision and to make it dependent on untested maintenance report
- 2006/146 Stephen Holt T/a Safe Hands Removals
HGV – MB – 26.04.06 – 5.06.06 – Allowed
Procedure – contents of notice of appeal to be focussed
- 2006/147 Castleton Turf and Topsoil Supplies Limited
HGV – HC – 9.05.06 – 23.05.06 – Remitted
Decision – *inadequate reasons* – impounding
- 2006/149 A & C Nowell Limited
HGV – MB – 26.04.06 – 1.06.06 – Allowed
Procedure – effect of concurrent criminal proceedings
Maintenance – failure to take into account recent improvements
- 2006/161 Kentvale Transport Limited
HGV – MB – 26.04.06 – 5.06.06 – Allowed
Drivers hours and tachographs – lost charts – curtailment disproportionate
- 2006/171 Black & White Motorways Limited
PSV – HC – 16.06.06 – 28.06.06 – Allowed
Decision – *inadequate reasons* – failure to resolve conflicts of evidence
Suspension – failure to consider likely consequences

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- 2006/192 Stephen P Shirley
PSV – FB – 27.07.06 – 18.08.06 – Allowed
Professional competence – repute of transport manager wrongly decided in absence
Procedure – adverse decision despite indication that absence at PI accepted
- 2006/195 Walter Garfield Wiggan T/a E&S Skip Hire
HGV – MB – 14.06.06 – 4.07.06 – Dismissed
Financial Standing – calculation of amount – adequacy
- 2006/222 Derek & Linda Smith T/a A Plus Buses
PSV – HC – 16.06.06 – 28.06.06 – Dismissed
Decision – adequate reasons – financial standing
- 2006/234 Gary Paul Brandon
HGV – FB – 27.07.06 – 18.08.06 – Allowed
International issues – operator may be compliant despite residence abroad
Operating centre – vehicles kept in UK despite operator's residence abroad
- 2006/235 Crown Cold Store & Distribution Limited and Karen Thorburn Jones
HGV – JB – 11.09.06 – 31.10.06 – Dismissed
Repute – daughter fronting for father – TC misled as to father's role
- 2006/238 Secure Transport and Trading Limited
HGV – FB – 27.07.06 – 18.08.06 – Dismissed
Decision – adequate reasons
- 2006/239 D Smith T/a DMS Scaffolding
HGV – FB – 27.07.06 – 18.08.06 – Dismissed
Decision – adequate reasons
- 2006/252 Alec Hayden T/a Trans Consult
HGV – HC – 17.01.07 – 31.01.07 – Dismissed
Professional competence – appointment and duties of transport manager
Procedure – representation by unqualified advocate
- 2006/265 John Edward Fuller
HGV – HC – 17.08.06 – 13.09.06 – Dismissed
Decision – adequate reasons
- 2006/266 Sussex Demolition Services Limited
HGV – HC – 17.08.06 – 13.09.06 – Dismissed
Termination by non-payment or withdrawal – part payment of fees only
- 2006/268 London Office Furniture Warehouse
HGV – FB – 28.09.06 – 11.11.06 – Allowed
Impounding – imputed knowledge not enough
- 2006/270 Site Compaction Services Limited
HGV – HC – 17.08.06 – 13.09.06 – Dismissed
Decision – adequate reasons

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- 2006/277 Michael James Fenlon T/a County Skips
HGV – MB – 13.09.06 – 25.09.06 – Allowed
Operating centre – persistent failure to use – parking outside own house
- 2006/280 Cassels Transport Limited
HGV – JB – 5.09.06 – 9.10.06 – Allowed
Decision – inadequate reasons – TC's conclusions unsupported
- 2006/312 Alexander Cooke & Sandra Cooke T/a Cookes Haulage
HGV – HC – 17.01.07 – 31.01.07 – Dismissed
Decision – adequate reasons
- 2006/313 David Lloyd
HGV – HC – 9.08.06 – 17.08.06 – Dismissed
Notice of issues and evidence – contents of call-up letters considered
Repute – false bank statements submitted with original application
- 2006/321 1st Call Limousines Limited
PSV – JB – 5.09.06 – 9.10.06 – Dismissed
PSV – Extended journey to overcome condition requiring 15 miles or more
- 2006/322 Darren Jones T/a D Jones Haulage
HGV – FB – 10.10.06 – 27.10.06 – Dismissed
Decision – adequate reasons
- 2006/335 S & A Haulage Limited
HGV – FB – 19.10.06 – 22.11.06 – Allowed
Disqualification reduced
- 2006/339 Ralph Avis T/a Avis Waste Services
HGV – FB – 10.10.06 – 27.10.06 – Allowed
Disqualification reduced
- 2006/342 Courtney Coaches Limited
PSV – FB – 19.10.06 – 22.11.06 – Allowed
Decision – inadequate reasons – failure to consider as at date of PI
- 2006/343 Celtic Commercials Limited
HGV – JB – 11.09.06 – 25.10.06 – Dismissed
Decision – adequate reasons
- 2006/351 Caledonian Coaches Limited
PSV – JB – 21.11.06 – 21.12.06 – Allowed
PSV – Order for penalty set aside – serious delay in giving decision
Procedure – serious delay in giving decision
- 2006/352 Lee John Luderman
HGV – FB – 10.10.06 – 27.10.06 – Dismissed
Decision – adequate reasons

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- 2006/355 Ferguson Transport (Spean Bridge) Limited
HGV – JB – 21.11.06 – 22.12.06 – Dismissed
Procedure – delay in giving decision
Decision – adequate reasons
- 2006/361 Sew-It-All Limited
HGV – JB – 11.09.06 – 24.10.06 – Allowed
Termination by non-payment or withdrawal – reminders not sent
- 2006/372 Bedworth Transport Services Limited
HGV – FB – 19.10.06 – 24.11.06 – Allowed
Decision – inadequate reasons – failure to evaluate evidence
- 2006/374 VFS Financial Services (UK) Limited
HGV – FB – 12.10.06- 17.11.06 – Allowed
Impounding – high degree of fault required
- 2006/376 and 407 Paul Burke and Neil Allen T/a Wrose Travel and Wrose Travel Limited
PSV – FB – 12.10.06 – 18.11.06 – Allowed
Repute – order too severe
- 2006/378 VIT Limited
HGV – FB – 12.10.06 – 17.11.06 – Allowed
Disqualification reduced
- 2006/379 Dove Collections (UK) Limited
HGV – JB – 26.10.06 – 4.12.06 – Dismissed
Decision – adequate reasons – repute – long period of unauthorised operation
- 2006/384 Alan Keir T/a Keir Couriers
HGV – 9.11.06 – 18.11.06 – Dismissed
Decision – adequate reasons – impounding
- 2006/385 Linda S Hansen T/a Decker Bus Company
PSV – FB – 19.10.06 – 22.11.06 – Allowed
Termination by non-payment or withdrawal – reminders sent to wrong address
- 2006/392 Gary Paul Brandon
HGV – JB – 26.10.06 – 1.12.06 – Allowed
International issues – need for UK transport manager if operator resident abroad
- 2006/399 Ronald Michael Marshall
PSV – MB – 3.01.07 – 15.01.07 – Allowed
Decision – inadequate reasons
- 2006/400 & 2007/11 Win-For-Far Travel and Transport Services Limited v. Norfolk County Council and Maynard Leslie Winspear
HGV – HC – 31.01.07 – 5.02.07 – Dismissed
Operating centre – advertisement – wrong road name

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- 2006/405 Transclara Limited
HGV – MB – 3.01.07 – 15.01.07 – Allowed
International issues – test is one of regulatory control
Procedure – power of Tribunal to impose conditions
- 2006/406 PCF EL Limited
HGV – FB – 24.11.06 – 18.12.06 – Dismissed
Decision – adequate reasons – impounding
- 2006/443 Pegasus Logistic Solutions Limited
HGV – MB – 3.01.07 – 15.01.07 – Dismissed
Decision – adequate reasons
- 2006/445 J & CM Smith (Whiteinch) Limited and John Smith
HGV – JB – 30.03.07 – 8.05.07 – Dismissed
Repute – Maintenance – use of vehicles on road while prohibition notices in force
- 2006/447 David Simister T/a South Wales Limos Inc
PSV – HC – 31.01.07 – 5.02.07 – Dismissed
Decision – adequate reasons
- 2006/449 Mary Robb Higgins
HGV – MB – 3.01.07 – 15.01.07 – Dismissed
Decision – adequate reasons
- 2006/454 William George Blake t/a WK Light Commercials
HGV – MB – 3.01.07 – 15.01.07 – Dismissed
Decision – adequate reasons
- 2006/455 Lakha Scaffolding Limited
HGV – HC – 8.01.07 – 23.01.07 – Dismissed
Decision – adequate reasons
- 2006/457 Rex Haulage Limited
HGV – FB – 16.02.07 – 13.03.07 – Allowed
Notice of issues and evidence – allegation of unauthorised use of operating centre not put
- 2006/459 Miranda Jones, Director, Harcol Limited
HGV – FB – 16.02.07 – 13.03.07 – Allowed
Notice of issues and evidence – call-up letter sent to old address
- 2006/475 Tuc Tuc Limited
PSV – FB – 16.02.07 – 13.03.07 – Allowed
PSV – penalty payment reduced – motorised rickshaws – proportionality
- 2006/478 M Ker T/a First Quote Pallets
HGV – FB – 16.02.07 – 13.03.07 – Allowed
Notice of issues and evidence – non-receipt of call-up letter

