



Neutral Citation Number: [2025] UKUT 424 (AAC)

Appeal No. UA-2025-000991-T

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER
TRAFFIC COMMISSIONER APPEALS**

**ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER for the
NORTH WEST of England dated 17th July 2025**

Before: **HHJ Beech, Judge of the Upper Tribunal**
David Rawsthorn, Specialist Member of the Tribunal
Leanne Curle Maddock, Specialist Member of the
Tribunal

Appellant: **HOPKINSON RECLAMATION LIMITED**
Commissioner's ref: **OC2078469**

Hearing date: **2nd December 2025**
Mode of hearing: **Remote by CVP**
Heard at: **Field House, Breams Buildings, London, EC4A 1DZ**

Representation:
Appellant: **Natalie Hirst, Managing Director of the Appellant assisted by Toni Evans, Transport Manager**

Decision Date: **18th December 2025**

SUMMARY OF DECISION

This appeal is DISMISSED

The Traffic's Commissioner's decision to refuse the Appellant's application for an operator's licence is neither wrong on the facts or the law.

KEYWORD NAME: 100.1 Applications

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the judge follow.

DECISION

The appeal is DISMISSED

REASONS FOR DECISION

Introduction

1. This is an appeal from the decision of the Traffic Commissioner for the North West of England ("the TC") dated 17th July 2025, when he refused the Appellant's application for a standard national operator's licence under s.13(5) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the Act").

Factual background

2. The background to this appeal is as follows. The Appellant ("the company") which was established in 1985, operates a waste management site at Staveley Lane, Chesterfield. The company now trades as Fawkes Recycling. Its sister company, Hopkinson Waste Management Limited ("HWM"), had held a standard national operator's licence and operated skip vehicles. HWM went into liquidation on a date which is not within the appeal bundle and was wound up in June 2025.
3. In an undated and unsigned application for a standard national operator's licence, the company declared three directors: Natalie Hirst, Steven Deakin and Andrey Kruglykhin. Ian Howe was named as the transport manager. It was declared the Natalie Hirst would surrender the HWM's licence in the event that the application was successful. The application was for 6 vehicles and 3 trailers and a time limited interim licence was requested. The application was accompanied by an unsigned and undated transport manager's form in the name of Mr Howe.
4. By a letter dated 3rd December 2024, the Office of the Traffic Commissioner ("OTC") informed the company that the application was incomplete. A response was required by 17th December 2024 and the company was warned that failure to respond would result in its application being refused. The following information (in summary) was required:
 - (i) A copy of the statutory advertisement in the prescribed format;

- (ii) Financial evidence showing ready access to £30,500 for a period of 28 days, the last date not being more than 2 months from the date of receipt of the application;
- (iii) A transport manager application declaration signed by both the transport manager and an authorised person on behalf of the company to be sent by post;
- (iv) A written explanation, with supporting evidence, about how the company had been meeting its transport needs since its incorporation;
- (v) As two different dates of birth had been provided for Steven Deakin and Andrey Krulykhin, confirmation of their dates of birth with proof, such as a driver's licence or a passport;
- (vi) As the OTC records indicated that Mr Howe had been involved in an operator's licence "B Howe & Sons Ltd" which had been surrendered, an explanation was required as to why this was not declared;
- (vii) An explanation for why the company had not declared on the application that Pavel Moutchiev was a director when he was recorded as such on the Companies House register, The appropriate form for adding Mr Moutchiev as a director to the application was provided.

In response to the above, the company uploaded a copy of the advertisement and sent a signed transport manager form.

