



Neutral Citation Number: [2026] UKUT 222 (AAC)  
**Appeal No. UA-2025-000218-T**

**IN THE UPPER TRIBUNAL  
ADMINISTRATIVE APPEALS CHAMBER**

**Lions Logistics Limited**

**Appellant**

**Before:** Upper Tribunal Judge Butler  
Ms. Sarah Booth (specialist member)  
Mr. Ian Lockett (specialist member)

**Hearing date:** 31 March 2026  
**Mode of hearing:** In person, Birmingham Civil Justice Centre

**Representation:**  
**Appellant:** Mr Mark Davies (counsel)

*On appeal from:*  
Decision maker: The Traffic Commissioner for the West Midlands  
TC's ref: OD1144185  
Date of decision: 19 February 2025

**SUMMARY OF DECISION**

**100 Transport (Traffic Commissioner and DfI NI) appeals  
100.6 Financial standing**

Judicial summary

*The Traffic Commissioner erred by failing to consider financial resources available through an operator's bank accounts and credit card facilities when assessing whether the operator had appropriate financial standing. The Traffic Commissioner had left these out of his calculations by mistake.*

*The Upper Tribunal could not be satisfied that if the Traffic Commissioner had not made that mistake, the same outcome would have been reached about financial standing. The Traffic Commissioner had not provided any alternative conclusion that would have led to the same result.*

**Subject matter:** Revocation of operator's licence, financial standing, period of grace.

**Case law referred to:** *Bradley Fold Travel Limited, Peter Wright, v Secretary of State for Transport [2010] Civ 695*  
*Michael Hazell (No. 2) [2017] UKUT 0221 (AAC)*  
*Thandi Coaches (Red) Ltd [2021] UKUT 198 (AAC)*  
*R(o.a.o.) Onowu v First-tier Tribunal [2016] UKUT 00185 (IAC)*

## **DECISION OF THE UPPER TRIBUNAL**

**The appeal is ALLOWED.** The Traffic Commissioner's decision of 19 February 2025 directing the revocation of the Appellant's operator's licence was made in error of law. Under section 37(2) of the Goods Vehicles (Licensing of Operators) Act 1995, the Upper Tribunal **sets aside** the Traffic Commissioner's direction.

## **REASONS FOR DECISION**

### **Introduction and factual background**

1. In this Decision:
  - "1995 Act" means the Goods Vehicles (Licensing of Operators) Act 1995;
  - "operator" means the Appellant company; and
  - "OTC" means the Office of the Traffic Commissioner.
2. On 21 January 2025, the Traffic Commissioner held a public inquiry into the operator's heavy goods vehicle licence. The inquiry was called under section 45 of the 1995 Act. The reasons (grounds) for the inquiry were set out in the Traffic Commissioner's letter of 16 December 2024.
3. One of the matters considered at the public inquiry was whether the operator was of appropriate financial standing. The operator operated 20 trucks. Applying paragraph 6A of Schedule 3 to the 1995 Act, it therefore needed to have £93,500 at its disposal to demonstrate it was of appropriate financial standing.
4. At the public inquiry, the operator's representative, Ms Bell of Beverly Bell Consulting Limited ("BBCL"), explained to the Traffic Commissioner that the operator also wished to also on a financial agreement it had entered into with eCapital. This company would factor the operator's debts for it, meaning the company would collect debts owed and pay these, and, as appropriate, provide advances of money in respect of unpaid debts to the operator.
5. Ms Bell explained the operator had produced to her, fairly late, an agreement with eCapital confirming it had a facility of £1.5 million for the operator, and the figure

drawn down on this was in the region of £1.2 million. In principle, this would mean the operator had £300,000 available to it through the facility.

