



**IN THE WELSH TRAFFIC AREA**

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

**PUBLIC INQUIRY**

**HOMELAND BY-PRODUCTS LIMITED**

**OG1143661**

**BEFORE**

**ANTHONY SECULER  
DEPUTY TRAFFIC COMMISSIONER**

**HEARD AT ABERYSTWYTH JUSTICE CENTRE**

**ON 11<sup>th</sup> FEBRUARY 2019**

**Background**

1. The operator company is the holder of a Restricted Operator’s Licence authorising 2 vehicles and 1 trailer. The licence was granted on 12<sup>th</sup> September 2018 at a public inquiry following environmental concerns and unauthorised use of goods vehicles prior to grant of the licence.
2. Colin Andrew Patterson is the sole director of the operator company.
3. This public inquiry was called further to a DVSA maintenance and tachograph/drivers’ hours etc. investigation in response to a variation application to increase authorisation to 3 vehicles and 2 trailers in May 2018. The operator

company's systems were found to be unsatisfactory and valid representations against grant of the variation were received from residential neighbours. Allegations of breach of environmental conditions/undertakings regarding operation of authorised vehicles outside the permitted hours of 8.00-20.00 Monday-Friday were also cited in the call-up letter.

### **The Public Inquiry**

4. The operator company attended the public inquiry through Director, Colin Andrew Patterson represented by Mr David Williams, Solicitor. Andrew Edwards (Tachoman Ltd), Transport Consultant, also attended for the operator company.
5. DVSA Examiners, Vehicle Examiner, Lee Rees, and Senior Traffic Examiner, Simon Jenkins, attended on behalf of DVSA, the latter to present the evidence of Traffic Examiner Nia Lloyd-Daniel.
6. Representors, Mr and Mrs Hancock and Mrs Breese, attended to confirm their representations regarding the application and the operator company. Mrs Bunn, a neighbour whose representations were deemed invalid also attended.

### **Evidence and Findings**

7. The statements of VE Rees and TE Lloyd-Daniel were accepted by Mr Williams on behalf of the operators.
8. Evidence was heard from the operator, the examiners, the representors and Mr Edwards.
9. I find the following grounds for action as recited in the call-up letter made out:
  1. Prohibitions (Sec. 26(1)(c)(iii) of the Act) – The examination of one of the 2 vehicles at the operating centre resulted in an “S” marked prohibition in respect of an insecure brake air reservoir and evidence of leakage from the vehicle.

2. False statements (Sec. 26(1)(e) of the Act) – The six weekly inspection schedule, committed to as part of the licence application, was not adhered to.
3. Undertakings not complied with (Sec. 26(1)(f) of the Act) - Vehicles have not been kept in a fit and serviceable condition; safety inspections sheets were not fully completed; the drivers' defect reporting system was ineffective; and, the rules on drivers' hours and tachographs were not being observed.
4. The breach of environmental conditions/undertaking is not clearly established on the evidence.

### **Decision and Reasons**

10. The failings revealed in the VE and TE reports raise issues regarding the operator company's fitness to continue to hold an operator's licence. The director, Colin Patterson, has failed to exercise sufficient control of systems, records and drivers leading to road safety risks. Until such time as management controls are effective it would be entirely inappropriate to allow an increase in vehicle/trailer authorisation and that application is refused.
11. I note that since the DVSA investigation the operator company has employed a CPC qualified transport consultant for a period of two months. That individual left for other employment and a replacement 'transport manager' has been found. A report produced by Tachoman shows a much reduced level of drivers' hours and tachograph infringements and the reports now cover potential 'driving without a driver card inserted' offences. A new maintenance provider, AP Commercials Ltd., has been engaged and the completion of inspection sheets and driver defect reports is better, but still far from perfect.
12. I allow the operator company to retain the licence on the basis of clear commitments given at the inquiry that systems will be improved and compliance achieved. As the operator needs the 2 vehicles to carry out contractual obligations the licence is not suspended or curtailed but this should not be taken

as an indication that the failings are not serious. A formal and final warning is issued against the operator's licence.

13. Undertakings are applied:

1. To continue to engage transport consultants to report on drivers' hours and tachographs and to act on infringements, reports;
2. To engage a Transport Manager CPC holder, qualified by examination, on a written contract for a minimum of 8 hours per month, to oversee maintenance and drivers' hours etc. compliance;
3. Director, Colin Andrew Patterson and Manager Mr Marc Thomas, to attend full day Operator Licensing Awareness Training;
4. Independent Audit of maintenance and drivers' hours etc. systems every 12 months with effect from 1.3.20;
5. All vehicles and trailers to have at least 3 Rolling Road Brake Tests per annum in addition to test at MOT.

14. The application to add an additional operating centre at Nantllan Yard, Aberystwyth, SY23 3DT, is granted.

Anthony Seculer  
Deputy Traffic Commissioner,  
Welsh Traffic Area.  
14<sup>th</sup> February 2018