



REDACTED PUBLIC VERSION

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TRAFFIC COMMISSIONER FOR SCOTLAND

GOODS VEHICLES (LICENSING OF OPERATORS) ACT 1995

J & G RIDDELL LTD – OM0037584

PUBLIC INQUIRY HELD AT EDINBURGH ON 14 AUGUST 2018

DECISION OF THE TRAFFIC COMMISSIONER

Background

1. J & G Riddell Ltd (Riddell) of Farmton, Alford, Aberdeenshire, AB33 8EJ, (Scottish Companies House SC197649) has held a goods vehicle operator licence since 1999. The directors are father and son Messrs James Riddell (b.1930) and Gordon Riddell (b.1956). The former plays no active role in the company. Mr Gordon Riddell is the majority shareholder. His brother, Mr John Riddell (b.1961), is transport manager for the licence.
2. The current authorisation is for 20 vehicles and 60 trailers. 20 vehicles are specified. Maintenance is in house and external (Scania Aberdeen; Volvo Inverness). There are 4 authorised operating centres at Arbroath (Little Kinnel); Knock (Huntly); Bellshill (Mossend) and Alford (Glenkindie).
3. The operator was at Public Inquiry before Deputy Traffic Commissioner McFarlane in 2008 when a curtailment was imposed. There was a previous Public Inquiry from before my time of which I was not provided details. The operator's DVSA performance history showed prohibitions on 2 August 2017 for a defective trailer – fractured spring leaf; and on 4 August 2016 for a dog clip device not operating.
4. The annual test history for 2 years to 29 June 2018 was of 35 passes and 2 PRS fails.
5. Following my receiving an adverse report from DVSA, I directed that the operator and the transport manager be called to a Public Inquiry and that 2 drivers, Messrs

Michael Archibald and Richard Stewart, be called to driver conduct hearings at the same time.

Public Inquiry

6. The Public Inquiry and driver conduct hearings duly convened at Edinburgh on 14 August 2018. Those present were Messrs Gordon Riddell, director and John Riddell, transport manager, represented by Mr J McLaughlin, Solicitor, Perth. Drivers Messrs Michael Archibald and Richard Stewart were present but unrepresented. DVSA was represented by Senior Traffic Examiner Mr A Davidson and Traffic Examiner Mr E Jackson. The usual Public Inquiry briefs and call up letters had been issued and received.
7. I gave oral decisions during the Public Inquiry in respect of the 2 drivers, Messrs Archibald and Stewart. This written decision relates to the operator and transport manager only.
8. Satisfactory evidence of financial standing was produced by the operator and showed finance well in excess of that required for the licence.

Productions

9. The operator lodged an inventory of 10 productions:
 1. 3 invoices – SV66 GPE, SV67 CEA and SV17 GUO
 2. Screenshots – VU Calibration Dates (3 pages)
 3. Screenshots – Card Expiry dates (5 pages)
 4. Screenshots – OPTAC 3 (2 pages)
 5. Operator Compliance Risk Score (12 pages)
 6. Email from Scania dated 10th August 2018
 7. Article from Commercial Motor – 17th December 2015 (2 pages)
 8. Defect Sheets (to be produced on the day of the Inquiry)
 9. Infringement Printouts – OPTAC 3 (21 pages)
 10. Cheque stubs (2 books)

DVSA evidence

10. The Traffic Examiner's report was in the brief and supported by 21 productions, including photographs.
11. On 18 November 2016 at Craigforth, DVSA Officers road checked the operator's vehicle SV66 GPE, driven by Mr Richard Stewart. The vehicle was a Scania R730 Blue Streams, odometer reading 13,513. The Examiner took a technical data printout which revealed that the KITAS sender unit had been paired on 5 April 2014, however, the tachograph had its first calibration on 24 October 2016. This made the Examiner suspicious. Driver Mr Stewart said he had been driving that vehicle for a month; when allocated the vehicle it had just over 1,000kms; that he had an initial problem with the vehicle – a tacho head internal fault was showing up but all his driving and breaks were being recorded accurately. He thought he had recorded this

in the vehicle defect book but couldn't remember. He took the vehicle to Scania Aberdeen where a new tacho head was fitted.

