



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 13 MARCH 2018

OPERATOR: ARVIND KHOKHAR T/A CITY SPEED

Decision

1. The licence is revoked with immediate effect pursuant to Section 17(1)(a) and (b) and 17(3)(aa) and (e) of the Public Passenger Vehicles Act 1981.
2. Pursuant to Section 28 of the Transport Act 1985, Arvind Khokhar is disqualified for an indefinite period of time from holding or obtaining from holding or obtaining any type of operator's licence in any traffic area and from being the director of any company holding or obtaining such a licence.
3. The good repute of transport manager Rajinder Singh Khokhar is lost and he is disqualified pursuant to Schedule 3 of the 1981 Act from acting as transport manager under any operator's licence in any EU state for an indefinite period of time.
4. Arvind Khokhar's conduct in relation to this inquiry has been frivolous and unreasonable. I am therefore contemplating making an order under paragraph 8 of the Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986 that she pay costs of £125. She has until 1700 hours on Thursday 22 March to make representations against the making of such an order.

Background

Licence history

1. Arvind Khokhar trading as City Speed holds a standard national public service vehicle operator's licence for three vehicles. The licence was granted in 1995. The nominated transport manager on the licence is Arvind Khokhar's husband, Rajinder Singh Khkohar.
2. In 2009 Mrs Khokhar attended a public inquiry which resulted in her being prohibited from operating any registered local services for the period of 12 months. In May 2013 the licence was briefly revoked after the operator failed to respond to correspondence from the traffic commissioner's office about the transport manager. It was reinstated after the requested details had been provided.

DVSA investigation

3. On 30 June 2017, the operator's 53 seat vehicle Y804 GDV was checked at Alton Towers by DVSA traffic examiner Peter Yarranton. The driver was transport manager Rajinder Khokhal. Mr Khokhal had no other tachograph chart than the one he was using that day: however, Mr Yarranton established from the one other chart in the vehicle in the name of Interjit Singh that the vehicle had travelled almost 3000km in the last two weeks. Mr Khokhar stated that Interjit Singh was a friend who borrowed the vehicle occasionally to use locally around Smethwick under his own operator's licence. [Subsequent inquiries showed that an Inderjit Singh of Smethwick had held PSV operator's licence PD0001814 between 2000 and 2005 when it lapsed. There is no current licence held by Interjit or Inderjit Singh].
4. Interviewed under caution, Mr Khokhar stated that he could not remember when he had last driven the vehicle. He owned the vehicle, he drove it and he was the transport manager on the licence. The licence was in his wife's name because he had been working for West Midlands Travel when it had been applied for. But it was he who did "everything". The missing 3000km were probably a mixture of his own and Interjit Singh's driving. He and Interjit Singh "helped each other out" with their businesses.
5. Arvind and Rajinder Khokhar attended a meeting with DVSA traffic examiner Tracy Love on 7 November 2017. Mrs Khokhar explained that the licence was Rajinder Khokhar's to manage and deal with: she had "nothing to do with it". During the meeting it became apparent (and Mr Khokhar eventually accepted) that he had made copies of drivers' driving licences only after the stop in June and had backdated warning letters to drivers about tachograph infringements to make it look as though he had an effective monitoring system.
6. TE Love's examination of the tachograph records revealed numerous and repeated infringements by drivers including Rajinder Khokhar. He showed huge gaps in his knowledge of rules on drivers' hours, record keeping and working time. He admitted to falsifying documents in order to appear compliant; he was unable to account for a large amount of missing mileage or fraudulent entries which had clearly been made on some tachograph charts (where the mileage entered did not agree with the distance trace, for example).

Public inquiry

Call to public inquiry

7. I was concerned by DVSA's report and decided to call both the operator and transport manager to a public inquiry. The call-up letters were sent on 29 December 2017, citing Sections 14ZA, 17(1) and 17(3) of the Public Passenger Vehicles Act 1981. Rajinder Khokha was also called to a parallel driver conduct hearing.

Holding of public inquiry

8. The inquiry was originally due to be held in Birmingham on 31 January 2018. However, I agreed to an adjournment after Arvind Khokhar provided evidence of a pre-booked trip to India from 31 January to 6 March. The inquiry was rearranged for 1000 hours on 13 March 2018.
9. At 0900 on 13 March 2018, an hour before the inquiry was due to commence, Rajinder Khokhar called at the office to hand in a letter dated 13 March 2018 from Arvind Khokhar: the letter stated that she would not be able to attend the inquiry as a result of an eye hospital appointment. She further stated that she wished to surrender the licence as she had not been feeling too well. A copy of the hospital appointment was attached to her letter as evidence. I noted that the hospital appointment had

been made on 23 January 2018: Mrs Khokhar had clearly known since receiving the public inquiry call-up letter on 1 February 2018 that it clashed with the hospital appointment and had had six weeks in which to resolve the clash. The hospital's letter of 23 January clearly stated that they would arrange an alternative date if 13 March was not convenient for Mrs Khokhar.

