Neutral Citation Number: [2026] UKUT 314 (AAC)
Appeal No. UA-2025-000474-T

IN THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)

IN AN APPEAL FROM THE DECISION OF:
THE TRAFFIC COMMISSIONER FOR THE WEST MIDLANDS
DATED 2nd APRIL 2025

SHERE PUNJAB SERVICES LIMITED

Appellant

Before: **Upper Tribunal Judge Ovey**
Ms. Sarah Booth (specialist member)
Ms. Kerry Pepperell (specialist member)

Hearing date: **28th May 2026**
Mode of hearing: **In person**

Representation: **Mr. Dinesh Kumar on behalf of the Appellant**

SUMMARY OF DECISION

The Upper Tribunal decided that the Traffic Commissioner had not erred when deciding that the Appellant had failed to show financial standing at the date of the public inquiry and had not produced tangible evidence which would justify the granting of a period of grace.

The Appellant was warned in the letter calling it to a public inquiry that financial standing had to be shown. In response it provided bank statements for the usual three month period and unaudited financial statements for the year ending some nine months earlier which showed an operating profit of more than £70,000. The Traffic Commissioner found that financial standing was not established and refused to grant a period of grace. His reasons for finding that financial standing was not shown were that the bank statements, analysed in the usual way, showed a shortfall of more than £40,000 in the level of finance required and that, having considered the contents of Statutory Document No. 2 – Finance, he gave very little evidential weight to the unaudited financial statements. His reason for refusing a period of grace was that the test in *Duncan McKee* [2014] UKUT 0254 (AAC) was not satisfied. The Appellant

appealed, contending that the Traffic Commissioner was wrong in law in failing to consider the unaudited financial statements, failed to give adequate reasons for not considering the statements and failed to allow the Appellant the required time for making representations and that *Duncan McKee* was distinguishable on the facts.

The Upper Tribunal applied *Thandi Coaches (Red) Ltd.* [2021] UKUT 198 (AAC) and concluded that the Traffic Commissioner had not excluded the unaudited financial statements from consideration but had properly concluded that they had very little evidential weight and had given adequate reasons for reaching that conclusion. The Upper Tribunal also found that the Traffic Commissioner had correctly applied *Duncan McKee*, which states a general principle although the underlying facts were different from the present case. Notice of the intention to consider financial standing at the inquiry had been given in accordance with the requirements in s.27 of the Goods Vehicles (Licensing of Operators) Act 1995.

Keywords: 100. Transport – Traffic Commissioner and DoE (NI) Appeals, 100.6 Financial standing

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 Upper Tribunal follow.

DECISION

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

It is directed that for the purposes of section 29(2) of the Goods Vehicles (Licensing of Operators) Act 1995 this appeal is to be treated as disposed of 28 days after the date on which this decision is issued and that at 23.59 on that date the direction staying the effect of the Traffic Commissioner's decision shall cease to have effect.

REASONS FOR DECISION

Introduction

1. This is an appeal by Shere Punjab Services Limited ("the Appellant") against the decision of the Traffic Commissioner for the West Midlands Traffic Area ("the TC") dated 2nd April 2025. By his decision the TC revoked the Appellant's operator's licence OD2035789 with effect from 11.59 p.m. on 2nd May 2025 on the ground of lack of financial standing, having refused to grant the Appellant a period of grace.

2. On receipt of that decision, the Appellant appealed to the Upper Tribunal by a notice of appeal dated 7th April 2025 and sought from the TC a stay of the decision pending the hearing of the appeal. The TC granted the stay on 14th April 2025 and it remains in force.
3. On 26th September 2025 Judge Mitchell gave case management directions which envisaged that the appeal would be heard during the period November 2025 to January 2026. It appears that in the event there were difficulties in finding a date,

as a result of which the appeal was not heard until 28th May 2026. The directions drew the Appellant's attention to the fact that it must be represented at the hearing but such representation might be by a director or other person authorised to act on the Appellant's behalf. In the event the sole director, Mr. Sukhpaljit Singh Sidhu, was present at the hearing but the role of representative was undertaken by Mr. Dinesh Kumar, the Appellant's transport manager.

