



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

VIRTUAL PUBLIC INQUIRY HELD ON 1 JUNE 2020

**OPERATOR: SHANGARA RANDHAWA
PD1028006**

Decision

1. The restricted PSV operator's licence held by Shangara Randhawa is revoked pursuant to Section 13(3)(b)(ii) and Section 17(3)(aa) and (e) of the Public Passenger Vehicles Act 1981 ("the 1981 Act") with effect from 0001 hours on 3 July 2020.

Background

1. Shangara Randhawa holds a restricted PSV operator's licence (PD1028006) for two vehicles. The licence was granted in 2003.
2. At a roadside check carried out by DVSA on 30 January 2020, the operator's vehicle GM08 CCU was found to have a class V MOT, insufficient for PSVs. The vehicle was also given a prohibition for two tyres below the legal limit - it was engaged on a school contract run at the time. The driver stated that the vehicle was being parked at his home address, not the operating centre.
3. On 17 March 2020, DVSA examiners visited the operator and found the following shortcomings:
 - i) corroded leaf springs on vehicle S114 NGY, for which an immediate prohibition was issued;
 - ii) safety inspection sheets did not record any metered brake testing or tyre tread depths;
 - iii) the MOT test record showed failures for issues which should have been identified at the periodic safety inspections.
4. In April 2020 a DVSA traffic examiner interviewed the operator Shangara Randhawa and discovered that the actual operator was Wombourne Travel Ltd, a company of which Mr Randhawa was the director, not Mr Randhawa as a sole trader. Given that

the company's main business had for several years been the operation of PSVs, it was not entitled to hold a restricted PSV licence.

5. Because there had been a change of entity and because that entity was not entitled to hold a PSV licence, my clerk sent a "minded to revoke" letter to Mr Randhawa on 23 April 2020. The operator exercised his right to have a public inquiry.

Public inquiry

6. A virtual public inquiry was held on 1 June 2020 on MS Teams. Present were Shangara Randhawa and Jim Marsh of Ward International Consulting, representing DVSA traffic examiner David Smith also attended.
7. I noted that Wombourne Travel Ltd had submitted an application for a standard PSV licence for four vehicles on 5 May 2020, but this could not be formally determined at the inquiry as the objection period did not end until 6 June.
8. I noted that the vehicle examiner's report had stated that, on 30 January 2020, the two defective tyres had not had the minimum 1mm tread depth across **any** three-quarters of the tread pattern around the full circumference of the tyre. One tyre's tread depth had been down to 0.75mm in places and the other had been down to 0.38mm. How could this have been missed at the previous safety inspection and by the driver in his walk round checks? Mr Randhawa speculated that the tyres could somehow have been changed by the driver for inferior ones, unbeknownst to him, but offered no evidence for this. The preceding safety inspection did not record any tyre tread depths: Mr Randhawa said that this had been an oversight for which he apologised.
9. I asked how often the vehicles had been given a roller brake test. Mr Randhawa told me that it had been once a year, as part of the MOT test.
10. Asked why the vehicles had been given the wrong class of MOT, Mr Randhawa said he had taken advice from someone in the industry: the advice proved to be incorrect, for which he apologised. The vehicles had now been given the correct PSV MOT.
11. Mr Randhawa accepted that he had failed to identify the corroded leaf springs on S114 NGY at the safety inspection preceding the prohibition issued on 17 March, but pointed out that the vehicle had passed its MOT between that safety inspection and the prohibition, without the leaf springs having been identified as a problem by the testing examiner. In fact, the previous safety inspection – which did not identify any problem with the leaf springs - was carried out on 16 March, the day before the prohibition, while the MOT test was carried out on 21 February.
12. On the issue of the driver parking a vehicle at his home rather than at the operating centre, Mr Randhawa explained that the driver's car had been out of action for a couple of weeks and that he had allowed the driver to use the minibus to travel to and from work. This would not happen again.
13. If the application for Wombourne Travel Ltd were granted, Mr Randhawa intended to have all safety inspections carried out by a commercial dealer, rather than in-house by himself which had been the case up to now. Roller brake tests would be carried out at each safety inspection, ie every six weeks. The proposed transport manager was booked on a CPC refresher course in June.
14. Mr Marsh accepted that it was inevitable that Mr Randhawa's licence would be revoked, as a change of entity had occurred. The company's main occupation had until 2017 been a taxi business, but since then had been the operation of the two

