



DECISIONS OF THE TRAFFIC COMMISSIONER FOR WALES

Allscaff SW Ltd – OH1147687

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Allscaff SW Ltd – OG2007861

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Driver – Ronald Alan Yull – YULL9 503231 *****

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

Decisions made in respect of the operator’s licence held by Allscaff SW Ltd OH1147687

1. Adverse findings are made under sections 26(1)(a); 26(1)(c)(iii); 26(1)(ca); 26(1)(e); and, 26 (1) (f) of the Act.
2. The operator no longer satisfies the requirement to have sufficient financial resources, section 26(1)(h) of the Act.
3. The operator no longer satisfies the requirement to be fit to hold an operator’s licence, section 26(1)(h) of the Act
4. The operator’s licence is revoked forthwith.

Decisions made in respect of the operator’s licence held by Allscaff SW Ltd OG2007861

5. Adverse findings are made under sections 26(1)(a); 26(1)(c)(iii); 26(1)(ca); 26(1)(e); and, 26 (1) (f) of the Act.

6. The operator no longer satisfies the requirement to have sufficient financial resources, section 26(1)(h) of the Act.
7. The operator no longer satisfies the requirement to be fit to hold an operator's licence, section 26(1)(h) of the Act
8. The operator's licence is revoked forthwith.

Decisions made in respect of driver Ronald Alan Yull – YULL9 503231 *****

9. A formal warning is given.

Attendance at Public Inquiry

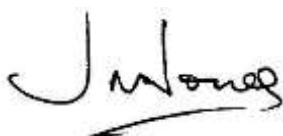
- Ronald Alan Yull, driver

Facts

- Note the operator failed to attend the hearing and I adopt as fact the statements from both PC346 Daniel Shead and TE Gregor Bell.
- The operator sought to surrender the licences after the call in letter was produced, but I have declined to accept the surrender as I consider that regulatory action is appropriate.
- On 20 December 2017 PC Shead stopped a vehicle operated by the operator and driven by Ronald J Yull. It transpired that it was being parked in Gravesend, Kent on a regular basis, this being the new company address. There were operator licences in the Western and Welsh traffic areas, but not one in the South East & Metropolitan Traffic Area. The stopped vehicle had been driven at least 24 occasions from Gravesend before the operator's licence was granted to the limited company.
- Driver Ronald Yull had committed drivers' hours offences. PC Shead was of the view that he was honest and co-operated with him in his investigation. He was given a graduated fixed penalty. Ronald Yull told the police that his driver's digital card had never been downloaded and that when he queried this with the company, they informed him that they didn't have the equipment to do so and it was on order. There was no evidence of any company card being used by the operator.
- Police enquiries revealed that the vehicle that had been stopped was not covered by insurance at the time of the stop and so it was seized.
- On 18 April 2018 TE Bell commenced an investigation into the operator, this also included enquiries as to whether it had used its operating centre in Avonmouth prior to the grant of the West of England licence.
- On 2 December 2016 an HGV operated by the operator was issued with an S marked prohibition. Vehicles also had no insurance and were used over and above the authorised amount.
- On 19 January 2017 another vehicle was issued with a prohibition.
- On 6 April 2018 another vehicle was issued with an S marked prohibition.
- On 18 November 2017 there was an incident on the M4 motorway in South Wales when a vehicle not only failed to stop when required by an authorised DVSA stopping officer, it took actions to avoid detection. The stopping action was abandoned due to safety concerns arising from the driving of the HGV. It was later claimed by this operator that it had been sold. On this specific incident the TE commented that he was unable to ascertain who the driver was and who was the operator of the vehicle. On the basis that the more serious an issue the more cogent the evidence that is required, I do not make a finding that this operator was the operator of the HGV that failed to stop. However I am critical of the

operator failing to keep proper records as to disposal, the operator is not totally blameless and I expect higher standards of record keeping for operators.

- The company claimed that it experienced difficulty in getting tachographs from driver Yull, but I note that it didn't retain sufficient tachograph records. I note that driver Yull attended before me and I share the view of PC Shead that he has at all times been honest and co-operative.
- Some evidence to demonstrate compliance was shown to the TE, however there were also a number of failings. For example one vehicle had been operated regularly without a vehicle excise licence for a time.
- The TE felt that the director of the company who was interviewed by him appreciated the seriousness of the issues and gave assurances to him. This included a promise to look for the assistance of a transport consultant.
- It was clear to the TE that there were some positive features, for example some vehicles did have successful downloads of data,
- No correspondence was sent to the TE relating to those areas where improvements could be made. I regard this as an aggravating feature of the case.
- I note that the director, Chris Convy has indicated that he doesn't seek to operate in the future and is selling the company.
- Driver Ronald Yull told me that for a substantial period there were no driver defect report cards for drivers and he had to ask for one. There were 3 drivers who worked out of Gravesend. He also told me that one of his colleagues had driven for nearly 3 years for this operator without his driver card being downloaded. I remind myself that there was no operator's licence in SEMTA in any event.
- I accept the evidence of the driver who attended today from Gravesend.
- Failure by the operator to attend and failure to address the issues raised are such that the Priority Freight question is answered in the negative. I don't trust this operator if it doesn't respond to serious concerns. The Bryan Haulage question is answered in the affirmative.



Nick Jones
Traffic Commissioner
Comisiynydd Trafnidiaeth

8 October 2018