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- 2006/481 Parkash Ram Banga T/a Banga Travel
PSV – JB – 16.03.07 – 20.04.07 – Dismissed
Decision – adequate reasons
- 2006/482 Alison Jones T/a Shamrock Coaches
PSV – MB – 18.04.07 – 9.05.07 – Dismissed
PSV – substantial penalty payments – detail considered
Termination by non-payment or withdrawal – attempt to avoid penalty
payment by surrender and non-payment of annual fee
- 2006/483 Viridor Waste Management Limited
HGV – MB – 18.04.07 – 8.05.07 – Allowed
Decision – inadequate reasons – failure properly to review evidence
- 2006/484 Colin John Munt T/a C&M Coaches
PSV – FB – 16.02.07 – 13.03.07 – Dismissed
Decision – adequate reasons
- 2006/487 D & H Travel Limited
PSV – HC – 22.05.07 – 6.06.07 – Dismissed
Repute – sexual harassment not relevant conduct
Procedure – no power to make interim orders without hearing operator

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- 2007/27 Suffolk Gate Company Limited
HGV – JB – 16.03.07 – 11.04.07 – Dismissed
Termination by non-payment or withdrawal – delay in applying to set aside
- 2007/30 & 31 Industrial and Corporate Finance Limited
HGV – MB – 18.04.07 – 8.05.07 – Dismissed
Impounding – burden of proof – finance house failing to establish lack of high
degree of fault
- 2007/36 KDL European Limited and Kevin Lumsden
HGV – FB – 30.04.07 – 29.05.07 – Allowed
Decision – inadequate reasons – failure to consider positive factors
- 2007/38 James Peter Daines
HGV – JB – 16.03.07 – 20.04.07 – Dismissed
Decision – adequate reasons – drivers' hours' offences
- 2007/42 Michelle Jane Clarke T/a Red Rock Travel
HGV – HC – 22.05.07 – 6.06.07 – Dismissed
Decision – adequate reasons – *repute* – fronting for others
- 2007/46 JN Dairies Limited
HGV – MB – 13.06.07 – 27.06.07 – Allowed
Miscellaneous – disproportionate conclusion
- 2007/55 Ack (Haulage) Limited
HGV – MB – 13.06.07 – 27.06.07 – Allowed
Decision – inadequate reasons – failure properly to consider merits

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- 2007/56 Glebe Transport Limited
HGV – FB – 30.04.07 – 29.05.07 – Dismissed
Decision – adequate reasons – financial standing
- 2007/57 DC Haulage & Storage Limited
HGV – FB – 30.04.07 – 29.05.07 – Dismissed
Decision – adequate reasons – repute – operating without licence
- 2007/61 Richard Derek Land
HGV – HC – 22.05.07 – 6.06.07 – Allowed
Disqualification – review under s.28(6) of 1995 Act
- 2007/62 Thomas McKinney & Son Limited
HGV – JB – 11.05.07 – 19.06.07 – Dismissed
Impounding – failure to establish grounds for return of vehicles
- 2007/75 Matthew John Cooney T/a MC Blasting
HGV – HC – 31.07.07 – 9.08.07 – Dismissed
Impounding – attached HIAB crane not returnable as “contents”
- 2007/78 Clifford Paul Adamson
HGV – HC – 22.05.07 – 6.06.07 – Allowed
Termination by non-payment or withdrawal – fee demand not sent
- 2007/79 B James Skip Hire (Cardiff) Limited
HGV – JB – 11.05.07 – 12.06.07 – Dismissed
Decision – adequate reasons
- 2007/80 GPA Transport Limited
HGV – JB – 11.05.07 – 7.06.07 – Dismissed
Decision – adequate reasons
- 2007/82 Ieuan Wyn Williams T/a Ieuan Williams Coaches
PSV – MB – 13.06.07 – 31.07.07 – Allowed
Repute – stale evidence – inadequate reasons
- 2007/83-84 & 122 Anthony Head, June Head and Sandra Johns T/a Reliance
Coaches, & Others
HGV – HC – 22.05.07 – 6.06.07 – Dismissed
Decision – adequate reasons
- 2007/87 Rukhsana Bibi and Mohammed Saleem T/a Saleem Haulage
HGV – JB – 11.05.07 – 7.06.07 – Dismissed
Decision – adequate reasons
- 2007/98 Ijaz Nabi T/a Ijaz Poultry
HGV – MB – 13.06.07 – 27.06.07 – Dismissed
Decision – adequate reasons
- 2007/104 Steven Lloyd T/a London Skips
HGV – MB – 13.06.07 – 27.06.07 – Allowed
Decision – inadequate reasons – failure to balance factors
Notice of issues and evidence – contents of call-up letters considered

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- 2007/105 Florian Ciornei T/a Lorex
HGV – JB – 26.06.07 – 11.07.07 – Dismissed
Decision – adequate reasons
- 2007/129 Surrey County Council v. David Collingwood T/a Construction and Demolition Services, Fairlight Transport Services Limited and Rodney Smith
HGV – HC – 29.08.07 – 10.09.07 – Dismissed
Decision – adequate reasons
- 2007/133 Recycled Packaging (Scotland) Limited
HGV – HC – 31.07.07 – 9.08.07 – Dismissed
Suspension – no need for evidence of consequences – non-specialist vehicles
- 2007/142 Express Equine Europe Limited
HGV – JB – 26.06.07 – 11.07.07 – Dismissed
Decision – adequate reasons
- 2007/150 & 151 Michael Brandon Chick and Croydon Coaches Limited
PSV – MB – 12.09.07 – 27.09.07 – Mixed
Maintenance – order of curtailment excessive – inadequate reasons
- 2007/153 Alan Hanley T/a A Hanley & Son
HGV – HC – 11.07.07 – 27.07.07 – Dismissed
Financial Standing – failure to show sufficient funds
- 2007/160 William Fury
HGV – HC – 8.08.07 – 29.08.07 – Dismissed
Impounding – failure to establish non-contravention of Act
- 2007/168-169 and 170 M & M International Limited, Walker Movements Limited and CH Walker (Transport) Limited
HGV – JB – 30.08.07 – 24.09.07 – Allowed
Operating Centre – failure to balance evidence
- 2007/172-173-174-175-181 & 255 Romantiek Transport BVBA, GA Banham T/a Mendlesham Group Car & Commercial, Lotransport BVBA, JB Trans BVBA & M Sheppard T/a MJS Trailer Leasing
HGV – JB – 3.10.07 – 4.12.07 – Dismissed
Impounding – cabotage – operation on a temporary basis
International Issues – community authorisation insufficient
- 2007/176 Bradley Fold Travel Limited
PSV – HC – 8.08.07 – 29.08.07 – Allowed
Decision – inadequate reasons
- 2007/192 Lee Reeder T/a CL Haulage
HGV – MB – 12.09.07 – 30.09.07 – Dismissed
Financial standing – revocation after non-receipt of correspondence
- 2007/205 Evergreen Leasing Limited
HGV – HC – 31.07.07 – 9.08.07 – Allowed
Impounding – VOSA's approach to knowledge of leasing companies set out

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- 2007/208 Dean Roy Fewings T/a Fewings Services Limited
HGV – FB – 15.11.07 – 12.12.07 – Dismissed
Decision – adequate reasons
- 2007/212 Huxley Travel Limited
PSV – HC – 8.08.07 – 29.08.07 – Dismissed
Repute – concealment of insolvency – unauthorised use
- 2007/224 Capel Rail Services Limited
HGV – JB – 18.10.07 – 20.12.07 – Dismissed
Decision – adequate reasons – unauthorised use of vehicles
- 2007/241 Michael Kemp T/a Berkshire Minibus
PSV – JB – 30.08.07 – 19.09.07 – Dismissed
Decision – adequate reasons – failure to reply to correspondence
- 2007/252 & 253 Gaetana Maiorana T/a Valley Point Coaches; Valley Point Trading Limited
PSV – JB – 18.10.07 – 13.12.07 – Dismissed
Decision – adequate reasons – loss of repute
- 2007/257 Geoff Aston T/a G & L Transport Services Limited
HGV – FB – 15.10.07 – 12.12.07 – Dismissed
Decision – adequate reasons – impounding
- 2007/261 – Anthony James Floyd T/a AJ Minibuses
PSV - FB – 15.11.07 – 12.12.07 – Allowed
Disqualification – inexperience and youth – reduction ordered
- 2007/268 John Stephen Hassall T/a TJS Skip Hire
HGV – FB – 15.11.07 – 12.12.07 – Allowed
Termination by non-payment or withdrawal – taking into account unsubstantiated allegation
- 2007/294 Ethos Recycling Limited
HGV – FB – 22.11.07 – 12.12.07 – Remitted
Decision – inadequate reasons – imposition of hours' condition
- 2007/295 Fair Rider Bus Company Limited & Pavamjit Singh T/a Paul's Travel
PSV – JB – 18.10.07 – 19.12.07 – Dismissed
Decision – adequate reasons – maintenance – bad case
- 2007/311 Southdown Motor Services Limited T/a Stagecoach
PSV – FB – 22.11.07 – 18.12.07 – Allowed
PSV – penalty under s.155, 2000 Act inappropriate
- 2007/314 Jarnal Singh T/a Prestige Transport Solutions
HGV – FB – 22.11.07 – 18.12.07 – Dismissed
Decision – adequate reasons – records and tachographs
- 2007/316 Keith Chapman & Ralf Alwani T/a Highway Deliveries
HGV – HC – 10.01.08 – 28.01.08 – Allowed
Repute – disproportionate to revoke – need to consider overall result