Factual background

4. The start date for the Appellant's licence was 26th October 2020. It authorised 10 vehicles and two trailers. At the time of the public inquiry which preceded the revocation of the licence the details of the licence before the TC showed that there were 10 vehicles in possession, with the consequence that the financial standing requirement (which is explained further in paragraph 23 below) was £48,500. Mr. Kumar was the external transport manager from the start of the licence.

5. On 27th August 2024 one of the Appellant's vehicles, which was being driven by Mr. Sidhu, was stopped by traffic examiner Nicola Carpenter from the Driver and Vehicle Standards Agency ("DVSA"). Following inspection, the vehicle was issued with two delayed S-marked prohibitions relating to a loose wheel nut and inoperative rear fog lamp tell-tale. T.E. Carpenter also downloaded the driver card and vehicle tachograph data, from which it appeared that the vehicle unit had not been downloaded within the required 90 days and that there had been five occasions on which Mr. Sidhu had exceeded 4.5 hours driving without taking the required break.

6. On 10th September 2024 T.E. Carpenter served the Appellant with a request for three months of driver and vehicle data for three further specified vehicles. Her analysis revealed that vehicle unit data was not being downloaded within the 90 day period.

7. A follow-up maintenance inspection was undertaken by DVSA vehicle examiner Barry Gallagher on 21st October 2024. It identified shortcomings in the areas of inspection and maintenance records, driver defect reporting, inspection facilities and maintenance arrangements and vehicle emissions, all of which were unsatisfactory. Further, the prohibition assessment was such as to require a report to the Office of the Traffic Commissioners ("the OTC").

8. T.E. Carpenter and V.E. Gallagher attempted an unannounced visit to the operating centre, but found no staff or vehicles. The visit gave rise to concerns about whether the parking space was adequate, since it appeared to be sufficient for five vehicles and in addition to the Appellant's authorised vehicles it was allocated to two other companies with a total of 19 authorised vehicles and five trailers. A subsequent visit from a different traffic examiner proved equally uninformative.

9. This history led the TC to decide to call the Appellant to a public inquiry on 2nd April 2025. The OTC sent the Appellant a call-up letter dated 19th February 2025 which stated at the outset:

> "I refer to the maintenance investigation carried out by DVSA on 21 October 2024 and the notice of shortcomings issued to you."

The letter pointed out that the matters raised were serious and might lead to revocation of the operator's licence.

10. The letter identified the issues of concern to the TC in detail. We summarise them as follows:

    a. The issue of prohibition notices;

    b. False or unfulfilled statements made when the licence was applied for;

    c. Failure to honour the undertakings given when the licence was applied for;

    d. A material change in the circumstances of the holder of the licence.

    It was stated that the TC was concerned that the Appellant might not meet the requirements to be of good repute, to have financial standing and relating to a transport manager. As to the last set of requirements, the Appellant was told that Mr. Kumar was being separately called to the inquiry, which would consider his competence and repute.

11. The letter also included the following:

> "**FINANCIAL EVIDENCE WILL BE REQUIRED**
>
> The Traffic Commissioner is also concerned that the business may be (*sic*) of the appropriate financial standing for the number of vehicles authorised. The company needs to show access to an average of £48,500 over the last 3 months. Evidence of your financial standing should include the following original documents:
>
> a) original bank statements for the last 3 months …
>
> b) details of any overdraft facility or other loan arrangement
>
> c) (if available) the latest certified profit and loss account and balance sheet that have been prepared for the business…
>
> If the operator does not meet the financial requirements to hold an operator's licence, the licence can be revoked.
>
> See the attached Case Management Directions for full instructions."

12. The case management directions required financial evidence to be submitted at least 14 days before the hearing. The Appellant's attention was drawn to Statutory Document No. 2 – Finance as containing further information about financial standing.

13. Mr. Kumar on behalf of himself and the Appellant requested at paragraph 13 of representations received by the OTC on 18th March 2025 that the public inquiry be adjourned until the end of year. That application was refused by the TC by a letter dated 25th March 2025. The letter repeated that financial standing was in issue and again included a link to Statutory Document No. 2.

