



DECISIONS OF THE TRAFFIC COMMISSIONER FOR WALES

E J Lewis & Sons Ltd – PG1029703

&

Transport Manager – Gary John Bevan

The Public Passenger Vehicles Act 1981 (“the Act”)

**Decisions made in respect of the operator’s licence held by EJ Lewis & Sons Ltd
PG1029703**

1. Adverse findings are made under sections 17(3)(a); 17(3)(aa); 17(3)(b); and 17(3)(e) of the Act.
- 2 The operator no longer satisfies the requirement to be of good repute, section 14ZA(2) and 17(1)(a) of the Act.
3. The operator no longer satisfies the requirement as to financial standing, section 14ZA(2) and 17(1)(a) of the Act.
4. The operator’s licence is revoked forthwith.

Decisions made in respect of transport manager Gary John Bevan

5. I do not take away the repute of Gary John Bevan as transport manager, however there is to be a record that any application involving him should require him to personally appear before a traffic commissioner. He would be expected to address the shortcomings identified in this decision.

Attendance at Public Inquiry

- No-one attended the hearing

Key Facts

The standard national PSV operator's licence before me was granted in 2004 and at the time of today's hearing had authority for two vehicles. The sole director and transport manager is Gary John Bevan ("Mr Bevan").

A public inquiry was held in August 2013 as a result of maintenance concerns. The outcome included a number orders that sought to improve compliance, including one relating to audits.

Another public inquiry was held in August 2018 as a result of both maintenance and drivers' hours concerns. Decisions included the following:

- the number of discs authorised on the licence was reduced to two;
- repute as an operator was tarnished
- professional competence was lost and a 3 month period of grace was granted; and,
- transport manager Aneurin Rosser Lewis lost his good repute until he attended a specialist two day transport manager refresher course.
- Mr Bevan also lost his repute as a transport manager until he attended a specialist two day course (which he did).

Undertakings were also given to me including another one to have an audit which was to be copied to my office and to the local DVSA. As a result of concerns relating to the in-house maintenance there was also an undertaking that the mechanic employed by the operator would attend a specialist course to improve his skills as a mechanic – and do so within 6 months. Proof of attendance to be provided to the OTC.

Letters were sent out on 29 March 2019 and 9 April 2019 chasing compliance with the undertaking for the mechanic to attend a specialist course. The company failed to respond and propose to revoke letters were issued to all known addresses, the company replied stating that they no longer had their own mechanic and that maintenance was now contracted out. The operator had not informed my office as required of the change in maintenance arrangements.

Eventually, on 14 May 2019 a letter was issued from my office asking the operator to give consideration to reducing its discs down to one and for the audit to be brought forward. The operator failed to reply.

It is accepted that the operator did reply to the propose to revoke letter sent by my office, however it has regularly failed to reply to other correspondence.

After the call in letter was sent to the operator, a reply was received on 8 August 2019 advising that the operator had now ceased trading and wanted to surrender the licence. The letter indicated that the surrender that was sought was not immediate as the owner sought to sell the business. I was advised that two parties were interested in the business, hence the reluctance to surrender immediately, the director also indicated that he would not be attending.

A reply was sent to effect that I would proceed with the public inquiry.

This is an operator that does not have a good compliant history and despite repute being tarnished a year ago, it has failed in its responsibilities. The requirement to notify me of changes in maintenance are important as are the requirements to comply with undertakings that were agreed by the operator, based on safety considerations. Failure to respond to correspondence is unacceptable.

Repute having already been tarnished the operator no longer has the necessary good repute. The priority freight question is answered in the negative, indeed I reflect that the operator does not seek to continue. The Bryan Haulage question is answered in the positive.

I have conducted a balancing exercise and accept that there are worse cases that come before me. I do not make any order of disqualification under section 28 of the Transport Act 1985. Nevertheless it is clear that all the ground set out in the call up letter are made out.



Nick Jones
Traffic Commissioner
Comisiynydd Trafnidiaeth

30 August 2019