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DECISION OF THE TRAFFIC COMMISSIONER FOR THE NORTH WEST OF ENGLAND

In the matter of the
Goods Vehicles (Licensing of Operators) Act 1995 (The Act)

SWIFT KERR LTD
OC2006848

Public Inquiry at Golborne
on 14 February 2019

Decision

On findings made in accordance with Section 26 (1) (e), (f) and (h) of the Act, I direct that the licence of Swift Kerr Ltd be revoked with immediate effect.

I further exercise my power to disqualify that company and its director, Tawanda Mungate, from holding or obtaining an operator's licence in any traffic area for a period of 30 months.

Background

1. **Swift Kerr Ltd** (OC2006848) is the holder of a Restricted Goods Vehicle operator's licence for 1 vehicle, granted on 15 December 2017. The sole director is Tawanda Mungate.
2. The licence was granted subject to an undertaking agreed by Mr Mungate on 14 December 2017, as follows:

The operator will provide the traffic commissioner with original bank statements (and other financial details such as overdraft facility agreements or credit card statements) that show the licence holder has access to the required financial facilities and funds. These details are to be provided by 30 April 2018, and cover the month of January, February and March 2018.

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3. The undertaking was not met by 30 April 2018 and was followed up by letters to the operator on that day and again on 15 May 2018. Some financial evidence was received on 1 June 2018 but the bank statements evidenced on average, only £ {REDACTED}, when the requirement is to show financial standing in the sum of £3,100.

The calling-in

4. The calling-in of the operator to the Public Inquiry raised a failure to comply with the statement of intent and undertakings attached to the licence but also material change in the circumstances of the licence holder in relation to its fitness to hold the licence and the sufficiency of financial resources to keep vehicles fit and serviceable.
5. A Public Inquiry was set down for hearing at Golborne on 14 February 2019. The operator did not attend, was not contactable when my clerk rang at the time of the start of the hearing and had not provided in advance any representations or supporting evidence.

Consideration and findings

6. In these circumstances, I have concluded the allegations under S.26 (1) (e), (f) and (h) of the Act are made out: the latter in respect of company's fitness and financial standing.
7. I reach these conclusions because:
 - The operator has ignored a hearing, which its director had requested;
 - It appears more likely than not that the operator's absence signals that it is unable to meet the requirements;
 - Financial standing has not been made out for an extended period;
 - A vehicle is nominated on the licence and undertakings given on the original application, refer to it being maintained by a contractor based near to its operating centre;
 - Proof of the operator's ability to finance maintenance and repairs of its vehicle is directly relevant to the likelihood of compliance;
 - I am satisfied the operator is aware of proceedings, having had sight of the Royal Mail proof of delivery of the calling in letter.

Decision

8. I find that immediate revocation of the licence is both appropriate and proportionate.
9. Furthermore, the operator has been served with notice that in the event this licence is revoked, that I would consider my powers to disqualify the company or/and its director.

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10. I judge that such a step, in the circumstances described, is appropriate. Having considered the Senior Traffic Commissioner's Guidance Document No 10: The principles of decision-making and the concept of proportionality, I have settled on a period of 30 months as appropriate for both the operator and its director, Tawanda Mungate.

A handwritten signature in black ink, appearing to read 'Simon Evans', with a horizontal line underneath.

Simon Evans
Traffic Commissioner
for the North West of England
14 February 2019