6. The Traffic Commissioner indicated that if the relevant documentation could be produced, this would indicate the operator met the requirement for appropriate financial standing. The Traffic Commissioner stated he was making an adverse determination the operator was not of appropriate financial standing. The Traffic Commissioner granted the operator a 14-day period of grace starting on 22 January 2025 to allow for a Statutory Document number 2, Annex 3 “Finance Agreement Authorisation” form to be completed by the operator and eCapital.
7. On 22 January 2025, the OTC issued a written outcome to the public inquiry. In relation to financial standing, the Traffic Commissioner stated he had granted a financial period of grace for 14 days until 1400 hours on 05 February 2025. He wrote that by this time the OTC must have received in the post a properly completed and signed version of the Annex 3 form given to Mr Toor, a company director of the operator.
8. At 13.47 on 05 February 2025, a paralegal at BBCL, Mr Robe-Quinn, emailed the OTC. He explained BBCL had been trying to contact the operator about the completed Annex 3 form for a number of days and only received instructions from their client late on the afternoon of 04 February 2025. Mr Robe-Quinn explained these instructions were that the finance company had not signed the Annex 3 form in time for it to be submitted by post and the finance facility would not be sufficient to satisfy the financial standing requirement.
9. Mr Robe-Quinn stated the operator had explained it had experienced considerable financial difficulties from external factors and wanted to apply for a formal period of grace for a three-month period to satisfy the financial standing requirement. Mr Robe-Quinn wrote that BBCL had not been able to take detailed instructions to put forward a reasoned application:

*“However, we do wish to ask the Traffic Commissioner if he is prepared to grant an extension for 14 days to enable us to take proper instructions with regard to that Period of Grace application and hopefully submit further evidence which shows that our client company has a proper plan in place to meet financial standing rather than a mere hope or aspiration.”*
10. Mr Robe-Quinn sent the OTC a scanned completed and signed copy of the Annex 3 form at 14.56 on 05 February 2025. On 12 February 2025, he sent the OTC a screenshot provided by the operator of their business savings account following the sale of a truck (with a balance of £52,480.58). The email stated the operator intended to sell another truck soon. Mr Robe-Quinn asked for an update about the 14-day extension request.
11. On 19 February 2025, the OTC emailed BBCL, copied to Mr Toor, attaching a decision by the Traffic Commissioner dated 19 February 2025. The decision stated the period of grace granted at the public inquiry to meet financial standing by 14:00 on 05 February 2025 was not fulfilled and the operator remained unable

to demonstrate appropriate financial standing when it expired. The Traffic Commissioner directed revocation of the operator's licence with immediate effect.

12. In response to correspondence from Ms Bell about the immediate nature of the revocation, on 19 February 2025, the Traffic Commissioner reviewed the case. He decided the revocation date should be set for 23.59 on 05 March 2025, to allow the operator to make an application for a stay. On 20 February 2025, Mr Robe-Quinn sent the OTC an Annex 3 document from the operator. This was signed and dated 17 January 2025 by both eCapital and Mr Toor. We were told at the hearing that this date was a typing error and provided with contemporaneous emails to prove this.
13. On 03 March 2025, the operator applied for a stay of the Traffic Commissioner's decision dated 19 February 2025. On 04 March 2025, the Traffic Commissioner granted a stay of that decision. Having referred to the Upper Tribunal decisions of **2014/008 Duncan McKee** and **NCF (Leicester Ltd)** [2012] UKUT 017 (AAC), at paragraphs 7 to 14 of his decision, the Traffic Commissioner wrote:
  - “7. Reading the two Upper Tribunal decisions together it is clear that the Upper Tribunal has stated that (a) tangible evidence must be received and (b) it must be in the name of the operator and (c) it must show that the money is available to the operator to spend. Therefore, taking into account the burden of proof was on the operator, the tangible evidence as at 05 February 2025 did not satisfy me that an extension to the period of grace would be worthwhile and that there would be reasonable prospects of a good outcome.
  8. I noted that on the 12 February it had been communicated to my office that a vehicle had been sold for £52,482. However, no tangible evidence was provided to show that the money was held in an account in the name of the operator or that all of the £52,482 was available to the operator to spend.
  9. In the interests of fairness I took that evidence of the vehicle sale at its highest and used the value within my decision of 18 February. It is worth noting that that as at today the caseworker who has custody of this case has informed me that no tangible evidence to show that the money from the sale of the vehicle is an account in the operator's name, and how much of it was and remains available to spend, has been provided.
  10. I then calculated that even with the Annex 3 document and vehicle sale proceeds the operator had still failed to demonstrate, by about £20,000, that it had available to it the required sum to show appropriate financial standing and from the tangible evidence before me I was not satisfied that the extending of the period of grace would be worthwhile and that there would be reasonable prospects of a good outcome. The offer to sell (future tense) another vehicle was not tangible evidence and it was speculative and/or without certainty with regards when it would be sold, how much it would raise as a net sum etc.

