



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 12 SEPTEMBER 2018

OPERATOR: PARKER TRANSPORT MIDLAND LTD

LICENCE OD1140787

Decision

1. The standard national goods vehicle operator's licence held by Parker Transport Midland Ltd is revoked with immediate effect, pursuant to Sections 26(1)(c)(iii), (f) and (h) and 27(1)(a) and (b) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").
2. Company director David Keith Parker is disqualified indefinitely 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. The disqualification is pursuant to section 28 (1), (4) and (5) of the 1995 Act.
3. Dennis Healy has lost his good repute as a transport manager, pursuant to schedule 3 paragraph 1 of the 1995 Act. Under paragraph 16(2) of that schedule, he is disqualified, with immediate effect and for an indefinite period of time, from acting as a transport manager on any operator's licence in any Member State of the European Union.

Background

Operator details

1. Parker Transport Midland Ltd ("Parker Transport") holds a standard national goods vehicle operator's licence (OD1140787) for five vehicles and five trailers. There are two vehicles in possession. The licence was granted in January 2016. The authorised operating centre is at Beazer House, Hare Street, Bilston, WV14 7DX. The sole director of the company is David Keith Parker. The nominated transport manager is Dennis Healy.

DVSA investigation

2. In July 2018 I received a report from DVSA traffic examiner Adrian Prior. He reported that:
- i) there was evidence that a Jarnail Singh Bajwa, disqualified indefinitely from holding a licence, was the de facto operator of this licence. Mr Bajwa had been present as a “transport planner” during Mr Prior’s meeting with David Parker and Dennis Healy and had answered most of the questions. The operator’s two vehicles had both previously been registered to companies (Bajwa & Son Midlands Ltd and Gold Care (UK) Ltd) controlled by Mr Bajwa whose operator licences had been revoked by TC Nick Jones in March 2016. Mr Jones had also found that Mr Bajwa had been acting as a shadow director of both companies in order to circumvent his previous disqualification from holding a licence (and from being the director of a company holding a licence);
 - ii) David Parker was a mechanic with Action Garage Midland Ltd, the operator’s maintenance contractor;
 - iii) there was little evidence of any analysis or oversight of drivers’ hours. Driver infringement reports eventually provided had all (bar one) been printed out and signed on 15 May 2018, after Mr Prior’s visit to the company on 10 May;
 - iv) Mr Healy appeared to have little involvement with the operator, at one point stating that he did not really understand the Tachomaster system;
 - v) the company failed to produce records requested by TE Prior, including driver declarations, pay records and copies of the operator’s contracts.

Public inquiry

3. In the light of the above I decided to call both operator and transport manager to a public inquiry. Call-up letters were sent on 8 August 2018, citing Sections 26(1)(c)(iii), (f) and (h) and 27(1)(a) and (b) of the 1995 Act as well as Article 4.1(a) of Regulation EC 1071/2009. The inquiry was to be held in Birmingham on 12 September 2018.

Further information

4. In preparing for the inquiry I consulted Companies House records and noted that although the company was described as currently active, it had been recorded as dormant throughout 2016 until 31 July 2017. The accounts to 31 July 2017 recorded assets of £1 on that date. The picture of a company dormant until at least 31 July 2017 and with no financial assets on that date did not accord with the reality of a company trading with vehicles specified on its licence since May 2016 and which needed to demonstrate throughout that time assets to the tune of £25,550 to support the five vehicles for which it was authorised.
5. On 20 August my clerk received a letter from transport manager Dennis Healy stating that he would not be attending the public inquiry. A new transport manager had been appointed who would be employing “more up-to-date methods”. Mr Healy considered that the company had been run in a proper and competent manner; he had now retired and did not intend to act as a transport manager again.

Holding of the public inquiry

6. Just before the inquiry was due to start I saw barrister Martin Smith of Cartwright King outside the inquiry room. Mr Smith informed me that he had lately been instructed by the operator to represent it but had just been phoned by David Parker who had withdrawn these instructions and told Mr Smith that no one from the company would be attending the inquiry. Mr Smith then left the premises as he no longer had any locus in the inquiry.

7. Present at the inquiry was DVSA traffic examiner Adrian Prior. Also present was an interpreter who had been requested by Jarnail Singh Bajwa who did not in the event attend. I adjourned the inquiry to make a written decision.