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- 2007/318 Eurotaxi Limited
PSV – HC – 19.12.07 – 7.01.08 – Dismissed
Procedure – allegation of bias against TC – misconceived
PSV – penalty under s.155, 2000 Act – bad case
- 2007/325 Est Bus Limited
PSV – FB – 23.11.07 – 18.12.07 – Mixed
PSV – penalty under s.155, 2000 Act – condition varied
- 2007/348 Jennifer M Graves
HGV – HC – 19.12.07 – 7.01.08 – Dismissed
Decision – adequate reasons
- 2007/351 & 356 Rex Haulage Limited & J Grewal & T Grewal and Rex Haulage Limited
HGV – FB – 22.11.07 – 21.12.07 – Allowed
Disqualification – director out of office at time of public inquiry
- 2007/352 John McCarthy
HGV – HC – 20.12.07 – 7.01.08 – Dismissed
Decision – adequate reasons
- 2007/355 Medina Dairy Limited
HGV – HC – 19.12.07 – 7.01.08 – Allowed
Decision – inadequate reasons – error in number of vehicles
- 2007/370 Phil Smith Transport Limited
PSV – HC – 20.12.07 – 7.01.08 – Allowed
Repute – conduct – disregard of restrictive covenant
- 2007/414 Barclays Asset & Sales Finance
HGV – HC – 10.01.08 – 28.01.08 – Dismissed
Impounding – out of time application – 23 weeks
- 2007/416 BSL Logistics Limited
HGV – FB – 8.02.08 – 20.02.08 – Dismissed
Decision – adequate reasons
- 2007/426 Hazell & Jeffries Limited
HGV – FB – 20.03.08 – 17.04.08 – Allowed
Decision – inadequate reasons – operating centre
- 2007/428 John Maffia T/a John's School of Motoring
PSV – HC – 10.01.08 – 28.01.08 – Dismissed
Human rights – fairness – diabetic sugar shortage by TC
- 2007/433 James Michael Kearney
HGV – HC – 10.01.08 – 28.01.08 – Dismissed
Decision – adequate reasons
- 2007/441 & 442 Kev's Travel Limited & Kevin Lawrence Brookes
PSV – FB – 20.03.08 – 17.04.08 – Dismissed
Decision – adequate reasons

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2007/459 KDL European Limited & Kevin Lumsden
HGV – HC – 11.04.08 – 7.05.08 – Dismissed
Repute – numerous tachograph offences – need for deterrence
Decision – *inadequate reasons* – cases reviewed

2007/484 Jennifer Mary Graves
HGV – MB – 9.04.08 – 30.04.08 – Allowed
Impounding – proof of ownership

2008

2008/4 H&A Holdings Limited
HGV – HC – 11.04.08 – 22.04.08 – Allowed
Professional competence – no power to disqualify transport manager
Repute – failure to consider need to put operator out of business

2008/5 Mark Skellern Limited & Mark Skellern
HGV – HC – 11.04.08 – 22.04.08 – Dismissed
Professional competence – no power to disqualify transport manager
Disqualification – no power to disqualify transport manager

2008/11 Ansvar Holdings Limited v. Secretary of State for Transport
HGV – FB – 2.05.08 – 29.05.08 – Allowed
Impounding – legal status of recovery vehicle clarified
Procedure – allegation of bias – law and practice considered

2008/26 EPI Coaches Limited
PSV – MB – 9.04.08 – 29.04.08 – Allowed
Decision – *inadequate reasons* – no evidence of fronting

2008/48 T&T Coaches Limited
HGV – HC – 22.04.08 – 7.05.08 – Allowed
Notice of issues & evidence – *repute* not raised in call-up letter

2008/60 & 519 Katherine Oliver T/a JW Swan & Partners
HGV – MB – 13.08.08 – 9.09.08 – Mixed
Procedure – allegation of bias – TC a witness as to fact
Procedure – conduct of PI – excessive interruptions by TC

2008/70 Kevin & Beryl Hughes T/a Ashford Minibuses
PSV – HC – 22.04.08 – 7.05.08 – Allowed
Miscellaneous – misunderstanding by Traffic Area Office

2008/92 Glen Miller Harrison
HGV – HC – 22.04.08 – 7.05.08 – Dismissed
Notice of issues & evidence – deemed if to last known address
Professional competence – deemed notice to transport manager

2008/94 Sania International Limited
PSV – FB – 24.07.08 – 21.08.08 – Mixed
Disqualification – order excessive

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- 2008/126 All Pallets Limited
HGV – HC – 22.04.08 – 7.05.08 – Mixed
Operating Centre – issue remitted
- 2008/130 Lorna Eddie T/a Lorn Freight
HGV – JB – 6.06.08 – 21.07.08 – Dismissed
Decision – inadequate reasons – concise reasons may be sufficient
- 2008/151 Tuc Tuc Limited
PSV – HC – 22.04.08 – 7.05.08 – Allowed
PSV – penalty under s.155, 2000 Act – punitive
- 2008/176 Thomas Malcolm T/a Premier Travel
PSV – JB – 6.06.08 – 9.07.08 – Dismissed
Decision – adequate reasons
- 2008/183 Jennifer Graves T/a J Holland Haulage
HGV – JB – 6.06.08 – 3.07.08 – Dismissed
Decision – adequate reasons
- 2008/193 Lewis Travel UK Plc
PSV – FB – 2.05.08 – 29.05.08 – Allowed
Decision – adequate reasons – proportionality
- 2008/194 Manjit Singh T/a Manjit Haulage
HGV – FB – 22.05.08 – 20.06.08 – Mixed
Decision – adequate reasons – proportionality
- 2008/198 Gafoor Poultry Products Limited
HGV – JB – 3.06.08 – 1.07.08 – Dismissed
Decision – adequate reasons – impounding
- 2008/223 James Grigor Innes T/a JC Innes & Sons
HGV – JB – 6.06.08 – 23.07.08 – Dismissed
Decision – adequate reasons – interference with tachographs
- 2008/236 Lakes Supertours Limited and Andrew Dobson
PSV – HC – 8.07.08 – 28.07.09 – Dismissed
Decision – adequate reasons – bad maintenance
- 2008/249 + 261 Alan Trevor Holder T/a H & H Transport and Harold J Williams T/a
HH Williams & Sons
HGV – FB – 24.07.08 – 20.08.08 – Mixed
Decision – adequate reasons – proportionality
- 2008/255 Paul Simon Short T/a P & J Transport
HGV – FB – 22.05.08 – 20.06.08 – Mixed
Disqualification – inappropriate
- 2008/258 Mulroy Construction Limited
HGV – JB – 3.06.08 – 1.07.08 – Dismissed
Decision – adequate reasons – failure to notify change of address

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- 2008/268 Funstons Limited
HGV – HC – 8.07.08 – 28.07.08 – Dismissed
Operating Centre – driver parking outside home during week
Procedure – no appeal to Tribunal from formal warning
- 2008/299 David Henry Hunter & Partners
HGV – MB – 13.08.08 – 9.09.08 – Dismissed
Decision – adequate reasons – financial standing
- 2008/314 Kishore Balu T/a Alpha Transport Services Limited
HGV – MB – 13.08.08 – 9.09.08 – Dismissed
Decision – adequate reasons – failure to answer letters
- 2008/315 LC Mistry
HGV – FB – 21.08.08 – 12.09.08 – Mixed
Professional competence – muddled order
- 2008/232 Stuart Lloyd Griffiths T/a Logistics and Supply Chain
HGV – MB – 10.09.08 – 23.10.08 – Dismissed
Decision – adequate reasons – repute
- 2008/335 Greaves Surveying & Engineering Limited
HGV – JB – 2.09.08 – 24.09.08 – Allowed
Operating centre – suitability of public highway access considered
- 2008/340 Jim Kilpatrick T/a J Kilpatrick Coach Hire
PSV – JB – 5.09.08 – 30.09.08 – Dismissed
Decision – adequate reasons – repute – bad case
- 2008/341 & 347 Oakmist Limited and George Cran
HGV – JB – 5.09.08 – 3.10.08 – Dismissed
Decision – adequate reasons – operation of sham company
- 2008/342 Alistair James Brown T/a Browns of Edinburgh
PSV – JB – 2.09.08 – 10.10.08 – Dismissed
Drivers' hours and tachographs – systemic falsification and use of ghost names
- 2008/353 Andrew Rust & Louise McKinney T/a LA Coaches
PSV – JB – 2.09.08 – 23.09.08 – Dismissed
Decision – adequate reasons – repute
- 2008/366 Barrington J Ross
HGV – FB – 21.08.08 – 12.09.08 – Dismissed
Decision – adequate reasons – failure to attend PI
- 2008/384 Barkridge UK Limited
HGV – FB – 24.07.08 – 18.08.08 – Dismissed
Decision – adequate reasons – failure to answer letters
- 2008/389 Guildford Timber Frame Limited
HGV – MB – 13.08.08 – 9.09.08 – Dismissed
Decision – adequate reasons – financial standing

