



**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)

**Derby Haulage Limited  
OC1140032**

**Tariq Talib t/a T & K Transport  
OD1134693/OF1128064**

**&**

**Talib Transport Ltd  
OC2008226**

Public Inquiry held at Golborne  
on 1 October 2018

**Derby Haulage Limited (OC1140032)**

In accordance with Section 26 (1) (b), (c) (iii), (ca), (e), (f) and (h), and Section 27 (1) (a) of the Act, in respect of repute, financial standing and professional competence, I revoke this licence from 23:59 hours on 17 October 2018.

I find that **Mansoor Ahmed** has forfeit his repute as a Transport Manager. I find he is unfit to act in that role and I disqualify him from acting as a Transport manager for a period of not less than 3 years.

**Tariq Talib (OF1128064) and (OD1134693)**

In accordance with Section 27 (1) (a) of the Act, in respect of a lack of professional competence, I revoke these licence from 23:59 hours on 17 October 2018, unless the licence for Talib Transport Limited has by then already been granted, when they will terminate at the same time.

I find that **Mansoor Ahmed** has forfeit his repute as a Transport Manager (as above).

**Talib Transport Ltd (OC2008226)**

The application for this new licence is adjourned until Noon on 16th October 2018 for the attendance of the proposed TM and Tariq Talib before me, and to provide an opportunity for it to evidence financial standing.

## **Background:**

1. **Derby Haulage Limited** (OC1140032) is the holder of a Standard International Goods Vehicle Operator's licence for 12 vehicles and 4 trailers, granted on 18 September 2015. The sole director and Transport Manager (TM) is Mansoor Ahmed.
2. The licence has no previous regulatory history yet currently has Red/Red status under the OCRS system (Operator Compliance Risk Score). That state of affairs is the result of a 50% prohibition rate for vehicles, the issue of fixed penalties for drivers' hours' offences and an offence prohibition following allegations of a driver making false entries in a tachograph record. The MOT initial pass rate is marginally worse than the national average.

## **The calling-in:**

3. The calling-in to Public Inquiry arises from the issue of an "S" marked prohibition to a company vehicle, F11 DPH, on 27 November 2017. The vehicle was found to be missing a brake pad on its third axle. It transpired that under pressure from a client, the operator procured this vehicle but added it onto the licence and brought it into use, without carrying out any first use maintenance check. The operator admitted that he placed business needs ahead of road safety because the client was constantly ringing him.
4. The follow-up maintenance investigation had recorded an unsatisfactory outcome. It was discovered that maintenance was being carried out in-house (rather than at a series of external suppliers) but this was never notified, there was evidence of stretched maintenance frequencies, records were incomplete, there was a lack of rectification recording and driver defecting arrangements were inadequate. The Vehicle Examiner (VE) also noted that the operator was using an unauthorised operating centre from December 2017 (which was still in use without an application being made by the date of the hearing). The operator's recorded history showed six prohibitions in all, which included 15 individual events attracting prohibition, of which five were immediate. The latest prohibition (for three immediate concerns and four delayed matters) was as recent as 13 August 2018. These were again "S" marked, and one matter where a brake pad was missing, mirrored the earlier "S" marked prohibition in November 2017.
5. The operator had been put on notice that its repute, financial standing and professional competence were at risk. The repute and professional competence of the company's Transport Manager, Mansoor Ahmed, were also brought in to question.
6. Inquiries and an investigation in respect of a failure to comply with expectations regarding the management of drivers and their compliance with drivers' hours' rules and the working time directive had also taken place. That process was triggered by the same stop in November 2017, where it had additionally been discovered that the driver had been using the driver card of another driver, in order to create a false record obscuring his need to take a 45-hour rest. Mansoor Ahmed had been interviewed under caution in respect of that matter. Despite his acceptance that his driver had acted "very wrongly", (although he said he knew nothing about his actions), he had taken no disciplinary action against the driver. He described the reason for taking such a position thus:

*"I have done nothing - as I have a truck on hire from him, and if I take action, I would have to pay hire charges for the truck but not be able to use it".*

Pressed by me, Mansoor Ahmed accepted that his actions had amounted to placing a commercial interest before taking appropriate action against an apparently dishonest and completely unsuitable driver.

