



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**

OK1134008 G W TIPPERS LIMITED

Decision

Breach of Section 26(1) (b) (c) 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.

Gary William Whittle disqualified from holding or obtaining an operator's licence for a period three years with effect from 00.01 hours on 4 September 2019 - direction under Section 28 (4) of the Act also made that if he is a director or has a controlling interest in a company during that period any operator's licence held by that company will be subject to revocation suspension or curtailment.

Repute of former transport manager Iosif Karascan lost and he is disqualified indefinitely from acting as a transport manager with immediate effect.

Background

1. The operator G W Tippers Limited is the holder of a standard national licence granted on the 16 February 2015 authorising four vehicles with none currently in possession. The sole director of the company is Gary William Whittle and there is no transport manager currently approved in relation to the licence. The transport manager from the 22 November 2017 and 21 December 2018 was Iosif Karascan.
2. A traffic examiner carried out an investigation on 27 September 2018 which identified a number of significant failings in compliance and a maintenance investigation undertaken on the 17 October 2018 raised additional concerns in relation to that aspect of the operation. A witness statement from traffic

examiner Sadie Clarke detailed an interview with director Gary Whittle during which he admitted specifying two vehicles on the licence for G W Tippers Limited during the period between 27 May 2017 and 26 July 2018 when in fact the vehicles were being operated by a partnership, M & M Transport whose licence had been revoked on the 23 May 2017 and the partners disqualified from holding or obtaining an operators' licence.

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. No response or other communication was received from the operator. A separate call up letter was sent to the former transport manager Iosif Karascan and an e mail was received from him dated 12 August 2018. This stated that he was unable to attend the public inquiry "as he was on holiday and had no idea when he will be back". The email also stated that "he did not want to operate like transport manager for the moment for nobody" In the circumstances I decided to proceed with the inquiry in the absence of the operator and the former transport manager.
4. I heard the evidence of traffic examiner Richard Bate who confirmed the contents of the statement he had prepared dated 22 May 2019 and traffic examiner Sadie Clarke who confirmed the contents of her interview with the operator in relation to the unlawful loaning of licence discs to M & M Transport.

Findings and Decision

5. I find that there have been breaches of Sections 26 (1) (b) (c) (ca) (f) and (h) of the Goods Vehicles (Licensing of Operators) Act 1995. Further I find that the operator has lost repute, has failed to demonstrate financial standing and professional competence. 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 to the call up letter to inquiry all point to an operator who should not be permitted to continue to in the industry. 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, financial standing has not been shown and professional competence is absent - the order to take effect immediately. In relation to Mr Whittle as sole director of the company 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 three 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 Gary William Whittle is disqualified for three years from 00.01 hours on the 4 September 2019 from holding or obtaining an operator's licence. I also direct under Section 28 (4) of the Act that if he is a director or has a controlling interest in a company during that period any operator's licence held by that company will be subject to revocation suspension or curtailment.

7. In relation to the former transport manager Iosif Karascan I find that he has also lost his repute. He was the transport manager during the period when the failings were present. He should have been aware of these, including the unlawful loaning of the authorisations and should have taken action to prevent this. 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