

# REDACTED EDITION



## DECISION OF THE TRAFFIC COMMISSIONER FOR THE NORTH WEST OF ENGLAND

In the matter of the  
Public Passenger Vehicles Act 1981 (the 1981 Act)

**HUYTON MINI COACHES LTD**  
**PC1067485**

Public Inquiry at Golborne  
on 10 April 2019

### Decisions:

#### **Huyton Mini Coaches Ltd**

I refuse the application made that the operator be allowed to surrender its operator's licence.

I direct revocation of the licence under Section 17 (1) (a) of the Act, as the operator is without financial standing.

I find that it is appropriate that revocation of the licence also take effect under Section 17(3) (aa), (b), (c) and (e) of the Act.

Revocation will take effect at 23.45 hours on Friday 26 April 2019

#### **TM Neil Fallon**

I find, on balance, that Neil Fallon's repute as TM remains intact.

A formal warning is recorded in his case.

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## Background

1. **Huyton Mini Coaches Ltd** (PC1067485), trading as Vision Coaches, (hereafter “Huyton”) is the holder of a Standard International Public Service Vehicle operator’s licence for 16 vehicles; the licence was granted in 2007.
2. Paul Walker succeeded his father, Allan Walker, as sole director at around the same time of the father’s bankruptcy, which had prompted his resignation on 19 September 2018.
3. The nominated Transport Manager (TM) on the licence is Neil Fallon. A letter of resignation from him dated 31 January 2019 but taking effect on 31 March 2019 was included in the brief.
4. A Public Inquiry for the operator in 2009 had led to an effective curtailment of the operator’s licence: neither Paul Walker, nor Neil Fallon held office at that time.

## Circumstances leading to the Public Inquiry

5. A report, incorporated later into a witness statement, from PC Michael Dacre, the Dedicated Football Officer attached to Everton Football Club (FC), had triggered the calling-in of this operator and TM to a Public Inquiry.
6. Huyton had been engaged over several seasons in the transportation of groups of Everton FC fans to its away fixtures. Adverse and troubling incidents when Everton played at Millwall FC (in the FA Cup on 26 January 2019), Watford FC and Cardiff City FC (in the Premier League on 9 and 26 February 2019 respectively) had led to Police concerns about the suitability of the operator to carry out such activities.
7. In particular, press and media reports following the Millwall FC match had referred to seriously violent clashes between supporters on a scale not witnessed for very many years.
8. In advance of that fixture, the Metropolitan Police had become aware of a much-heightened risk of disorder including a pre-planned confrontation, and had therefore engaged with colleagues in the Merseyside Police. PC Dacre had thereafter been engaged in action to manage that risk through coordination with all the local operators who carried individuals and groups to the game.
9. I heard evidence and saw written materials, which reflected the increased concerns of the authorities and a desire to be able to track the movements of supporters, especially those who might pose the greatest risk. To that end, operators including Huyton were required to supply information to PC Dacre, over and above that which would be typically required by him before away fixtures, including the registration numbers of all vehicles deployed and details of the identity of the drivers and group organisers including their mobile phone contact details. A specified local route to the ground was set out in a written briefing provided and critically (and unusually) coach operators were instructed that they were not allowed any stops outside London, before their arrival at the ground. A strict coach arrival time ‘window’ was described, so that the coaches of away supporters could be securely delivered to

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their designated drop-off point with a reduced risk of contact with arriving home supporters and fans.