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- 2008/407 Surrey County Council c. Ronald Rybak-Rajewski T/a Blacktrak Surfacing Contractors
HGV – HC – 7.10.08 – 28.10.08 – Dismissed
Operating centre – suitability by attachment of condition
- 2008/410 Brian Hill Waste Management Limited v. Secretary of State for Transport
HGV – MB – 30.01.09 – 16.02.09 – Dismissed
Financial standing – action by TC not precluded by administration
Repute – operating vehicles of insolvent company – fronting
- 2008/413 Al-Le Logistics Limited, Alan John Bennett and Michael John Godden
HGV – MB – 10.09.08 – 3.11.08 – Allowed
Procedure – adjournment refused despite VOSA's failure to release seized documents
Drivers' hours and tachographs – undertaking not absolute
- 2008/421 MR Harris T/a Metropolitan Scaffolding
HGV – HC – 7.10.08 – 28.10.08 – Dismissed
Decision – adequate reasons – failure to answer letters
- 2008/433 David Turner T/a DT Services
HGV – HC – 7.10.08 – 28.10.08 – Dismissed
Decision – adequate reasons – curtailment
- 2008/435 Goosecroft Coaches Limited
PSV – FB – 14.11.08 – 10.12.08 – Dismissed
Decision – adequate reasons – bus penalty
- 2008/470 Heart of Wales Bus and Coach Limited
PSV – HC – 7.10.08 – 28.10.08 – Dismissed
Maintenance – undertaking for 6 monthly audit properly imposed
- 2008/471 Richard John Dobb T/a EC Logistics
HGV – HC – 23.10.08 – 13.11.08 – Mixed
Disqualification – set aside as incorrect factual basis
- 2008/472 Kevin Scott
HGV – HC – 7.10.08 – 28.10.08 – Allowed
Procedure – failure to balance and explain favourable result in linked PI
Disqualification – set aside as incorrect factual basis
- 2008/476 M8 Scotland Limited
HGV – FB – 14.11.08 – 5.12.08 – Dismissed
Decision – adequate reasons – operating dissolved company
- 2008/492 Robin Josef Kurzaj T/a RJK Construction
HGV – HC – 23.10.08 – 13.11.08 – Dismissed
Decision – adequate reasons – failure to supply information
- 2008/501 Munir Hassain T/a Alquasim Poultry
HGV – HC – 23.10.08 – 13.11.08 – Dismissed
Decision – adequate reasons – persistent non-compliance

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- 2008/503 Huw's Scrap Metal Services Limited
HGV – HC – 23.10.08 – 13.11.08 – Dismissed
Decision – adequate reasons – operating centre unsuitable
- 2008/510 John Malcolm Blackstock
HGV – HC – 7.10.08 – 28.10.08 – Dismissed
Decision – adequate reasons – termination by non-payment of fee
- 2008/525 Barrhead Bus Company Limited & Others
PSV – FB – 28.01.09 – 26.02.09 – Dismissed
Decision – adequate reasons – persistent non-compliance
- 2008/526 Robert Kingman and Steven Kingman T/a Kingman Services
HGV – HC – 23.10.08 – 13.11.08 – Allowed
Decision – adequate reasons – proportionality
- 2008/542 Absolute Scaffolding Services Limited
HGV – FB – 5.12.08 – 5.01.09 – Allowed
Operating centre – suitability – imposition of conditions
- 2008/569 David Collingwood T/a Construction & Demolition Services
HGV – HC – 5.11.08 – 20.11.08 – Dismissed
Termination by non-payment or withdrawal – no requirement for reminders
- 2008/580 & 581 Tajinder Singh Dhaliwal & New Bharat Skips Limited
HGV – HC – 20.11.08 – 3.12.08 – Dismissed
Repute – serious offences – comparison between company and individual
- 2008/583 Beeline Sameday Limited and Harvinder Pasricha
HGV – HC – 23.10.08 – 13.11.08 – Dismissed
Decision – adequate reasons – persistent non-compliance
- 2008/593 Martin John Graves
HGV – HC – 20.11.08 – 3.12.08 – Dismissed
Disqualification – review – principles to be applied – lead case
- 2008/622 David Michael Feasey T/a Feasey Transport
HGV – FB – 5.12.08 – 30.12.08 – Dismissed
Decision – adequate reasons – persistent non-compliance
- 2008/623 Robert Dunlop T/a ARM Dunlop
HGV – FB – 14.11.08 – 5.12.08 – Dismissed
Decision – adequate reasons – persistent non-compliance
- 2008/655 A2Z Travel (UK) Limited
PSV – MB – 13.01.09 – 12.02.09 – Dismissed
Decision – adequate reasons – persistent non-compliance – maintenance
- 2008/668 Sukhpal Singh T/a Deep Transport
HGV – MB – 13.01.09 – 30.01.09 – Dismissed
Decision – adequate reasons – serious non-compliance

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- 2008/688 & 745 David Pritchard and Brian Smith
HGV – JB – 10.12.08 – 5.01.09 – Mixed
Directors duties – TC’s jurisdiction extends to past and present directors
- 2008/778 Beta Buses Limited & Bayview Enterprises Limited
PSV – FB – 28.01.09 – 18.02.09 – Dismissed
Decision – adequate reasons – serious non-compliance
- 2008/780 South Lincs Plant Hire & Sales Limited
HGV – HC – 13.02.09 – 3.03.09 – Allowed
Drivers’ hours and tachographs – proportionality
- 2008/792 K Oxley
HGV – MB – 30.01.09 – 16.02.09 – Allowed
Procedure – letter to be regarded as request for PI
- 2008/795 Patrick John Ely T/a Ely Haulage and Plant Hire
HGV – JB – 24.02.09 – 5.03.09 – Dismissed
Decision – adequate reasons – non-payment of annual fee
- 2008/816 Linda Perry T/a Hannah Transport
HGV – HC – 13.02.09 – 3.03.09 – Dismissed
Decision – adequate reasons – fronting and non-compliance
- 2008/829 Brian J. Kennedy t/a Kennedy Commercials
HGV – FB – 27.03.09 – 24.04.09 – Dismissed
Material change in circumstances – *Financial standing*
- 2008/860 Star Forwarding Limited
HGV – HC – 13.02.09 – 3.03.09 – Dismissed
Decision – adequate reasons – failure to answer letters

2009

- 2009/008 William Ball T/a Severn Valley Transport
HGV – JB – 24.02.09 – 16.03.09 – Dismissed
Decision – adequate reasons – unauthorised use and obstruction
- 2009/011 Katherine Oliver & Jw Swan & Partners
HGV – MB – 12.03.09 – 30.03.09 – Dismissed
Disqualification – decision on own facts.
- 2009/018 Rastab Ali T/a S A Halal Meats
HGV – HC – 13.02.09 – 3.03.09 – Dismissed
Decision – adequate reasons – financial resources
- 2009/023 Howard Collins
HGV – MB – 12.03.09 – 06.04.09 – Dismissed
Impounding – exemption for vehicles with fitted equipment.

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- 2009/030 Pilkingtons Accrington Ltd. t/a King Travel
PSV – MB – 12.03.09 – 06.03.09
PSV – Need for reasons – correct approach to application to abridge time
- 2009/112 Click Services Ltd
PSV – FB – 20.03.09 – 08.04.09 – Dismissed
Financial Standing – large debt to HM Revenue and Customs.
- 2009/154 PD Aylward t/a Aylward Contractors
HGV – HC – 02.04.09 – 17.04.09 – Dismissed
Disqualification
- 2009/156 Angus Agencies (1997) Ltd.
HGV – FB – 15.05.09 – 12.06.09 – Allowed in part
Curtialment too severe in the circumstances
- 2009/173 B & J Eyres t/a BJR Haulage
HGV – HC – 02.04.09 – 17.04.09 – Allowed
Miccellaneous – Problems with correspondence
- 2009/176 Ian Cotton t/a A1 Buses of Skelmersdale
PSV – FB – 29.05.09 – 23.06.09 – Allowed
Decision – inadequate reasons
- 2009/182 WJ Wooster & sons Ltd.
HGV – FB – 29.05.09 – 23.06.09 – Dismissed
Curtailment of licence upheld
- 2009/189 J Coyle Haulage Ltd and John Frnaxis Coyle
HGV – FB – 12.05.09 – 09.06.09 – Allowed
Repute
- 2009/190 Z Kadar
HGV – FB – 12.05.09 – 09.06.09 – Dismissed
Impounding
- 2009/191 Nationwide Logistics t/a R&H Haulage
HGV – HC – 25.06.09 – 07.07.09 – Dismissed
Financial Standing
- 2009/204 Michael John Verrechia
HGV – FB – 29.05.09 – 23.06.09 – Allowed
Miscellaneous – confusion over correspondence
- 2009/210 Mark Bowring t/a Wyscaff
HGV – JB – 08.06.09 – 22.06.09 – Dismissed
Impounding
- 2009/215 LE Jones Ltd. & LE Jones International Ltd.
HGV – JB – 08.06.09 – 29.06.09 – Allowed
Repute – not lost – severe curtailment

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- 2009/225 Priority Freight Ltd. & Paul Williams
HGV – MB – 06.07.09 – 31.07.09 – Allowed
Decision – inadequate reasons – drivers hours
- 2009/226 Paul Castleton
HGV – HC – 25.06.09 – 07.07.09 – Dismissed
Financial standing – Miscellaneous – material change in circumstances
- 2009/227 Ptarmigan Transport Solutions Ltd t/a Bankfoot Buses
PSV – FB – 15.05.09 – 12.06.09 – Allowed
Miscellaneous – adjournment/investigation before decision on adjournment
- 2009/237 Jarvill Ltd. t/a Coloured Steel Products
HGV – HC – 25.06.09 – 07.07.09 – Dismissed
Maintenance – Miscellaneous – prohibitions, undertakings, material change
- 2009/238 Brian Smith
PSV – JB – 08.06.09 – 22.06.09 – Dismissed
Repute
- 2009/240 AM Kydd t/a Sandy Kydd Road Transport
HGV – HC – 21.08.09 – 03.09.09 – Dismissed
Disqualification – Miscellaneous – 5 years disqualification upheld – operator's and drivers' conduct should be heard together
- 2009/246 Felix Connors
HGV – JB – 08.06.09 – 22.06.09 – Dismissed
Miscellaneous – Failure to respond to correspondence
- 2009/252 Adrian O'Malley t/a O'Malley Haulage
HGV – FB – 11.09.09 – 10.10.09 – Allowed
Decision – inadequate reasons – Burden of Proof reversed
- 2009/264 Alistair Ronald Brown
PSV – HC – 21.08.09 – 03.09.09 – Dismissed
Repute – T C correct to take into account family background.
- 2009/289 Bradley Fold Travel Ltd
PSV – MB – 06.07.09 – 23.07.09 – Dismissed
Repute – Procedure – approach to appeal hearing – Tribunal entitled to conduct own balancing exercise.
Appeal to Court of Appeal dismissed – see [Chapter 17 Appeals from Tribunal](#)
- 2009/307 Anne Jones Edwards & Edward Anthony Edwards
HGV – JB – 10.08.09 – 01.09.09 – Dismissed
Maintenance – Disqualification
- 2009/369 Munro & sons (Highland) Ltd.
HGV – HC – 21.08.09 – 03.09.09 – Dismissed
Maintenance – Disqualification

