



## TRAFFIC COMMISSIONER'S DECISION

Operator: OK 1145471 James Sines

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1. Pursuant to adverse findings under section 26(1)(c)(iii), (f), and (h) of the Goods Vehicles (Licensing of Operators) Act 1995, Operator Licence OK1145471 is revoked from 23.45 on 15 June 2019.

### Reasons

2. On 11 April 2019, my office sent a calling letter to the Operator by way of email and hard copy. The details of the hearing venue are clearly set out, as is the date and time of the hearing. The call in letter required the Operator to lodge evidence of financial resources before 30 May 2019. The Operator was also required to bring evidence of his current maintenance systems and training or disciplinary action in relation to drivers and/or managers.

### Proceeding in the absence of Mr Sines.

3. On 3 June 2019 my public inquiry clerk sent an email to the Operator because the attendance slip had not been returned with the finance attached or at all. By return the clerk received an email purportedly from the Operator's son in the following terms:

*James Sines Snr – The Operator has undergone open heart surgery beginning of may and is in recovery, he also plans to retire due to bad health. You have also made the appointment on his 60<sup>th</sup> birthday. He plans to hand the business down to his son James Sines Jnr, can we take over his Operators licence and attend the meeting or do we have to cancel this Operators licence and apply for a new one please could you advise. I did send this all in a letter beginning of May?*

*If you have any questions please do not hesitate to contact me.*

4. The same day my clerk advised that no letter had been received in May, I was minded to treat the latest email as a request for an adjournment but I would need to see evidence of hospitalisation. Such evidence should certainly have been in the gift of the Operator's son. Nothing further has been heard despite a further e mail and telephone call.
5. On balance, I have decided to refuse an adjournment to another day because it is not in the interests of justice to grant it. I had regard to the overriding objective, and in particular the need to avoid delay so far as compatible with proper consideration of the issues, and dealing with the case in a proportionate manner. The calling letter was sent on 11 April 2019. I have no evidence of financial resources. This is important where there have been prohibitions issued at annual test, as the finances

are linked to vehicle roadworthiness. Even if Mr Sines was admitted to hospital in early May, there was the opportunity for advanced notification to be made to my office. Further there is evidence in the case summary that the vehicle may be subject to unlawful operation. On balance it is in the public interest to proceed today.

The decision to revoke.

6. The case summary in the public inquiry bundle sets out the issues, due consideration today. The case summary and documentation set out a clear audit trail which in my judgement indicates on balance that there has been a change of entity - OTT Scaffolding Services Ltd and/or Ashley John Baker operating the specified vehicle and not James Sines (sole trader). Indeed, there is little evidence that it is James Sines who is operating the vehicle. A licence clearly states on the front that it is 'not transferable'. The calling letter (page 8 of the bundle) requires the Operator to return the attendance form straightaway. I do not even have that as an indicator that Mr Sines is involved in this business. The email from the Operator's son dated 3 June 2019 is also indicative that there may already have been operation by others, noting the reference to 'we'..
7. In the absence of oral evidence to the contrary, it is my finding of fact that Mr Sines lent the licence to Mr Baker's limited company. Lending the licence is a serious matter and on it so merits revocation. I am entitled to know whom I am regulating and appropriate background checks to be made.
8. In all the circumstances, it is in the interests of road safety and fair competition that I bring this licence to an end. I have allowed a short period for an orderly rundown of the business. However, I make it clear that only James Sines senior as a sole trader can use the vehicle whatsoever between now and the date and time of the revocation. An impounding marker will be put on this vehicle.

Signed:



Dated: 6 June 2019