



**JJ RECLAMATION LTD (OK1092136)**

**GOODS VEHICLES (LICENSING OF OPERATORS) ACT 1995**

**TRAFFIC COMMISSIONER'S WRITTEN DECISION : HEARING ON TUESDAY 18<sup>TH</sup> FEBRUARY 2020**

**Decision**

1. Pursuant to adverse findings under Section 26(1)(b), (c)(iii), (ca), (f) and (h) of the Goods Vehicle (Licensing of Operators) Act 1995, the Operator no longer meets the requirements under Section 13 B & C of the 1995 Act. Accordingly, the Licence is revoked with effect from 23:45 on 02 April 2020.
2. I make no direction is made under Section 28 of the Goods Vehicle (Licensing of Operators) Act 1995.

**Reasons**

3. Investigations by a DVSA Vehicle Examiner and Traffic Examiner in 2019 found basic failings across the board. There was no system for managing and controlling the transport operations. There is no evidence that the Operator responded to the Vehicle Examiner investigation within 14 days or at all. At the Hearing on 18 February 2020, Mr Joseph Ray stated that he had sent a response to the Vehicle Examiner but no evidence was produced. A response was sent to the Traffic Examiner and a copy of that is at pages 111 and 112 of the Public Inquiry bundle.
4. Unfortunately, the Traffic Examiner's ability to assess any improvements on the driver side of the business at the Hearing was limited. The Operator failed to comply with the directions in the call in letter in terms of advanced data. The only documentation that the Operator sent to the Examiner in advance was infringement sheets but these were sent late and therefore were not received by the Examiner. During the Hearing driver infringement analysis for 2020 was received from the third party contractor but no raw data. Later on in the hearing raw data was received and exceptionally I allowed the Traffic Examiner a short period to assess it. The data was based on driver card only and confirmed Mr Ray's earlier oral evidence, that there was still issues during October to December but improvement in 2020. In summary, there are still issues around attention to detail, especially with regards to rest breaks. I reminded Mr Ray that rest breaks are a minimum not a target to be finished and discarded at the earliest possible opportunity.

5. It is a positive that there is now clearly analysis of driver hours and tachographs which was sorely missing last year. However, it is an aggravating feature that the Traffic Examiner only had limited time to look at the data himself, and there is no evidence of any analysis of the driver cards as against the vehicle data unit. No vehicle data evidence was produced to the Traffic Examiner. Mr Ray was able to produce his company card demonstrating an ability to download it but that was all. No missing mileage reports were produced to the Public Inquiry.
6. Despite been told to bring anything else that may assist Mr Ray had very little with him. He did bring an induction pack for one driver (1 March 2019) which demonstrated compliance with his letter to Traffic Examiner after the visit. He produced his own DQC card to show that his CPC was updated through to 2024 but nothing for the other drivers. He did not produce any evidence of driver licence checks. He told me from recollection that they had been approximately 4 months ago, despite his assurances to the Traffic Examiner that he would do them personally every 3 months and make sure proper records were kept.
7. The maintenance paperwork produced was disappointing. At the maintenance investigation in April 2019 copious amounts of advice was given (confirmed at pages 42 through to 43 of the Public Inquiry brief). No further prohibitions have been incurred but there have been no further roadside encounters. The MOT rate remains around the national average. There is now a contract with CM Golds and the nominated maintenance contractor updated on VOL. At the fleet inspection, there were a number of inspection items. The overarching advice however was to make use of online guides and in particular the Guide to Maintaining Roadworthiness. This appears to have been emphasised as a result of there having already been a previous unsatisfactory maintenance investigation in 2016.
8. In evidence, Mr Ray told me that he had quickly been through the Guide to Maintaining Roadworthiness but there was limited evidence of that. The tyre tread depths are now appearing on the Preventative Maintenance Inspection (PMI) sheets but the tyre pressure section is completely blank on every single one. Part of the Examiners advice was to make sure the documentation was checked and all aspects completed. I asked Mr Ray what his brake performance-testing regime was and he told me 4 roller brake test per annum. He seemed unclear as to what was going to happen at the PMIs inbetween but from some prompting, he told me it was going to be road tests. In fact, the only evidence I had of roller brake testing was one at MOT in September 2019. That was a bare MOT pass with the service brake done on lock allowance, with the reading unlikely to provide assurance that it would remain above the MOT level until the next PMI. Mr Ray pointed me to the fact that two of the vehicle had had MOTs in 2020 but there was no paperwork and therefore no assurance. The PMI forms do show road test at every PMI but there is no detail. There is nothing about road or weather conditions, whether the vehicle was laden or unladen and there was no brake temperature readings to demonstrate that each and every part of the braking system was working on every single wheel, on every single axle. The Guide to Maintaining Roadworthiness makes it clear that the best practice is a laden roller brake test at every PMI, but the bare minimum is 4 laden roller brake test a year, including the MOT. The roller brake test needs to be done in the same ISO week was the PMI. If roller brake test is not to be done at every PMI then vehicles need a measured brake test such as decelerometer. In essence, this Operator regime falls far below the bare minimum in the Guide to Maintaining Roadworthiness.
9. The Driver Defect reporting system also remains a concern. Only two defects were picked up in 3 months worth of records of two vehicles. There are driver reportable items on PMI

sheets, including one with the a wiring defect and therefore not just a blown blub. However, the related Driver defect sheets were 'nil'. In explanation, Mr Ray told me that they do not put running repairs like bulbs into the defect books, they just fix them. This demonstrates a fundamental lack of understanding of the importance of systems and an audit trail. Perhaps the most stark example of this is the fact that the drivers were ticking as 'working' some items on the defect sheets which did not even exist on the type of vehicle being driven.

10. There remains systemic failures across the transport operations despite the cogent help and advice from DVSA in January and April 2019. Mr Ray admitted that the call in letter meant he had given more focus to these aspects in 2020. How an Operator reacts to an interventions is telling in any assessment of trust moving forward. The positives and negatives have been set out above but I summarise the response as late and limited. I must consider this underwhelming response, along side the fact that Joseph Ray had his sole trader licence revoked in 2009, and the unsatisfactory outcomes to DVSA interventions in 2015 and 2016 in relation to this Licence.
11. When taking the history and total of the evidence before me into account I find that I cannot trust this Operator moving forward. I cannot trust that it is capable or able of managing even a small fleet within the teams of its Licence. Whilst Mr Ray may have had some personal difficulties last year, he has continued to driving and work for the company and made a positive decision not to attend an Operators Awareness Seminar, despite assurances to Traffic Examiner. Even if he could not attend in April 2019 he had a further 10 months in which to improve his knowledge.
12. When I pose the question, helpfully suggested in *Priority Freight*: how likely is it that those before me will, in future, operate in compliance with the operator's licensing regime, the answer must be that I cannot satisfy myself on balance that it will be. Actions speak louder than words and the steps taken to date are limited compared to the ongoing deficiencies. There is a lack of competence within the business which could easily have been remedied long before hearing. Instead the relevant individual has only properly put his mind to the risks at the eleventh hour.
13. Mr Ray had limited evidence on the impact of regulatory action. If the above decision puts the Operator out of business, I make it clear that would not be an unintended outcome. Safety is paramount. What I have done is step back from a period of disqualification – just. It is therefore open for a new application to be made but there is no guarantee it will be granted. The success will depend on the merits at the time.



**Miss Sarah Bell**  
**Traffic Commissioner**  
**Written confirmation: 19 February 2020**