5. On 22nd January 2025, the Office of the Traffic Commissioner (OTC") wrote to the company highlighting the information that remained outstanding and advising that the company must provide the information by 5th February 2025. There followed, copies of the driving licences of Mr Moutchiev and Ms Hirst (which had not been requested) and a copy of Mr Kruglykhin's driving licence and Mr Deakin's passport and a different signed transport manager's form. In addition, an undated note was uploaded onto VOL with no indication as to who had written it. It informed that:

- (i) The company had been operating under the licence of HWM and the surrender of that licence had been requested. A previous request for the licence to be transferred to the company had been refused;
- (ii) The company had not been made aware that Mr Howe had been involved in a licence which had been surrendered (there was no explanation for why Mr Howe had not declared the surrendered licence on his TM1 form);
- (iii) The company's transport needs had been managed by HWM since incorporation. The company would prefer to retain HWM's licence but had been advised to "reapply". "*The vehicles, site and ownership would remain exactly the same – only the company name will change*".

Financial evidence was attached. The accounts covered the period 2nd January to 23rd January 2025 (22 days) and did not show ready access to the financial standing required.

6. On 5th February 2025, the OTC wrote to Ms Hirst in the following terms:

- (i) The evidence on financial standing was insufficient;
- (ii) It was noted that the application declared that the operator's licence of HWM would be surrendered on the grant of the new application. However, as none of the directors listed in the current application were listed as directors of HWM with Companies House, then the surrender would not be permitted unless the request came from a director of HWM;
- (iii) The Companies House register showed that the accounts for HWM were overdue. The OTC required confirmation that HWM was not in financial difficulties and that it would not be going into liquidation/administration in the near future.

The information was required by 12th February 2025.

7. On 11th February 2025, Ms Hirst sent a message to the OTC which was headed "*Change of Transport Manager – Hopkinson Waste Management Ltd & HRL*". She advised that a decision had been made to bring "our" transport management back in-house and that Toni Evans was to replace Mr Howe as transport manager. Her CPC certificate was attached. In response, Ms Hirst was sent a TM1 form and a licence surrender form. She was reminded that bank statements were required with a closing balance of £30,500. The deadline was extended to 26th February 2025.

8. At about the same time as above, another undated and unsigned note which did not identify the author, was sent to the OTC. It advised that the company had operated vehicles under the HWM licence since its inception and had wanted to continue to do so by transferring the HWM licence to the company but that was refused. The vehicles, site and ownership of assets would remain the same, only the company name would change. The note did not answer the query set out in paragraph 6 (iii) above.

9. There then followed a completed TM1 form dated 5th March 2025 and a bank statement for the period 28th February to 5th March 2025 which did not cover the minimum of 28 days although it showed an improved financial position.

10. On 11th March 2025, a finance time limited interim licence was granted to the company. On the same day, Ms Hirst agreed in writing that she understood that:

- (i) at the end of the interim licence, the company must provide the appropriate financial standing for a period of three months;
- (ii) no further reminders would be sent to provide the information before the interim ended;

- (iii) if the company had not provided the financial information and had not met all of the other requirements and had confirmation that a full licence had been granted **before the interim licence expired** (our emphasis), the company would no longer be able to operate vehicles.

Moreover, a letter to the company made it clear that the interim would expire on 11th July 2025 and that the required evidence **must** be provided as soon as it was available and no later than **16th June 2025** (our emphasis). Failure to comply within that deadline would result in the application being refused. The licence states "*IT IS YOUR RESPONSIBILITY TO CHECK THE DATE WHEN IT WILL EXPIRE*".

11. The company did not comply with the deadline of 16th June 2025 although financial evidence for a period of three months was uploaded on 16th July 2025. In the licensing submission made to the TC, the following was noted:

- (i) The directors of the company (Hirst, Kruglykhin, Moutciev and Deakin) had also been directors of HWM, all resigning in May and September 2024. Other directors who had since resigned had also been directors of both companies;
- (ii) The directors on the company's application were no longer in control of HWM and so were not in a position to declare that the HWM licence would be surrendered;
- (iii) The sole director of HWM did not have any control over the HWM licence as she had never logged into the VOL.