12. This fitting of the new tacho head did not explain that the KITAS sender had been paired 2 years before the vehicle had been registered. A multi meter check revealed that the draw by the KITAS sender unit was higher than expected and that there was likely to be other wiring between the KITAS and the tachograph vehicle unit which could be used to manipulate the tachograph recordings.
13. Driver Mr Stewart said he was unaware of anything being fitted. The vehicle was taken to a tachograph calibration centre where it was tested. The KITAS sender unit was removed from the gearbox, cut open and the internals extracted. An extra circuit board had been connected to the main circuit board. This was done to suppress the tachograph readings. The Examiners knew that there would have to be another device to suppress detection of manipulation of the KITAS signal. They found this in a box behind the dashboard. This contained a circuit board with LEDs fitted. When the ignition was switched on, a red LED was illuminated. They could not find a switch to operate this device but, drawing on previous experience, established that holding the accelerator pedal down and releasing it changed the LED from red to green.
14. On 21 November, the Examiners returned to the vehicle which had remained safely stored at the calibration centre. The Examiner's brief gives a detailed account of what they did to test what had been fitted to the vehicle. When the green light came on, the odometer reset to zero. When the vehicle was driven, the tachograph recorded rest and the odometer recorded distance. When the vehicle was stopped and the vehicle was deactivated by the ignition being off, the odometer returned to previous reading. The device was removed from the vehicle with the tachograph vehicle unit and KITAS sender. A new tachograph vehicle unit and KITAS were fitted and the tachograph recalibrated.
15. Senior Examiner Mr Davidson spoke to the operator and all of the operator's vehicles were tested for high current draw. Examiner Davidson checked the vehicles at the operator's Alford premises. No further manipulation devices were found.
16. DVSA obtained the original tachograph vehicle unit fitted to SV66 GPE and it had been calibrated at Scania Aberdeen on 21 October 2016.
17. The Examiners established that the vehicle was paired with KITAS 13119545 and had been paired on 6 July 2015. They established that the tachograph vehicle unit had paired with KITAS serial 11370033 that is the KITAS found to be manipulated. It was paired initially on 5 April 2014 but with another tachograph as SV66 GPE was assembled on 8 June 2015. The events and faults from this tachograph unit recorded unauthorised alteration in motion sensor from 16 September 2015. [Had it been authorised an identifiable workshop card would have been used].
18. Workshop personnel at Scania Aberdeen were asked about the tachograph work undertaken by them on SV66 GPE on 24 October 2016 when they replaced the tachograph head. They replaced the head due to an internal fault on the VU. The reason for recalibration would have come from the vehicle being bought in Holland and at Scania Aberdeen the initial calibration on allocation of number plates. They did not fit parts supplied by the customer. In oral evidence, Examiner Davidson told me that the work done by Scania on 24 October 2016 was not such that they should or could have found or detected what DVSA found on 18 November 2016. The fitter had noticed and spoke to the supervisor that the sender had a different, that is earlier

date. DVSA has special detection equipment. Examiner Davidson has no criticism to make of Scania's work in replacing the tachograph head on 24 October 2016. Scania Aberdeen is a DVSA recognised tachograph calibration centre.

19. Mr Riddell purchased SV66 GPE from Moody International Refrigeration, Grimsby but could not give the Examiners the date when he ordered the vehicle. He drove it back from Grimsby on 27 September 2015.
20. On 12 December 2016, Traffic Examiners Jackson and Laidlaw interviewed Mick (Michael Douglas) Moody, Managing Director of Moody International, under caution. The vehicle SV66 GPE was one of a batch ordered by Mr Moody from Rotterdam. Mr Riddell placed the order for the vehicle in December 2014/January 2015. It was a verbal arrangement with the vehicle paid in March or April 2015 when Mr Moody took possession of it. Riddell had bought vehicles from Moody over 5 – 10 years, including a lot of older vehicles. Riddell had purchased 4 new Scania Blue Streams. Mr Moody thought Riddell had registered two and stored two. Mr Moody collected the vehicle from Scania Hoogvliet in Rotterdam and brought it back to his premises. The vehicle went to Kelsa for the fitting of accessories. Kelsa invoiced Moody; Moody invoiced Riddell. Moody did not carry out any other work to SV66 GPE before it was collected by Mr Riddell other than washing it. It had not been back since Riddell took possession.
21. Mr Moody denied any knowledge of an interrupter device being fitted. He said Mr Riddell would not have had contact with Kelsa. He, Moody, knew Scania Hoogvliet very well – they were 100% genuine. SV66 GPE was not a cancelled order. "I can put my hand on my heart that there was no way there was anything fitted on that lorry when leaving Scania Rotterdam or leaving my premises here in Grimsby".
22. Mr Moody provided copies of the invoices dated 1 July 2015 from Scania Netherlands to his company; and copy invoice dated 31 July 2015 Moody to Riddell.
23. The Examiner contacted Kelsa Truck Products Ltd and received a copy of their invoice for fitting accessories to vehicle, with a chassis number which corresponded to that of SV66 GPE. The invoice was dated 11 September 2015. The charges were for lighting accessories and fitments.
24. On 2 March 2017, by prior arrangement, Traffic Examiners met Mr Gordon Riddell in presence of transport manager Mr John Riddell. Gordon Riddell was interviewed under caution. He was asked when he ordered SV66 GPE – he could not remember. He was asked if he had any correspondence relating to the order for the vehicle – it was verbal. He placed it with Mick Moody. Mr Riddell didn't make the order. It was Mr Moody who said he had Blue Streams coming. He, Mr Riddell, had bought two a year before and has asked to be told when Mr Moody had more. Mr Riddell said he would take another four. Mr Moody phoned to say he had the vehicle in. Mr Riddell asked for it to go to Kelsa for light bars. There was no written quote. The date would be a few days before the invoice. He thought he paid by cheque. The Examiner asked Mr Riddell to produce the cheque stubs or confirmation of the price. Mr Riddell collected the vehicle on 27 September 2015. He drove it north on trade plates without a tacho card inserted. The vehicle was not registered or calibrated.
25. In respect of the fault with the tachograph unit, he wasn't sure what it was or why not covered by warranty. The vehicle went in the Friday to be calibrated. The fault showed up. Scania managed to calibrate it but some sort of fault showed up on the head. A defect sheet was filled out for the Friday. The vehicle went in on the Monday and a new head was fitted.

