



Neutral Citation Number: [2026] UKUT 225 (AAC)
Appeal No. UA-2025-001396-T

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

TRAFFIC COMMISSIONER APPEALS

Appellant: ELITE VEHICLE REPAIRS LIMITED

Commissioner's ref: OD2085030

ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER for the WEST MIDLANDS dated 23rd September 2025

**Before: HHJ Beech, Judge of the Upper Tribunal
Kerry Pepperell, Specialist Member of the Tribunal
Gary Roantree, Specialist Member of the Tribunal**

Hearing date: 2nd June 2026

Mode of hearing: Remote by CVP

Heard at: Field House, Breams Buildings, London, EC4A 1DZ

Representation:

Appellant: Niall Lamb, Managing Director assisted by Martin Harley,
Transport Manager

Decision Date: 17th June 2026

SUMMARY OF DECISION

This appeal is DISMISSED

The Traffic Commissioner's decision to refuse the Appellant's application for an operator's licence was neither wrong on the facts or the law and there is no other compelling reason to allow the appeal.

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 West Midlands (“the TC”) dated 23rd September 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”) is a vehicle recovery and repair business. Niall Lamb is the sole director of the company and Martin Harley is the proposed transport manager.
3. By an application dated 21st August 2025, the company applied for a standard national operator’s licence authorising five vehicles. By a letter dated 21st August 2025, the Office of the Traffic Commissioner (“OTC”) wrote to the company, advising that the application was incomplete and that the following information was required:
 - Evidence of an advertisement placed in a local newspaper between 31st July 2025 and 11th September 2025
 - Evidence of financial standing in the sum of £26,000
 - A completed online transport manager application for Mr Harley
 - Details of any professional development undertaken in the last five years by Martin Harley. The company was advised that a time-limited interim may be available for Mr Harley to attend an appropriate course
 - It was noted that Mr Lamb did not have any licensing history. Any knowledge or experience in road transport must be provided. Again, a time-limited interim may be available for Mr Lamb to attend an appropriate course

The company was given to 4th September 2025 to respond.

4. In the absence of a response to the above letter, the OTC wrote to the company again on 8th September 2025 in a final attempt to resolve the highlighted issues. The company was given until 22nd September 2025. On the 11th September 2025 the company submitted the following:
 - A compliant advertisement
 - The relevant bank statements
 - The driving licence and certificate of professional competence of Martin Harley

- A signed transport manager form.
5. On 23rd September 2025, company's application was refused on two grounds:
 - the company had failed to provide any evidence that Mr Harley had completed a transport manager refresher training, and an undertaking had not been given to say that he would sit a refresher course and consequently, the TC could not be satisfied that he was a suitable person to be a nominated transport manager
 - The company had failed to respond to the request for information as to Mr Lamb's experience in road transport and had failed to give an undertaking to say that he would complete a course.
 6. By an Appellant's Notice of the same date, the company appealed.

Legal framework

7. By s.13(5) of the 1995 Act, on an application for a standard operator's licence, a Traffic Commissioner **must** refuse the application if they determine that any of the requirements set out in s.13(1) of the Act is not satisfied. Two of those considerations are professional competence and good repute.

The grounds of appeal and the Company's submissions

8. There is a single ground of appeal: "*We have now provided details that where (sic) missing previously*". The company advised that Mr Harley was booked on a transport manager refresher course on 9th and 10th October 2025 (a certificate of attendance followed) and this sentence was included concerning Mr Lamb: "*He has recovered vehicles alongside his repair business over the past 8 years on a 7.5t covering nationwide*".
9. At the hearing of the appeal, Mr Harley and Mr Lamb appeared without the benefit of an appeal bundle. They were not aware that the office manager, who was responsible for submitting the application, had failed to comply with the requests made by the OTC. Mr Harley explained that he had completed the refresher course immediately following the refusal letter had been received and Mr Lamb explained that whilst he did not require an operator's licence to recover vehicles, he had always operated his vehicles as though he had a licence. As he was now wishing to work in transport, he now needed a licence. They apologised for the failure to respond adequately to the requests made by the OTC.

Analysis

10. By virtue of paragraph 9(2) to Schedule 4 to the Transport Act 1985 (as amended), the Tribunal may not take into consideration any circumstances which did not exist at the time of the TC's determination. There is no discretion. It is unfortunate that such an important application was left to a member of staff who did not give it sufficient attention. Had it been explained to the OTC that Mr Harley had a two day refresher course booked and had the OTC been informed of Mr Lamb's experience in operating recovery vehicles and how he operates those vehicles at present, then in all likelihood, the company would have been given

the opportunity to satisfy the OTC of the minimum requirements for being granted a licence rather than the application being refused in short form. Mr Lamb appreciates the position and will reapply for a licence providing all of the relevant information.

Conclusion

11. 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.

Postscript

At page 72 of the bundle, there is the following note from the OTC:

"The Traffic Commissioner wishes to make the Upper Tribunal aware that, for the avoidance of doubt, the decision to refuse this application, which is the subject of this appeal, was taken pursuant to authority delegated by the Traffic Commissioner under the relevant statutory and procedural framework. Accordingly, the Traffic Commissioner did not participate in, nor was involved in, the making of the decision".

Paragraph 3 of the Senior Traffic Commissioner's Statutory Document 8 states as follows:

"The Deregulation and Contracting Out Act 1994 allows the delegation of functions by traffic commissioners to any person in the civil service of the Crown who has been assigned or appointed to assist in the exercise of his [her] functions. The traffic commissioner may authorise an officer to exercise any functions of theirs which is conferred by or under any enactment and to that extent will be treated as if the function had been carried out by the Traffic Commissioner".

In view of the contents of the Statutory Document, it is unclear why the note has been included in the bundle. The decision made by the OTC is to be treated as having been made by the TC himself.

Her Honour Judge Beech
Judge of the Upper Tribunal

Authorised by the Judge for issue on 17th June 2026