14. The bundle of documents at the public inquiry included the prohibition notice, the maintenance inspection report (including the Appellant's and Mr. Kumar's responses which stated among other things that the Appellant had committed to a large investment to improve the inspection facilities at the operating centre), roadside encounter and test reports, various policies adopted by the Appellant and the Appellant's proposals to improve its maintenance arrangements, material relating to drivers' hours and driver defect reporting, Mr. Kumar's representations and a further set of representations from him made in response to a further report from T.E. Carpenter dated 28th March 2025.

15. As respects financial standing, the bundle contained bank statements for the Appellant's bank account with Lloyds Bank Plc from 1st December 2024 to 28th February 2025 and a copy of the Appellant's unaudited financial statements for the year ending 31st May 2024, which showed a profit for the year of £72,429. This material was provided on 10th March 2025. The OTC performed its usual calculation to produce the average amount available to the Appellant over a three month period on the basis of the bank statements, which was £6,134,38, a shortfall of £42,365.82 in relation to the £48,500 requirement. The OTC sent an email to Mr. Sidhu on 13th March 2025 informing him of the outcome of the calculation. The message continued:

> "Please can you confirm if the company has access to additional funds such as an overdraft or credit card facility or other loan arrangement to meet the requirement, and if so, please provide evidence of this."

Again a link to Statutory Document No. 2 was provided. A copy of the calculation itself was sent by email on 25th March 2025 with a repeated request in very similar terms for additional evidence and a further link to Statutory Document No. 2. No further financial information was produced in advance of the public inquiry.

The public inquiry

16. The public inquiry was attended by Mr. Sidhu and a Mr. Harshil Singh on behalf of the Appellant and by Mr. Kumar. At almost the outset the TC said that one of the first things he needed to do was to talk to the director in private about the issue of financial standing. Mr. Kumar left. Mr. Singh, however, stayed, on the basis that there was something of a language problem and he could help. As the TC pointed out, the Appellant had been informed that a request for an interpreter should be made if one was needed and that there had been no such request. He was, however, content for Mr. Singh to remain.

17. The TC put to Mr. Sidhu and Mr. Singh that the bank statements did not show enough financial standing for even one vehicle. Mr. Singh explained that the Appellant's sales covered its expenditure and all its employees and bills for maintenance parts were being paid on time. The Appellant had invested in the brake tester and the garage to an amount of nearly £65,000 to £70,000 over six or seven months but that expenditure was now behind it. It had no credit card, overdraft or loan arrangement and it did not factor invoices. The Appellant was confident of its financial position on the basis of its sales. Mr. Singh also stated that there had been two engine breakdowns in the past three months, the second of which remained unrepaired but the parts had now been received. He drew the TC's attention to the unaudited accounts showing a net profit of some £72,000 and stated that the Appellant had at least that sort of money in its circulation, which it would recover in the next four or five months. He pointed out that November to March was a winter period in the construction industry with less work, but work started picking up in March 2025 and the Appellant was busy at the moment, going forward to November. He also explained that the Appellant had not been experienced with tippers but had been gaining experience. He said that there were side options of a credit card, overdraft, personal equities of the director or even a government growth guarantee scheme which they could apply for if they were not able to raise money from their sales.

18. At that point the TC raised the fact that nobody had written to him to say the Appellant had financial problems, as was required by the conditions on the licence. Mr. Singh's explanation for that was that the Appellant was not aware of the condition. The TC asked what was the current bank balance and Mr. Singh said around £7,000 or £7,500, but there were invoices due to be paid any day now for "£56 to £70" and that they were looking forward to getting invoice factoring, which would help them to get back on track. Mr. Singh summarised the Appellant's position as being that they would recover within four to five months from sales, which he asked the TC to give, and would recover more quickly if "they approve" the Appellant's factoring, overdrafts and credit cards. He repeated that the Appellant had been new to the tipper industry and had had new drivers who had made mistakes.

19. There was then a break in the public inquiry. When it resumed, the TC announced orally that he was not satisfied that the Appellant had appropriate financial standing that day and asked if it was the Appellant's intention to request from him a period of grace. Not surprisingly, Mr. Singh on behalf of the Appellant said that it was. The TC summarised his understanding of the previous evidence and established that the Appellant had not yet applied for an overdraft, a credit card or invoice financing but had applied for the government guarantee scheme, which was a form of loan. Mr. Singh was not able to explain the qualifying criteria or to give any information about when the Appellant might hear the outcome of the application. He did explain, as we understand the transcript, that the delay in obtaining an overdraft or a credit card was that the Appellant was looking to change banks because Lloyds seemed to be very strict and HSBC was less so. If approved, the Appellant could be given at least £10,000 on the credit card and £10,000 on the overdraft. For the time being the Appellant was looking to the factoring. Mr. Singh stressed that the Appellant had been working hard on this

issue and drew attention to the people employed by the Appellant, who were also at the TC's mercy.