26. He had spoken to Mr Moody regarding the interrupter device but Mr Moody denied all knowledge of it.
27. The Examiner had a copy of the Moody invoice dated 31 July 2015. The first record of unauthorised alteration of the motion sensor was 16 September 2015 i.e. after the vehicle was ordered. Mr Riddell had no explanation. He did not tell Mr Moody to do anything. Driver Richard Stewart had no knowledge of it. From 27 September 2015 when Mr Riddell drove the vehicle north to going to Scania Aberdeen for calibration on 21 October 2016, the vehicle was at Farmton or at the body builder, a mile away. He thought it was there that the battery booster possibly damaged the tachograph head. He had not needed to use the vehicle. He had two other vehicles sitting unused. He had no idea how the device was fitted. He never instructed it. He said it was pure coincidence that Richard Stewart was issued with SV66 GPE due to a gearbox problem with his old vehicle. He said it was a last minute rush to get it calibrated for him.
28. The Examiner conducted a standard DVSA Traffic Examiner Operator report. This recorded that no evidence of action on driver infringements, Working Time Records were incomplete. The company relied on drivers to keep themselves updated and drivers organised and paid for their own CPC. Driver licences were copied at start of employment but nothing else. A Roadrunner software package had been bought recently.
29. The operator produced a driver defect report from driver Stewart for SV66 GPE recording a tacho defect on 24 October 2016.
30. The Examiners looked at the digital data for drivers and vehicles and found most compliant but brothers Gary Mackenzie and Kevin Mackenzie were using Volvo Inverness as if it were an operating centre and not fully recording duty time. Further, they had very quick digital changeovers. At interview, the brothers explained that they helped each other out when running out of time but this was done by not complying with the need to record travel to and from the vehicle as other work. Interviews with these drivers revealed the extent to which Volvo Inverness was used, not just for repair, but for keeping the vehicles there.
31. The Examiners also found that an old digital driver card belonging to driver Michael Middleton had been used in another vehicle when the driver could not have been Mr Middleton. He denied colluding with any other driver. The Examiner's investigation revealed that use of the card had been by another driver, Mr Michael Graeme Archibald. Mr Archibald admitted using the card to get home early to be with his family. He had found the other driver's card in some paperwork and held on to it and used it on 21 October 2016. The Examiners detected rest offences (set out in their report).
32. In August 2017, just as the Examiners were about to complete their investigation, they were contacted by Scania Aberdeen. A Riddell vehicle SV17 GUO had been in for calibration. The Scania personnel were not happy with the KITAS fitted to the vehicle and before the tachograph was calibrated, and unbeknown to Riddell, they replaced it. The sender was passed to Senior Examiner Davidson who found it had a spurious circuit board with disconnected wires connecting to the KITAS circuitry. From this, it appeared that the vehicle had an interrupter device fitted and then removed. Riddell was the only registered keeper of the vehicle.