12. The letter refusing the company's application under ss.13A(2)(c) and s.13(5) of the Act is dated 17th July 2025. The TC's reasons for refusal are as follows:

"I am advised that this application is subject to a Time Limited Interim (TLI). A TLI is an operator's licence which continues in force until such time as the licence application is finally dealt with. This interim was granted in order to allow a period of time for full financial records to be provided in support of this application – as such the interim was conditional. That condition – which was time-bound – had not been complied before the deadline set (sic), and I therefore refuse the application.

I note that some late provision of evidence has been provided (some five days late). On review of this application I also note that there have been changes to the Director's and a previous commitment to surrender linked licence ... Hopkinson Waste Management Ltd (now called HWM (2025) and is in liquidation. Both HWM (2025) Ltd and Hopkinson Reclamation Limited are owned by Hopkinson Waste Holdings Ltd. I am therefore concerned that this application may be a phoenix for HMW (2025) and the application will need to be scrutinised.

For clarity, the TLI has expired without the terms being complied with, and the application is refused for that reason. Any additional time to allow for those terms to be complied with would be discretionary and I am not allowing

any additional time due to the other matters arising which need to be fully considered.

I do however, invite a new application. Whilst all applications are considered on their own merits I recommend any new application is supported by full evidence of financial standing and an explanation for the changes of directors, the links to HMW (2025) Ltd and the reasons for its liquidation".

Rather than take up in the above invitation to make a new application, the company appealed.

13. Meanwhile, on 20th February 2025, HWM was sent a "Propose to Revoke" letter in the usual terms as a result of HWM having lost its transport manager. A response was required by 13th March 2025. In response, Ms Hirst advised that Hopkinson Reclamation Limited was waiting for an interim licence and once that was granted, the HWM licence would be surrendered. She sent another copy of the company's advertisement. Once it came to the attention of the OTC that HWM had in fact gone into liquidation, HWM's licence was revoked.

Legal framework

14. By s.13(5) of the Act, if a traffic commissioner determines that any of the requirements that the commissioner has taken into consideration in accordance with subsection (1) or (2) are not satisfied, the commissioner may refuse the application. The requirements are set out in s.13A of the Act and by s.13A(2)(c), the traffic commissioner must be satisfied that the operator has appropriate financial standing.
15. By s.24 of the Act, the traffic commissioner has the power to grant an interim operator's licence.

The grounds of appeal and the Appellant's submissions

16. The grounds of appeal which appear to be AI generated, can be summarised as follows:
 - 1) The company acted in good faith and sought support. "We" understood that the interim licence expired on 11/7/2025 and genuinely believed that this was the deadline for submitting financial evidence. The evidence was five days out of time;
 - 2) The company asked for help and made efforts to comply. The company engaged with the OTC and the delay was due to a "miscommunication" rather than neglect or avoidance;
 - 3) The company is a long standing, transparent entity which had been trading "since [insert date]" (sic) and all environment agency permits

have always been registered to the company. The application for a licence should *"have rightly sat here from the outset"*;

- 4) This was not a phoenix operation. The liquidation of HWM was the *"result of historic financial mismanagement by a former MD ... Legal proceedings are ongoing against him. The Company had restricted to protect jobs, ensure creditor repayment and operate within the law and not to avoid liabilities"*;
- 5) The TC's refusal will have the consequence of making four employees redundant.

17. At the hearing of this appeal, Ms Hirst appeared remotely along with Ms Evans. She did not have the appeal bundle in front of her as she had not appreciated that it had been delivered to her junk file. She was given time to find it and open it.

18. Ms Hirst informed the Tribunal that the reasoning behind the operational changes prompting the application for a licence was that historically HWM had operated the vehicles and delivered waste to the company. It was decided that it would be more cost effective for the company to own the vehicles. The company had already purchased Sheef Skips in 2024 which was rebranded to Fawkes Recycling which had its own restricted licence.

19. Ms Hirst contended that the TC was wrong to find that this application was a phoenix. The decision to make the application had nothing to do with the financial mismanagement of HWM.