11. My mistake at this point in time, as has correctly been pointed out to me in the grounds seeking this stay, was that I failed to also take into account the bank statements that were already on file. For that reason I have granted this stay.
12. But that does not mean that the operator fulfilled the period of grace or that an extension to the period of grace should have been granted based upon the tangible evidence of money held in the operator's name that was available to the operator at the time to spend.
13. The operator has, through its representative, stated that it should have been permitted to reduce the size of its fleet to meet the amount of appropriate financial standing it could demonstrate. The Upper Tribunal at paragraph 25 of the NCF Leicester authority cited above stated:

*"25. An operator called to a Public Inquiry on financial grounds, who has difficulty showing that the requirement to be of appropriate financial standing can be met always has the option to invite the Traffic Commissioner to reduce the number of vehicles authorised to a level at which the requirement can be met. **In our view it should be for the operator rather than the Traffic Commissioner to take the initiative...**it remains open for the Traffic Commissioner to make suggestions or to give hints but there is no obligation on the Traffic Commissioner to do so..."*  
*[emphasis added]*

14. At no point in time before I made my decision on 18 February did the operator or its representative voluntarily reduce the size of the vehicular authorisation on its operator's licence to meet the money that it had demonstrated as being available to the operator."

### Legal framework

14. Section 27(1) of the 1995 Act provides:

"(1) A traffic commissioner shall direct that a standard licence be revoked if at any time it appears to him that

- (a) The licence-holder no longer satisfies one or more of the requirements of section 13A."

15. The relevant requirements of section 13A of the 1995 Act for a corporate operator to have appropriate financial standing are stated in the following terms:

#### **"13A. Requirements for standard licences**

- (1) The requirements of this section are set out in subsections (2) and (3).

(2) The first requirement is that the traffic commissioner is satisfied that the applicant—

...(c) has appropriate financial standing (as determined in accordance with paragraph 6A of Schedule 3).”

16. Paragraph 6A of Schedule 3 to the 1995 Act provides:

*“Appropriate financial standing*

6A(1) An operator has appropriate financial standing under section 13A(2)(c) if the operator is able to demonstrate that it has at its disposal at all times capital and reserves—

(a) for goods vehicles authorised to be used under a heavy goods vehicle licence, of—

- (i) £8,000 for the first heavy goods vehicle,
- (ii) £4,500 for each additional heavy goods vehicle and
- (iii) £800 for each light goods vehicle (if any), or

(b) for goods vehicles authorised to be used under a light goods vehicle licence, of—

- (i) £1,600 for the first light goods vehicle, and
- (ii) £800 for each additional light goods vehicle.

(2)The operator must demonstrate appropriate financial standing—

(a) on the basis of the operator’s annual accounts if certified by a qualified auditor, or

(b) by producing other evidence to the satisfaction of a traffic commissioner that the operator has, in the name of the operator, the necessary capital and reserves, such as—

- (i) a bank guarantee,
- (ii) a document issued by a financial institution establishing access to credit, or
- (iii) any other binding document.

(3) In this paragraph—

“operator” means an applicant for, or a holder of, an operator’s licence in relation to which appropriate financial standing is required under section 13A(2)(c);

“qualified auditor” means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006.”