33. A DVSA Examiner spoke to the personnel at Scania Aberdeen. SV17 GUO had been taken in and a technical print taken. The foreman had noticed the sender activation and head activation dates were different. The head was in Dutch. He suspected a sender change. A new sender was fitted and the vehicle was returned to Riddell.
34. On 30 October 2017, Examiners again visited Riddell and spoke with Messrs Gordon and John Riddell and told them about SV17 GUO. They could not furnish the paperwork but said they would get it. Arrangements were made for SV17 GUO to be checked at Craigforth on 1 November 2017. The data was downloaded and technical prints taken. The vehicle had attended Scania Aberdeen on 2 August and 3 August 2017 for calibration. The KITAS with the extra circuit board had been paired first on 6 July 2015. The vehicle was manufactured and assembled in the Netherlands on 20 May 2015. Sensor failure and faults were recorded on 27 November 2016, 13 December 2016 and 1 May 2017. There was a power interruption from 27 November 2016 to 13 December 2016 and 13 December 2016 and 1 May 2017.
35. On 13 November 2017, Mr Gordon Riddell was asked again for the information requested on 30 October. The Examiner also requested all cheque stubs for all Scania Blue Streams vehicles purchased. A further call was made on 22 November 2017 and, with nothing produced, an email sent on 4 December 2017. On 12 December 2017, Mr Riddell said he had been advised by his solicitor not to send anything until they had spoken. On 15 January 2018, the Examiner asked again and arranged to be at Farnton on 25 January. On 25 January, the Examiners again visited Riddell and interviewed Gordon Riddell. He confirmed Riddell owned SV17 GUO purchased new from Moody International as a vehicle Moody had in stock. He was unclear of the date of the sale. He'd bought several of these Scania Blue Streams from Moody. He could not recall who drove the vehicle back. He was unaware of issues with the tachograph. No one else had the vehicle between collection from Grimsby and going to Scania Aberdeen for calibration. He could not explain why the vehicle KITAS sender unit had a spurious circuit board similar to that fitted to SV66 GPE. He denied fitting or organising the vehicle to have a manipulation device. It was explained to him that the device had been disconnected from the genuine KITAS meaning the KITAS had been opened twice. He could not explain. He said although the vehicle was new, several people have had them, he did not know who before Moody, they came from abroad. He thought Mr Moody said some came from Hungary. He was saying the device must have been fitted and removed before Riddell purchased or connected it. Both vehicles came from the same place. He had enquired but Mr Moody denied it.
36. He had purchased an S Class from Moody since detection of the first vehicle. Asked why Riddell did business with Moody International if he believed they supplied vehicles with tachograph manipulation devices, he said he bought the two vehicles because "they were at the right price and he assured me they were 100% and available".
37. In respect of the aspect of vehicles being parked outwith operating centres – at Volvo Inverness, he made no comment.
38. Given Riddell's omission or delays in providing documents to the Examiner, DVSA formally sent a section 99ZA letter dated 5 February 2018, required Riddell to produce copies of invoices, cheque stubs, emails and any other documentation relating to the ordering and purchasing of vehicles SV66 GPE and SV17 GUO and all other Scania Blue Streams. The response was an email from Riddell's solicitor

asking for an extension of time and querying the relevance of the request. On 26 February 2018, the Examiner reiterated that the information was required for the investigation into the tachograph equipment. No information was forthcoming. The DVSA Examiners felt hampered by this lack of information.

39. In DVSA's view the manipulation devices fitted (shown in photographs in the brief pp 81-83) were sophisticated and required some hours to fit. Senior Examiner Davidson told the Inquiry that he did not believe Riddell had the expertise to fit these themselves at Farmton. The devices were so similar – see page 81 that, in his view, they came from the same supplier. He had not seen any such in vehicles operated by British operators before. They had been found in foreign operated vehicles. The Examiners did not believe the devices were fitted in the Netherlands factory given SV66 GPE left the Netherlands on 13 July 2015 and the first unauthorised alteration was recorded on 16 September 2015.
40. In respect of the second vehicle SV17 GUO, as the KITAS had been opened, circuit board fitted and disconnected, it could not be detected using a test meter. The device on SV66 GPE was found on 18 November 2016. The first security breach on SV17 GUO was 27 November 2016.

Cheque book stubs (operator's production 10)

41. The operator produced **[REDACTED]** cheque book stubs. One book was dated from 7 July 2015 to 28 August 2015 and the other 24 August 2015 to 18 October 2015. Within the range of the former was a cheque stub dated 24 August 2015 **[REDACTED]** payable to Moody International. Within the range of the latter was a stub dated 17 September 2015 again for **[REDACTED]** to Moody International.

Mr Gordon Riddell's evidence

42. Mr Gordon Riddell confirmed that he is the active director and leading force in the business. His father, Mr James Riddell, has been out of the business for some 15 - 20 years save for some tasks such as banking and posts. His brother, John, is the transport manager. Riddell has 20 vehicles specified and the work is timber haulage from forests to sawmills and as round timber onwards; internal haulage within steel works in which he has an interest at Bellshill and external haulage from there; and general haulage. His wife works in the business and his daughter assists with Working Time Directive and other paperwork. Brother John's wife does the wages.
43. He takes sole involvement in purchase of the vehicles, looking to get the best price, usually by phone. He does not do email. He might purchase any amount if the price was right. Sometimes his purchases sit for years at Volvo, Scania or at Farmton. He does this as the value of the vehicles goes up and that worth is more than he would get through bank interest. Scania and Volvo have always held the warranty period. At present he has 6 vehicles, purchased but not specified. He has operated in this way for some 15 – 18 years.
44. He decided to put SV66 GPE on the road after Mr Stewart's vehicle SV12 CLN had gearbox trouble. The vehicle was put to Scania for calibration.
45. The invoice for SV66 GPE (chassis ended 3599) is dated 31 July 2015 for **[REDACTED]**, with cheque dated 24 August 2015. He collected it on 27 September 2015 from Moody's yard. He had not been there before. He had bought some

second hand vehicles from Moody before. Mr Moody said he had some Scania Blue Streams coming in and would he, Mr Riddell, like to buy. He said “yes” if the price was right as these vehicles keep their value. He could not recall when the (verbal) order was made. At Moody’s suggestion work was done for lighting and bars by Kelsa and he paid Moody for that. He did not ask Moody to fit an interrupter. After SV66 GPE came to Farmton, work was done by a local body builder. No instruction was given to fit a switch. He had never looked at a KITAS until the Traffic Examiner showed him it. He knew it was located in the gearbox. He was not aware of the control box behind the dash.

