



## WEST MIDLANDS TRAFFIC AREA

### DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 28 JANUARY 2020

OPERATOR: DAVID JOHN PRICE

LICENCE OD2018791

#### **Decision**

1. The standard national goods vehicle operator's licence held by David John Price is revoked with immediate effect pursuant to Sections 26(1)(c)(iii), (ca), (f) and 27(1)(a) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").
2. David John Price is disqualified for three years, until 7 February 2023, from holding or obtaining any type of operator's licence in any traffic area and from being the director of any company holding or obtaining such a licence, pursuant to section 28 (1), (4) and (5) of the 1995 Act.
3. Claire Dey has lost her good repute as a transport manager, pursuant to schedule 3 paragraph 1 of the 1995 Act. Under paragraph 16(2) of that schedule, she is disqualified for an indefinite period of time from acting as a transport manager on any operator's licence. Before she can be nominated as a transport manager again, she must first attend a two day transport manager CPC refresher course run by a recognised training body and submit her certificate of attendance to my office.

#### **Background**

##### *Operator details*

1. David John Price holds a standard national goods vehicle operator's licence (OD2018791) for three vehicles and two trailers. There are three vehicles in possession. The licence was granted in January 2019. The nominated transport manager on the licence is Claire Dey.

##### *DVSA Investigation*

2. Mr Price came to my attention in a DVSA maintenance investigation which followed a shed load incident in July 2019. The load had not been secured: the driver had relied on gravity alone. The manager who attended the scene was one Ken Hudson, a person whom I had previously disqualified in November 2018 from holding an operator's licence for three years. When the DVSA examiner Christopher Walker visited the operator's premises, he found Mr Hudson ensconced in an office with his name plate on it and "The Boss" written below. He met transport manager Claire Dey but David Price was nowhere to be seen throughout the DVSA investigation.

### **Public inquiry**

3. Concerned by this report, I called Mr Price to a public inquiry in Birmingham on 28 January 2020. Transport manager Claire Dey was also called, to consider her good repute.
4. It became clear to me during the public inquiry that David Price's vehicles, drivers and operating centre were the same as those used by K J Hudson Machinery Services Ltd, whose licence OD 1134681 I had revoked in November 2018.
5. From his answers to my questions at the inquiry, I noted that David Price had almost no knowledge of how to operate HGVs, was not involved in the DVSA investigation (the VE never met him) and had no knowledge of the operator's response to that investigation, which came from his TM Claire Dey. He had no contract with Ms Dey and did not pay her any salary or consideration (the work was considered as "unpaid experience").
6. I found that while the safety inspections were carried out by maintenance provider Cebron Motors, defects were rectified by an in-house fitter. However, maintenance records I was shown demonstrated that these (serious) defects were not rectified until up to two weeks later, during which time one vehicle had travelled another 3000km. Further, Mr Price had no company tachograph card with which to make downloads from the vehicle unit and did not know what such a card was. No vehicle downloads had ever been carried out.
7. As noted in the DVSA report, one of the operator's vehicles was involved in a potentially dangerous shed load incident in July 2019. The manager who attended the scene that day was Ken Hudson. The office at the operating centre was Ken Hudson's and he seemed initially to be the one answering the VE's questions. I was unimpressed by Mr Price's explanation that it is Mr Hudson's yard but that is the extent of his involvement.
8. Mr Price claimed that he had purchased the three vehicles on the licence from K J Hudson Machinery Services Ltd. He said he had evidence of this back at the office. I therefore held a decision in abeyance pending provision of such evidence, which I said should include his bank statements showing a) the purchase of the three vehicles from K J Hudson Machinery Services Ltd and b) rental payments to that company for the yard.
9. Mr Price was unable to show financial standing at the inquiry, despite the call-up letter making it clear that evidence of financial standing should be produced a week before the inquiry. I allowed a further three days for the production of such evidence, which Mr Price assured me he could provide.
10. In the event, Mr Price emailed my clerk on 30 January 2020, saying "ive (sic) decided to surrender my licence (sic). That was the extent of the email, although Claire Dey emailed at the same time to say that Mr price wished to surrender his licence on

grounds of ill health. At my behest, my clerk responded to Mr Price on 3 February to say that I had refused the request to surrender the licence and wished to see the evidence that I had asked for. My clerk's letter warned Mr Price that I was considering revoking the licence and making a disqualification order against him. Mr Price replied to say that "at the moment im (sic) not in the country i am away until 23<sup>rd</sup>."