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- 2009/385 1st 4 Builders Ltd.
HGV – JB – 10.08.09 – 24.08.09 – Dismissed
Financial standing
- 2009/401 Santokh Singh t/a Sunny Travel
PSV – FB – 11.09.09 – 10.10.09 – Dismissed, save that penalty &
disqualification reduced
PSV – Repute – Professional competence – disqualification - Financial penalty
- 2009/410 Warstone Motors Ltd t/a The Green Bus Service
PSV – FB – 11.09.09 – 10.10.09 – Dismissed
Repute – Financial standing
- 2009/411 L S Court Lt t/a Courts of Fillongley
HGV – FB – 11.09.09 – 10.10.09 – Dismissed
Termination by non-payment
- 2009/412 BL & SS Robson t/a Robson Farms
HGV – FB – 11.09.09 – 10.10.09 – Dismissed
Appeal against formal warning
- 2009/417 James Innes t/a J C Innes & Sons
HGV – HC – 21.08.09 – 03.09.09 – Remitted for rehearing
- 2009/455 Martini Scaffolding Ltd.
HGV – FB – 22.09.09 – 20.10.09 – Dismissed
Maintenance – disqualification
- 2009/465 Secure Transport & trading Ltd.
HGV – FB – 22.09.09 – 20.10.09 – Dismissed
Financial standing – Professional competence
- 2009/466 Stephen Leonard Hughes t/a Hughes Transport
HGV – FB – 22.09.09 – 20.10.09 – Dismissed
Financial standing
- 2009/479 John Popple t/a J&S Popple
HGV – FB – 22.09.09 – 20.10.09 – Dismissed
Termination by non-payment
- 2009/483 Kyle Seafoods Ltd.
HGV – FB – 27.10.09 – 27.11.09 – Dismissed
Operating Centre – unauthorised use – application refused
- 2009/485 B. Kennedy Commercials Ltd
HGV – FB – 25.10.09 – 27.11.09 – Allowed
Procedure – Recusal
- 2009/487 S & A Bruford Transport
HGV – MB – 5.11.09 – 26.11.09 – Dismissed
Miscellaneous – Failure to reply to letters

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- 2009/488 D&A Lawrence t/s The Roseglen Hotel
PSV – MB – 05.11.09 – 16.11.09 – Dismissed
Miscellaneous – Failure to respond
- 2009/492 Clememte Fanciulli t/a PB Haulage
HGV – MB – 5.11.09 – 16.11.09 - Dismissed
Termination by non-payment
- 2001/493 Juliet Joyce Hutchison
HGV – MB – 5.11.09 – 16.11.09- Allowed
Miscellaneous – change of address
- 2009/497 Thorpe Lane Commercials Ltd
HGV – FB – 13.11.09 – 9.12.09 – Allowed
Miscellaneous – Material change in circumstances – address
- 2009/498 G. Sunderland & J. Warburton
HGV – FB – 13.11.09 – 11.12.09 – Allowed
Disqualification – Licence not revoked.
- 2009/500 Reids Transport Minishant Ltd & A. Fraser & R. Laidlaw
HGV – FB – 27.10.09 – 27.11.09 – Dismissed (revocation) Allowed
(disqualification)
Maintenance – Disqualification
- 2009/501 Fenton Transport Ltd.
HGV – FB – 27.10.09 – 27.11.09 – Dismissed
Drivers hours and tachographs
- 2009/502 Innes Transport Ltd.
HGV –FB – 27.10.09 – 27.11.09 – Allowed
Repute – Guilt by association
- 2009/503 TS Transport (Scotland) Ltd
HGV – FB – 27.10.09 – 27.11.09 – Allowed
Suspension and Curtalimnt
- 2009/504 Darren Ronald Ivor Alexander t/a Alexander Haulage
HGV – HC – 12.01.10 – 26.01.10 – Allowed-remitted
Miscellaneous – Traffic Commissioner misinformed as to absence of Appellant
- 2009/505 The Racing Bug Ltd
HGV – FB – 13.11.09 – 09.12.09 – Allowed
Termination for non-payment
- 2009/506 Grainline Ltd
HGV – FB – 13.11.09 – 09.12.09 – Allowed
Termination for non-payment
- 2009/507 William King t/a B King Scaffolding
HGV – HC – 04.02.10 – 16.02.10 – Dismissed
Miscellaneous – Failure to respond

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- 2009/509 Aspey trucks Ltd
HGV – FB – 13.11.09 – 14.12.09 – Allowed-remitted
Repute
- 2009/510 Margaret McKindless t/a McKindless Express Coaches
PSV – FB – 22.01.10 – 19.02.10 – Allowed
PSV – Financial Penalty
- 2009/513 Ptamigan Transport Solutions t/a Bankfoot Buses
PSV – FB – 22.01.10 – 19.02.10 – Dismissed
Financial Standing – Professional Competence – Repute – Disqualification
- 2009/514 Peter Dry Ltd t/a Autosmart
HGV – HC – 12.01.10 – 26.01.10 – Dismissed
Financial Standing – Miscellaneous – Failure to provide material to support application
- 2009/515 Les Searle Plant Hire & Sales Ltd
HGV – HC – 04.02.10 – 23.02.10
Operating Centre – conditions
- 2009/516 Farooq Ahmed & Haroon Ahmed
HGV – HC – 04.02.10 – 23.02.10 – Allowed
Notice of issues and evidence – Disqualification
- 2009/518 Rose & Sons Ltd
HGV – HC – 04-02-10 – 16.02.10 – Dismissed
Termination for non-payment – Right to Appeal.
- 2009/519 Vari Adams t/a Euroboat Transport
HGV – FB – 22.01.10 – 19.02.10 – Dismissed
Repute – Professional Competence
- 2009/520 John & Shane Moore t/a John Moore Event (Furniture) Hire
HGV – HC – 12.01.10 – 26.01.10 – Dismissed
Termination for non-payment.
- 2009/521 Whitaker and Normile Racehorses
HGV – FB – 22.01.10 – 19.02.10 – Dismissed
Miscellaneous – Failure to respond
- 2009/522 Jason William Barrett
HGV – HC – 04.02.10 – 16.02.10 – Dismissed
Financial Standing
- 2009/523 Roby's Com Ltd
HGV – HC – 04.02.10 – 16.02.10 – Dismissed
Termination for non-payment
- 2009/524 Ocean transport Ltd
HGV – HC – 16.02.10 – 23.02.10 – Dismissed
Financial Standing – Procedure

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- 2009/525 James G. Innes
HGV – FB – 28.06.10 – 28.07.10 – Dismissed
Impounding
- 2009/526 Davis roofing Ltd
HGV – FB – 10.03.10 – 07.04.10 – Dismissed
Miscellaneous – Non-compliant advertisement
- 2009/527 Lisa Rafferty t/a 1st Class Limos
PSV – JB – 25.03.10 – 09.04.10 – Dismissed
PSV – Stretch Limos & Disco Buses
- 2009/528 KHJ Ltd
HGV – FB – 10.03.10 – 07. 04.10 – Dismissed
Repute – Disqualification
- 2009/529 Gary Alan Challingsworth
HGV – HC – 16.02.10 – 23.02.10 – Dismissed
Financial Standing
- 2009/530 Boomerang Travel Ltd
PSV – JB – 23.03.10 – 12.04.10 – Allowed – remitted
Repute – extending period for rehabilitation

2010

- T/2010/001 Denise & Peter Walsh t/a Walsh Skip Hire
HGV – MB – 31.03.10 – 30.04.10 – Dismissed
Repute – Disqualification
- T/2010/002 Colin Fletcher t/a M cuk Haulage & Paul Fletcher
T/2010/004 David Doring t/a Doring Transport
HGV – JB – 23.03.10 – 15.04.10 – Dismissed
Repute
- T/2010/003 Peter Gerecke t/a West Coast Antiques
HGV – MB – 31.03.10 – 26.04.10 – Dismissed
Impounding
- T/2010/005 Gary James t/a Gary James Transport
HGV – MB – 31.03.10 – 20.04.10 – Dismissed
Miscellaneous – Material change in circumstances – Financial Standing
- T/2010/006 James & Catherine Cosgrove t/a Fisher Tours
PSV – JB – 26.03.10 – 09.04.10 – Dismissed
PSV – assessment of penalty – Miscellaneous – general grounds of appeal
- T/2010/008 William George Richards t/a G E A Richards
HGV – MB – 31.03.10 – 26.04.10 – Dismissed
Operating Centre – imposition of conditions
- T/2010/009 Stevens Assured Services Ltd
HGV – JB – 23.03.10 – 12.04.10 – Dismissed