46. SV66 GPE was sent for calibration at Scania on Friday 21 October 2016 and Mr Stewart uplifted the vehicle. It was showing a fault in the tacho head. Scania told him the vehicle could be used but would need a new head and was booked in for Monday 24 October. The vehicle was in use until stopped by DVSA on 18 November 2016. He did not know of the interrupter nor did he instruct it. But for Mr Stewart’s vehicle having gearbox problems, SV66 GPE would not have gone on the road. He did not take SV66 GPE back to Mr Moody to be fixed. After the interrupter was found, he arranged for DVSA to see all his vehicles.
47. SV17 GUO – the invoice (production 1c) was dated 24 August 2015 for **[REDACTED]** – cheque stub dated 17 September 2015. That vehicle was brought back to Farmton and it was there or at the body builder from September 2015 to August 2018. He was offered it at the same time or a couple of weeks after the order for SV66 GPE. It was a new vehicle. He did not arrange an interrupter device or disconnect it. Mr Moody denied it.
48. These two vehicles were purchased about the same time so when purchasing the second vehicle he did not know about the interrupter device in the first. It was November 2016 before he knew of the first device and 2017 for the other KITAS. He has purchased vehicles from Moody after being aware of the first device – 2 new style Scania’s at the right price. They are at Farmton un-used. His view of what happened was that the devices were fitted for someone else who did not buy them and he had ended up with them.
49. He acknowledged that he should have helped the Traffic Examiners more by providing the information they required. His solicitor was on holiday. He was very upset and shocked.
50. He explained the Moody invoice dated 28 June 2016 (production 1b) which showed 3 vehicles purchased at **[REDACTED]** each (chassis numbers given). The chassis ended 525 is vehicle SV67 CEA. The other 2 vehicles are at Farmton and were specified on 21 January 2018. He did not know when he would put the other 2 vehicles on the licence.
51. In respect of the Examiner’s findings that vehicles were being kept at Volvo Inverness which was not an operating centre, that had stopped. He accepted that the infringements by brothers Kevin and Gary Mackenzie had not been dealt with at the time and not picked up. The procedure then was to look at infringements on the computer. Now they are printed out and posted to drivers to sign. In the past, he would just phone. John would deal with any local drivers and he would deal with the long distance ones. In respect of driver Archibald, if he had asked to be rescheduled, that would have been done. He is now getting home more often. They had missed that he had used another driver’s card. They did not sack him under the [personal] circumstances but if anything remotely happened again he would be sacked.

52. The Working Time Directive spreadsheets were not up to date as his wife had been ill. His daughter is helping now. They now use Optac reports more – he referred to productions 3, 4 and 9.
53. Maintenance of 10 vehicles is in-house with remainder at Scania and Volvo. They had very few prohibitions and no test fails in the last 5/6 years. [I pointed out to Mr Riddell that PRS was a fail].
54. In respect of regulatory action, if the licence was revoked he would survive given other interests. The interest in the steelworks would have to stop. He was not sure for how long they could take a suspension. They could sub-contract but some of the work is specialised. They have a workforce of 33, many long serving. If the licence was curtailed, he could sub-contract about 25%. He does need help in the office.

John Riddell's evidence

55. Mr John Riddell has been transport manager for 10 years and in the office for 20 years before. He had been an LGV driver but illness stopped that. He could not say why they had missed Messrs Middleton and Archibald's infringements. In the past, they had simply looked at the computer with nothing printed off. With the new Optac system, it is easier, with monthly print outs and highlighting. He had not been aware that Volvo Inverness was being used as an operating centre. He thought the vehicles were at Knock. With driving licences, they took copies long ago. Now it is every 6 months. He did not know about up to date checking direct with DVLA. He now checks Working Time Directive – on a spreadsheet. Gordon's wife used to do it before being ill.
56. He would possibly benefit from a refresher course as he is a bit behind with the computer but had learned from Optac. He is a married man with grown up children. He had no plans for retirement. If the licence was revoked he would have to look for another job.

Richard Stewart's evidence

57. Driver Richard Stewart gave brief evidence in the matter of vehicle SV66 GPE. He got it when it had over 1000kms and drove it for 3 – 4 weeks. When he got it on the Friday (21 March) he noticed a fault on the tachograph but it was recording all that he did. He took it to Scania and they put on a new tacho head and it was clear. He was shocked at the DVSA findings and answered all the questions at interview and he had nothing to hide. He was not using the interrupter and didn't know it was in his lorry.
58. Senior Traffic Examiner Davidson advised the Inquiry that there was no evidence of Mr Stewart using the interrupter.