## The hearing and the evidence:

7. Both Mansoor Ahmed and Tariq Talib were present. Neither was represented in the proceedings, although Mansoor Ahmed had secured the services of Asad Ali, a Transport Consultant, who had prepared an audit report, and whom he called to give oral evidence.
8. The evidence that I read and heard was not the subject of material dispute.
9. Having heard at some length from Mansoor Ahmed, I acknowledge and give him credit for his straightforward approach during this Public Inquiry. He has made entirely appropriate and full admissions of his failures across a range of matters. He has presented an independent audit report, dated July 2018 and accepted its outcomes. They include 21 recommendations, 18 of which fall into categories of being essential/important and needing attention within 2 months. The predominant ratings for sections of the audit were recorded as “poor” and in the case of the vehicle maintenance and inspection section – “very poor”. In the auditor’s oral evidence, he restated his view that Mansoor Ahmed had failed to carry out his duties, both as a director, and as a TM. He found it “slightly worrying” that the operator had been unable to demonstrate improvement by the date of the hearing, bearing in mind the passage of time.
10. A second matter before me concerned Mansoor Ahmed’s role as nominated TM on the licences of **Tariq Talib**, a sole trader holding licences in adjoining traffic areas, **OF1128064** and **OD1134693**. Mr Talib had described his arrangement with his “best friend”, Mansoor Ahmed as based on an “informal agreement” but further had confirmed that Mansoor Ahmed was not paid for his work. He claimed that Mr Ahmed worked for 6 hours across the two licences each Saturday, although he accepted that the relevant TM1 forms had in fact recorded proposed working hours as 20 and 22 (a total of 42 hours). Both he and Mansoor Ahmed accepted that their signing the form and warranting that a contract for TM services was in place, had not been true.
11. Tariq Talib confirmed that he proposed to surrender both of his sole trader licences, if he was granted a new operator’s licence in a new entity - **Talib Transport Ltd (OC2008226)**. That proposed new licence was to have been a Standard National Goods Vehicles Operator’s licence for 10 vehicles and 4 trailers but he took the opportunity to ask to amend his application to reduce it by 8 vehicles down to 2 vehicles 4 trailers.
12. At the end of the hearing, I reserved my decision in respect of all matters and operators/applicants, so that I might reflect and in order to review more recent maintenance records provided by Derby Haulage Limited.
13. I sampled the records but found that those for GL08 YUK showed preventive maintenance checks on 14 July 2018 and 22 September 2018. As will be clear, this is a period 10 weeks apart. The latter report is incomplete as to its reverse side, is unsigned, carries no tyre depths and evidences no measured brake testing. The undertaking in place requires 6-weekly checks.

## Consideration

### Derby Haulage Limited:

14. I have sought to weigh the positives alongside the negatives in accordance with the Senior Traffic Commissioner’s Guidance Document No.10: The Principles of Decision Making and the Concept of Proportionality.