10. That day, Huyton was providing transport using six vehicles deployed for different groups travelling from three different starting points in Liverpool. I saw written evidence of liaison that showed the operator had complied with the expectations of PC Dacre and supplied all of the advance information requested by him.
11. PC Dacre told me that intelligence available to him was such that he had a particular interest in one of the coaches, whose organiser was a Mr Brophy. This coach was one of two provided by the operator, which had breached the requirements set out in advance by the Police.
12. It had departed from the prescribed route, which had required coaches to arrive at the Millwall ground from the East, initially via the M25. Instead, it had not taken the M25 but had entered Central London and dropped off a large number of the coach's occupants close to Euston Station. PC Dacre said that these supporters met up with others from two coaches of another operator, who had then travelled independently across London.
13. PC Dacre's written evidence was that this group then *"took part in the most serious football violence (he had) seen in 28 years of policing"*. He expressed his professional opinion that if the coach *"had adhered to the instructions, it is my belief that the violence would not have been as serious as it was"*.
14. A second coach, which had also departed from the same point as the Brophy coach, had also breached the instructions given and had stopped over in Luton at a public house. In consequence, it was said the coach had arrived late at the ground and then been involved in a violent incident, when the vehicle was attacked by passing home fans. Windows were broken and damage was caused to the vehicle. Occupants of the coach were seen throwing bottles and cans and were said to be 'winding up' those outside, leading to serious disorder problems
15. PC Dacre referred also referred to other concerns linked to the operator's role in transporting Everton supports.
  - The Watford FC fixture (two weeks later), where occupants of a Brophy coach were offered strong advice by the Police, who had prevented an occupant from re-boarding the coach after the game with several boxes of beer for their return journey. The carrying of alcohol on football coaches is unlawful;
  - Further, in respect of the Cardiff City FC fixture (two weeks afterwards), where the coach's driver was arrested on suspicion of drug driving (cocaine), and two passengers were found in possession of the same controlled drug. A further passenger was dealt with in respect of money laundering allegations. Concerns were also raised around the vulnerability of, and safeguarding issues in respect of, a number of under-age youths being carried when unsupervised.

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## The calling-in

16. The calling-in letter for the operator and TM referred to these matters and incidents but also to breaches of undertakings attached to the licence, failures to notify material change, the issue of prohibitions to company vehicles and material change. Such were the concerns raised that the good repute, financial standing and professional competence of the operator were brought in to question. Similarly, the good repute and professional competence of the TM, Neil Fallon, were also brought into question.
17. Annex 3 of the Senior Traffic Commissioner's Statutory Guidance Document No.1: Repute and Fitness includes the guidelines (entitled Voluntary Guidelines on the carriage of passengers to designated sporting events in England & Wales). The coach industry has complied with this protocol over a number of years, during which the incidence of serious public disorder at professional football fixtures in England and Wales has been much diminished.
18. It was in accordance with these arrangements that PC Dacre had liaised with, and received assistance from, Huyton Mini Coaches Ltd in advance of the Millwall fixture.

## The Public Inquiry

19. Paul Walker chose not attend the Public Inquiry but had deputed John Christian, his General Manager, to attend on his behalf. In his letter of 8 April 2019, Paul Walker accepted the seriousness of his failure to notify my office of the worsening financial situation of the company, the result of his father's bankruptcy, or to notify the material change effected in the process of his becoming a co-director, and later succeeding his father. **REDACTED** He invited acceptance by me of a proposal to surrender the operator's licence. He drew attention to a new application in the name of Widnes Coaches Ltd (PC2020675), which was proposed would continue the business under the direction of Neil Fallon and Michael Ryan, **REDACTED**. The particular application itself was not before me at the hearing.
20. The company was not legally represented.
21. James Backhouse, solicitor, represented Neil Fallon, TM, who was present.
22. PC Michael Dacre, Merseyside Police was present and gave evidence.

## Evidence

23. The brief included a witness statement from PC Dacre, John Christian's report re "Merseyside Police Complaint" dated 4 March 2019 and a detailed bundle including a statement dated 4 April 2019 made by Neil Fallon.
24. I heard evidence from John Christian, Neil Fallon and PC Michael Dacre.
25. At a driver conduct hearing, which immediately preceded this one, I heard from Driver Szilagyi, who had been the driver of the Brophy coach to the Millwall match.

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26. I subsequently received an audit report by Prescott's Inspection Site Services dated 28 March 2019, concerned with the licence compliance of Huyton.
27. I do not record here at any length the evidence heard, which can be obtained from the transcript of proceedings, if need be, but where it is pertinent to my decision, I refer to it below.