20. Ms Hirst further contended that the reason why the financial information had not been uploaded in time (by this she means by 11th July 2025) was that the portal would not retain the financial information once it had been uploaded and this resulted in a delay of five days in the OTC receiving the information. She asserted when questioned, that she had encountered difficulties with the portal in July and had complained although there is no evidence of that in the appeal bundle and this issue had not been raised in either the grounds of appeal or in section A of appeal application. She went on to complain that there been a delay of three months in processing the application because the TC had been unwell but did not explain why that should be taken into account on appeal.

21. Ms Hirst was asked why she did not accept the invitation of the TC made at the conclusion of the refusal letter to reapply which included helpful guidance as to what the company needed to provide in support of the application, rather than appeal. She averred that the TC had told her in correspondence that if she were to appeal and was unsuccessful, the prospects of succeeding in a fresh application were much reduced. As this was a surprising submission, the Tribunal gave Ms Hirst until 9th December 2025 to provide evidence of this correspondence. In an email of that date, Ms Hirst asserted that the case officer overseeing the application at the OTC had in fact advised her on the telephone that because of the multi company

structure and with more than one licence involved, appealing would be the cleaner route “*whilst everything was being updated*”. The company had never been told “*not to appeal*”. Moreover, she referred in her email to a “*Tribunal letter*” which stated that the company “*did not supply accounts*”. Ms Hirst complained that the company had not been asked to do so.

22. Finally, Ms Hirst advised the Tribunal that in August 2025, there had been a management buy-out of the company and the two directors were now Ms Hirst and Mr Deacon. Attached to Ms Hirst’s email was an unsigned and undated Share Purchase Agreement and various financial documents which were not before the TC and were irrelevant to the appeal as they post-dated the decision made by the TC.

Analysis

23. The chronology of this application prior to the TC’s refusal speaks for itself. The Tribunal would describe the company’s approach to this important application as rather “*lackadaisical*” and at no stage did the company demonstrate any real understanding of the importance of complying with time limits or responding in detail to questions about the demise of HWM, its finances and its links to the company. In the absence of any detailed and satisfactory explanations, there was more than enough evidence upon which the TC could properly conclude that this application may well be a phoenix application and that as a result the TC was entitled to better information than that supplied. By way of example, the information contained in ground 4 of the grounds of appeal and paragraph 17 (above) was available during the application process and would have gone some way to assist the TC but it was not forthcoming. It is understandable in those circumstances that the TC concluded that there was a need for scrutiny of the application and that this should be taken into account when considering whether to exercise his discretion to allow the late provision of financial information.
24. Ms Hirst contended that the financial information was only five days late. However, she and others in the company clearly failed to read the covering letter to the interim which stated that all evidence was to be available no later than 13th June 2025. It follows that the financial information was in fact 33 days out of time. The reference to this delay being the result of “*miscommunication*” does not withstand close scrutiny. There was no miscommunication on the part of the OTC. As for the reasons for the financial information not being uploaded before it was, we reject the submission that it was the fault of the portal. The bank statements now relied upon were not downloaded from the bank’s online system until 16th July 2025, the day they were submitted.
25. As for the question of the decision to appeal rather than make a fresh application, the relevance of the enquiry is that had such an application been made with all of

the necessary evidence, in all likelihood, it would have been determined earlier than this appeal. The question did not imply criticism.

26. Finally, in respect of Ms Hirst's complaints set out in the latter part of paragraph 20 above, there is no letter from the Tribunal in the appeal bundle that makes any reference to "accounts" and we have not identified any document in the bundle which refers to the absence of accounts save for the reference in paragraph 6(iii) above which was not addressed by the company.
27. In all of the circumstances, we are not satisfied that either the grounds of appeal or Ms Hirst's oral and email submissions have any weight and as a result, the TC's determination cannot be properly criticised.

Conclusion

28. We are satisfied that the TC's decision was neither wrong on the facts or on the law as per the test in Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695 and accordingly the appeal is dismissed.

**Her Honour Judge Beech
Judge of the Upper Tribunal**

Authorised by the Judge for issue on 18th December 2025