Appeal No. T/2016/7

IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER (Traffic Commissioner Appeals)

ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER FOR THE SCOTTISH TRAFFIC AREA (Ms J Aitken)

Dated: 4th September 2015

Before:

Mr E. Mitchell	**Judge of the Upper Tribunal**
Mr A. Guest	**Member of the Upper Tribunal**
Mr S. James	**Member of the Upper Tribunal**

Appellant: **Mr W Meikle (t/a MBS Transport)**

Heard at: George House, 126 George Street, Edinburgh
Date of hearing: 26th May 2016
Date of decision: 15th August 2016

DECISION OF THE UPPER TRIBUNAL

IT IS HEREBY ORDERED that this appeal is dismissed.

SUBJECT MATTER:-

standard road transport licence; good repute of operator and transport manager; disqualification orders; financial standing.

CASES REFERRED TO:-

Crompton (t/a David Crompton Haulage) v. Department of Transport [2003] EWCA Civ 64, [2003] RTR 34;
Bryan Haulage (No. 2) (2002/217);
Priority Freight (2009/225);
NCF (Leicester) Ltd. (T/2012/17; [2012] UKUT 271 (AAC));
Bradley Fold Travel Ltd & Anor v Secretary of State for Transport [2010] EWCA Civ 695, [2011] RTR 13.

REASONS FOR DECISION

Background

1. Following a public inquiry held on 9th December 2015, the Traffic Commissioner for the Scottish Traffic Area (hereafter "the Commissioner") on 23rd December 2015 made the following decisions:

(a) the Commissioner revoked the standard international road haulage licence previously granted to Mr William Meikle (t/a MBS Transport). This decision was taken under sections 26 and 27 of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act");

(b) the Commissioner made an order disqualifying Mr Meikle from holding or obtaining a licence under the 1995 Act for a period of three years. This decision was taken under section 28(1) of the 1995 Act;

(c) in association with that disqualification order, and having effect for the same period, the Commissioner made a direction under section 28(4) of the 1995 Act. Such a direction renders the licence of an operator with whom the subject is of the direction

is associated in certain ways, for example as a director, liable to revocation, suspension or curtailment under section 26 of the 1995 Act;

(d) the Commissioner made an order indefinitely disqualifying Mr Meikle from acting as a transport manager, for the purposes of the 1995 Act, on the ground that he had lost his good repute and was no longer of professional competence. This decision was taken under paragraph 16 of Schedule 3 to the 1995 Act.

3. The Commissioner's decisions took effect "from 23:59 on Friday 8 January 2016".

4. Mr Meikle applied to the Commissioner for a stay of her decisions pending determination of his appeal to the Upper Tribunal. His application simply stated "I have recently been made aware that I can make a request for a stay, awaiting the outcome of my appeal. I would like to submit such a request". On 13th May 2016, the Commissioner refused Mr Meikle's application and, in doing so, observed that Mr Meikle was in fact informed of his right to apply for a stay some months previously, when her decision was issued.

5. By email dated 16th May 2016, Mr Meikle applied to the Upper Tribunal for a stay. Initially, he gave no grounds in support of his application and was informed by a Tribunal clerk, on Judge Mitchell's instruction, that his application would not be considered unless he gave the grounds for his application. On Sunday 22nd May 2016 (three days before the hearing) Mr Meikle emailed the Upper Tribunal stating that his grounds were that "my business cannot function until this case reaches a final conclusion". We considered this matter at the hearing and decided Mr Meikle had not persuaded us there was any good reason to impose a stay.

6. In a comprehensive written decision, the Commissioner made a number of adverse findings about Mr Meikle. To the extent that these are relevant on this appeal, they are dealt with below.

The public inquiry

7. Mr Meikle did not set out his case in writing in advance of the public inquiry. Of itself, that is not a matter for which he may be criticised since the public inquiry call-up letter informed Mr Meikle that the "basis of the inquiry" would be a report prepared by the Driver and Vehicle Standards Agency (DVSA) Traffic Examiner Laidlaw and made it clear that, at the inquiry, he would have the opportunity to challenge the contents of that report.