## **Findings**

11. David Price lacks financial standing (Section 27(1)(a) of the 1995 Act refers). The financial evidence he presented at the inquiry fell far short of the required amount;
12. David Price has acted as a front for continued operations by Ken Hudson who is disqualified from holding a licence until November 2021. He has played no part in the management of the business and shows no knowledge of or interest in it. I find that he therefore lacks the required good repute (Section 27(1)(a) also refers);
13. The operator has failed to fulfil its undertaking that vehicles would be driven lawfully (Section 26(1)(f)(refers). The vehicle stopped in July 2019 had its load of coiled metal entirely unsecured, the result of which was that the load fell off the vehicle causing potentially serious danger to other road users;
14. The operator has failed to fulfil its undertaking to ensure that vehicles were kept fit and serviceable. Vehicles were coming back from Cebron Motors with significant defects not rectified. The operator failed to attend to these defects for up to three weeks. There was only one presentation of a vehicle at MOT: the result was a failure;
15. The operator failed to fulfil its undertaking to ensure that the laws relating to drivers' hours and tachographs were observed. No vehicle unit downloads were ever carried out;
16. The operator's vehicles received two prohibitions from two encounters during the short life of the licence (Section 26(1)(c )(iii) refers). The driver received a fixed penalty for the insecure load (Section 26(1)(ca) refers);
17. Transport manager Claire Dey lacks good repute (Section 27(1)(b) refers). I have some sympathy for Ms Dey: I believe that she has been foolish and naïve rather than deliberately dishonest. She does appear keen to manage a compliant operation. But set against this are the facts that she worked for David Price without a contract (indeed without any salary), despite signing the TM1 application form to explicitly confirm that she had a contract; that she must have known that the disqualified Ken Hudson not David Price was the real power behind the operation; that she failed to carry out the required downloads from the vehicle tachograph units; that she failed to ensure that defects identified by the maintenance provider were rectified in a timely way; that she failed to ensure that loads were properly secured by drivers.

## **Decisions**

### *Operator licence*

18. Because David Price lacks both financial standing and good repute, revocation of the licence is mandatory under Section 27(1)(a). As he is in practice no longer operating vehicles, the revocation takes immediate effect.

### *Disqualification - operator*

19. Because of David Price's dishonesty in fronting for an operator (Ken Hudson) whom I had explicitly disqualified, I conclude that Mr Price in his turn should also be disqualified. His lack of involvement with the licence has allowed Ken Hudson to continue to operate in exactly the same unsafe and non-compliant way that led to the

revocation of his company's licence and his personal disqualification in the first place. In deciding upon the length of the disqualification, I have taken account of paragraph 100 of the STC's Statutory Guidance Document 10. This posits a starting point of between one and three years for a first public inquiry (which for Mr Price this is). Because of the serious issues set out above and because of Mr Price's dishonesty I have fixed upon a disqualification period – three years - at the upper end of this range.

*Disqualification – transport manager*

20. Having concluded that Claire Dey's good repute is lost I must also disqualify her under paragraph 16 of Schedule 3 to the 1995 Act from being a transport manager on any licence. She is a relatively newly-qualified transport manager and I believe has been manipulated by the rogues Ken Hudson and David Price. There are significant gaps in her knowledge but I believe that these could be rectified by attendance at a two-day transport manager CPC refresher course run by a trade or professional body. She may apply to be nominated as a transport manager again once she has attended such a course.

A handwritten signature in black ink that reads "Nicholas Denton". The signature is written in a cursive style. Below the signature is a horizontal line.

Nicholas Denton  
Traffic Commissioner  
6 February 2020