20. There was a further break in the public inquiry. When it resumed again, the TC announced orally that he refused to grant a period of grace because he was not satisfied that the Appellant met the test set out in *Duncan McKee* (see further paragraph 29 below). The consequence was that the Appellant did not have appropriate financial standing and no period of grace was in force, so revocation was a mandatory requirement under s.27(1A) of the Goods (Licensing of Operators) Act 1995. He therefore revoked the licence with effect from 11.59 p.m. on 2nd May 2025.

21. This course of action had the effect, as the TC made clear, that "all other matters in the calling in letter remain undecided and will lie on the file". He explained to Mr. Sidhu and Mr. Singh that they had the choice whether to wind up the Appellant's operation or to apply for a new licence if they could show financial standing, which could be done in relation to a 28 day period, or that the funds were available and would continue to be available, in which case a time-limited interim licence could be granted. He expressed the view that if what he had been told in the private session was correct, there was no reason why in the near future they could not have the tangible documentary evidence required. As he put it, "The door has been kept open," although it would be necessary for the Appellant to be able to resolve the other matters as well.

Legal framework

22. We deal below with the full written reasons which the TC gave for his decision, but before doing so we turn to explain the legal framework which the TC had to apply.

23. The relevant statutory provisions as they currently stand are to be found in the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act") and are as follows:

> "13.(1) On an application for a standard licence a traffic commissioner must consider –
>
> > (a) whether the requirements of sections 13A and 13C are satisfied; …
>
> 13A.(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 –
>
> …
>
> > (b) has appropriate financial standing (as determined in accordance with paragraph 6A of Schedule 3)

…

26.(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 … on any of the following grounds:

[there follow several grounds, including contravention of any condition attached to the licence, a prohibition under s.69 or 70 of the Road Traffic Act 1988, failure to fulfil any undertaking recorded in the licence and a material change in circumstances.]

27.(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;

…

(2) Before giving a direction under subsection (1) in respect of a licence, a traffic commissioner shall give to its holder notice in writing that he is considering giving such a direction.

(3) A notice under subsection (2) shall state the grounds on which the traffic commissioner is considering giving a direction under subsection (1) and –

> (a) shall invite the licence-holder to make written representations with regard to those grounds, and
>
> (b) shall state that any such representations must be received by the commissioner dealing with the matter within 21 days of the date of the notice;
>
> and a traffic commissioner may not give a direction under subsection (1) without considering any representations duly made under this subsection.

(3A) A notice under subsection (2) may set a time limit for the licence-holder to rectify the situation …

(3B) If the licence-holder rectifies the situation within the time-limit set under subsection (3A), the traffic commissioner must not make the direction under subsection (1).

…

29.(1) A traffic commissioner shall not –

> (a) give a direction under section 26(1) or (2) or 27(1) in respect of any licence;

…

without first holding an inquiry if the holder of the licence or (as the case may be) the person concerned requests that an inquiry be held.

(2) A traffic commissioner may direct that any direction or order given or made by him under –

…

(b) section 27(1),

…

shall not take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the direction or order and, if such an appeal is make, until the appeal has been disposed of.

Schedule 3 paragraph 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 …

(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."

24. It is also important in the present case to have in mind Statutory Document No. 2 – Finance, to which we have already referred. Under s.4C of the Public Passenger Vehicles Act 1981:

> "(1) The senior traffic commissioner may give to the traffic commissioners –
>
> (a) guidance, or
>
> (b) general directions,
>
> as to the exercise of their functions under any enactment …"

S.4(4) requires traffic commissioners to act under the general directions of the senior traffic commissioner and s.1(2) of the 1995 Act contains a similar provision in relation to the exercise of functions under that Act.