Closing Submissions

59. There was no indication of any form of manipulation in the rest of the fleet. There was no indication of a culture of that. Mr Moody is the figure with the potential opportunity to deal with these matters but that does not mean it was done at Mr Riddell's behest. Why should Mr Riddell have gone to the expense of manipulation

devices when the vehicles were not going into use for some time? The more serious the allegation the more cogent the evidence has to be, on balance of probabilities.

60. There was no evidence of the interrupter being used and the other had been disconnected.
61. In respect of other shortcomings, if the licence continues more will have to be done.
62. In respect of the transport manager, I was asked to allow him to continue as such.

Consideration of the evidence and my decision

63. Cases and Guidance considered:

Bryan Haulage (No.2) T2002/217

Priority Freight T2009/225

Thomas Muir (1999 SLT666) decision of the Court of Session

Martin Joseph Formby T/2012/34

Aspey Trucks T2010/49

Senior Traffic Commissioner Statutory Guidance Documents Nos 1 (Repute) and 10 (Proportionality)

Timeline

64. From the Public Inquiry brief and productions, the undernoted timeline emerged.

5/4/14 KITAS sender unit – 033 paired to a different vehicle.

20/5/15 Vehicle (later registered as SV66 GPE) is assembled at Scania Holland

1/7/15 Scania Netherlands invoice Moody chassis -599

1/7/15 tachograph vehicle unit activated for first time

6/7/15 vehicle paired with KITAS serial 545 delivered by Moody to UK

31/7/15 Moody invoice Riddell payable 30/8/15. Vehicle driven 2 hours 32 minutes.

24/8/15 date of cheque stub payable Moody

1/9/15 small vehicle movements

4/9/15 journey 2 hours 15 minutes

11/9/15 Kelsa invoice to Moody for work on Riddell chassis -599

16/9/15 tachograph records code for unauthorised alteration of the motion sensor

17/9/15 date of cheque stub payable Moody

27/9/15 G Riddell gets SV66 GPE from Moody and drives it to Farmton.
Vehicle records driving 8 hours 9 minutes.

28/7/16 Moody invoice Riddell 3 new and unused tractor units, including SV67 CEA

16/9/16 vehicle unit records fault code - VU internal fault.
to
24/10/16

21/10/16 SV66 GPE to Scania for calibration and paired automatically with KITAS -
033

24/10/16 Driver Stewart defects tacho on SV66 GPE. Scania Aberdeen replace
tacho head and calibrated. Driver Stewart becomes principal driver of
SV66 GPE.

18/11/16 DVSA stop SV66 GPE

27/11/16 first security breach recorded on SV17 GUO and power interruption to
13/12/16

13/12/16 second security breach recorded on SV17 GUO and power interruption to
1/5/17

1/5/17 third security beach recorded on SV17 GUO

1/7/17 SV17 GUO registered for first time with first keeper J G Riddell Ltd.

2- 3/8/17 SV17 GUO at Scania Aberdeen for tachograph calibration. Third security
breach on SV17 GUO is Scania action

8/8/17 DVSA interview Scania Aberdeen re SV17 GUO

30/10/17 DVSA make first documents request of Riddell at meeting with Riddell

1/11/17 DVSA downloaded vehicle unit SV17 GUO

13/11/17 DVSA again ask for documentation from Riddell including invoice of SV17
GUO

22/11/17 DVSA repeat request for paperwork

4/12/17 DVSA email Riddell for documents

25/1/18 DVSA interview Riddell

5/2/18 Section 99Z letter issued by DVSA

20/2/18 Operator solicitor reply

26/2/18 DVSA reply

Findings in fact

65. I make the following findings in fact.
66. J & G Riddell is a long established haulage business, part of the wider business interests of Mr Gordon Riddell who for all material purposes owns and controls the business. (His father has a residual shareholding and remains a director at Companies House but plays no other part in the business).
67. The licence has been in force since 1999. The company has been at Public Inquiry twice before. I was given no details of the first occasion, presumably papers destroyed and before my time. For the second Deputy Traffic Commissioner McFarlane imposed a curtailment.
68. The DVSA performance history over 5 years notes 2 roadworthiness prohibitions. The pass rate at annual test is well above the national average. In last 2 years 35 vehicles passed, 2 failed PRS in 2017.
69. The Traffic Examiner assessment of the operator's systems as disclosed in the Traffic Examiner Operator Report highlighted deficiencies in the operator's monitoring of drivers hours, Working Time Directive compliance, inadequacy of driver licence and DCPC checking.
70. The operator's office systems and scrutiny of drivers' hours and Working Time Directive compliance and administrative essential systems to secure compliance with the licence undertakings had broken down due to domestic, health and business pressures on Messrs Gordon and John Riddell and their wives Mesdames Riddell.
71. The operator did not detect that a driver was driving using another driver's expired card. Nor did the operator stop the use of an unauthorised operating centre at VOLVO Inverness by drivers based in that locality who failed to record their full duty time including positioning journeys to the vehicle.
72. Gordon Riddell engaged in a pattern of purchase of vehicles from Moody International at Grimsby – in person of Mick Moody with whom he had built a close business relationship buying new and second hand vehicles. Mr Riddell took a particular shine to Scania Blue Streams which Mr Moody was sourcing from Scania Europe and in particular Scania Holland. Mr Riddell did not purchase such vehicles to meet an immediate need but had learned that such vehicles held their value and their warranty period. Mr Riddell had sufficient finance to meet Moody's invoices without delay or third party financing. There was an established course of commerce between Messrs Riddell and Moody and an understanding of what vehicles would be of interest to Riddell.
73. DVSA found interruption devices on two of the Scania's purchased by Riddell from Moody in August and September 2015. These devices were of same type and came from the same source. It cannot be a coincidence that these devices happened to be on those two vehicles. I find that there was a deliberate fitting of these devices in those two vehicles before Riddell took the vehicles north. I reject that these devices were fitted by or for some other customer of Moody given that Riddell made a deal with Moody to purchase these vehicles. Given the dates revealed by the vehicle units, the fitting of these devices happened prior to the vehicles leaving the Grimsby area. The disabling of the device on SV17 GUO must have been done when the vehicle was in or about Farnton.

