



SOUTH EASTERN AND METROPOLITAN TRAFFIC AREA

DECISION OF THE DEPUTY TRAFFIC COMMISSIONER

**PUBLIC INQUIRY HEARD AT IVY HOUSE, IVY TERRACE, EASTBOURNE ON 2
SEPTEMBER 2019**

OK0205972 TREVOR JOHN MATTHEWS

Decision

Breach of Section 26(1) (a) (ca) (f) and (h) of the Goods Vehicles (Licensing of Operators) Act 1995 found.

Licence revoked with effect from 00.01 hours on 4 September 2019 under Section 27 of the Goods Vehicles (Licensing of Operators) Act 1995.

Trevor John Matthews disqualified from holding or obtaining an operator's licence for a period two years with effect from 00.01 hours on 4 September 2019.

Repute of transport manager Trevor John Matthews lost and he is disqualified indefinitely from acting as a transport manager with immediate effect.

Background

1. The operator Trevor John Matthews is the holder of a standard national licence granted on the 1 June 1995 authorising one vehicle with none currently in possession. The transport manager on the licence is also Trevor John Matthews.
2. A traffic examiner Sadie Clarke prepared a report dated 9 May 2019 in which she detailed links between vehicles which had been authorised on the licence held by Mr Mathews and the possible use of those vehicles by a partnership M & M Transport whose licence had been revoked on the 23 May 2017. In summary those links related to the ownership of the relevant vehicles, the insurance of those vehicles, the tachograph records which appeared to show that the vehicles has been kept at the former operating centre of M & M Transport and the fact that one of the tachograph recording units was locked to M & M Transport who had carried out the last download on the 4 October

2018. In addition to the suspected “loaning” of vehicle discs failings in tachograph compliance were also identified.

The Public Inquiry

3. A call up letter was sent to the operator on the 26 July 2019 addressed to the registered address for correspondence and not returned. On the 29 August 2019 an email was received from the operator in which he stated that he had intended to attend the public inquiry but “unfortunately was not able to come due to ill health – however I would like to retain my licence as I would like to still be able to move my vehicles around on occasions”. In response to that email an answer was sent by email on the 30 August 2019 advising that medical evidence was required and warning of the possible consequences of non-attendance including revocation of the licence and disqualification. No reply or medical evidence was received in response to this email. In the circumstances I decided to proceed with the inquiry in the absence of the operator.
4. I heard the evidence of traffic examiner Sadie Clarke who confirmed the contents of report and conclusions in relation to the operator.

Findings and Decision

5. In the absence of any evidence presented by the operator and taking into account the evidence as presented by the traffic examiner I find that there have been breaches of Sections 26 (1) (a) (ca) (f) and (h) of the Goods Vehicles (Licensing of Operators) Act 1995. The evidence presented lead me to conclude that it is more likely than not that Mr Matthews allowed vehicles authorised to his licence to be operated by M & M Transport. As a consequence I find that the operator has lost repute and failed to demonstrate financial standing. Having made those findings I have asked myself the question as set out in the case of Priority Freight Limited & Paul Williams i.e. how likely is it that this operator will operate in compliance with the operator’s licensing regime? In other words can the operator be trusted going forward? I have no hesitation in saying that I cannot trust this operator – the range and seriousness of the failings to date coupled with the failure to respond adequately to the call up letter to inquiry all point to an operator who should not be permitted to continue to in the industry. I take into account the fact that Mr Matthews has held a licence for a long time and this is the first public inquiry but believe that he has shown a level of neglect toward compliance which requires firm action. Having answered the Priority Freight question as a negative I also need to consider whether the operator deserves to be put out of business and I conclude that the answer is yes based on the interests of public safety and fair competition.
6. My decision is therefore to revoke this licence in accordance with Section 27 of the Goods Vehicles (Licensing of Operators) Act 1995 – repute has been lost and financial standing has not been shown - the order to take effect

immediately. In relation to Mr Matthews I have considered whether he should be disqualified from holding or obtaining a licence and have decided that he should be for a period of two years. Taking into account that this is the first time he has been called to an inquiry but balancing this with the seriousness of the findings I believe this to be a proportionate and appropriate order. The formal order is therefore that Trevor John Matthews is disqualified for two years from 00.01 hours on the 4 September 2019 from holding or obtaining an operator's licence.

7. In relation to Mr Matthews in his role as transport manager I find that he has also lost his repute in this regard because his role as sole trader and transport manager cannot in reality be divided. It follows from the loss of repute that he is disqualified from undertaking a role as transport manager and I so order for an indefinite period.



John Baker
Deputy Traffic Commissioner

3 September 2019