## **The grounds of appeal**

17. On 04 March 2025, the operator lodged an appeal with the Upper Tribunal. The operator put forward three appeal grounds, a summary of which is:
- (a) **Ground 1:** The Traffic Commissioner erred in applying **2014/008 Duncan McKee** ("**McKee**") by failing to grant an extension to the period of grace as requested. **McKee** was premised on the operator having provided no financial evidence whatsoever whereas here, the operator had provided a range of financial evidence. To the extent that the Traffic Commissioner was indicating he would have refused the application to extend the period of grace despite evidence of the sale of the vehicle (because the period of grace had already expired), this is not what **McKee** requires. Instead, it required the Traffic Commissioner to decide whether, on the evidence available at the time, he should grant / extend the period of grace;
  - (b) **Ground 2:** Further or alternatively, the Traffic Commissioner erred by concluding he did not have the power to extend the period of grace. This related to the wording in the decision dated 19 February 2025 that: "*I am therefore not satisfied that there was any basis to extend the PoG (period of grace) then or that there is any such basis now notwithstanding the PoG has already expired and therefore there is nothing to extend.*" To the extent that this suggested the Traffic Commissioner had considered the period of grace had expired and could not be extended, he fell into error. If the Traffic Commissioner was able to revise his Order to extend the time period for a stay to be requested, then even if the period of grace had expired, it was open to him to extend it (or grant a new one) when he made his decision on 19 February 2025; and
  - (c) **Ground 3:** Further or alternatively, in reaching the decision in the Revised Order, the Traffic Commissioner erred in failing to consider the bank statements supplied in addition to the Annex 3 form information and the proceeds of sale of the vehicle.
18. On 03 April 2025, Upper Tribunal Judge Mitchell made case management directions about the operator's appeal. These were issued on 12 May 2025. They included, at paragraph 2, a requirement to file any supplementary or revised grounds of appeal in light of the contents of the OTC file, no later than one month after the directions were issued. No supplementary or revised grounds were filed by that deadline (12 June 2025).

### **The hearing before us on 31 March 2026**

19. We held an oral hearing of this appeal at Birmingham on Tuesday 31<sup>st</sup> March 2026. Mr Davies of counsel represented the operator at the hearing, and we were grateful to him for the matters on which he addressed us.

### **Our decision not to extend time for an additional appeal ground (ground 4) to be argued**

20. On 25 March 2026, a few days before the hearing, we were sent a skeleton argument by Mr Davies on behalf of the operator. It advanced a new appeal ground in addition to the existing three grounds set out in the UT12 form. The skeleton argument acknowledged the operator was seeking permission to argue a further appeal ground, expressed as:

“Ground 4

*Further or in the alternative, the Appellant contends that in all the circumstances [the Decision] was, where it could demonstrate financial standing for at least part of its authorisation, disproportionate and an unreasonable interference with its rights under Article 1 of the First Protocol (as per Part 11, Schedule 1 of the Human Rights Act 1998 [“the 1998 Act”])”*

21. Mr Davies’ skeleton argument developed ground 4, explaining the operator was inviting the Upper Tribunal to conclude that an earlier panel of the Upper Tribunal erred in deciding paragraphs 10 and 25 of **NCF (Leicester) Ltd** [2012] UKUT 271 (AAC) (“**NCF**”). The skeleton argument submitted it was disproportionate and an unreasonable interference with the operator’s rights under Article 1 of the First Protocol to revoke the whole of its licence. At paragraph 50, the skeleton argument submitted the decision in **NCF** should be disapproved.
22. In considering whether to grant permission for this ground to be pursued, we applied the decision of the Upper Tribunal in **R(o.a.o.) Onowu v First-tier Tribunal (IAC) and SSHD** [2016] UKUT 00185 (“**Onowu**”). In paragraphs 13 to 14 and 16 of **Onowu**, the Upper Tribunal confirmed that a three-stage test should be applied when dealing with an application for an extension of time to lodge an application for permission to appeal. The three-stage test involves:
- (a) A first stage of identifying and assessing the seriousness or significance of the failure to comply with the rules;
  - (b) A second stage to consider why the failure occurred, that is to say whether there is a good reason for it; and
  - (c) A third stage to evaluate all the circumstances of the case, so as to enable the tribunal to deal justly with the application.
23. Having heard submissions from Mr Davies in relation to this ground, we decided not to extend time for this ground to be argued. Upper Tribunal Judge Butler gave a short explanation of our reasoning at the hearing and indicated this would be dealt with in our decision. We address it here.
24. We calculated the delay as one of just over 9 months from 12 June 2025 to 24 March 2026. We considered this delay was serious and significant. We did not accept Mr Davies’ argument that the delay should be assessed as less serious and less significant because the operator had made an in-time appeal generally. We were satisfied that we should apply the principles in **Onowu** in full because the operator was seeking permission to extend time to be able to put forward and

argue ground 4 outside the one-month period Upper Tribunal Judge Mitchell had provided.