74. DVSA encountered SV66 GPE within one month of it being put on the road in October 2016 and established that there was an interference device within the vehicle. There was no evidence found by DVSA that driver Stewart had taken advantage of the presence of the device to manipulate his driving hours. There was no evidence that the interrupter device had been put to use by Riddell or anyone else whether on Riddell's behalf or someone else.
75. Riddell co-operated with DVSA to the extent of producing all other vehicles for DVSA's inspection. No other devices were found at that time. It is more likely than not that the finding of the device in SV66 GPE on 18 November 2016, led to the security breaches recorded on SV17 GUO and to the disabling of the device on that vehicle by someone unknown. The vehicle was in the possession of Riddell at the time albeit it had not been put into service.
76. Riddell did not co-operate with DVSA in the production of documentation for the purchase of the vehicle. There was procrastination and deflection by Riddell which thwarted the timeliness and thoroughness of DVSA's investigation. Riddell did not comply with the section 99ZA letter issued by DVSA on 5 February 2018.
77. There is no evidence that transport manager John Riddell played a part in the sourcing of these vehicles. Mr John Riddell plays a modest, less confident role in the business being an employee with no involvement in the entrepreneurial side of the business. He has become out of date as a transport manager and was not ensuring that systems were up to date and effective.

Consideration of the evidence and my decision

78. In this case, I am faced with a denial by Riddell of any involvement in manipulation devices being placed in the company's vehicles. That was Mr Gordon Riddell's evidence at the Inquiry and in response to DVSA at formal interviews. That too was the force of Mr McLaughlin's quietly articulate submissions on Mr Riddell's behalf. I have found as fact that the devices were not used. One of the vehicles was in its first month of use and driver Stewart had diligently defected the tachograph as he had spotted something amiss. A new tachograph head was fitted by Scania Aberdeen. The other vehicle had not been put to work and was at the stage of being calibrated prior to being used when Scania Aberdeen followed their suspicions and found the disconnected arrangement in that vehicle. The disconnection happened after the encounter at Craigforth on 18 November 2016.
79. Senior Traffic Examiner, Mr Davidson, who has long experience in having to deal with the manipulation of tachograph equipment, had not seen such equipment before in a UK haulier's vehicle. This pointed to a source close to Europe and the timeline for SV66 GPE places the act of manipulation as happening after delivery from the factory in Holland. It was Mr Moody who took delivery of that vehicle and also of the other vehicle. The proximity of Mr Moody's business to what was found cannot be ignored. Nor can the business relationship of Messrs Moody and Riddell. Mr Moody did not need another customer for these vehicles as he had the best of customer in Mr Riddell whom he knew to be in the market for such vehicles and who paid promptly and in full on submission of the invoices. As night follows day, I would expect Mr Moody to deny any involvement as he did when DVSA interviewed him under caution; just as Mr Riddell has denied any involvement. Mr Riddell did not sever business relations with Moody. On the contrary his evidence was of purchasing a further 2 Scania's through Moody. It is difficult to believe that an honest haulier would ever go near a source which had provided vehicles with such devices.