15. This operator has taken informed advice from a Transport Consultant, Kasad Ali. Offers were made for Mansoor Ahmed that he would attend refresher training (when probed he could not explain why this had not already been completed) and said he would offer a further audit of compliance at a date of my choosing. His Transport Consultant floated that he would be prepared to act as his TM in his place and in this way support efforts towards compliance.
16. Mansoor Ahmed had explained that in opening a garage and taking on large amounts of maintenance work in it, he now appreciated he had lost focus on his own vehicles but that this would be put right, when he gives up the garage franchise at the end of October 2018.
17. On the other side of the balance were placed the large amount of prohibitions issued, the most recent sets both being "S" marked indicating a serious failure in the operator's systems. I took account of the audit report, which corroborated the issue of those "S" markings in describing an absence of systems in safety-critical areas for any operator but also referred to a serious lack of compliance, which remained current. Shortcomings concerned not only maintenance and the fitness and serviceability of vehicles but the use of an unauthorised operating centre and a failure to manage drivers, so that there was compliance with drivers' hours' compliance. Significantly, in my view, fair competition issues had arisen on two occasions during the hearing, when it had become clear the operator was quite prepared to place his company's business interests ahead of the needs for strict licence compliance.
18. I have concluded the negatives very substantially outweigh any positives.
19. I find I am unable to be confident about this operator. Whilst he was open and transparent, a considerable naivety as to the seriousness of his predicament shone through. I found it telling that his Transport Consultant shared my concern that progress, which might already have been made towards compliance, was not evidenced. I find the offer for example that Mr Ali might act as TM to have come far too late in the day. Thus when I ask myself "Whether it is likely that this operator will be compliant in the future?" – I must answer that I am not. When I ask myself the supplemental question "Whether it is proportionate that Derby Haulage Limited is excluded from the industry?" - I find it should be, even when I take account of the loss of employment likely to be suffered by drivers, and that the business itself would no longer be viable.
20. I shall allow a short period for the orderly closedown of this business on Wednesday 17<sup>th</sup> October 2018 at 23:59 hours.
21. I exercise my powers under S.26 (1) (b), (c) (iii), (ca), (e), (f) and (h) of the Act. I conclude that the operator's repute has been lost; financial standing has not been shown, principally since the operator had not produced the full documentation required to show the existence of an overdraft facility.
22. Turning to the question of the repute of the TM, I find that Mansoor Ahmed has forfeited his repute. This company licence is in all respects a one-man operation. I cannot realistically separate Mr Ahmed's roles as director from those as TM. It is plain that he has neglected his duties to manage the continuous and effective operation of the licence of Derby Haulage Limited. He admits concentrating on other matters but the loss of focus has led to prohibitions and serious offences committed by a driver. It is entirely appropriate that he be excluded from acting as a TM. Such are his failures that I cannot countenance a period of less than 3 years away from the role. In reaching this decision, I also take into account his manifest failures to meet the promises he made on the Tariq Talib licences, albeit that in the case of that operator his failures are not reflected in prohibitions issued on it.

The Tariq Talib licences:

23. These licences have enjoyed a largely unremarkable history since their grant in May 2014 (OF1128064) and February 2015 (OD1134693). It was, however, necessary for my office to issue PTR (Propose to Revoke) letters before a response could be obtained from the operator about its TM, and this Public Inquiry is held at the operator's request. The repute and professional competence of the operator has been brought in to question (as referred to above) because of the nature of the decision to offer him for appointment to the role when on his own evidence he was too busy to give his own licence the attention it deserved. The case law is clear that it is unacceptable for a TM to be an unpaid volunteer. There is no mutuality of obligation where a volunteer is concerned. Further, whilst a substantial commitment in terms of the volume of hours were promised on application, there was never any variation of them notified and no contract was entered into, as had been warranted.

Talib Transport Ltd:

24. I am aware that these are licences that this sole trader wishes to surrender and to replace with a licence for the new entity. The company sensibly offers an alternative TM, Graham Reeves, who was invited (not called) to this hearing. Much to my surprise, he did not attend. Some questions remain about his availability for the task. I find that I would not be prepared to reach a conclusion about the company's application for a licence without first seeing him with Tariq Talib at a further hearing. I am therefore adjourning the application for the new licence until Noon on 16<sup>th</sup> October 2018, to provide that opportunity, and for the company to provide evidence of financial standing in a fashion it has failed to do at this hearing.
25. As to the licences of Tariq Talib, I conclude that revocation is unavoidable: allowing surrender at the behest of the operator is inappropriate in the light of my findings. Mansoor Ahmed has lost his repute and the operator is therefore without professional competence. Revocation in accordance with Section 27(1) (a) of the Act will take effect in respect of both licences on 17<sup>th</sup> October 2018 at 23:59 hours, unless the licence for Talib Transport Limited has already been granted, when it will terminate at the same time.



**Simon Evans**  
Traffic Commissioner  
for the North West of England  
3 October 2018