



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 22 AUGUST 2018

APPLICANT: WOLLASTON HAULAGE LTD

Decision

1. The application for a standard international goods vehicle operator's licence for four vehicles and four trailers, made by Wollaston Haulage Ltd, is refused, pursuant to Section 27(1)(a) and 27(1)(a) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").

Background

Applicant details

1. Wollaston Haulage Ltd ("Wollaston") applied for a standard international goods vehicle operator's licence for four vehicles and four trailers in March 2018. The directors of the company are Jason Williams and Nicola Davis. The prospective transport manager is Gemma Wigley.
2. At a public inquiry in February 2011 the then traffic commissioner Nick Jones revoked the previous licence OD1075732 held by Wollaston Haulage Ltd under Sections 26(1)(a), (b), (c)(i) and (iii), (e) and (f) and Section 27(1)(a) of the 1995 Act. The then transport manager, Jason Williams, lost his good repute as transport manager. The then sole director of the company Nicola Davis (Mr Williams having previously resigned in order, TC Jones concluded, to avoid possible disqualification), was disqualified from holding a licence for six months. TC Jones said that this was partly to ensure that Mr Williams did not trade in the future using her as a front.
3. In the application made in March 2018, Mr Williams explained that since 2011 Wollaston (of which he was now a director again) had sub-contracted its transport work to a third party operator Highfield Haulage Bilston Ltd ("Highfield") who controlled their own vehicles and drivers. Wollaston simply acted as a freight forwarder/broker.
4. The bank statements submitted with the application showed large and frequent payments by Wollaston for fuel. I was therefore concerned that the applicant might in fact already be operating without a licence. Because of this, and in view of the applicant's history, I decided to consider the application at a public inquiry.

Holding of public inquiry

5. The inquiry was held in Birmingham on 22 August 2018. Present was director Jason Williams. The company was represented by transport consultant Charlie Ahmed, of Invergold Associates. Shortly before the inquiry Mr Ahmed presented written submissions on behalf of the applicant. These papers included a copy of the contract between Wollaston and Highfield. Under the arrangement I saw that Highfield had purchased some vehicles outright from Wollaston in 2011 and had taken Wollaston's drivers into its employment. Two other vehicles were being leased by Wollaston from Renault; the agreement with Highfield provided that Highfield would take these vehicles on a sub-lease and operate them.
6. Mr Ahmed said that Wollaston had taken legal advice at this time and had been assured that the arrangements were in conformity with TC Jones's decision to revoke Wollaston's operator licence.
7. I asked Mr Williams about the fuel payments on Wollaston's bank statements. Why was the company paying for fuel if vehicles were operated by Highfield? Mr Williams stated that Wollaston was paying for fuel used by two tanker vehicles carrying dangerous goods. These were the two vehicles on lease. It transpired that Highfield had been unwilling to sub-lease these vehicles as they carried dangerous goods, in which they had no expertise. The vehicles had therefore been returned some years ago to Wollaston who had continued to lease them from Renault. Through further questioning I elicited the information that Wollaston paid directly for the maintenance of the vehicles (which was included in the lease arrangement with Renault), for the fuel and for the insurance. The wages of the two vehicles' drivers were paid by Wollaston (through Highfield). Wollaston also paid for the cost of any necessary repairs to the vehicle. Drivers' hours compliance was ensured by Highfield. Mr Williams assured me that he did not have anything to do with the operation of the vehicles.
8. Mr Ahmed said that the company had thought it was doing everything properly. It had perhaps moved away a little from the original arrangements with Highfield as far as the two tanker vehicles were concerned, but it had not considered that this was doing anything wrong.

Conclusions

9. If an operator has its licence revoked, it has to be very careful to ensure that, if it continues in business as a freight forwarder or broker, the arrangements it enters into with transport providers clearly leave the matter of operating HGVs to those providers. The arrangements set out in the contract with Highfield appear to me generally to meet this test. However, these arrangements were not adhered to in the case of the two tanker vehicles. The income generated by their use went directly to Wollaston. The vehicles were leased and all the fixed costs paid by Wollaston. Most of the variable costs were paid directly by Wollaston (fuel and repairs) and the cost of the drivers was paid for by Wollaston through Highfield. The vehicles were specified on Highfield's licence and the drivers employed by Highfield, who also looked after drivers' hours compliance, but that seems to have been the extent of Highfield's involvement. Highfield did not pay Wollaston for the use of the two tanker vehicles, which it should have done if it had been the genuine operator. It is clear that Wollaston's involvement far exceeded that of the simple freight forwarder or broker which Mr Williams had claimed it to be.
10. Mr Williams' statement that Highfield had not wanted to be involved with the operation of dangerous goods vehicles was also of concern. If it had not been involved, despite having the vehicles on its licence, who had been its dangerous goods safety officer and had they had one at all? The inquiry did not investigate these issues as Highfield

had not been called (there had been no reason to do so until questions over its conduct began to emerge from the inquiry).

11. Taking into account all the evidence, I find that Wollaston had a significant role in the operation of at least two tanker vehicles over a period of several years, at a time when its operator's licence had been revoked. This role fell short of being responsible for every aspect of the vehicles' operation, but it continued to assume the risk of the vehicles' operation and appears to have been involved in their operation to a much greater extent than their nominal operator Highfield. I find that Wollaston have been in contempt of the decision of TC Jones to revoke their licence and to remove Mr Williams's good repute.

Decision

12. For this reason, I am not satisfied that the applicant is of the necessary good repute to be granted a standard international licence(Section 27(1)(a) of the 1995 Act refers). The application is accordingly refused.



Nicholas Denton
Traffic Commissioner
24 August 2018