8. One of Mr Meikle's grounds of appeal was that the Commissioner did not address the case he put to her at the inquiry. We need therefore to consider what happened at the inquiry. We do this by reference to topics.

Features relevant to Mr Meikle's argument that the Commissioner pre-judged his case

9. The relevant parts of the transcript show:

(a) Shortly after the inquiry began, the Commissioner directed Mr Meikle's attention to Examiner Laidlaw's report. Mr Meikle confirmed he had read it (paragraph 176F of the transcript);

(b) The Commissioner then asked Mr Meikle if he disputed the contents of the report. In response, he said "I hope to convince you otherwise regarding the (*inaudible*) of the company and the ownership of the vehicles et cetera and stuff like that" (176G);

(c) Next the Commissioner summarised (177-8) for Mr Meikle the gist of the Traffic Examiner's report, describing the main allegations as follows:

- Mr Meikle loaned his 1995 Act licence to others, in particular a Mr Robertson;
- Mr Meikle had represented to an insurance company that he was in partnership with individuals referred to as "the Robertsons";
- vehicles had been used from an operating centre or centres other than the centre specified on Mr Meikle's licence;
- inadequate systems for compliance with tachograph and drivers' hours legislation;
- lack of clarity over the ownership of the vehicles specified on Mr Meikle's licence;

(d) The Commissioner then said "that really is what the traffic examiner found…so that is my summary of it. There is not much that looks very bonny in that, if I can put it gently in that way to you, Sir" (178D). To this, Mr Meikle responded "I cannot argue";

(e) After this, the Commissioner said to Mr Meikle "tell me your side of it all, tell me all";

(f) At the end of the public session (before financial matters were considered in closed session), the Commissioner said to Mr Meikle "now I said to you and I meant it that I have not taken a decision but on any view this is now a serious case given what you have told me. So is there anything other than on finance you want to say to me by way of your closing remarks to me?" Mr Meikle replied "no";

(g) at the end of the closed session, the Commissioner, having again informed Mr Meikle that "it does not look very bonny" asked him if he had anything to add. He replied "no" (202A).

The Robertsons / business arrangements

10. The relevant parts of the inquiry transcript show:

(a) At 183E Mr Meikle told the Commissioner that "Robertson Commercials" started doing vehicle maintenance work for him a number of years ago. In 2007, Mr Meikle invested in the Robertson garage business (185B);

(b) In 2008, Mr Ian Robertson started using one of Mr Meikle's lorries (R78X KL) to move scrap metal (185E). In response to the Commissioner's questions, Mr Meikle said Mr Robertson "controlled" the lorry and he rarely used it (185H). In return, the Robertsons provided free vehicle maintenance labour for Mr Meikle (186B). Without being prompted, Mr Meikle said "and it has just continued like that from way back then";

(c) In 2014, Mr Ian Robertson was using the lorry for "local stuff". Mr Meikle informed the Commissioner that Mr Ian Robertson "was in charge of that side of the operation, I am not going to argue about that, it is fact. I was busy enough with the skips…" (187B);

(d) Towards the end of 2014, Mr Robertson suggested using the lorry for "container movements" which he did, keeping the monies earned (187C);

(e) Towards the end of 2014, Mr Meikle and Mr Robertson also decided to use a different lorry to transport Christmas trees (FX05 EVC) (187F). Mr Meikle told the Commissioner it was "our Christmas tree business" (188F) although Mr Robertson was "organising that" and the money earned "went to the garage" (188G);

(f) Mr Meikle told the Commissioner that two lorries were also used to move scaffolding for the Edinburgh tattoo (NVO4 & FX05). This was done by the Robertsons and the money earned "goes to the garage" (189E). This operation sometimes used self-employed drivers but they were paid by the Robertsons' garage not Mr Meikle (189G);

(g) At the date of the public inquiry, Mr Meikle's arrangements with the Robertsons were continuing (190F);

(h) During the closed session of the inquiry, at which financial matters were discussed, Mr Meikle said he had not applied for a 1995 Act licence for the company

he established (MBS Bankwood Ltd) "because it was all done through like me individually".

