



**DECISION  
OF THE DEPUTY TRAFFIC COMMISSIONER  
FOR THE NORTH EAST OF ENGLAND**

**YORKSHIRE TIGER LTD  
PB1078487**

In the matter of the

**Transport Act 1985 (“the 1985 Act”)  
and  
Public Passenger Vehicles Act 1981 (“the 1981 Act”)**

**Decision**

On a finding that Yorkshire Tiger Ltd has failed without reasonable excuse to operate in accordance with the registered timetable under Section 6 of the 1985 Act, the operator is required to implement a punctuality and reliability improvement action plan in accordance with paragraph 15 of this decision.

Further detailed report on performance in respect of the routes subject to the BOAM monitoring exercise in the Shipley area to be provided to the BOAM and the Office of the Traffic Commissioner by 31<sup>st</sup> December 2019.

Consideration of penalty under section 155 of the 1985 Act postponed pending receipt of report.

**Background**

1. Yorkshire Tiger Ltd, (“the operator”), is the holder of a Standard National Operator’s licence granted on 14<sup>th</sup> April 2008.

2. On 9<sup>th</sup> August 2016 the operator appeared before me at public inquiry and a penalty of £21,750 was imposed for failing to meet the needs of punctuality and reliability under section 155 of the 1985 Act.
3. On 19<sup>th</sup> September 2017, following an unsatisfactory bus punctuality and reliability report in March 2017, I issued the operator with a formal warning.
4. Following receipt of a further unsatisfactory monitoring report from DVSA Bus Operator Account Manager (BOAM), Ann Anderson, in respect of 3 services operated in the Shipley network, the operator was called to the public inquiry on 3<sup>rd</sup> April 2019.

### **The Public Inquiry**

5. At the public inquiry the operator attended through Area General Manager, Robert Mason and Transport Managers, Mr Mason and Anthony Lowe. Mr Andrew Banks, Solicitor, attended to represent the operator.
6. The factual basis for the inquiry was not in dispute and I heard evidence from Mr Mason to supplement a full file of evidence which was submitted shortly before the hearing.

### **Determination and Reasons**

7. The Senior Traffic Commissioner's Statutory Document No. 14 sets out an expectation that 95% of a bus operator's services will operate no earlier than 1 minute before or 5 minutes after the timetabled departure. The window of tolerance provided by the 95% target and the 6 minute allowance takes account of the normal day to day problems operators face such as fluctuations in traffic flow and operational (bus, staffing and passenger) issues.
8. The monitoring exercise from the BOAM on 93 journeys between July and October 2018 found a compliance rate of 56.71%. In evidence produced at the inquiry, details of roadworks and traffic variation orders were accepted as "reasonable excuses" which would have increased the compliance rate to around 75%. It was also noted that a number of the "failures of service" centred on Morrison's supermarket car-park where some of the drivers were effectively cutting out one stop if they saw no customers waiting to board.
9. Whilst the BOAM's monitoring report, even allowing for the "reasonable excuse" adjustments, falls far below the STC's expectations, I am satisfied that there are particular mitigating circumstances in this case:
  1. The monitored services represent a small percentage (3.5% of journeys) of the operator's services.
  2. The Shipley services were awarded to the operator in May 2018, shortly before the monitoring exercise. The Director, Transport Services, of the

West Yorkshire Combined Authority (WYCA) outlined in a letter to me the circumstances of the tender which was awarded shortly before the “go-live” date when a third party withdrew from the service. There was an absence of punctuality performance analysis from the previous operator and the services in the Shipley area were “particularly susceptible to high levels of variability and lengthy delays”.

3. The operator had been proactive in contacting WYCA in July 2018 with concerns over the existing timetables prior to the monitoring exercise. The first realistic date for revising the timetables was October 2018.
  4. The operator has responded to customer complaints in a timely and considerate manner.
  5. Issues regarding driver conduct arose largely from a group of drivers transferred to the operator’s employ under TUPE arrangements when the new tenders commenced.
  6. Where staff failings have led to timetable breaches and complaints appropriate disciplinary action has been taken.
  7. Evidence of general and specific training and guidance provided to drivers has been produced.
  8. The WYCA Director of Transport Services confirmed that the operator has worked co-operatively and creatively with the Authority to find solutions to punctuality and performance issues in the Shipley area.
  9. Revised timetables are due to go live with effect from May 2019 and WYCA and the operator are confident that these changes will deliver the required improvements.
10. I accept the operator’s statement that the timetable compliance performance provided by other operators is no better than Yorkshire Tiger Ltd. Obviously this does not provide justification for timetable failures as there may be a need to improve performance across the region. However, it may support the operator’s assertion that there are particular traffic flow and congestion problems, many associated with major and numerous road and services improvement projects in the area.
11. From the extensive file of evidence I have considered I accept that the operator is demonstrating the “Examples of Good Behaviour” contained in the Annex to the STC guidance. The operator is clearly working in close partnership with the Authority and has co-operated with the BOAM investigation and the public inquiry. I note that recent BOAM compliance reports have been marked as “satisfactory”.
12. I also take into consideration the major investment the operator has made in “Ticketer” a new ticket machine and driver contact system which will enable

detailed live monitoring and road mitigation in relation to punctuality and reliability.

13. My objective is to focus minds so that the statutory objectives are achieved and the travelling public achieve a punctual, reliable and comfortable bus service.
14. Paragraph 52 of the STC Statutory Document provides for the Traffic Commissioner requiring a structured and timed action plan from the operator and authority in order to improve service performance. WYCA have confirmed that the operator has been proactive in addressing the punctuality and reliability issues and working with the Combined Authority to obtain a satisfactory resolution. Further changes to the timetables on the Shipley services have been agreed between the operator and WYCA and some changes are still under discussion. They are due to go live with effect from 18<sup>th</sup> May 2019.
15. In all the circumstances I am prepared to postpone consideration of a financial penalty under section 155 of the 1985 Act for six months in order to enable the plans drawn up by the operator for the 3 Shipley services to take effect and to demonstrate an improvement in punctuality and reliability to the benefit of the travelling public in the area. A full progress report with input from the Combined Authority is to be provided to the BOAM and the Office of the Traffic Commissioner Leeds by the 31<sup>st</sup> December 2019.

Anthony Seculer  
Deputy Traffic Commissioner,  
North East Traffic Area.  
5<sup>th</sup> April 2019.