25. In terms of the second stage, we acknowledged Mr Davies' explanation that he had not appreciated the OTC case file should be taken to include the Stay Decision (which was generated before the case file). We assessed this did not, however, represent a good reason for the delay. The case management directions provided the operator and its legal representatives with the OTC case file. It gave them a reasonable period of one month to consider that case file and to have the opportunity to set out any additional appeal grounds arising from the contents of the case file. No additional grounds had been put forward, and no requests had been made within that one-month period to extend time to consider and pursue any additional appeal ground. While we understood that counsel had not realised the issue until he came to prepare his skeleton argument for the hearing, and would be occupied with other work matters in between, we did not consider this represented good reason for the delay occurring.
26. We considered a number of Mr Davies' submissions were most appropriately evaluated at the third stage (all the circumstances of the case). He argued that the operator was only seeking to advance one additional ground of appeal, premised on the material already provided. Mr Davies argued this was different to seeking to advance many grounds that might require the Traffic Commissioner to provide additional material.
27. We did not find this argument persuasive. Ground 4 challenged a case authority ("**NCF**") that had been cited by the Traffic Commissioner in his decision dated 19 February 2025. The Traffic Commissioner's reliance on that case was made clear to the operator at that time. The Traffic Commissioner generally does not participate in hearings before the Upper Tribunal. He might, however, have taken a different view, had he known the operator wanted to argue a relatively settled Upper Tribunal decision was wrongly decided. The Traffic Commissioner might have wanted to take a more active part in the appeal, including providing written submissions, had he known this. We record that Mr Davies very fairly acknowledged this point in his submissions, and that it would, or might, play into what we would need to consider.
28. Mr Davies also argued that the length of the delay was affected by, and should be understood in the context of, the time it had taken for the appeal to be listed for hearing. We did not find that argument persuasive, both in terms of whether the delay was serious or significant, and also the circumstances of the case. A party, whether an appellant or a respondent, remains responsible for how they conduct their case throughout the period of time before it is determined. The operator had all the information it needed in order to be able to put forward ground 4 shortly after 12 May 2025. It was given until 12 June 2025 to do so. The responsibility for the delay after that point remained fully with the operator.
29. Taking all these matters into account, we decided not to extend time for appeal ground 4 to be pursued. The appeal therefore proceeded in relation to the three grounds put forward in the operator's UT12 form and we heard argument on each of them.

### Why we allowed the operator's appeal

30. We have decided to allow the operator's appeal on appeal ground 3. This reflects where Mr Davies focused the body of his submissions at the oral hearing. Appeal ground 3 is that the Traffic Commissioner made an error of law in his revocation decision dated 19 February 2025 by failing to consider the financial information provided about the operator's bank accounts, when deciding whether the operator had appropriate financial standing.
31. We consider the Traffic Commissioner's failure to consider the financial information about the operator's bank accounts and credit card facility means the revocation decision was plainly wrong, within the meaning given *in Bradley Fold Travel v Secretary of State for Transport* [2010] EWCA Civ 695.
32. The operator had submitted financial evidence to the OTC before the public inquiry. We have copies of bank statements and statements for a credit card account at pages 317 to 388 and 391 of the Upper Tribunal bundle (top right hand corner numbering in black). We also have copies of the operator's accounts for the period ending 31 October 2024 (pages 418 to 420 of the Upper Tribunal bundle).
33. While the documents were produced shortly before the public inquiry, the OTC was able to review them and produce Financial Standing Calculations. These are mentioned in an email dated 16 January 2025 (pages 298 to 301 of Upper Tribunal bundle). The OTC Hearing Centre Team Manager stated they showed £20,856 and £6,326, giving a total Financial Standing of £27,182. When asked about these calculations, Mr Davies submitted the operator was not in a position to explain how the OTC had reached the cited figures because the OTC had not provided the operator with a copy of the individual Financial Standing Calculations. We do not have a copy of them either.
34. Mr Davies also explained that on 05 February 2025, BBCL had provided updated bank statements for the operator which now included the whole of January 2025 (see pages 844 to 902 of the Upper Tribunal bundle). Mr Davies submitted that these statements were also available to the Traffic Commissioner before he made his decision dated 19 February 2025.
35. On page 2 of his revocation decision dated 19 February 2025, the Traffic Commissioner wrote:

*"In reaching that decision [not to extend the period of grace] I noted that communication was received on 12 February 2025 that a vehicle was sold for £52,480.58 to raise money but even taking those sale proceeds into account (and I note no tangible evidence to show the money from the sale was available to the operator is before me) even adding the sum stated as the average balance in Annex 3 column D (£17,720 by my calculation) there was still not enough money to demonstrate appropriate financial standing because £52,480+£17,720 = £70,200 which is still just over £20,000 short of what is required."*

36. The Traffic Commissioner acknowledged at paragraph 11 of his Stay Decision that he had made a mistake in his revocation decision by failing to take into account the financial information (which he described as bank statements) already on file.
37. We agree with Mr Davies that the bank statements provided by the operator were relevant to what the Traffic Commissioner needed to consider in determining whether it had appropriate financial standing. The Upper Tribunal stated at paragraph 15 of **Michael Hazell (No. 2)** [2017] UKUT 0221 (AAC) that: “*The most reliable evidence of available funds will be cash in either bank accounts or reserves which have been shown over a period of time*”. It appears the OTC had also taken into account the operator’s credit card facility when preparing a financial standing calculation, which the OTC was entitled to do.
38. As Mr Davies submitted, if the OTC’s financial standing calculation of £27,182 in relation to the operator’s bank statements and credit card facility is added to the figure of £70,200 calculated by the Traffic Commissioner, it produces a combined figure of £97,182. This would exceed the £93,500 threshold the operator was required to meet to demonstrate appropriate financial standing.
39. In **Thandi Coaches (Red) Ltd** [2021] UKUT 198 (AAC), the Upper Tribunal decided a Traffic Commissioner erred by deliberately excluding material (unaudited accounts) provided to demonstrate financial standing. The Upper Tribunal acknowledged it would have been open to the Traffic Commissioner to have considered the accounts but to have attached little weight to them because they were unaudited. The Upper Tribunal went on to state:
- “Had he [the Traffic Commissioner] not so erred he might, for the other reasons we have touched on, reached the same outcome on finance but he has not said he would have done, nor set out any alternative conclusion leading to the same result.”*
40. In the present case, the Traffic Commissioner accepted he inadvertently excluded material to demonstrate financial standing. We note the Traffic Commissioner wrote at paragraph 12 of the Stay Decision that the fact he made a mistake does not mean the operator fulfilled the period of grace or an extension to it should have been granted. We have therefore considered whether the reasoning in the Stay Decision demonstrates the Traffic Commissioner would (or could) have reached the same outcome on financial standing if he had taken the bank statement and credit card information into account.
41. In **Michael Hazell (No. 2)**, the Upper Tribunal considered a range of different sources that a Traffic Commissioner might accept are available. The Upper Tribunal explained the willingness to accept a particular source of funds said to be available depends on the facts of the case, the nature of the source of funds and the amount relied on from it.
42. We recognise another Traffic Commissioner might have reached a different assessment about which different sums were truly “available” to the operator in

terms of the funding from the vehicle sale and the factoring agreement. On 19 February 2025, however, the Traffic Commissioner carried out the calculation on a basis that credited full value to the vehicle sale (£52,480) and to the (then) position under the factoring arrangement with eCapital (£17,700).