Operating centre

11. Mr Meikle's licence specified Armadale as his operating centre. Sometimes, he would keep a lorry he used for his skip hire business at his home (190F). Mr Meikle told the Traffic Commissioner Examiner Laidlaw told him he could "list [home] as an off road parking" and this was confirmed at the inquiry by Mr Laidlaw (191A).

Tachographs

12. The relevant parts of the transcript show:

(a) Mr Meikle said tachograph records were "all in the [Robertson's] garage" and he accepted "I was not keeping an eye on them, a firm enough eye on them no";

(b) The Commissioner asked Mr Meikle about current arrangements to ensure compliance with tachograph legislation. He said a friend told him about a tachograph analysis firm whom he had contacted but, at the date of the inquiry, they had not emailed him with "costings" for their service (191F).

Vehicle maintenance

13. The relevant parts of the inquiry transcript show:

(a) Mr Meikle accepted he received DVSA prohibition notices for vehicles being used by the Robertsons (192E);

(b) The Commissioner asked Mr Meikle to look at DVSA maintenance records for certain lorries, which the Commissioner described as showing "quite a high fail rate". Mr Meikle said he was aware of this (193E);

(c) In response to the Commissioner's question why recently supplied vehicle inspection sheets did not name the Robertsons' garage, Mr Meikle said "they just buy them as supplies" (194D). The Commissioner asked Mr Meikle if he had looked at the sheets he had brought to the inquiry. He replied "to be honest, not really";

(d) Referring to the inspection sheets, the Commissioner said "I have never seen anything like it frankly" and "I am inclined to say to you are they works of fiction?" (194H). A little later, Mr Meikle said "I cannot argue" in response to the Commissioner saying "these sheets are not credible Sir, are they" (195D).

Consequences of enforcement action

14. The relevant parts of the inquiry transcript show:

(a) The Commissioner asked Mr Meikle what impact revocation of his licence would have. He said it would be devastating because "that is how I earn my living…it is all I know" (196A) and suspension of his licence would be just as damaging because he would lose his "customer base" (196B);

(b) The Commissioner asked Mr Meikle what was the shortest period of suspension that would allow his business to survive. Mr Meikle said "a period like Christmas and New Year…would be ideal" (196H);

(c) The Commissioner explained to Mr Meikle what curtailment of a licence meant and asked how curtailment of his licence might affect him. He said it would stop expansion of the business (197A);

(d) the Commissioner asked Mr Meikle how disqualification as an operator or transport manager would affect him. He said "that obviously closes a lot of doors" (198C).

Finances

15. During the closed session of the inquiry, the Commissioner asked Mr Meikle whether he had liquid assets in addition to some £20,000 in a business account. Mr Meikle said he could raise £100,000 in a month if he sold his show ponies (although they were "registered" in his wife's name) but, apart from that, only had around £3,000 in his personal bank account (201). Mr Meikle also gave evidence that his brother owed him £20,000 and he owned 50 acres of land.

The Upper Tribunal proceedings

16. In his notice of appeal to the Upper Tribunal, Mr Meikle challenged each of the Commissioner's decisions. He put forward the following grounds of appeal:

(a) The DVSA case against him contained errors and misleading statements. Mr Meikle pointed "some" of these out to the Commissioner but his arguments were ignored;

(b) In Mr Meikle's view, the Commissioner had pre-judged the case and made her decision before the public inquiry began;

(c) The view taken by the Commissioner of his financial affairs was unjust;

(d) “the action taken by the TC was too harsh”.

17. Mr Meikle represented himself at the hearing before the Upper Tribunal.

Conclusions

(a) Whether the Commissioner failed to deal with Mr Meikle’s criticisms of the DVSA’s case

18. At the hearing, Mr Meikle could not point us to any example of the Commissioner failing to deal with alleged errors or misleading statements in DVSA’s case. That was not surprising because, as our extensive citations from the transcript of the hearing show, Mr Meikle did not in fact dispute the DVSA case. He accepted he let others use lorries that were specified on his operator’s licence and did not dispute that he failed to monitor tachograph and inspection records. In fact, the transcript does not record Mr Meikle seriously disputing any aspect of DVSA’s case. This ground of appeal has no merit and we reject it.