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- T/2010/011 TW Walton & C Walton t/a TW & C Walton Builders
HGV – MB – 31.03.10 – 20.04.10 – Dismissed
Termination for non-payment
- T/2010/012 Gary Stone Groundworks Ltd
HGV – FB – 14.04.10 – 12.05.10 – Dismissed
Termination for non-payment
- T/2010/013 Malcolm Thomas Berry
PSV – MB – 23.04.10 – 20.05.10 – Dismissed
Repute – Financial Standing
- T/2010/014 SDV Bernard Ltd
HGV – HC – 10.05.10 – 25.05.10 – Dismissed
Termination for non-payment
- T/2010/015 GAP Container Services Ltd & Frederick William Evans
HGV – HC – 10.05.10 – 25.05.10 – 1st Appellant – Dismissed
2nd Appellant – Allowed
Notice of issues and evidence
- T/2010/016 Alan Cooper t/a Alan Cooper Haulage
- T/2010/021 Jeanette Wootten t/a Woodhouse Furniture
HGV – MB – 23.04.10 – 11.05.10 – Allowed
Termination for non-payment – general guidance
- T/2010/018 Horsebox Mobile Repair Services Ltd
HGV – MB – 31.03.10 – 20.04.10 – Allowed
Termination for non-payment
- T/2010/019 AWE Grad Hire Ltd
HGV – FB – 14.06.10 – 13.07.10 – Dismissed
Repute – Miscellaneous – Disqualification
- T/2010/020 Sukhwinder Singh r/a Sandwell Travel
PSV – FB – 14.04.10 – 12.05.10 – Dismissed
- T/2010/022 Coachman Travel Ltd & Richard Saunders
PSV – HC – 09.06.10 – 30.06.10 – Allowed (re disqualification of
Saunders)
Notice of issues and evidence.
- T/2010/023 Environment Solutions Ltd
HGV – FB – 14.06.10 – 13.07.10 – Allowed
Financial Standing
- T/2010/024 Hedley Simcock
HGV – HC – 10.05.10 – 25.05.10 – Dismissed
Financial Standing – Miscellaneous – various matters under s.26

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T/2010/025 Skip It (Kent), Skip It (Hauglage) & Skip It Property Investments Ltd
HGV – MB – 20.10.10 – 22.11.10 – Appeal by Kent Allowed, others
Dismissed

Repute – Miscellaneous – Power to make findings in relation to repute

T/2010/028 Christopher James Bishop Green t/a Jamie Green Trucking
HGV – MB – 27.05.10 – 11.06.10 – Dismissed

Termination for non-payment

T/2010/029 David Finch t/a David Finch Haulage
HGV – MH – 14.07.10 – 22.07.10 – Allowed

Disqualification- adequacy of reasons

T/2010/030 & 032 Canalside UK Ltd & Lewis Robley Horn t/a L R Horn
HGV – MH – 14.07.10 – 22.07.10 – Dismissed

Financial standing – Maintenance – Professional Competence

T/2010/031 Joseph Kennedy t/a J K Parcels
HGV – FB – 28.06.10 – 26.07.10 – Allowed - remitted

Miscellaneous – failure to answer letters

T/2010/033 Alderhall Services Ltd
HGV – HC – 09.06.10 – 30.06.10 – Dismissed

Miscellaneous – failure to answer letters or provide financial evidence

T/2010/034 W P Commercials Ltd
HGV – MB – 23.07.10 – 12.08 -10 – Allowed – condition varied

Operating Centre – environmental conditions

T/2010/035 Steven Alan Curtis t/a S&A Curtis Transport & Alan Frederick Curtis
HGV – HC – 12.08.10 – 01.09.10 – Dismissed

Repute – Maintenance – Disqualification

T/2010/036 Suzanne Stoneman t/a Keith Travel
PSV – HC – 12.08.10 – 25.08.10 – Allowed – in part

Repute – Financial Standing – Professional Competence –adequacy of reasons

T/2010/037 SE Maintenance Ltd
HGV – FB – 14.06.10 – 13.07.10 – Allowed

Termination for non-payment

T/2010/038 Roadmaster Lagistics Ltd
HGV – FB – 04.08.10 – 31.08.10 – Dismissed

Repute – Financial Standing – Professional Competence – Disqualification

T/2010/040 Rowlands Telecoms Ltd
HGV – FB – 04.08.10 – 31.08.10 – Dismissed

Miscellaneous – Material change in circumstances

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- T/2010/041 Darren Smith t/a DMS Scaffolding
HGV – HC – 12.08.10 – 25.08.10 – Dismissed
Miscellaneous – Material change in circumstances
- T/2010/042 Flowers 2000 Private Co Ltd t/a Cargo Carriers Transport
HGV – JB – 14.09.10 – 04.10.10 – Dismissed
Repute – *Financial Standing* – *Drivers Hours and Tachographs*
- T/2010/043 Stephen Mcvinnie t/a Knight Rider
PSV – MH – 23.09.10 – 28.09.10 – Dismissed
Miscellaneous – notice of Public Inquiry – *Financial standing*
- T/2010/044 Anthony J Long t/a AJ Long Services
HGV – MH – 23.09.10 – 04.10.10 – Dismissed
Impounding – *Procedure* – impounding of two vehicles – one hearing
- T/2010/046 Derbyshire Road Haulage Ltd
HGV – MH – 07.10.10 – 22.10.10 – Dismissed
Financial Standing
- T/2010/047 Nelson Rogers & Francis Rogers t/a Rogers Fencing
HGV – MH – 23.09.10 – 01.10.10 – Dismissed
Miscellaneous – failure to respond to correspondence
- T/2010/048 Anthony Edwards t/a Jim Bertie
HGV – MH – 07.10.10 – 22.10.10 – Dismissed
Miscellaneous – failure to provide an effective address for correspondence
- T/2010/049 Aspey Trucks Ltd
HGV – MH – 23.09.10 – 05.10.10 – Dismissed
Repute – convictions – *Procedure* – difference between application and existing licence
- T/2010/051 John Perrin t/a J P Scaffolding
HGV – JB – 14.09.10 – 28.09.10 – Dismissed
Miscellaneous – failure to notify change of address
- T/2010/052 & 053 Shaun Andrew Taylor & Mark Taylor
HGV – MH – 07.10.10 – 22.10.10
Repute – *Adequacy of reasons*
- T/2010/056 Mohamed Aslam t/a Instant Freight
HGV – MB – 20.10.10 – 15.10.10 – Dismissed
Miscellaneous – failure to respond to letters
- T/2010/058 Asif Mohammed Din t/a Ribble Valley Private Hire
PSV – MH – 29.10.10 – 23.11.10 – Dismissed
Repute – *Financial Standing*

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- T/2010/059 George William Garmston t/a George Garmston Light Haulage
HGV 0 FB – 19/11/10 – 17.12.10 – Dismissed
Repute – Financial Standing – Miscellaneous – Discretionary grounds
- T/2010/060 Subic Solutions Ltd
HGV – MH – 29.10.10 – 23.11.10 – Dismissed
Operating Centre
- T/2010/062 Roderick & Claire Munro t/a Munro Midlands
HGV – HC – 25.11.10 – 17.12.10 – Dismissed
Repute – Professional Competence
- T/2010/063 Cornelius Pryde Hart & Abigail Hatr t/a Zulu's Minibus
PSV – MH – 29/11/10 – 16.12.10 – Dismissed
Drivers Hours and Tachographs
- T/2010/064 JWF (UK) Ltd
HGV – MH – 29.10.10 – 23.11.10 – Dismissed
Miscellaneous - history of non-co-operation
- T/2010/066 Anthony James Evans t/a Evans Transport
HGV – FB – 19.11.10 – 17.12.10 – Dismissed
Financial Standing.
- T/2010/067 Pemberton Transport Ltd & Lynne Walker
HGV – MH – 29.11.10 – 16.12.10 – Allowed in part – balance
dismissed
Repute – Disqualification
- T/2010/069 John Francis Donnelly
PSV – JB – 13.12.10 – 12.01.11 – Dismissed
Repute – Miscellaneous – breach of conditions and undertakings
- T/2010/071 Eurofast (Europe) Ltd, Lehal, Gill & Parmer
HGV – MH – 10.01.11 – 28.01.11 – Parmer allowed – remainder
dismissed
Repute – Directors duties – Notice of issues and evidence
- T/2010/072 James Brown t/a Forth Travel
PSV – HC – 25.11.10 – 17.12.10 – Allowed – remitted
Repute
- T/2010/073 Paul Anthony Faulkner
HGV – MH – 10.01.11 – 28.01.11 – Dismissed
Procedure- Grounds of Appeal – Suspension
- T/2010/074 High Voltage Maintenance Systems Ltd
HGV – FB – 25.02.11 – 24.03.11 – Allowed in part
Operating Centre – Conditions
- T/2010/075 VST Building & Maintenance Ltd
HGV – MH – 29.11.10 – 16.12.10 – Dismissed
Financial Standing