43. Given this, we do not consider the Traffic Commissioner would have reached the same outcome on finance had he carried out the calculation he described at paragraph 10 of the Stay Decision *and also included* the financial standing figure available from the bank statements and credit card facility.
44. In considering this issue, we have used the figure of £27,182 to reflect the amount of the available funding the Traffic Commissioner failed to take into account. This reflects the outcome of the OTC's own financial standing calculations on 16 January 2025. While we do not have the specific calculations, the OTC's email on page 300 of the Upper Tribunal bundle indicates the calculation took into account the operator's three bank accounts and the separate credit card facility. It appears to represent what the OTC considered would have been available to the operator from its bank accounts and its credit card facility. This also satisfies us that the figure in question does not "double count" the sums the Traffic Commissioner described using at paragraph 10 of the Stay Decision.
45. When one adds £27,182 to the £70,200 the Traffic Commissioner calculated, the sum produced exceeds the £93,500 threshold the operator had to meet in order to demonstrate appropriate financial standing. We therefore do not consider that the Traffic Commissioner would have reached the same conclusion about the operator's financial standing if he had added the value of the bank accounts and credit card facility into the overall calculation described at paragraph 10 of the Stay Decision.
46. We have also considered whether the Traffic Commissioner provided reasoning setting out an alternative conclusion that would lead to (and justify) the same result reached in the revocation decision. There is nothing in the revocation decision on this; the Traffic Commissioner relied solely on his calculations and did not realise he had made a mistake about the figures.
47. Turning to the Stay Decision, we have not been able to identify an alternative conclusion that would lead to the same result reached in the revocation decision.
48. Paragraph 7 of the Stay Decision explains the test the Traffic Commissioner applied, including that it required tangible evidence. Paragraph 8 explains the operator had provided no tangible evidence of availability of the vehicle sale proceeds. Paragraph 9 explains, however, that the Traffic Commissioner took the evidence of that vehicle sale at its highest, which he stated was in the interests of fairness. The remainder of paragraph 9 makes some critical remarks about tangible evidence but does not indicate the Traffic Commissioner excluded or downgraded the amount of the sale proceeds figure.
49. Paragraph 10 of the Stay Decision explains that the Traffic Commissioner added the vehicle sale proceeds and factoring arrangement figures together and reached a figure of £70,200. The Traffic Commissioner stated that this fell short

of the appropriate financial standing threshold by about £20,000 and he was not satisfied extending the period of grace was worthwhile. Paragraph 11 of the Stay Decision acknowledged the Traffic Commissioner had made a mistake by failing to also take into account the bank statement information. Paragraph 12 states this mistake does not mean the operator fulfilled the period of grace or would have justified extending it. It does not state why.

50. In our assessment, none of paragraphs 7 to 12 of the Stay Decision provide an alternative conclusion on which the Traffic Commissioner could properly conclude the operator did not demonstrate appropriate financial standing. They explain the process the Traffic Commissioner had used and acknowledge what he mistakenly left out of it.
51. The reasoning set out at paragraphs 13 and 14 of the Stay Decision relates to whether the Traffic Commissioner should have permitted the operator to reduce the size of its fleet to reduce the appropriate level of financial standing. It does not provide alternative reasoning to demonstrate the Traffic Commissioner would have concluded the operator did not meet the £93,500 level had he had correctly added together all its sources of finance.
52. In our assessment, the Traffic Commissioner has not provided an alternative conclusion that leads to the same result, namely that the operator did not demonstrate appropriate financial standing.
53. We are therefore satisfied that the Traffic Commissioner's decision dated 19 February 2025 to revoke the operator's licence was plainly wrong, applying the test described in ***Bradley Fold Travel Ltd***.
54. Having reached this conclusion about appeal ground 3, we have decided it is not necessary or proportionate to go on to consider the operator's remaining appeal grounds 1 and 2. In our assessment, this also reflects where Mr Davies focused his arguments when making his submissions at the oral hearing.

**Disposal of this appeal**

55. We have decided the appeal succeeds. The Traffic Commissioner erred in law in giving a direction to revoke the operator's licence. Given this, the Traffic Commissioner's revocation direction dated 19 February 2025 cannot remain in place. We therefore set aside that revocation direction. The effect of this is to revive the operator's licence.
56. While the Traffic Commissioner stated at the public inquiry on 21 January 2025 that he was making an (oral) adverse determination, neither this nor the letter dated 22 January 2025 appear to constitute a revocation direction under section 27 of the 1995 Act. An oral adverse determination is not clearly consistent with the requirements for that section, including those in section 27(2) and (3) (giving notice of the proposed direction in writing and giving 21 days for written representations about it). To the extent that the Traffic Commissioner made an adverse determination about the operator's financial standing, we are satisfied that it falls away with the revocation direction we are setting aside.
57. Having decided to set aside the revocation direction dated 19 February 2025, we have considered whether any further order is required. A stay was granted in this case. By allowing the appeal and setting aside the revocation decision we maintain the status quo. We do not consider it necessary to make any further order. If the Traffic Commissioner has continuing concerns about the operator's financial standing, it can investigate these and commence any action open to it in law (following the procedures required).

**Judith Butler (Judge)**  
**Sarah Booth (Specialist Member)**  
**Ian Lockett (Specialist Member)**

**Authorised by the Judge for issue on: 12 June 2026**