minibuses. That was why it was now applying for a standard PSV licence (for the increased number of four vehicles, which were need to service a local authority contract). He hoped that the revocation of the sole trader licence could be delayed until the grant of the standard national licence to Wombourne Travel Ltd, as otherwise the school contracts could not be fulfilled. With the new transport manager and safety inspections and maintenance carried out by a commercial dealer, everything would henceforth be on a more professional level.

Findings

15. In the light of the evidence presented to me, I make the following findings:
- i) the operator has undergone a material change in that the vehicles are no longer being operated by Mr Randhawa as a sole trader, but by Wombourne Travel Ltd;
 - ii) the operator has failed to fulfil its undertaking to keep vehicles fit and serviceable. When stopped on 30 January 2020, vehicle GM08 CCU had two clearly illegal tyres. Both operator and driver had failed to spot this, despite the fact that the tyres must have been in an illegal condition for at least some days. The fact that Mr Randhawa did not bother to record tyre tread depths on his safety inspection sheets – despite the existence on the sheet of a box in which to record such information – created a systemic problem in which illegal tyres became more likely. Additionally, the operator’s other vehicle S114 NGU was given a prohibition for corroded leaf springs, which the operator had failed to identify during a safety inspection the day before;
 - iii) the operator has failed to fulfil its undertaking to ensure the lawful operation and driving of vehicles: the minibuses were given the wrong class of MOT (Class V is for private minibuses) for many years;

Conclusion

16. Mr Randhawa has operated his PSV business in a lax and amateur manner. Despite having had the licence for 17 years, he still did not know that PSVs operated commercially must be tested to PSV MOT standards. He has been an inadequate maintainer of his vehicles, missing obvious defects and failing to spot (or record) the tread depths of tyres. He failed to carry out meaningful brake tests. Given that the main (indeed only) current business of Wombourne Travel Ltd is the carriage of school children, I am extremely concerned about the potential consequences. Further, I am surprised that the local education authority which has contracted with Wombourne Travel Ltd to carry out the school runs in question does not appear to have checked whether Wombourne Travel Ltd actually held a PSV operator’s licence. I will be writing to that authority to suggest that in future it do so.
17. The licence is no longer being operated by the person to whom it was issued and so will have to be revoked under Section 13(3)(b)(ii) and Section 17(3)(e) of the 1981 Act. I am also revoking the licence under Section 17(3)(aa) because of the operator’s failure to fulfil its undertakings on maintenance and roadworthiness.
18. I recognise that Mr Randhawa is taking steps to put matters on a more satisfactory and professional footing, with the application in the company name for a standard licence with a professionally qualified transport manager, and the other undertakings about maintenance and brake testing which he has given. I am not in a position, today, to grant the application by Wombourne Travel Ltd, but I indicate that, if I do grant the application (which by no means can be taken for granted), there will be a gap of at least 28 days between the revocation of the sole trader licence and the coming into effect of any new licence. The maintenance failings of the sole trade

operation come into the serious category as defined in the Senior Traffic Commissioner's Statutory Guidance Document No 10. If I were not revoking the sole trader licence for change of entity reasons, I would therefore be imposing a suspension of at least 28 days on the operator. It would not consequently be right to allow a seamless transition from sole trader licence to a licence held by the company.

Decision

19. Licence PD1028006 is revoked with effect from 0001 hours on 3 July 2020 pursuant to Section 13(3)(b)(ii) and Section 17(3)(aa) and (e) of the 1981 Act.



Nicholas Denton

Nicholas Denton
Traffic Commissioner
3 June 2020