



**A W CLEAVER HAULAGE LTD**

**OH1131914**

**TRANSPORT MANAGERS:**

**FRANCIS JOHN CLEAVER  
DAVID DEAKIN  
JOE BAILEY**

**PUBLIC INQUIRY HEARD AT BRISTOL ON**

**29 OCTOBER 2018**

**REASONS OF THE TRAFFIC COMMISSIONER**

**DECISION**

**The Goods Vehicles (Licensing of Operators) Act 1995 (the “Act”)**

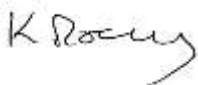
Pursuant to a findings under Section 26(1)(ca), fixed penalties issued to a director, and 26(1)(h), director’s vocational entitlement revoked for driving dangerously and falsifying tachograph records, licence OH1131914 is REVOKED with effect from 23:59 hours, 31 January 2019.

Pursuant to Section 28 of the Act, Daniel Alexander Cleaver is disqualified from holding or obtaining an operator’s licence or being involved in the transport operations of an entity that holds or obtains such a licence for a period of 2 years from 29 October 2018.

## REASONS

1. The licence was granted at public inquiry following a change in entity from a partnership licence. The associated matters have been dealt with and are not relevant to this decision.
2. On 22 March 2018, vehicle WX17WVT was involved in a fatal collision. The driver was Daniel Haskins. The cause was an instantaneous tyre failure on axle 1 of the tractor unit. No fault has been found with the company or the driver for the tragic incident.
3. Follow-up enquiries identified a number of issues. The vehicle had been driven for two periods the previous day with no driver card inserted. Mr Haskins admitted to a period of driving from 16:42 until 18:02. He told me that he had pulled his card to get back to the yard because he was running out of time. A number of other infringements were found in relation to Mr Haskins but none to the extent that would warrant any sanction if found at the roadside.
4. Director Daniel Cleaver admitted to driving the vehicle between 22:37 and 23:13. He told me that he was taking the vehicle to park near Mr Haskins' home ready for an early start the next day. Dashcam evidence taken from the vehicle showed that it travelled the wrong way around a roundabout. I found that driving to pass the threshold for dangerous driving found in the CPS Guide: Road Traffic Offences: Guidance on Charging Offences arising from Driving Incidents, February 2018. Daniel Cleaver is also in the habit of driving vehicles to and from maintenance providers without a card in the tachograph head. He was issued with two fixed penalties on 22 May 2018 for offences of this nature.
5. A DVSA maintenance investigation followed two prohibitions issued at annual test. I have heard and accept explanations for each of those and am content that they are unlikely to reoccur. Maintenance systems generally appear sound and will improve further as more is outsourced. The fleet is very young with an average age of three years following acquisition of nine new vehicles in December this year. There is nothing in the maintenance arrangements that would cause me to take regulatory action.
6. A DVSA investigation of the driver management systems found them to be mostly satisfactory. The concerns that arise from my analysis of systems today do so almost entirely in relation to the continued driving without a card of Daniel Cleaver. Drivers hours appear otherwise to be well-managed and generally compliant.
7. I accept that there is no evidence that vehicles are, or were, regularly parked at Mr Haskins' home. It appears to be an isolated incident and certainly is not where a vehicle was "normally kept when not in use". I also accept that there are no relevant convictions of the company or its servants or agents. I further accept that vehicle GU14GGP was not being used in excess of licence authority but had been sold and was being prepared for transfer of ownership.

8. The requirement for financial standing is satisfied by reference to bank statements and non-operational assets owned by the limited company.
9. The evidence I have heard causes me to make no adverse finding in relation to any transport managers called.
10. My remaining concern is the potential for Daniel Cleaver to cause further offending, either by himself or by others. On the day that he drove around the roundabout the wrong way, with no tachograph card inserted, he had started driving at 05:56 and was driving again almost 18 hours later. He accepted that he may have been suffering from fatigue. He also told me that his mind wasn't on his driving as he had had an argument with his "ex". He should never have got behind the wheel of that vehicle. That was a serious, reckless, error of judgement.
11. Daniel Cleaver resigned as a statutory director on 8 October 2018. He still works within the business. As a family member, he will continue to have influence over others. Whilst that is the case, I cannot find this to be an operator I can trust to be compliant in the future. For the reason, revocation of the licence is necessary so that I can take the necessary steps to exclude Daniel Cleaver's influence. However, with his disqualification and exclusion from the business, a fresh application can succeed and my intention is for that to happen with no break in operations.
12. In disqualifying Daniel Cleaver following his resignation as director, I rely on the authority of appeal *T/2008/688 Pritchard*.



**Kevin Rooney**  
**Traffic Commissioner for the West of England**

**29 October 2018**