10. Rajinder Khokkar informed my staff that he would be accompanying his wife to the appointment and would not be attending either the public inquiry or the driver conduct hearing.
11. I have therefore proceeded to make findings and reach decisions on the basis of the documentary evidence available.

Findings

12. I make the following findings:

- i) there has been a material change in the licence in that Arvind Khokhar is not and never has been the operator of the vehicles under it (Section 17(3)(e) of the 1981 Act refers). The true operator is her husband Rajinder Khokhar. The licence has also been lent out to an unauthorised operator (Inderjit Singh);
- ii) the operator lacks financial standing (Sections 14ZA and 17(1) of the 1981 Act refer). No evidence of financial standing was submitted;
- iii) the operator has failed to fulfil its undertaking to ensure the observance of drivers' hours and tachograph rules (Section 17(3)(aa) refers). Transport manager Rajinder Khokhar has very little knowledge of these rules and has made no effort to monitor and ensure compliance with them. Drivers, including himself, have committed large numbers of infringements and there is a large amount of missing mileage;
- iv) the operator Arvind Khokhar is not of good repute (Sections 14ZA and 17(1) of the 1981 Act refer). She applied for the licence in 1995 knowing full well that in reality it would be her husband Rajinder Khokhar who would be operating it. She has had no involvement with the management of the licence at all. Even after she was apprised by TE Love during the meeting in November 2017 of the disturbing picture of non-compliance and fraudulent records, her reaction was that she would leave it to Mr Khokhar to sort everything out. She has entirely abrogated her responsibilities and the trust traffic commissioners have placed in her;
- v) the transport manager Rajinder Khokhar is not of good repute. He has been operating PSVs using his wife's operator's licence, knowing that in practice she had nothing to do with the operation. It was his operation and he should have been the licence holder. A reputable and competent transport manager would have known this. Further, Mr Khokhar has lent his vehicle and licence disc to a person without an operator's licence. He has also entirely failed to apply the rules on drivers' hours and tachographs – unsurprisingly since he is largely ignorant of them. He has falsified records to try to give a better picture on compliance than the true one. He has refused to attend the hearing today, presenting at the last minute the excuse of Mrs Khokhar's hospital appointment which he has known about for seven weeks. None of the above is the conduct of a reputable or competent transport manager. There has been nothing positive to put in the balance: his good repute is lost.

Decisions

Revocation of the licence

13. Given my findings that the operator lacks financial standing and that both operator and transport manager lack good repute, revocation of the licence is mandatory under Section 17(1) of the 1981 Act. The revocation of the licence will take immediate effect, as operations have in practice already ceased.

Disqualification - operator

14. For the reasons set out in paragraph 12 (iv) above I am disqualifying Arvind Khokhar under Section 28 of the Transport Act 1985 from holding an operator's licence. The disqualification is for an indefinite period of time.

Disqualification – transport manager

15. Having taken away Rajinder Khokhar's repute as transport manager, I must also disqualify him under Schedule 3 to the 1981 Act from acting as a transport manager on any licence. Because of the seriousness of his misconduct, his dishonesty and his failure without good reason to attend the inquiry, the disqualification is also indefinite.

Order to pay costs

16. This public inquiry was originally scheduled for 31 January 2017. At the explicit request of Arvind Khokhar, I rescheduled it to 13 March as both she and her husband were due to be in India from 31 January to 6 March. One hour before the inquiry was due to begin, my clerk was informed that neither licence holder nor transport manager intended to be present, as Mrs Khokhar had a hospital appointment which she had known about for the previous seven weeks (since 23 January).
17. Owing to this late notice, traffic examiner Tracy Love had a fruitless journey from her base in Wolverhampton to the inquiry in Birmingham, as she arrived very shortly after Mr Khokhar departed. Moreover, a valuable public inquiry slot, which I could have devoted to another seriously non-compliant operator, has been wasted. The time spent by my clerk in preparing the documents for the inquiry has been wasted.
18. The operator has given late notice without any good excuse. It has caused substantial avoidable costs in terms of staff time both to DVSA and to my office. In these circumstances, I judge that the operator's conduct in relation to the inquiry has been frivolous and unreasonable. I am therefore contemplating making an order under paragraph 8 of the Public Service Vehicles (Traffic Commissioners: Publication and Inquiries) Regulations 1986 that Arvind Khokhar pay costs of £125 (being the maximum amount of such an order). As required by paragraph 8(3) of the Regulations I am giving her until 1700 hours on Thursday 22 March to make representations against the making of such an order.



Nicholas Denton
Traffic Commissioner
13 March 2018