## Findings and their consideration

28. My findings can conveniently be set out in the sections below that address the main themes within the hearing.
29. Financial Standing:  
In a private session, Mr Christian referred me to the company's financial position in a manner consistent with that which Paul Walker had included in the correspondence set out in paragraph 19. No evidence at all, for example in the form of bank statements, was produced. **REDACTED**
30. I found that in accordance with Section 17 (1) (a) of the Act financial standing was not met and that in accordance with Section 17 (3) (e) of the Act the developing financial difficulties had not been notified as a material change, as they ought to have been, nor that the changed directorial position was disclosed.
31. Compliance with Undertakings and Prohibitions:  
The operator enjoys Green/Green status under the OCRS System (Operator Compliance Risk Score). Five prohibitions had been accumulated in the preceding five years, including three in the last two years. A prohibition rate over the two-year period was calculated at 18% (a little worse than the national average).
32. The audit report presented painted a largely positive picture.
33. I found that the undertaking attached to the licence requiring vehicles to be kept in fit and serviceable condition to have been breached.
34. I find that there were grounds for making a direction against the licence in accordance with both Sections 17 (3) (aa) and (c) of the Act.
35. Compliance with the voluntary guidance on the carriage of passengers to designated sporting events:  
On the evidence, I conclude that no criticism can be made of the operator before the match, nor in terms of its liaison by telephone on the day, arranged through John Christian, who coordinated matters from Liverpool.
36. I do find however that the operator's communication and briefing of two of its drivers was significantly deficient. In the case of the Brophy coach, which drove through London, rather than taking the prescribed route, I found that the failure to instruct the driver sufficiently facilitated the circumstances in which the whereabouts of a number of passengers, with whom the police were interested, were unknown for a period. This direct outcome of Huyton's failure increased the risk to the public.

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37. Whilst I accept the contention that the driver had little realistic means of preventing passengers decamping, after he was apparently “tricked” in to thinking one of them was ill and in need of attention, I find his departure from the route made that prospect greater. The operator failed to take all necessary and proper steps to ensure that the driver did not depart from the route.
38. I found the evidence of Mr Christian that “*in hindsight we would have done it differently*” to be accurate. Similarly, his expression and that the position had not been judged “*well enough*”.
39. Again, Mr Christian’s acceptance that what happened constituted “*a one-off, really bad but an isolated case*” appears appropriate.
40. I do not accept the contention that Huyton had not come to appreciate the significantly increased risk, which the Police were seeking to address. This would have been obvious because of the increased information requirement of them and the specific instruction about there being no stops. Taking account of the claimed knowledge and experience of Huyton as a football transport provider over a number of years, it ought to have been aware of the significance of the match.
41. In respect of the matters raised about the second coach, which made an unscheduled stop and missed its specific arrival window, I conclude the operator’s arrangements for travel were naïve. As was clear from the evidence of Neil Fallon, passengers were dismayed when they discovered that, contrary to the usual practice, a stop close to London, which might allow alcoholic drinks to be consumed, would not take place. No special arrangements had been made to manage their passengers’ expectations.
42. Whilst I accept the argument that realistically, the second driver, who I accept had been threatened by a passenger, had little alternative but to stop the coach, I do not however accept that it was necessarily appropriate in those circumstances to continue the journey at all, after such misconduct. Alternatively, even if it might have been necessary to continue it, to do so in such a manner that the coach’s arrival was late, placing as it did the passengers’ safety at risk, as that decision led to a violent public confrontation on the street.
43. I have considered the implications for this decision of the other matters raised concerning subsequent matches with Watford FC and at Cardiff City FC. I have concluded that they add little to the central consideration, the incidents in London. Neither the carriage on the vehicles of alcohol, nor directly its consumption, were a feature of the evidence before me. As far as I am aware, the arrests made have not led to convictions of any person, let alone the company. The carriage of unaccompanied passengers under the age of 16 may raise important safeguarding issues but the evidence before me in this case is not such as to allow me to reach conclusions as to whether this operator’s practice is of concern.
44. I have therefore gone on to consider these findings in the context of the good reputation requirement of the operator. I have weighed the positives and negatives in order that I might reach a decision balancing appropriately all relevant factors.