25. Paragraphs 13 to 31 of Statutory Document No. 2 contain a discussion of the case law relating to showing financial standing, including the law relating to periods of grace, and we return to the case law below. The general directions include the following:

> "36. … Applicants for a standard goods and any PSV licence must show that they meet the requirement for financial standing. The purpose of this requirement is to ensure that the holder of an operator's licence has the financial resources available so that its vehicles are safe to use on public roads, its passengers (PSV) and other road users are not put at risk by them and that it can compete fairly with other operators, within the constraints of the regulatory regime.
>
> …
>
> 41. One of the most reliable indications of money being available is cash or a facility being held in a bank account of the licence holder over a period of time. This may be supplemented or substituted by the unused portion of any overdraft facility. Where evidence other than bank account or credit card statements are relied upon this will necessitate referral to the traffic commissioner. Existing licence holders will be expected to show that they have met the continuing duty by producing evidence over a three-month period. Subject to the Directions below, traffic commissioners may accept sums made available to the operator which can be turned into cash fairly quickly (within a month at most) if needed. In those circumstances the terms of the individual investment, policy or bond will need to be checked. A traffic commissioner might also accept a bank guarantee (not a simple letter but a formal business arrangement) or an insurance policy, including a professional liability insurance from a regulated financial institution, upon production of the agreement and terms. The evidence must be capable of addressing the legal test for availability. Availability of finance is a continuing obligation. Consequently, it is not disproportionate for traffic commissioners to

require bank statements for a period of three-months and/or any other financial evidence covering three months to be produced when an operator is called to public inquiry.

…

The Types of Evidence to be Taken into Account

…

61. The latest annual accounts can also be submitted (to a date not more than 18 months prior to the date of an application only). They will only be accepted as a substitute for bank statements etc. where they have been certified and provide a sufficient level of detail in order to satisfy the broader tests, set out by the Upper Tribunal above. Generally, a company will only be exempt from obtaining audited accounts for the purposes of the Companies Act 2006 where the entity meets the definition of a small company.

…

64. Regulation (EC) No 1071/2009 provides that traffic commissioners may accept annual profit and loss accounts and balance sheets or a statement of an opening balance if they are certified by a properly accredited person. Annex 7 sets out those persons whom traffic commissioners will accept as "properly accredited persons". Accounts which have not been certified by an auditor or duly accredited person do not have the same evidential value and may be disregarded without other corroborating evidence. Similarly, draft accounts can be very unreliable and should only be accepted pending receipt of certified documents within two months confirming no material changes.

68. The following are not generally acceptable as evidence and must be referred to a traffic commissioner for consideration:

…

- physical assets such as livestock or perishable goods which might reduce in value quickly will not usually be accepted. Other 'real assets' such as property, plant and machinery can be taken into account if their disposal would not reduce the ability of the operator to operate efficiently and profitably. This may mean examining the impact on an operator's overheads. …

70. If a traffic commissioner decides to consider financial evidence at a hearing, or requires it to be assessed at a Senior Team Leader interview, then the operator will be required to produce bank or equivalent statements for a period of <u>three months as per Annex 5 </u>…

71. As per the Upper Tribunal: *"In our view, when considering whether or not to grant a period of grace, Traffic Commissioners will need some tangible evidence, beyond mere hope and aspiration, that granting a period of grace will be worthwhile, and that there are reasonable prospects for a good outcome. Some sort of analysis along these lines will be necessary because, amongst other reasons, Traffic Commissioners have to decide how long to grant. Moreover, as with a stay, there is no point in granting a period of grace if the likely effect is just to put off the evil day when regulatory action will have to be taken*"… [The cited passage is taken from *Duncan McKee*.]

Annex 5

Existing Licences

When assessing the average balance from statements for all **existing licences** bank or equivalent statements for a period of three-months must be provided. As the intention is that vehicles and trailers should not be used in an unsafe condition the relevant balance is that shown at the end of the relevant day. The assessment carried over that three-month period starts with the latest up to date closing balance submitted, then and go backwards in 10-day steps (*sic*) using the same dates on each month, to exactly three months earlier. This gives 10 figures, which are added and then divided by 10 to give the average balance.