(b) Whether the Traffic Commissioner pre-judged the case

19. There is not a shred of evidence to support this ground and we reject it. On a number of occasions during the public inquiry, the Commissioner stressed that she had yet to make up her mind. Yes, she offered opinions about the seriousness of the case against Mr Meikle but that does not amount to pre-judgement. In fact, it can make an inquiry fair by ensuring that a party thinks carefully about how to present and manage their case. We are satisfied that this is why the Commissioner made sure Mr Meikle appreciated the gravity of the DVSA case against him. We also observe that, had the Commissioner pre-judged this case, it is hardly likely she would have approached the inquiry, and her subsequent decision, with such obvious care.

20. It is possible that Mr Meikle has taken out of context passages at the start of the inquiry transcript when the Commissioner summarised the DVSA case. Here, the Commissioner was simply reciting the allegations, not agreeing with them. That is shown by her final statement (178D): “that really is what the traffic examiner found…so that is my summary of it”.

(c) Whether the Traffic Commissioner took an “unjust” view of Mr Meikle’s financial affairs

Legal framework

21. Section 13A of the Goods Vehicles (Licensing of Operators) Act 1995 contains the licensing requirement for "appropriate financial standing" and requires this to be "determined in accordance with Article 7 of the 2009 Regulation". That means Regulation (EC) No 1071/2009 which establishes EU-wide rules concerning the conditions to be complied with to pursue the occupation of road transport operator.

22. Article 7(1) requires an operator to demonstrate "on the basis of annual accounts certified by an auditor or a duly accredited person, that, every year, it has at its disposal capital and reserves totalling at least EUR 9 000 when only one vehicle is used and EUR 5 000 for each additional vehicle used".

23. Article 7(2) contains an alternative means of satisfying Article 7(1). It is anticipated by the recitals to the Regulation which state "a bank guarantee or professional liability insurance may constitute a simple and cost-efficient method of demonstrating the financial standing of undertakings". Article 7(2) provides:

> "By way of derogation from paragraph 1, the competent authority may agree or require that an undertaking demonstrate its financial standing by means of a certificate such as a bank guarantee or an insurance, including a professional liability insurance from one or more banks or other financial institutions, including insurance companies, providing a joint and several guarantee for the undertaking in respect of the amounts specified in the first subparagraph of paragraph 1."

24. Article 7(3) provides:

> "the annual accounts referred to in paragraph 1, and the guarantee referred to in paragraph 2, which are to be verified, are those of the economic entity established in the Member State in which an authorisation has been applied for and not those of any other entity established in any other Member State."

25. In *NCF (Leicester) Ltd.* (T/2012/17; [2012] UKUT 271 (AAC)) the Upper Tribunal said:

> "20. Second, it seems to us that operators who put forward the value of a physical asset, in order to meet the requirement of appropriate financial standing, will need to satisfy the Traffic Commissioner that the asset in question in readily saleable and that the net sale proceeds will probably be available to be spent within 30 days of the decision to sell. Unless it can be shown that the net sale proceeds will be available within 30 days the value of the asset cannot contribute to establishing appropriate financial standing because it is not available to serve one of the essential purposes of that requirement.

> 21. Third, at the risk of stating the obvious, a physical asset can seldom, if ever, be used to pay a bill. It follows that if such an asset is put forward to assist in satisfying the requirement to be of appropriate financial standing the operator will need to provide evidence that the asset can probably be sold and the proceeds received within 30 days, the probable sale price and the likely costs of the sale. We have underlined 'and' to stress that it is only the net amount, which is likely to be paid to the operator after deducting any costs or expenses, that will count towards meeting the requirement to be of appropriate financial standing. The reason is that it is only this amount which will be available to the operator for the payment of bills."

The Commissioner's analysis

26. The Commissioner determined that "the level of finance required for a 10 vehicle licence is £39,950". Mr Meikle has not disputed the correctness of that figure.