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- T/2010/076 Premier Beds Ltd
HGV – JB – 13.12.10 – 10.01.11 – Dismissed
Miscellaneous – breach of undertakings
- T/2010/077 MacEwan Coach Services
PSV – FB – 25.03.11 – 28.04.11 – Allowed – remitted
Miscellaneous - Curtailment
- T/2010/080 Blue bus Ltd
PSV – FB – 25.03.11 – 25.04.11 – Allowed in part
PSV – Bus penalty
- T/2010/081 Natalie Hunt t/a Wild Stretch Limousines
PSV – JB – 14.12.10 – 10.01.11 – Dismissed
Financial Standing – (Decision published in redacted form)
- T/2010/082 PES Trading UK Ltd
HGV – FB – 31.01.11 – 22.02.11 – Allowed – remitted
Financial Standing
- T/2010/083 Paul Frederick Boomer t/a Carousel
HGV – FB – 31.01.11 – 22.02.11 – Dismissed
Repute
- T/2010/084 & 086 Coach Express Ltd, AK Travel Ltd, A2B Travel Ltd, Mibbo
Thandi and Amardeep Thandi
PSV – JB – 30.03.11 – 28.04.11 – Dismissed
Repute, Maintenance, disqualification – conditions and undertakings –
revocation.
- T/2010/085 Daniel Peter Hill t/a Fairstead Lodge Transport
HGV – FB – 25.02.11 – 24.03.11 – Allowed
Drivers Hours and Tachographs – *Miscellaneous* – Curtailment
- T/2010/087 PIT.101 Ltd (Formerly – Ethos Recycling Ltd)
HGV – MH – 18.03.11 – 31.03.11 – Dismissed
Financial Standing.
- T/2010/088 Smiths Logistics Ltd
HGV – MH – 18.03.11 – 31.03.11 – Dismissed
Financial Standing
- T/2010/089 Dave Thompson Tours Ltd
PSV – FB – 25.02.11 – 24.03.11 – Allowed
Repute

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- T/2011/001 Bilston Skip Hire Services Ltd
HGV – FB – 20.04.11 – 20.05.11 – Allowed, in part
Disqualification
- T/2011/002 Goldman Transport Ltd
HGV – MH – 18.03.11 – 31.03.11 – Dismissed
Miscellaneous – Failure to communicate
- T/2011/003 Poletech Scaffolding Ltd
HGV – FB – 20.04.11 – 20.05.11 – Allowed
Termination by non-payment
- T/2011/004 J Browne Construction Ltd & J Browne Plant Ltd
HGV – FB – 16.05.11 – 15.06.11 – Allowed
Professional competence – to be at date of Public Inquiry/decision
- T/2011/006 Mr & Mrs Ngantu (representors) Re: Speedcrete CP Ltd
HGV – FB – 20.04.11 – 20.05.11 – Allowed – in part – remitted
Miscellaneous – refusal to review
- T/2011/008 David John Nuntt
HGV – FB – 20.04.11 – 20.05.11 – Dismissed
Financial standing – Miscellaneous – breach of conditions and undertakings
- T/2011/011 Greg Taplin t/a G T Scaffolding
HGV – FB – 16.05.11 – 15.06.11 – Dismissed
Financial Standing
- T/2011/013 Satpal Singh Nijjar t/a Nijjar Skips
HGV – FB – 16.05.11 – 15.05.11 – Allowed
Miscellaneous – Licence surrendered before revocation
- T/2011/014 William Willmott t/a Willmotts
HGV – MH – 25.05.11 – 7.06.11 – Dismissed
Financial standing
- T/2011/015 Sam's Transport & Recovery Ltd
HGV – MH – 25.05.11 – 07.06.11 – Dismissed
Financial standing
- T/2011/018 CDL London Ltd & Collection Point Ltd
HGV – AG – 09.06.11 – 27.06.11 – Dismissed
Financial standing – Professional competence – Transport Manager
- T/2011/021 Lombard North Central PLC
HGV – AG – 09.06.11 – 27.06.11 – Allowed
Impounding
- T/2011/022 Andrew John Chatter t/a AJC Vehicle Delivery & Collection
HGV – MH – 15.06.11 – 07.07.11 – Dismissed
Financial standing

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- T/2011/023 Taj The Grocer Ltd
HGV – HC – 31.05.11 – 15.06.11 – Allowed – remitted
Miscellaneous – Fitness to hold a restricted licence
- T/2011/024 Doonin Plant Ltd
HGV – HC – 29.06.11 – 08.07.11 – Dismissed
Repute – Convictions
- T/2011/025 Asset 2 Asset Ltd
PSV – MH – 15.06.11 – 14.07.11 – Dismissed
Impounding – *Miscellaneous* – Fresh evidence & bias
- T/2011/028 Heart of Wales Bus & Coach Company and Clayton Francis Jones
PSV – MH – 10.08.11 – 1.09.11 – Allowed in part
Repute – PSV – financial penalty
- T/2010/029 David Pritchard and Vehicle and Operator Services Agency
PSV – HC – 17.08.11 – 31.08.11 – Dismissed
Impounding – ownership of impounded vehicles
- T/2011/031 Barry Flowerdew t/a Auto Village Ltd
HGV – JB – 11.07.11 – 22.07.11 – Dismissed
Operating Centre – new – failure to apply for variation
- T/2011/032 Michael Welsh Ltd
HGV – JB – 11.07.11 – 22.07.11 – Dismissed
Termination by non-payment
- T/2011/033 Paul Coleman t/a Coach UK Travel
PSV – MH – 29.07.11 – 12.08.11 – Allowed in part
Financial standing – *Repute* – *Disqualification*
- T/2011/034 Utopia Traction Ltd
HGV – MB – 21.07.11 – 25.08.11 – Dismissed
Repute – *Miscellaneous* – Convictions – Material change – conditions - undertakings
- T/2011/035 Professional Transport Ltd
HGV – MH – 29.07.11 – 12.08.11 – Dismissed
Procedure – Indications
- T/2011/036 LWB Ltd
PSV – MB – 21.07.11 – 25.08.11 – Dismissed
Repute – *Financial standing* – *Professional Competence*
- T/2011/037 Springwood Trading Ltd
HGV – MH – 29.07.11 – 12.08.11 – Dismissed
Miscellaneous – material change in circumstances – *Financial Standing*
- T/2011/038 David Anderson t/a Larbert Contracts
HGV – AG – 05.08.11 – 24.08.11 – Dismissed
Financial Standing

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- T/2011/039 Finesse Coaches Ltd
PSV – HC – 17.08.11 – 31.08.11 – Allowed
Professional competence
- T/2011/040 BM Transport Services Ltd
HGV – AG – 05.08.11 – 24.08.11 – Allowed
Financial standing
- T/2011/041 Tariq Mahmood t/a T.M. Travel
PSV – MH – 07.09.11 – 23.09.11 – Dismissed
Maintenance
- T/2011/042 Max Reginald West
HGV – MH – 07.09.11 – 23.09.11 – Dismissed
Impounding
- T/2011/043 D A Lewis UPVC Installations Ltd & David Andrew Lewis
HGV – MH – 07.09.11 – 23.09.11 – Allowed
Miscellaneous – Whether TC could hold Public Inquiry – Drivers Hours & tachographs
- T/2011/044 P Plant Ltd and PGC Skip Hire Ltd
HGV – JB – 12.09.11 – 27.09.11 – Dismissed
Repute
- T/2011/048 Stripestar Ltd t/a Halshaw Burnley Ford
HGV – JB – 12.09.11 – 27.09.11 – Dismissed
Miscellaneous – Defective advertisement
- T/2011/50 A Tucker & sons Ltd
HGV – MH – 31.10.11 – 16.11.11 – Dismissed
Operating Centre – attaching conditions
- T/2011/051 Peter Jarman
HGV – AG – 19.10.11 – 21.11.11 – Dismissed
Financial standing – Miscellaneous – material change in circumstances
- T/2011/054 Andrew Piggford t/a AP Haulage
HGV – HC – 08.12.11 – 21.12.11 – Allowed – remitted
Notice of issues and evidence
- T/2011/055 Christopher David Hopcraft t/a Complete Caravan Services
HGV – HC – 08.12.11 – 21.12.11 – Dismissed
Financial standing – failure to provide sufficient evidence
- T/2011/056 Tubular Solutions UK Ltd
HGV – HC – 08.12.11 – 21.12.11 – Dismissed
Financial standing
- T/2011/058 Robert David Moore t/a RDM Travel
PSV – HC – 30.11.11 – 8.12.11 – Dismissed
Repute – Miscellaneous – Failure to comply with undertakings

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- T/2012/060 Nolan Transport v VOSA & Secretary of State for Transport
HGV – MB & JB – 27, 28.03.12 & 16.04.12 – 02.07.12 – Dismissed
International Issues, Impounding, Miscellaneous
- T/2011/063 Edward Coakley, t/a C.R.A.
PSV – AG – 03.02.12 – 01.03.12 – Allowed
Repute, Financial Standing, Professional Competence, Miscellaneous, corporate veil
- T/2011/065 Deep Transport Ltd
HGV – JB – 09.01.12 – 30.01.12 – Allowed, remitted
Repute, Miscellaneous, breach of undertakings, revocation delay in publishing decision
- T/2011/066 David Edward Beales
HGV – HC – 18.01.12 – 24.01.12 – Dismissed
Miscellaneous – failure to respond to correspondence
- T/2011/068 Truckit 247 Ltd
HGV – HC – 18.01.12 – 24.01.12 – Dismissed
Financial standing
- T/2011/069 Melton Container Logistics Ltd & Mrs V Cassidy
HGV – AG – 24.02.12 – 15.03.12 – Allowed, remitted
Repute, Disqualification

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- T/2012/01 Zeeshan Malik t/a Langston's Group
HGV – JB – 16.04.12 – 04 05 12 – Dismissed
Financial Standing, Professional competence
- T/2012/03 MGU Haulage & Transport Ltd
HGV – JB – 16.04.12 – 04.05.12 – Dismissed
Miscellaneous, failure to advertise application in time
- T/2012/05 A N D Haulage Ltd
HGV – MB – 30.04.12 – 10.05.12 – Allowed, remitted
Repute, Disqualification
- T/2012/06 Goodman Hitchens PLC
HGV – MH – 31.05.12 – 18.06.12 – Allowed in part re disqualification
Miscellaneous, reliance on correspondence address
- T/2012/08 Brian Richards, t/a B. Richards
HGV – MB – 30/04/12 – 10/05/12 – Dismissed
Termination for non-payment
- T/2012/10 Edward Stuart Nelson t/a ES Nelson Transport
HGV – MH – 31.05.12 – 18.06.12 – Dismissed
Financial Standing.

