



**SOUTH EASTERN AND METROPOLITAN TRAFFIC AREA**

**DECISION OF THE DEPUTY TRAFFIC COMMISSIONER**

**PUBLIC INQUIRY HEARD AT IVY HOUSE, IVY TERRACE, EASTBOURNE ON 20  
July 2020**

**OK0225384 WILLIAM JOHN CREASEY**

**Decision**

**Breaches of Section 26(1) (c) (ca) (e) and (f) of the Goods Vehicles (Licensing of Operators) Act 1995 found.**

**Repute as an operator lost and licence revoked under Section 27 of the Goods Vehicles (Licensing of Operators) Act 1995 with effect from 00.01 hours on the 17 August 2020.**

**Repute as a transport manager lost and indefinite disqualification from acting in that regard ordered under paragraph 17 of Schedule 3 of the Goods Vehicles (Licensing of Operators) Act 1995.**

**Background**

- 1. The operator William John Creasey is the holder of a standard national licence authorising four vehicles and one trailer granted on the 20 September 1996. Mr Creasey is the holder of the licence and transport manager. There is no record of previous regulatory action against this operator.**
- 2. On the 30 May 2019 an authorised vehicle AU06 BDO bring driven by Mr Creasey was issued with a prohibition notice in relation to a loose wheel nut. It was also noted at the time that the vehicle did not have a current MOT and a fixed penalty was issued to Mr Creasey in respect of his failure to use a tachograph card or chart.**
- 3. A maintenance investigation was carried out by Vehicle Examiner Hynes on the 21 January 2020 which was deemed to be unsatisfactory. There appeared to be a complete absence of systems for driver's walk round checks, no preventative maintenance inspection records, and confusion over the number of vehicles authorised and/or in use. Mr Creasey said that**

he had ceased trading 16 months previously and that he only used the vehicles in connection with purposes associated with his farm/stables. Subsequent checks by Mr Hynes revealed that between the 4 January and 2 April 2020 three of the authorised had been registered by ANPR cameras on a total of 38 different dates which suggested there was continuing commercial use.

### **The Public Inquiry**

4. Mr Creasey attended the public inquiry without representation and Vehicle Examiner Hynes gave evidence via a video link. Mr Creasey told me that he had been driving lorries for 50 years and initially said that he was no longer undertaking “commercial work” having previously undertaken contracted work from “Cita”. He also said that he had only one vehicle in operation DK03 OYF and that he was usually the person who drove the vehicle although his son in law might do so “once every two months”.
5. Vehicle Examiner Hynes gave evidence and confirmed the contents of his report including the original comments made by Mr Creasey to him about not undertaking work on a commercial basis for 16 months. He had inspected one vehicle when he visited Mr Creasey on the 21 January 2020 and that vehicle had been in good condition.
6. He said that when the prohibition notice was issued on the 30 May 2019 the vehicle had been loaded with plastic bins. Photographs from some of the ANPR cameras had been included in the inquiry papers and these showed the vehicles loaded with what appeared to be building site waste in three of the pictures and carrying portable toilets and a cabin in another.
7. Mr Hynes said that in the week preceding the inquiry he been provided with a copy of new maintenance contract between Mr Creasey and “DML Commercials” together with one inspection record which was not signed or stamped to show who had completed the inspection.
8. Traffic Examiner Pitcaithy confirmed that he had looked at some analogue tachograph record submitted in advance of the inquiry by Mr Creasey. He told me that some of the documents had been difficult to read for a variety of reasons and that there were some discrepancies over the mileage recorded. It appeared that some sheets were missing or there had been occasions when sheets had not been used. He also stated that a check on Mr Creasey’s driving licence revealed that his Category C entitlement, which he needed to drive vehicles of the size authorised, had expired on the 24 November 2018 and had not been renewed to date.
9. Mr Creasey gave evidence and said that whilst he realised, he had done a lot wrong, he had always maintained his vehicles to a good standard. I asked him to explain his statement that he had not been operating commercially for 16 months prior to Mr Hynes’ visit. He said that he did not think he had said 16 months but initially continued to say that the use was

all in connection with his farm and stables. I asked him to explain the three photographs showing what appeared to be building site waste and he said these were in fact loads of wood which he was going to use for firewood and for repairing fences and the stables. The cabin and toilets were also for use at his premises. After further discussion and questions Mr Creasey accepted that he had “done a few jobs” for other people as well as undertaking haulage for his own business. Other people had also borrowed his lorry on occasions.

10. Mr Creasey explained that he had spoken to DML Commercials and arranged a new maintenance contract with them but up until now had completed maintenance himself. He had completed the form sent to Mr Hynes and had not filled out any sheets until that one. He also accepted that his tachograph records were not as complete as they should be, and he had “lost some charts”. He had not realised his Category C driving entitlement had expired but he did have a medical scheduled for the 25 July.
11. In closing Mr Creasey said again that he realised he had got things wrong but that his vehicles had been properly maintained. He accepted “things have changed” and he needs to change accordingly.

### **Findings and Decision**

12. In this case there have been breaches of Section 26(1) (c), (ca), (e) and (f) of the Goods Vehicles (Licensing of Operators) Act, 1995. When Mr Creasey obtained his operator’s licence he undertook to observe the rules including those relating to inspection of vehicles and drivers’ hours. I find that he has failed to do so for some considerable time. Whilst I accept that he may have maintained his vehicles to an acceptable standard most of the time this is insufficient for compliance to be demonstrated in a modern regulatory regime. In addition, he attempted to mislead the DVSA officer and me into believing that his vehicles had not been used for anything but his own business purposes for a considerable period. The ANPR camera recordings and photographic evidence make it clear that this was not the case and eventually during the inquiry Mr Creasey accepted this.
13. In deciding what action to take on these negative findings I need to balance any positive elements of the case. I have taken into account the length of time Mr Creasey has held his licence without previous regulatory action being taken. I have also given him credit for the maintenance standards which appear to have been applied to the authorised vehicles as confirmed by the Vehicle Examiner.
14. Having considered all of the factors detailed above I have asked myself the question 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? My answer to this question is a negative. The gap between

what Mr Creasey has demonstrated in compliance terms and what is required is extreme. He had only contacted a maintenance contractor a short time before the inquiry and no inspections had been undertaken by that contractor. The standard of tachograph records produced was very poor and he had failed to notice that his driving licence entitlement to drive vehicles of the required category had expired in November 2018. He compounded his default and drew into question even more whether he can be trusted by attempting to mislead the vehicle examiner and me as to the extent of commercial use of his vehicles. If I gave him a chance to continue in business, I cannot be confident he will be a compliant operator.

15. I conclude for these reasons that he no longer has the repute that is required to hold a licence and I revoke the licence under Section 27 of the 1995 Act. I order that this shall take effect from 00.01 hours on the 17 August 2020 which allows a short period of time for him to complete any of his own work requiring the use of the vehicles. I have considered whether to disqualify Mr Creasey from holding an operator licence but have decided this is not necessary bearing in mind the length of time he has held a licence and the circumstances of the case.
16. As Mr Creasey is the transport manager, I also find that he has lost his repute in this regard. In addition to the facts detailed above I note that he has not completed any training as a transport manager. Once repute is lost as a transport manager it is mandatory that I order a disqualification and I do so for an indefinite period. If Mr Creasey were to apply for a licence and/or ask for his repute to be regained as a transport manager he will need to demonstrate that he has undertaken training and brought himself fully up to date with current requirements for an operator and transport manager.



**John Baker**  
**Deputy Traffic Commissioner**

**27 July 2020**