27. The Commissioner made findings relevant to financial standing in paragraph 6 of her decision:

(a) Before the inquiry, Mr Meikle supplied financial evidence for MBS Bankwood Ltd which was not the holder of the operator's licence. Over the period from September 2013 to 30 November 2015, the highest balance in this company's account was approximately £12,500 the lowest merely £2.78;
(b) MBS Bankwood Ltd's account did not "assist" in showing Mr Meikle's financial standing;
(c) The balance in Mr Meikle's business bank account for the period 14 August 2015 to 22 October 2015 showed little fluctuation (between £18,931 and £20,730);
(d) Mr Meikle had between £3 and 5,000 in other accounts;
(e) The Commissioner accepted Mr Meikle's evidence that all monies earned by his road transport business were paid to MBS Bankwood Ltd because he thought this had tax advantages.

28. The Commissioner also noted Mr Meikle's evidence at the inquiry that he owns 50 acres of land; he owns a number of valuable show ponies (albeit registered in his wife's name) which he thought he could sell within a month for at least £10,000 each; and his brother owed him £20,000 which he expected to be repaid once the brother had obtained a mortgage.

29. The Commissioner made a bare finding that financial standing had not been demonstrated "either by Mr Meikle as a sole trader or the limited company". The Commissioner did not make findings as to whether the land, the ponies or the brother's debt could be relied on by Mr Meikle to demonstrate financial standing. At

the hearing before the Upper Tribunal, Mr Meikle argued the Commissioner was wrong to leave these items out of account.

Conclusion

30. If the Commissioner's decision is looked at in isolation, she could arguably be criticised for failing to make findings as to whether the land, ponies and the debt could be relied on by Mr Meikle to demonstrate financial standing. However, there was a context to the public inquiry and her decision which must be taken into account.

31. On 4th November 2015, the Office of the Traffic Commissioners wrote to Mr Meikle setting out what he needed to do to prepare for the inquiry. The letter said he "must" prepare evidence of financial standing and gave examples of the documentary evidence capable of demonstrating financial standing.

32. The letter of 4th November 2015 did not state that assets might be relied on to show financial standing. Nevertheless, it should have been obvious to Mr Meikle - once he had decided to rely on assets - that he needed to provide cogent evidence that the assets were realisable. Instead, Mr Meikle simply gave evidence that he thought he could rapidly sell some valuable ponies (albeit registered in his wife's name); his brother owed him £20,000 but without giving any indication when the debt fell due for payment; and he owned 50 acres of land but without giving any indication of its value or even that he intended to sell it.

33. Given the way in which Mr Meikle presented his case on assets, we cannot conclude that the Commissioner's approach was "plainly wrong" (see *Bradley Fold Travel Ltd & Anor v Secretary of State for Transport* [2010] EWCA Civ 695, [2011] RTR 13). Read sensibly and in its proper context, the Commissioner's decision shows she concluded that Mr Meikle had not persuaded her that the ponies, land and debt were assets that could readily be realised and thus relied on to demonstrate financial standing.

34. Furthermore, we note that the Commissioner did turn her mind to the question whether Mr Meikle might be able to demonstrate financial standing if given a period of grace to rectify matters and/or reduce the number of lorries specified on his licence (paragraph 45 of the Commissioner's decision). She decided that was not justified given the scale of the other regulatory breaches. This probably explains why the Commissioner did not make express findings as to whether the land, ponies and debts were assets that could readily be realised. Even if they were, the other regulatory breaches called for revocation of Mr Meikle's licence.

35. We decide there was no error of law or fact in the Commissioner's approach to financial standing.

(d) Whether the Traffic Commissioner's decisions were too harsh

36. We took this ground to be an argument that the Commissioner's decisions were disproportionate. At the hearing before the Upper Tribunal, Mr Meikle argued he should have been given a second chance to run a compliant haulage operation. He had learnt his lesson.

Legal framework

37. The Court of Appeal in *Crompton (t/a David Crompton Haulage) v. Department of Transport* [2003] EWCA Civ 64, [2003] RTR 34 held:

> "if loss of repute is found the inevitable sanction is revocation…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."

38. In response to *Crompton* the Transport Tribunal (the predecessor to the Upper Tribunal) revisited its approach to determinations of good repute. In *Bryan Haulage (No. 2*) (2002/217), it held:

> "[T]he 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."

39. And in *Priority Freight* (2009/225) the Transport Tribunal said:

> "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 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."