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- T/2012/12 Aluminium Shapes Ltd
HGV – MH – 31.05.12 – 18.06.12 – Allowed, remitted
Miscellaneous, appearance of unfairness
- T/2012/13 Russet Red Ltd
HGV – MH – 13.07.12 – 14.08.12 – Dismissed
Miscellaneous, sustained non-compliance, Disqualification
- T/2012/14 Atec Scaffolding (Preston) Ltd
HGV – MB – 19.06.12 – 28.06.12 – Allowed
Miscellaneous, proceeding in absence of Applicant
- T/2012/15 First Manchester Ltd
PSV – MB – 19.06.12 – 26.07.12 – Allowed in part
PSV, penalty for failure to comply with registered timetable
- T/2012/16 JSO Logistics Ltd
HGV – MH – 13.07.12 – 14.08.12 – Dismissed
Financial Standing
- T/2012/17 NCF (Leicester) Ltd
HGV – MB – 19.06.26 – 26.07.12 – Dismissed
Repute, Financial Standing, Miscellaneous, Transport Manager
- T/2012/18 & 19 Steven Barry Smith & Helen Graham
HGV – MH – 04.12.12 – 14.12.12 – Dismissed & remitted
Impounding, failure to comply with time limits
- T/2012/20 A+Logistics Ltd
HGV – MH – 13.07.12 – 27.07.12 – Dismissed
Repute, Miscellaneous, unauthorised operating centre, maintenance
- T/2012/21 W B M Scaffolding Ltd
HGV – MB – 19.06.12 – 16.07.12 – Dismissed
Financial Standing, Miscellaneous, failure to respond
- T/2012/22 Savpreet Singh Aulakh (transport manager)
HGV – AG – 19.07.12 – 16.08.12 – Allowed
Disqualification, transport manager
- T/2012/23 JA & VC Fryer Farms
HGV – MB – 24.08.12 – 10.09.12 – Dismissed
Miscellaneous, no right to appeal formal warning
- T/2012/24 DJ Brotherton t/a John Brotherton
HGV – AG – 19.07.12 – 16.07.12 – Dismissed
Miscellaneous, fitness to hold a licence, failure to disclose convictions, Disqualification
- T/2012/25 First Class Freight Ltd
HGV – MB – 24.08.12 – 10.09.12 – Dismissed
Repute, Disqualification

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- T/2012/26 Ernest Walton t/a E Walton Transport
HGV – MB – 24.08.12 – 10.09.12 – Dismissed
Financial Standing
- T/2012/27 David I Booker
PSV – AG – 03.09.12 – 26.09.12 – Dismissed
Repute of transport manager
- T/2012/28 Shamrock (GB) Ltd
HGV – AG – 03.09.12 – 02.10.12 – Allowed & remitted
Repute, Decision, adequacy of reasons, Notice of Issues and Evidence
- T/2012/29 M E Kinsley t/a Diamond Fitzgerald Travel
PSV – AG – 03.09.12 – 02.10.12 – Dismissed
Notice of Issues and Evidence
- T/2012/30 M G M Haulage & Recycling Ltd
HGV – AG – 03.09.12 – 02.10.12 – Dismissed
Operating centre, adequacy of advertisement
- T/2012/32 T J R Scaffolding Ltd
HGV – MH – 26.09.12 – 19.10.12 – Dismissed
Financial Standing, Maintenance
- T/2012/33 RB Hire Ltd
HGV – MH – 17.10.12 – 07.11.12 – Dismissed
Impounding
- T/2012/34 Martin Joseph Formby t/a G & G Transport
HGV – MB – 05.10.12 – 17.10.12 – Dismissed
Repute
- T/2012/35 Andrew Hardy t/a Andrew Hardy Commercials
HGV – MB – 05.10.12 – 31.10.12 – Allowed & remitted
Miscellaneous, correspondence address
- T/2012/36 Patrick O'Keefe t/a O'Keefe Building
HGV – MH – 26.09.12 – 19.10.12 – Allowed & remitted
Human Rights, fairness of Public Inquiry, Decision, failure to make findings on key issue
- T/2012/37 F & M Refrigerated Transport Ltd
HGV – MB – 05.10.12 – 02.11.12 – Allowed
Impounding, International Issues
- T/2012/39 P L Limos Ltd
PSV – MB – 05.10.12 – 02.11.12 – Dismissed
Impounding, Procedure, fresh evidence
- T/2012/42 City Carriages (London) Ltd
HGV – MH – 17.10.12 – 07.11.12 – Dismissed
Financial Standing, Drivers Hours & Tachographs, Procedure, evidence

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- T/2012/44 Highland Car Crushers Ltd
HGV – MB – 05.12.12 – 15.01.13 – Dismissed
Disqualification
- T/2012/45 Goods 2 Go Ltd
HGV – MH – 17.10.12 – 07.11.12 – Allowed & remitted
Notice of Issues and Evidence, two letters with inconsistent deadlines
- T/2012/46 Pradeep Kumar Sharma t/a RS Fruitstore
HGV – MB – 09.11.12 – 23.11.12 – Allowed & remitted
Miscellaneous, restricted licence, financial resources
- T/2012/47 Susan Tattershall
HGV – MB – 09.11.12 – Allowed & remitted
Procedure, decision made without a hearing
- T/2012/50 Charlie Roberts Ltd t/a Man Euro
HGV – MB – 09.11.12 – 23.11.12
Repute, Professional Competence, Financial Standing
- T/2012/53 Clayton Cars Ltd
PSV – MB – 09.11.12 – 19.12.12 – Allowed & remitted
Impounding, PSV, when Stretch Limo is a PSV
- T/2012/54 Ron McCambridge t/a Functions 'R' Us
HGV – MB – 05.12.12 – 07.01.13 – Dismissed
Miscellaneous, Restricted Licence – Financial Resources
- T/2012/55 Speedcrete CP Ltd
HGV – MH – 19.11.12 – 04.12.12 – Dismissed
Operating Centre, suitability
- T/2012/56 & 57 Deep Transport Ltd & Midland Transport Ltd
HGV – JB – 08.01.13 – 22.01.13 – Dismissed
Repute, Miscellaneous, breach of undertakings, phoenix company, Disqualification
- T/2012/58 Alan Knight Transport B.V. & Alan Michael Knight
HGV – MH – 19.11.12 – 04.12.12 – Struck Out
Procedure, no jurisdiction
- T/2012/59 Kevin Smith t/a Midland Marble Ltd
HGV – MH – 19.11.12 – 04.12.12 – Dismissed
Operating Centre, adequacy of advertisement
- T/2012/60 Tyneside Travel (2007) Ltd
PSV – JB – 08.01.13 – 25.02.13 – Dismissed
Repute, Miscellaneous, unlawful use of discs, production of documents, Disqualification
- T/2012/65 Claremont Marquees Ltd
HGV – JB – 11.12.12 – 08.01.13 – Dismissed
Termination by non-payment

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- T/2012/66 Harkin Group Ltd
HGV – JB – 11.12.12 – 08.01.13 – Allowed & remitted
Miscellaneous, unlawful operation, Procedure, fairness of hearing
- T/2012/68 Peter Nicholas Priedel t/a Sandwich Statics
HGV – MB – 18.01.13 – 05.02.13 – Allowed & remitted
Financial Standing, Repute, Professional Competence
- T/2012/69 Terry William Friar t/a TW Friar Transport
HGV – MB – 18.01.13 – 04.02.13 – Dismissed
Miscellaneous, material change in circumstances, failure to respond to correspondence
- T/2012/70 Bespoke Construction (South East) Ltd
HGV – MB – 15.02.13 – 04.03.13 – Dismissed
Miscellaneous, breach of conditions, material change in circumstances, failure to respond to correspondence
- T/2012/71 Silvertree Transport Ltd
HGV – MB – 15.02.13 – 04.03.13 – Dismissed
Repute, fronting, Professional Competence, Transport Manager, disqualification and rehabilitation requirement
- T/2012/72 Walton Coach Hire Ltd
PSV – AG – 15.03.13 – 15.04.13 – Allowed
Maintenance, reduction in size of fleet
- T/2012/73 Mohindarpal Singh
HGV – AG – 15.03.13 – 15.04.13 – Dismissed
Miscellaneous, material change, failure to respond to correspondence
- T/2012/77 Edwards Transport (Shropshire) Ltd
HGV – MH – 27.03.13 – 29.04.13 – Dismissed
Operating Centre, environmental

2013

- T/2013/01 Sandwell Travel Ltd
PSV – MH – 27.03.13 – 23.04.13 – Allowed, penalty substituted
PSV, penalty for failure to comply with timetable substituted
- T/2013/05 S B Recycling Ltd
HGV – AG – 15.03.13 – 15.04.13 – Dismissed
Financial Standing, Procedure, circumstances arising after Public Inquiry
- T/2013/06 Munro's of Jedburgh Ltd
T/2013/11 Michael Jenkins & Shelagh Jenkins
PSV – MH – 03.04.13 – 18.04.13 – Allowed in part otherwise dismissed
Repute, Disqualification

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T/2013/07 Redsky Wholesalers Ltd
 HGV – MH – 27.03.13 – 23.04.13 – Dismissed
 Miscellaneous, fitness to hold a licence

T/2013/13 Taz Distribution Ltd. & Mehfuz Ahmed
 HGV – JB – 09.04.13 – 29.04.13 – Dismissed
 Repute, Disqualification, Miscellaneous, exceeding authorisation

(End)