80. Riddell in the person of Gordon Riddell displayed much less anger, displeasure or fear which might be expected of an operator faced with findings of 2 devices in new Scania vehicles purchased at same time from same source. There was no confrontation Riddell: Moody and no cessation of business dealings.
81. I criticise Mr Riddell for not assisting the Examiners when he failed to provide the documents requested by them. It is in the interests of every honest haulier that DVSA is able to track down who is putting such devices into vehicles. The whole purpose of such manipulation is to extend the drivers' days and hours and thus to sweat two assets – vehicle and driver. Such imperils the rest of us for driver fatigue is well established as a cause of damage to people and property and safe logistics. Tachograph equipment is there to secure road safety and for no other purpose. Any manipulation of that equipment strikes at the heart of road safety and all the work that goes into cutting down deaths and injuries. Interference with tachograph equipment is a deliberate attack on the well-being of others and also of fair competition. Anyone who engages in the manipulation of such is party to that attack and undermining of road safety.
82. Mr Riddell buys vehicles and keeps them parked up for quite long periods before use. One of the productions was an email dated 10 August 2018 from Neil Garrow of Scania Milton Keynes who confirmed that Riddell had been buying Scania's since 1984, last big order in 2013 paid immediately but left unregistered for periods, the last to be registered in October 2016. They never default on a payment. I accept that there was this pattern of having vehicles in reserve at Farmton, often sitting for years, unused. Thus whilst someone had fitted these 2 vehicles with the equipment to undermine the proper operation of the tachograph recording equipment, such had not been put to use at all. Someone acted quickly to make sure that the other equipment was disabled. So that whilst the means had been there, the means were disabled.
83. Here fraudulent devices were within 2 of the operator's vehicles, one able to be used, the other detached. We will never know if DVSA's encounter with the vehicle on 18 November 2016 served to stop use which would have happened at some time or another. The operator assisted DVSA by making its other vehicles available but thwarted the other aspect of the investigation. Most likely Mr Riddell did not wish to draw attention to the range of transactions he had with Moody and to the other vehicle purchased at that time but not yet used. The invoices and cheque stubs which could very easily have been produced to DVSA in late 2016/early 2017 were produced for this Inquiry. I take an adverse inference from Mr Riddell's failure to produce documentation to DVSA when production thereof would have been very easy indeed.
84. I am guided by the Senior Traffic Commissioner's Guidance and I pose the Bryan Haulage and Priority Freight questions. If I find against the reputations, then I have to revoke this long standing licence and put this company out of the haulage side of its work. (Mr Gordon Riddell has other business interests so revocation would not put him out of business.) Thus, I have to ask myself – do I have to put this operator out of business? Aligned to that question is the question – can I trust this operator in future?
85. Here I have to pause for to revoke this licence requires me to be as sure as I can be that Riddell was party to the placing of the equipment within the two vehicles and knew of it prior to 18 November 2016. There is a very dark cloud of suspicion but significantly for the operator – there was no use of the equipment and no criminality

or circumstantial evidence which would point to such use being likely. DVSA found some non-compliance by the operator's drivers but such was not associated with any sustained deliberate non-compliance and hours offending or driving against the clock as often is found in operations where devices are used.

86. Of course, unlawful behaviour is found behind the best of liveries but absent some further adverse ingredient, I have to give a benefit of the doubt on repute to Riddell given that there was no use.
87. Thus, I have to hold back from a finding of loss of repute and revocation. However, what was found is too serious for me to leave it there. The expression "supping with the devil" has been in my head as I write this. On 18 November 2016, Mr Riddell knew that a very serious incident had befallen his company when the interrupter was found. From that moment, Riddell's operator licence became at risk. Yet he did not dissociate himself from the area and source of that risk. He continued to purchase vehicles through Grimsby. He continued even after the second vehicle came to public gaze. He did not behave with repute when he failed to co-operate with DVSA's requests including that made formally by section 99ZA. He should have been as motivated as anyone to find out how his vehicles came to be so compromised. Patently, I have not been told the full story. There has been a holding back. That attacks the trust between operator and Traffic Commissioner.
88. Taking this case in the round, and having balanced all the positive and negative factors as I am obliged and would wish to do, I have to place a serious marker against this licence. There cannot be a modest curtailment. I will curtail this licence from 20 vehicles to 15 vehicles for 3 months with effect from 23.59 on Friday 19 October 2018. During the period of suspension the 5 curtailed vehicles cannot be used on this or any other licences. The curtailed vehicles will be these: SV66 GPE; SV67 CEA; SV17 GUO; V50 JGR and SV60 AUL.

Mr John Riddell as transport manager

89. I have not found any link between Mr John Riddell and the interference with the tachograph.
90. He has fallen short in not identifying matters which should have been under his gaze and supervision and which breach the licence undertakings. However, I consider that it would not be proportionate to remove his repute and I limit action to a warning. He must bring himself up to date. He must attend a transport manager refresher course within 6 months and produce evidence thereof to my Office.

Summary of my decisions

91. The goods vehicle operator licence held by J & G Riddell Ltd is curtailed from 20 vehicles to 15 vehicles for 3 months with effect from 23.59 on Friday 19 October 2018 in terms of section 26 of the Act. During the period of suspension the 5 curtailed vehicles cannot be used on this or any other licences – section 26(6) applies. The curtailed vehicles will be these: SV66 GPE; SV67 CEA; SV17 GUO; V50 JGR and SV60 AUL.
92. I warn the operator and Mr Gordon Riddell as to their repute.

93. I warn Mr John Riddell as to his repute as a transport manager. He must attend a transport manager refresher course and produce evidence of that to my Office within 6 months.

Joan N Aitken
Traffic Commissioner for Scotland
20 September 2019