On the positive side of the balance, I have placed:

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- The operator's positive regulatory history over the previous 10 years, including the absence of any prior incident in the context of the carriage of football supporters;
- The operator's readiness to engage with the Police appropriately in respect of the voluntary guidance, and that the relationship with the Police has survived the Millwall incident;
- That there has been no repetition in away matches since those referred to, albeit such fixtures were not said to have taken place against such enhanced risk levels;
- Huyton's detailed investigation into the circumstances raised. Its subsequent decision not to provide further coaches to Millwall (e.g. if a similar cup draw were to lead to a repeat fixture), as well as the new arrangements put in place to have two members of staff on the football coaches, and to provide only a single coach for the Brophy supporter's group.

45. On the negative side of the balance, I have taken account of:

- The seriousness of my finding that some of Huyton's passengers were unexpectedly at large in London when there was no clear understanding of their whereabouts and that this state of affairs directly probably contributed to violent disorder on a scale not witnessed for a number of years;
- The failures in judgement of the operator when passengers were allowed to continue their journey, even after threatening the vehicle's driver and being involved in an unauthorised stop, and after they were the apparent contributors to a violent and disorderly incident, where damage was caused to its vehicle.

## 46. The role of the TM – Neil Fallon

The findings about compliance with licence undertakings about the fitness of vehicles and the failures where football transport is concerned, set out above are also to be associated with the Neil Fallon, who has been with Huyton since 2010, albeit in a role as TM only since August 2013.

## Decisions – the company

47. Having weighed these matters together, I have reached the following conclusions:

- On balance, I do not conclude that the operator's repute is lost. I find that the operator should be seriously embarrassed at its failure to contribute its full part in the management of a fixture versus Millwall. Whilst it might well be the case that some of its passengers may have taken part in the criminal activity, I am equally satisfied that others would not have wished to have any part in it but were nevertheless placed in danger, or became witnesses to disorder and violence. There was a clear failure of management but I find its acts or omissions were ignorant and negligent rather than reckless or deliberate;

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- I have considered the application made that the operator be allowed to surrender its licence. I have concluded that taking such a view cannot be justified. The operator is without financial standing and this represents a ground for the mandatory revocation of the licence under S.17 (1) (a) of the Act;
- I conclude that it is appropriate that revocation of the licence take effect under those paragraphs of Section 17(3) also referred to that is (aa) breach of undertakings, (b) a breach of the condition to notify change, (c) prohibitions and (e) material change, which was not notified.

48. I have considered whether a period might be allowed for the orderly closedown of the business, taking into account that a series of school/college contracts are running, that the Easter break is presently being taken, and that the summer term will commence on 23 April 2019. I am told that the operator is without a TM following this hearing. There is a risk that a lack of financial standing could prejudice the fitness and serviceability of vehicles, although the operator insists otherwise.

49. I have concluded that allowing this licence to continue beyond Friday 26 April 2019 cannot be justified and the licence will cease at 23.45 hours that evening. This will provide a short period during which contracts, which can no longer be honoured, may be re-let.

50. As it so happens, revocation will take effect before another fixture in London, when Everton play Crystal Palace FC, another match where the Police refer to an increased concern about football related violence. It seems entirely appropriate that this operator not be engaged in transport to that match, nor the remaining match versus Tottenham Hotspur FC before the end of this season.

## **Decision – the TM Neil Fallon**

51. Consistent with my findings about the repute of the company, I also find, on balance that Neil Fallon's repute remains intact, albeit as the person required to have continuous and effective management and oversight of the transport operation that margin is necessarily narrow.

52. His positive personal record including his careful analysis before me outweighs the negative features in his case. It would be disproportionate to find his repute to be lost.

53. If however, he is in the future to be associated with any operations that include football supporter transportation, it will be necessary for a more proactive stance to the handling of such trips to be taken by him. There would need to be clear systems and practices in place that deal with the sorts of issue (and the learning from them) that have been encountered in this consideration.

54. A formal warning is recorded in his case.



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A handwritten signature in black ink, appearing to read 'Simon Evans', with a horizontal line underneath.

**Simon Evans**  
Traffic Commissioner  
for the North West of England  
16 April 2019