



**Appeal No. UA-2024-000517-T
[2025] UKUT 149 (AAC)**

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appellant: K Hough Contractors Limited

Operator's Licence OH2036036

Before: Upper Tribunal Judge Ward, Mr D Rawsthorn and Mr I Luckett

Decided on consideration of the papers.

Representation:

Appellant: Mr K Hough (limited to initial grounds of appeal)

On appeal from the Traffic Commissioner for the West of England:

Decision Date: 3 April 2024

DECISION

The decision of the Upper Tribunal is that the appeal is dismissed.

REASONS FOR DECISION

1. The appellant (hereafter "the operator") appeals against the decision dated 2 April 2024 (notified by letter dated 3 April 2024) by the Traffic Commissioner for the West of England ("the TC") to terminate its operator's licence with effect from 2359 hours on 20 April 2024.
2. The appeal had originally been listed for oral hearing in Exeter on 2 April 2025. As the operator had not confirmed attendance, a direction, accompanied by a strike-out warning, was issued to it on 28 March. This prompted a response from its director, Mr Hough, indicating that there would be no attendance on behalf of the operator. No application was made for an adjournment. The hearing was accordingly vacated.

3. The panel considered that the appeal could fairly be dealt with on the papers and convened by Teams in order to do so.
4. The operator held a restricted licence for use in connection with its groundwork business and operated 1 vehicle and 2 trailers. Concerns arose when the vehicle was stopped at a vehicle check. This led to investigations being varied out by Traffic Examiner Liddall and Vehicle Examiner Garraway.
5. The operator was called to Public Inquiry in Bristol on 6 December 2023. The call-up letter identified concerns regarding, to summarise, drivers' hours and the lack of tachograph records; inadequate maintenance and lack of maintenance records; and operating from an unauthorised operating centre.
6. Mr Hough attended unrepresented. He had provided no material in advance. Noting that the papers had been sent to the operating centre on the licence, which was no longer then in use, the TC adjourned the Public Inquiry to a date in April 2024, to be held in Cornwall, where the operator is based. Meanwhile he suspended the licence until such time as he was provided with a completed application and advertisement in respect of the new operating centre.
7. The resumed Public Inquiry was held on 2 April 2024 in St Ives. Mr Hough did not attend, although he had previously confirmed he would be attending. Several efforts to reach him by phone proved unsuccessful and the TC proceeded to reach a decision.
8. In his decision he accepted TE Liddall's evidence that, in summary, TE Liddall could find no evidence of the sorts of compliance systems an operator should have. In addition, Mr Hough had driven an in-scope vehicle on many occasions without using a digital tachograph driver's card (because he did not have one) and without a driver Certificate of Professional Competence ("CPC"). He also accepted VE Garraway's evidence that Mr Hough was unable to produce any maintenance documentation on 11 October 2023 in the run-up to the Public Inquiry. Some was later provided, but late. No driver defect reporting systems were in place. Mr Hough stated he was the only driver but that is contradicted by the encounter on 26 July 2023 when the vehicle was driven by Luke Williams. Prohibitions were issued on that day.
9. Finding that all the matters raised in the call-in were made out, the TC revoked the licence under subsections 26(1)(f) and (h) of the Goods Vehicles (Licensing of Operators) Act 1995.
10. The relevant provision provides:
 - (1) Subject to the following provisions of this section and the provisions of section 29, a traffic commissioner may direct that an operator's licence be revoked, suspended or curtailed (within the meaning given in subsection (11)) on any of the following grounds;...(f) that any undertaking recorded in the licence has not been fulfilled;...(h) that since the licence was issued or varied

there has been a material change in any of the circumstances of the licence-holder that were relevant to the issue or variation of the licence.

11. The TC held that sub-paragraph (f) was made out because the rules on drivers' hours and tachographs had not been observed and under sub-paragraph (h) because he considered that the operator was no longer fit to hold an operator's licence.
12. Later that day Mr Hough spoke to the clerk, claiming that he had misread the date of the resumed Public Inquiry. The TC was unimpressed with that explanation, concluding that he saw no reason to revisit his decision, even were he to have power to do so.
13. As Mr Hough chose not to appear at the oral hearing, the panel has only his original grounds of appeal to consider. We consider each in turn.
14. *He had previously believed that as he held a restricted licence and his "usage was not intended to make a profit" he did not need to hold a CPC as a driver. When advised the contrary at the Bristol Public Inquiry, he stopped driving and passed his CPC.*
The panel notes that the failure to hold a CPC was not directly the ground for termination of the operator's licence. The panel does not accept the explanation given, on which Mr Hough has declined to make himself available for questioning, either at the resumed Public Inquiry or at an Upper Tribunal hearing. Nor does the panel find it credible that the use of the vehicle for the operator's groundwork business was not intended to make a profit.
15. *He had previously understood that as the vehicle never went further than 100 km from base, manual drivers logbooks were acceptable. However, once advised at the first Public Inquiry that that was not so, he had stopped driving the vehicle and got a digital card.*
We repeat the comment above about the failure to submit to questioning. The source of the initial "understanding" is not named and in any event it was the operator's responsibility to maintain a correct knowledge of relevant legal requirements.
16. *The criticism made by the TC that Mr Hough had said he was the only driver when in fact when the vehicle had been stopped it was being driven by a Mr Williams arose because of a misunderstanding: when visited (Mr Hough says by Mr Rooney, but Mr Garraway may be intended) Mr Hough had indeed been the driver. Mr Williams had had his own digital licence and logged his own hours.*
Seen with the other "explanations" above, the panel doubts the convenient "misunderstanding". Further, in the panel's view, the explanation betrays an attempt to distance himself from the proper recording of hours worked by a driver who was driving for the operator and for the recording of whose hours the operator was required to be responsible.

17. *It had been a difficult time as two clients had gone into liquidation and the operator had been told to vacate its original operating yard and that was why, as Mr Hough himself puts it, “things slide, record-keeping is far from what it should be and important dates are muddled or completely forgotten.”*

The panel appreciates that business life has its ups and downs. However, the vehicle licensing rules are about ensuring public safety and maintaining fair competition between businesses and a high level of compliance is expected of all operators, even in difficult times.

18. For the above reasons, the panel considers that none of the grounds put forward in the operator’s Notice of Appeal, individually or collectively, provide a reason to conclude that the TC’s decision is “plainly wrong”. Accordingly, the appeal is dismissed.

C.G.Ward
Judge of the Upper Tribunal

Mr D. Rawsthorn
Member of the Upper Tribunal

Mr I. Lockett
Member of the Upper Tribunal

Authorised by the Judge for issue on 9 April 2025