



**IN THE UPPER TRIBUNAL** **Appeal No. T/2020/005**  
**ADMINISTRATIVE APPEALS CHAMBER** **NCN: [2020] UKUT 0179 (AAC)**

**Appellant:** **Christopher JOHNSON**

**On Appeal from:** **Traffic Commissioner for London and the South East of England**

**Reference:** **PK 2026435**

**Decision:** **3<sup>rd</sup> December 2019**

**Appeal to UTAAC:** **3<sup>rd</sup> January 2020**

**DECISION OF THE UPPER TRIBUNAL ON AN APPEAL AGAINST THE  
TRAFFIC COMMISSIONER**

**Upper Tribunal Judge H. Levenson**

**DECISION OF THE UPPER TRIBUNAL  
(ADMINISTRATIVE APPEALS CHAMBER)  
ON AN APPEAL AGAINST THE TRAFFIC COMMISSIONER FOR  
LONDON AND THE SOUTH EAST OF ENGLAND**

**Decision**

1. **This appeal succeeds.** I set aside the decision of the Traffic Commissioner (“the Commissioner”) made on 3<sup>rd</sup> December 2019 under reference **PK 2026435**. I refer the matter to a Commissioner who has not previously dealt with this application for fresh consideration and decision. With the agreement of the appellant I have not held an oral hearing but have dealt with the matter on the basis of considering the papers.

**Legal Context**

2. Particularly relevant provisions of sections 12 of the Transport Act 1985 are as follows:

12(1) Where the holder of a taxi licence or a private hire vehicle licence –

- (a) applies to the appropriate traffic commissioner for a restricted PSV operator’s licence to be granted to him under Part II of the 1981 Act; and
- (b) states in his application that he proposes to use one or more licensed taxis or licensed hire cars to provide a local service;

section 14 of the 1981 Act (conditions to be met before grant of PSV operator’s licence) shall not apply and the commissioner shall grant the application.

12(2) In this section “special licence” means a restricted PSV operator’s licence granted by virtue of this section.

3. The reference to the “1981 Act” is to the Public Passenger Vehicles Act 1981. Other provisions in section 12 relate to conditions and requirements of the licence and section 13 contains supplementary provisions.

**Background and Procedure**

4. The appellant is a man who was born on 3<sup>rd</sup> November 1972. He is what is usually referred to as a “London Taxi Driver”, one of those who has “done the knowledge” and satisfied the various fitness requirements and is licensed by Transport for London (“TfL”) to ply for hire within the defined area. This is, of course, different from the various kinds of mini-car or mini-cab licences for which advance booking is required. There is in the papers a copy of the appellant’s licence to act as a taxi-driver in London, issued by TfL on 14<sup>th</sup> March 2017 to be in force from 24<sup>th</sup> April 2017 to 23<sup>rd</sup> April 2020. This is renewable and I assume that it has been duly renewed. At the relevant time the appellant was renting an appropriate vehicle from a company that owned and hired out taxis to licensed London taxi drivers.

5. On 24<sup>th</sup> August 2019 the appellant applied for a “Special Restricted” PSV licence, which was obviously meant to refer to a licence under section 12 of the 1985 Act. His proposal was to use his taxi after 2.00 pm on Saturdays to operate an advertised fixed fare bus service from Bishops Stortford (Herts) to Epping (Essex) to Bishopsgate London EC2. There was a view to add additional timetables, for example when there was a problem with trains to London.

6. This application was followed by several requests from the office of the traffic commissioner (OTC) for further information and the papers contain many repeated e mail chains. There was also confusion over different types of license, including the fact that each relevant vehicle has its own vehicle licence, in addition to the driver having a personal licence.

7. Eventually, on 3<sup>rd</sup> December 2019 (notified on the same day) the Commissioner refused the application on the following basis:

“... the applicant does not have locus standi to apply as he does not hold a private hire licence or a taxi licence. Moreover, if the applicant did have locus standi, he proposes to operate in a way that is contrary to law by ignoring the regulations that apply in relation to registering services. The business model is one that is contrary to law”.

8. The notification letter from the OTC added some further details, although it is not clear that the letter was approved by a Commissioner. One of these details was that as there was a plan to add additional services when the train service was suspended, such services would not be able to be registered unless there was a planned suspension known a long time in advance. I do not immediately understand why that issue could not have been dealt with by way of conditions attached to the licence. Another detail was that there was still a failure to supply the required evidence. However, that evidence was not itemised in the letter, so that neither the appellant nor I can be sure what is being referred to. That failure to itemise might in itself amount to an error of law,

9. I am also concerned about other errors. It is not at all clear why the Commissioner decided that the appellant did not have locus to apply. The appellant clearly had the requisite taxi licence specified in section 12(1) of the 1985 Act (section 13(3) defines taxi licence as a licence under section 6 of the Metropolitan Public Carriage Act 1869).

10. It also seems that section 12(1)(b) of the 1985 Act requires only that an applicant states a proposal to use one or more licensed taxis to provide a local service. There is no requirement to commit to a particular route at that stage.

11. It is regrettable that there was no clear coherent statement of facts to support the decision made by the Commissioner. That might have prevented this decision having been made in error of law and the Senior Traffic Commissioner might wish to consider the practices operated in this type of case.

**H. Levenson**  
**Judge of the Upper Tribunal**  
**26<sup>th</sup> May 2020**