The Traffic Commissioner's analysis

40. The Commissioner gave herself a correct legal direction by reference to the relevant case law. In paragraph 40 of her decision, she referred to the *Bryan Haulage*

and *Priority Freight* cases and said her task was to conduct a balancing exercise, weighing up the positives and negatives, in order to arrive at a proportionate and just decision. The Commissioner asked herself whether this operator needed to be put out of business and whether it could be trusted to be compliant in the future.

41. The Commissioner identified certain positive features of Mr Meikle's case (paragraph 41). He had been co-operative, his vehicles had not attracted "S-marked prohibitions" and this was his first public inquiry.

42. However, the negative features were legion. Mr Meikle had allowed others to operate under the shelter of his operator's licence and discs; he did not put proper tachograph and drivers' hours arrangements in place; proper maintenance records were not kept (in fact he had relied, albeit unwittingly, on contrived inspection sheets); he had used an unauthorised operating centre. These shortcomings were magnified by other features of the case. Mr Meikle had been in the road transport business for many years, the shortcomings had not been remedied at the date of the inquiry and Mr Meikle candidly conceded that he needed his licence so that the Robertsons could continue operating their unlicensed road transport business.

43. The Commissioner, without hesitation, concluded that the negative features outweighed the positives and that revocation of Mr Meikle's licence was a proportionate regulatory response. According to the Commissioner, Mr Meikle could not be trusted to run a compliant operation – "the last thing I can trust him with is an operator's licence and the precious discs that go with it" – and this was a clear case of an operator that needed to be put out of business. Of course, the Commissioner had also found that Mr Meikle did not have appropriate financial standing (which is a mandatory ground for revocation). Her proportionality analysis also involved her deciding not to afford Mr Meikle a period of time in which to try and rectify his financial shortcomings.

44. For essentially similar reasons to those just described, the Commissioner decided that Mr Meikle had lost his good repute as transport manager (and she also decided that he had lost his professional competence).

45. So far as the operator disqualification order was concerned, the Commissioner decided the order should have effect for three years. That was justified by the range and scale of regulatory breaches; the extended period over which they took place; the need to send a deterrent message to others who might be tempted to adopt a similar arrangement to that between Mr Meikle and the Robertsons and thereby gain an unfair competitive advantage; and Mr Meikle's failure to take any effective steps to remedy his regulatory shortcomings. The Commissioner also said she would probably have made a four year order but for Mr Meikle's co-operation at the inquiry and with the DVSA vehicle examiner.

46. So far as the transport manager disqualification order was concerned, the Commissioner took into account that the regulatory failings were due to "attitude more than knowledge", although there were also shortcomings in Mr Meikle's knowledge and understanding of the role of transport manager. The Commissioner considered rehabilitative measures. Given Mr Meikle's attitude, rehabilitation could not be assumed and, on our reading, this is why the Commissioner made an order of indefinite duration. The Commissioner also noted Mr Meikle's statutory right to apply for cancellation of the disqualification order. The Commissioner specified a pre-cancellation rehabilitation measure which was that Mr Meikle would need to sit and pass the test for a transport manager's certificate of professional competence (he had previously relied on 'grandfather's rights').

Conclusions

47. Mr Meikle did not dispute any of the findings relied on by the Commissioner in deciding what regulatory action to take. His case was simply that putting him out of business was a draconian measure that was not justified because he had learnt his lesson and would run a compliant operation from now on.

48. We can see no error of law or fact in the Commissioner's approach, nor can we find that, in choosing the regulatory course she did, the Commissioner was plainly wrong. The Commissioner carefully analysed the positives and negatives, explained which features of the case caused her particular concern, considered whether less draconian regulatory action was justified (as was shown by her discussing these with Mr Meikle at the inquiry) and arrived at decisions which in our view cannot be faulted. They certainly cannot be described as "plainly wrong".

49. We do, however, have doubts as to whether it was open to the Commissioner to find that Mr Meikle had lost his professional competence as a transport manager (see *Reynolds v Secretary of State for Transport* (T/2015/46) [2016] UKUT 0159 (AAC)). In practical terms, however, any error of approach makes no difference because we uphold the Commissioner's finding that Mr Meikle had lost his good repute as a transport manager.

Mr E. Mitchell, Judge of the Upper Tribunal,
15 August 2016
(signed on original)