Findings

8. The operator lacks appropriate financial standing (Section 27(1)(a) of the 1995 Act refers). No evidence of finances was presented, despite the call-up letter requesting that this be submitted a week in advance of the inquiry.
9. The operator lacks professional competence (Section 27(1)(a) also refers). Dennis Healy has retired and, even when in post, was failing to exercise the required continuous and effective management of the transport activities of the business. He failed to produce timely analyses of drivers' hours and indeed did not understand how to operate the analysis system. For these reasons, I also find that Dennis Healy is not of good repute (Section 27(1)(b) refers). His failure to attend the inquiry has prevented him from presenting any mitigating factors.
10. Parker Transport Midland Ltd is not the true operator of the licence (Section 26(1)(h) refers). Operations of vehicles commenced in May 2016 at the latest, yet at the time and up until 31 July 2017, the company was reporting itself to Companies House as dormant.
11. Parker Transport Midland Ltd has been a front for continued operations by Jarnail Singh Bajwa who remains disqualified from operating. The vehicles operated by Parker Transport had both previously been owned by companies associated with Mr Bajwa. Mr Bajwa was, according to TE Prior, the person who answered most of his questions at his meeting with the operator, including questions related to drivers' hours and supermarket contracts, not normally the responsibility of a transport planner. The company's operating centre, stated to be Fort Parkway B24 8DW on the original application for the licence, was changed a month after TC Jones's decision to revoke the Bajwa & Son Midlands Ltd and the Gold Care (UK) Ltd licences to Beazer House in Bilston which had been the operating centre on the two revoked licences.
12. The operator's vehicles and trailers incurred prohibitions for six separate items at the one roadworthiness stop the operator has had (13 July 2018). Three of the items warranted an immediate prohibition. (Section 26(1)(c)(iii) refers);
13. The operator has failed to fulfil its undertaking to ensure the observance of rules on drivers' hours and tachographs (Section 26(1)(f) refers). Drivers were committing repeated infringements (albeit not of the most serious nature) but analysis does not appear to have been carried out systematically or driver infringement reports issued until after TE Prior's visit on 10 May 2018.
14. The operator has failed to fulfil its undertaking to keep vehicles fit and serviceable. The MOT pass rate is poor, with three passes out of five presentations. The two failures were for a large number of items including brakes and spray suppression equipment.

Conclusions

Operator

15. The operator lacks financial standing and professional competence. Its transport manager is not of good repute. It is a front for continued operation by a person, Jarnail Singh Bajwa, who has been disqualified from holding a licence. Compliance,

insofar as can be ascertained in the absence of many records, is at the low level traditionally associated with any operation run by Mr Bajwa. Revocation of the licence is mandatory under Section 27(1)(a) and (b) and is the only possible outcome. Unusually, I am revoking the licence with immediate effect as, had the then traffic commissioner been aware of the true circumstances, it would never have been issued in the first place.

Disqualification of David Parker

16. David Parker has knowingly acted as a front for operations by Mr Bajwa. He has a full-time job as a mechanic with a different company. He reported Parker Transport Ltd as a dormant company to Companies House at a time when it was in fact operating HGVs under the licence issued to it. His conduct has been disgraceful and I have no hesitation in concluding that he deserves to be disqualified from holding or obtaining an operator's licence and from being the director of a company holding or obtaining one. The disqualification is for an indefinite period of time.

Disqualification of Dennis Healy

17. Having concluded that Mr Healy's repute is lost I must also disqualify him under Schedule 3 of the 1995 Act from acting as a transport manager on any licence. I do so for an indefinite period of time. Mr Healy must have been aware that Mr Bajwa was the controlling mind behind the business and must have been aware that almost no supervision of drivers' hours was being exerted. His description of the business as well-run when the prohibition and MOT record was so poor shows how out of touch he was from the responsibilities of a transport manager. I am disqualifying him from acting as a transport manager indefinitely.

Enforcement of this decision

18. Given Mr Bajwa's history of operating HGVs outside the law, I have limited faith that the vehicles currently on Parker Transport's licence will cease to be operated in practice. I am therefore requesting DVSA and the Police to employ their ANPR and on-road resources to identify and stop the vehicles in question (WX09 BFE and NK11 BXY). If these vehicles are found carrying goods on the public road after today they are liable to be impounded.



Nicholas Denton
Traffic Commissioner
13 September 2018