



**WRITTEN 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)

**ERIC PHILLIP HALE
OC0280538**

Public Inquiry held at Golborne
on 26 February 2019.

Decision

On findings under Section 26(1) (b), (c) (iii), (ca), (e), (f) and (h), I direct that this operator's licence be revoked with immediate effect.

Under Section 28 of the Act, Eric Phillip Hale is disqualified from holding or obtaining an operator's licence, as a sole trader, partner or director, or as a person holding a controlling interest in a company holding such a licence, for a period of 3 years and 10 months ending on 26 December 2022.

Background

1. Eric Phillip Hale (OC0280538) is the holder of a Restricted Goods Vehicle Operator's licence authorising the use of 5 vehicles. A sole trader, his licence has been in force since 2 July 1992.
2. This calling-in to Public Inquiry had principally been prompted by an "S" marked immediate prohibition in July 2017, when it was found that as many as three of the wheels fitted on his vehicle, SJ54 HWN, had loose wheel nuts. There were also a range of other concerns about the operator's ability to meet the undertakings set out on the licence particularised in the written statements of Traffic Examiner (TE) Aspell and TE McKay and Vehicle Examiner (VE) Jones, which I accepted.
3. In addition, I was informed that the operator was sentenced at Chester Crown Court on 26 January 2018 for two offences, having pleaded guilty to operating an illegal waste site without the relevant permit, and to depositing there and landfilling, a considerable volume of controlled waste. Concurrent sentences of imprisonment

were imposed for 12 months but the sentence was suspended for 2 years. The operator was required to carry out 200 hours of unpaid work in the community, a curfew restricted his movements over a three-month period and he was disqualified for holding or obtaining a driving licence for 12 months. In addition, Mr. Hale was required to contribute £100,000 in costs incurred by the Environment Agency, since paid. In sentencing him, the judge referred to Eric Hale being “*driven by greed to continue the illegal operation*”. The sentencing comments drew particular attention to the courts rejection of the mitigation offered for the offending (but did accept the personal mitigating circumstances put forward).

4. There are no vehicles nominated on the operator’s licence and on 21 February 2019, Mr. Hale sought to surrender the operator’s licence. My clerk has spoken to him this morning and been told that Eric Hale does not intend to be present at the Public Inquiry at Golborne. My clerk had explained to him the risks associated with non-attendance in the event I was not prepared to accept the surrender of the operator’s licence.
5. I have determined to deal with this matter in the operator’s absence. I do not believe that adjournment will secure his attendance before me.

The application to surrender

6. I am unable to accept surrender of this licence against the background circumstances, which have precipitated this hearing. The accumulation of prohibitions (and a fixed penalty) for the use of a vehicle where loss of a wheel (or wheels) was considered imminent is clearly serious. As the VE and TEs report in their statements, driver defect reporting and walk round checks of drivers’ hours were of questionable quality; drivers have failed to comply with the legislation regarding drivers’ hours and the management of that aspect of the licence is criticised.
7. These findings have been compounded by the convictions now recorded, although I do acknowledge that the offending is in some sense historic, dating back to 2014 - 2015 and the court process has been a prolonged one. I note however that the nature of the offences, were this licence to have been Standard National, would have triggered the mandatory loss of repute provisions because the convictions constitute “serious offences” under the Act. In this case (of a restricted licence), however, an assessment of the seriousness of those matters is for me to consider based on the facts.

Consideration

8. Against this background, I am required to consider whether this operator’s fitness to hold this operator’s licence has been compromised to such an extent that it is lost because of these convictions and the operator’s activities. Of course, in this case, I have been deprived of the opportunity to hear directly from the operator about the circumstances of the conviction and the outcome of the DVSA investigations (beyond the information in the brief).
9. I make the finding that the operator is unfit. I conclude that such an outcome is not disproportionate. Significant penalties were imposed here; greed and commercial advantage were significant in the offending. It is notable that the court chose to

exercise its power to disqualify Mr. Hale from driving. These offences link very directly to the deployment of large goods vehicles. His failures represent conduct completely unbecoming of an operator. Clear road safety implications arise from the findings of the VE and TEs. I cannot be satisfied that Mr Hale can be trusted to operate compliantly. His exclusion from the industry is entirely appropriate. I note, acknowledge and give credit for his apparent decision to remove himself from it irrespective of my finding.

Decision

10. On findings under Section 26(1) (b), (c) (iii), (ca), (e), (f) and (h), I direct that this operator's licence be revoked with immediate effect.
11. The operator was served with notice that in the event the licence is revoked, I may consider the exercise of my powers to disqualify him. I judge that taking such a step is appropriate. In fixing an appropriate period during which the operator is disqualified from holding an operator's licence as sole trader, partner or director, or as a person holding a controlling interest in a company holding such a licence, I have taken account of the Senior Traffic Commissioner's Statutory Guidance Document No.10. I set the period as one of 3 years 10 months or thereabouts, ending on 26 December 2022, a period that mirrors closely the rehabilitation period for the sentence imposed on Mr. Hale.



Simon Evans
Traffic Commissioner
for the North West of England
26 February 2019