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

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

**FYE'S EXECUTIVE TRAVEL LIMITED  
T/A CLEATOR BUS CUMBRIA**

**PC1103964**

Public Inquiry held at Golborne  
on 17 June 2019.

### **Decision**

On findings made in accordance with S.17 (1) (a) in respect of S.14ZA (2) (c) and (d) and S.17 (3) (a), (aa), (b), (c) and (e) of the Act, I direct that this operator's licence is **revoked** with effect from Friday 19 July 2019 at 23:59 hours.

### **Reasons**

1. This standard national public service vehicle operator's licence for 5 vehicles has come before me at Public Inquiry following a maintenance investigation carried out by Vehicle Examiner (VE) Grieve, begun in January 2019.
2. The VE's adverse conclusions (not the subject of material dispute) included:
  - The issue of three immediate prohibitions to the operator's vehicles during the check,
  - Unsatisfactory vehicle maintenance arrangements with incomplete records,
  - Haphazard brake testing,
  - Unnotified changes of maintenance contractor,
  - Inadequacies in forward planning, and
  - Ineffective driver first use checks and defect reporting.

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3. It also transpired that the operator's Transport Manager (TM) had left the business back in September 2018: a material change that had not been notified in a timely manner by either the operator or the TM. (The latter has been dealt with in a separate decision, not having attended the Public Inquiry). Over 9 months later, at the date of the hearing, a nominated TM is still not in place, although I have seen evidence of unsuccessful attempts to contract with such a person.
4. In the meantime, the operator has made application to substitute for this licence, a restricted PSV licence in the same entity (PC2022515). The intention is to reduce the number of local authority contracts it delivers using PSVs. (The operator also has a PHV business using vehicles with 8 seats or less authorised under local authority licences and largely engaged in social services contracted work). The new restricted licence application is not before me but I understand that it is awaiting consideration to be concluded in the light of this Public Inquiry. I comment on that application in paragraphs 10 - 13 below.
5. I heard evidence from Paula Fye (sole director) and her husband, Donald Fye (general manager) represented by Graham Quigley, solicitor. My particular focus and concern was to understand how a significantly adverse outcome to the maintenance investigation was recorded against a company with a largely positive previous history. Further, to obtain an explanation for the failure to act on the departure of the TM, Stewart Harrison, who offered that he had given notice of reduced capability to act in the role long before September 2018.
6. Having read written representations provided, checked records produced to me and listened with care to the director (in particular), I have concluded, on balance, these circumstances have arisen through ignorant failure, a lack of thorough understanding of licence expectations and the director's naïve neglect of her responsibility to properly manage compliance. Too many unjustified assumptions have been made by her. This state of affairs has been compounded by the absence of a properly functioning TM, the illness of Donald Fye [REDACTED].
7. Despite these findings, I was impressed by Paula Fye, who struck me as likely to be a competent manager as indicated by her full-time civil servant role. She has taken on a much more hands-on position. Her passion for delivering a good service for a vulnerable clientele is indisputable. The steps taken since VE Grieve's visit show clear signs of being likely to lead to compliance.
8. I have conducted the required balanced assessment of the positive and negative factors:
  - On the positive side, the previous history, the changes effected as far as the director's more intensive role is concerned and that no further issues have arisen,
  - Against the negatives, which I have set out fully above.
9. I conclude by a narrow margin that repute has not been lost. Nevertheless, this a licence that cannot be allowed to be surrendered. To their credit, the operator accepted the likelihood of such a finding. Financial standing has not been satisfied, there is no TM and the serious findings of the VE cannot be ignored. The licence will be revoked

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but a short period may be permitted so that this may coincide with the end of the school year. I permit there to be a period of grace to facilitate such arrangement when there will be no TM but during which the paid for arrangement to use the services of Paul Adamson will continue.

10. As far as the new application is concerned, I signal a readiness to grant a restricted operator's licence to coincide with the revocation, *assuming the applicant has complied with all expectations of it*. I have been satisfied of compliance with the main occupation requirements and financial standing requirements for such a licence, bearing in mind the lower sum needed.
11. Grant would however be subject to each of the usual undertakings, of particular pertinence being the need for PSV work to be separately reflected in the accounts and each profit and loss account, in order that main occupation can easily be established.
12. An undertaking requiring Paula Fye's attendance on an OLAT course suitable for PSV operator's before the start of the new school year (2019-2020) will be added.
13. Together with an undertaking requiring the operator to submit to an independent external audit of a compliance of the new restricted licence operations in January 2020 for presentation to this office by 15 February 2020, at the latest.



Simon Evans  
Traffic Commissioner  
for the North West of England  
19 June 2019