



Neutral Citation Number: [2026] UKUT 63 (AAC)

Appeal no. UA-2025-001437-NT

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appellants:

Thomas Megarry and Joan Megarry

Before: Upper Tribunal Judge Citron

Decided on consideration of the papers

Representation:

Appellants: by themselves

On appeal from:

Decision maker: Department for Infrastructure

Commissioner's ref: ON2083835

Date of decision: 5 September 2025

SUMMARY OF DECISION

100 Transport (Traffic Commissioner and DfI NI) appeals

100.1 Applications

Judicial summary

Information provided by the Appellants in their appeal persuaded the decision-maker of the challenged decision, the Department for Infrastructure, that their decision to refuse the Appellants' application for an operator's licence, based on their failure, without reasonable excuse, to provide additional information, and to publish notice of their application in a newspaper, had been plainly wrong. This was because of personal circumstances of the Appellants, of which the Department for Infrastructure had been

unaware. The Upper Tribunal agreed with the Department for Infrastructure's position (as did the Appellants), and considered it fair and just to take into account information that had not been available to the Department for Infrastructure at the time of their decision. The Upper Tribunal therefore allowed the appeal, set aside the Department for Infrastructure's decision, and remitted the case back to the Department for Infrastructure for a fresh decision.

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 OF THE UPPER TRIBUNAL

The appeal is **allowed**. The Department for Infrastructure's decision of 5 September 2025, to refuse the Appellants' application for an operator's licence, is **set aside**. The Appellants' application is **remitted** to the Department for Infrastructure for a fresh determination.

REASONS FOR DECISION

TRANSPORT (NORTHERN IRELAND)

Subject matter: *application for operator's licence*

The circumstances of this appeal

1. The decision of the Department for Infrastructure (the "**Department**") referred to above, refused the Appellants' application for an operator's licence, citing sub-sections 10(1) and 7(6) of the Goods Vehicles (Licencing of Operators) Act (Northern Ireland) 2010.

2. Section 10 of that Act reads as follows:

(1) Subject to subsection (3), the Department shall refuse the application for a heavy goods vehicle licence without considering the merits unless it is satisfied that subsection (2) has been complied with.

(2) This subsection has been complied with in respect of a locality affected by an application for a heavy goods vehicle licence if, within the period beginning 21 days before the date on which the application is made and ending 21 days after that date, notice of the application in such form and containing such information as may be prescribed has been published in one or more local newspapers circulating in the locality.

(3) The Department is not required by this section to refuse an application for a heavy goods vehicle licence if—

(a) it is satisfied as mentioned in subsection (1), except only that the form or contents of the notice of application as published in any newspaper did not comply with the prescribed requirements, and

(b) it is satisfied that no person's interests are likely to have been prejudiced by the failure to comply with those requirements.

(4) For the purposes of this section a locality is affected by an application for a heavy goods vehicle licence if it contains any place that will be an operating centre of the licence-holder if the application is granted.

3. The decision letter from the Department said that evidence of a valid advert had not been received.

4. The relevant sub-sections of section 7 of that Act, read as follows:

(5) The Department may require an applicant to furnish, in such form as the Department may require, such further information as the Department may consider necessary for dealing with the application.

(6) If a person fails without reasonable excuse to furnish information when required to do so under subsection (5), the Department may decline to proceed further with the application and refuse to grant the licence.

5. The decision letter from the Department said that there had been no response to their request for

- a. confirmation of the type of licence required;
- b. an aerial image of the proposed operating centre; and
- c. further information about the Appellants' maintenance arrangements, previous licence history and transport needs,

and no explanation as to why the Appellants were unable to do so.

6. The Appellants appealed to the Upper Tribunal against the refusal of their application (received on 26 September 2025). Their appeal form, amongst other things:
 - a. included a copy of the newspaper publication
 - b. enclosed aerial images of their operating centre
 - c. stated that they had an unblemished compliance history
 - d. explained that their son, who was the main site manager, had unfortunately been diagnosed with terminal cancer; this left the business with a lot of decisions to make; they were (understandably) left in shock.
7. On 21 October 2025, the Upper Tribunal received a letter from the Department stating (amongst other things) that
 - a. they had reviewed the Appellants' appeal and acknowledged that they Appellants had now provided the previously missing documentation in support of their application and had explained the delay citing exceptional personal circumstances;
 - b. they recognised that, had this information been available at the time of their original decision, additional time would have been given and the decision outcome may have been different;
 - c. they did not object to the appeal and asked the Upper Tribunal to remit the application to them for a fresh decision in light of the additional information provided by the Appellants.
8. The Appellants were given the opportunity to object to the course of action proposed by the Department (and to this appeal being decided on the papers), but did not.

Why this appeal is decided by a judge alone, without a hearing

9. Under paragraph 3(c)(i) of a Practice Statement given by the Senior President of Tribunals on 26 March 2014, an appeal in a road transport case (like this one) is to be decided by a judge sitting alone unless the Chamber President of the Administrative Appeals Chamber of the Upper Tribunal decides that it is appropriate for the appeal to be decided by a judge and two specialist transport members of the Upper Tribunal.
10. The Chamber President's function under paragraph 3(c)(i) of the Practice Statement has been delegated to the lead judge for the Upper Tribunal's road transport jurisdiction, and any deputy lead judge for that jurisdiction (see paragraph 4(1)(a) of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007 for a Chamber President's power of delegation). I am such a deputy lead judge.
11. This appeal is unusual in that the decision-maker of the challenged decision, the Department, has in effect accepted that their decision was plainly wrong, in the light of information provided by the Appellants on their appeal, and asked that the matter be remitted to them for a fresh decision, based on that additional information; and the Appellants have not, after being given the opportunity to do so, objected to that course of action. In such circumstances, I consider that it is not appropriate for the appeal to be decided by a judge and two specialist transport members (as opposed to a judge alone).
12. Under rule 34(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Upper Tribunal may make any decision without a hearing. I decide that this appeal is to be decided without a hearing. Given the circumstances as just described, convening a hearing would not be fair, just or proportionate.

Why the challenged decision falls to be set aside and the matter remitted back to the Department

13. It is clear that the Department now considers that their decision to refuse the Appellants' application, on grounds that they did not respond to requests for further information in a timely manner without reasonable excuse, and did not publish notice of the application in a newspaper as required by section 10, was plainly wrong, given that the Appellants did have a reasonable

excuse (the situation with their son), and had published notice of the application. The Department had not been aware of these things when it made its decision on 5 September 2025 – but, in my view, it is fair and just to take the information into account, as there was good reason for the Appellants not having provided it to the Department earlier (being, once again, their son’s situation). The Appellants would appear to agree (that the Department’s decision was plainly wrong). I too am of the view, for those reasons, that the Department’s decision to refuse the application was plainly wrong.

14. The appellants appear also to agree with the Department’s proposal that the case now be remitted back to them for a decision based on all the information now provided. I agree that this is a just course, given the Department’s expertise in the underlying subject matter.

Upper Tribunal Judge Zachary Citron
Authorised for issue on 9 February 2026