Annex 6

Financial accounts have to be prepared to a set format. The two most important elements are the Profit and Loss Account and the Balance Sheet. These elements may not be fully present in abridged or micro-entity accounts…

Staff should check the Balance Sheet and then calculate the following ratios.

- The ratio of total assets divided by total liabilities, which should normally be greater than 1.0. In simple words, the company should own at least as much as it owes. If the operator, however, is a limited company and the shortfall is covered by directors loan account balances, this may be acceptable if the loan account balances are confirmed as at least a semi-permanent features of the accounts (*sic*).

- The ratio of current assets divided by current liabilities should exceed 0.5. In other words, the company can realise at least sufficient cash to pay off half its creditors. A ratio above 0.5 but below 1 may indicate difficulties. If this ratio is below 1, the matter should be referred to the traffic commissioner who may then undertake an examination of the make-up of creditors. If the deficit is covered by bank overdraft, loans, mortgages, HP contracts or directors' current account balances etc, this would again be acceptable upon confirmation that none of these facilities are likely to be withdrawn. If, however, these liabilities are large, staff should satisfy themselves that any ongoing repayments are covered by cash flow."

26. As respects the task we have to undertake, the general rule is well established that the task of the Upper Tribunal when considering an appeal from a decision of a traffic commissioner is to review the material before the traffic commissioner, and the Upper Tribunal will only allow an appeal if the appellant has shown that "the process of reasoning and the application of the relevant law require the tribunal to take a different view", as explained in *Bradley Fold Travel Limited and Peter Wright* v. *Secretary of State for Transport* [2010} EWCA Civ 695, [2011] R.T.R. 13, at paragraphs 30-40. This is sometimes summarised as requiring the Upper Tribunal to conclude that the traffic commissioner was plainly wrong.

The TC's reasons

27. Having set the context for the TC's decision, we turn to the reasons he gave in his written decision, which is itself dated 2nd April 2025, the day of the hearing.

28. The TC began by setting out the background matters we have explained in paragraphs 11, 12 and 15 above and then set out the evidence on financial standing given at the public inquiry which we have summarised in paragraphs 17 and 18 above. He then gave his reasons for his decision that the Appellant had not shown financial standing at the date of the inquiry, as follows:

> "12. … In addition to the bank statement the operator had supplied Unaudited Financial Statements for year ended 31 May 2024 that showed a profit of £72,429. In consideration of Statutory Document number 2 which sets out, with reasons and a summary of the appellate case law, what can and what cannot be used to demonstrate appropriate financial standing for a limited company I gave that document very little evidential weight.
>
> 13. I reminded myself of the Upper Tribunal appeal case of [2024] UKUT 337 (AAC) Morgan J Ltd where the Upper Tribunal confirmed that the way appropriate financial standing is calculated in Statutory Document number 2 is correct and that appropriate financial standing should be demonstrated as set out in that Statutory Document.
>
> 14. I reminded myself of the Upper Tribunal appeal decision of 2012/017 NCF Leicester Ltd where the Upper Tribunal explained, in great detail, how appropriate financial standing had to be demonstrated.
>
> 15. After retiring for 20 minutes I returned and the hearing was kept in camera. I explained to the operator that I was not satisfied, from

the evidence before me, that it had available to it the required appropriate financial standing of £48,500 since the only evidence of the money that was actually available to the operator over the past three months was, as an average balance, £6,134 which was not enough for a single vehicle."

29. The TC then set out the further evidence given in relation to the application for a period of grace and gave his reasons for refusing the application, as follows:

> "19. … The only financial documents before me were the bank statements that covered three months used by the caseworker to calculate the average available balance to the operator (£6,134) and the Unaudited Financial Statements for year ended 31 May 2024 which, as I explained earlier, I had given very little evidential weight.
>
> 20. When considering whether to grant a period of grace a Traffic Commissioner must follow what the Upper Tribunal says must be done. Here the lead Upper Tribunal appeal case is <u>2014/008 Duncan McKee</u> where it was held:
>
> "*In our view, when considering whether or not to grant a period of grace, Traffic Commissioners **<u>will</u>** need some tangible evidence, beyond mere hope and aspiration, that granting a period of grace will be worthwhile, and that there are reasonable prospects for a good outcome.*" [emphasis added]
>
> 21. The Upper Tribunal were explicitly clear as to what was required by the use of the word "will" that I have highlighted. As already stated, the only tangible evidence before me were the three months of bank statements and the Unaudited Financial Statements for the year ending 31 May 2024.
>
> 22. Therefore I did not have tangible evidence before me to satisfy me that it was more likely than not that the granting of a period of grace would be worthwhile and that there were reasonable prospects for a good outcome.
>
> 23. Mere verbal assertions were not enough as the Upper Tribunal had been explicitly clear when it stated in the Duncan McKee appeal case that tangible evidence was required.
>
> 24. I was satisfied that the operator had had long enough since the date of the calling in letter (19 February 2025, or 6 weeks before the public inquiry) to get its finances in order, or at least sufficiently in order to present me with tangible evidence that would have allowed me to grant a period of grace.
>
> 25. In relation to what is said in Statutory Document number 2; that document has been in the public domain for 15 years. The Upper Tribunal held in the appeal case of <u>2012/030 MGM Haulage and</u>

Recycling Limited that all operators are deemed to know the advice and guidance that is in the public domain which must be read to include the Statutory Documents issued by the Senior Traffic Commissioner.

26. This document was, in any event, brought to the operator's attention …

27. Pulling everything together; the public inquiry was the day that I had to determine whether the operator was of appropriate financial standing, or whether I should grant a period of grace, based upon the tangible evidence before me at that hearing. The operator had the burden of proof when it applied for a period of grace. The tangible evidence before me did not come even close to satisfying me that the legal test set out by the Upper Tribunal in the appeal case of 2014/008 Duncan McKee was met. As a result I refused the application and no period of grace was granted."

The grounds of appeal and the Appellant's submissions

30. The grounds of appeal which accompanied the Appellant's notice of appeal began by drawing attention to the undisputed facts that the Appellant had been operating since October 2020 and there was no history of any other public inquiry. The grounds themselves were as follows, in summary:

Ground 1: material error in the assessment of the supporting evidence

(1) The Appellant provided the TC with "unaudited accounts certified by a properly accredited person" which included a profit and loss account and a balance sheet and provided evidence that the Appellant had assets and was a profitable business, but the TC failed to engage with those accounts.

(2) Paragraph 8 of Statutory Document No. 2 set out ratios to be met. The accounts provided showed a ratio of 1.81:1, which exceeded the required ratio.

(3) The TC failed to take Statutory Document No. 2 into account. He misdirected himself in law by not taking the accounts into consideration and failing to give them the proper weight as evidence that the Appellant had proper financial standing. That was a material error.

Ground 2: misdirected the law

(4) Under s.27(2) of the 1995 Act the TC was obliged, before giving a direction to revoke the Appellant's licence, to give notice and to allow the Appellant 21 days to make representations. Notice was given by the email dated 25 March 2025, which was less than 21 days before the public inquiry. The email failed to refer to the company's accounts.

(5) The decision in *Duncan McKee* was not relevant. In *McKee* there were various serious failings which occurred over a number of years. The Appellant had a history of compliance and an innocent explanation for the investigation which had not been taken into consideration. The TC had shown an irrational sense of urgency when taking the decision to revoke the licence. "It will be neither absurd nor unreasonable to aver that the decision was pre-determined and holding a public inquiry was nothing short of a formality."

Ground 3: failure to give adequate reasons

(6) The TC failed to give adequate reasons for not engaging with the company accounts.

Ground 4: procedural fairness

(7) The TC failed to accord fairness to the Appellant by not giving the Appellant the opportunity to make adequate representations or to provide other tangible evidence of financial standing, given that he would not accept the accounts. The Appellant was not aware that the TC was not looking to take the accounts into consideration until the public inquiry itself.

Ground 5: fettering of discretion

(8) The TC used his discretion to thwart the policy and objects of the 1995 Act by not giving the Appellant the benefit of a grace period. It made no sense not to do so when the Appellant had been trading for five years and had over 10 employees. "The objective of the 1995 Act is that the operator does not distort the competition, have effective maintenance of the vehicles for public safety, meeting all commercial and legal financial obligations. The appellant has been doing all of the above. This was a classic illustration of being a responsible entity and operator."

31. Shortly before the hearing the Appellant provided us with a brief skeleton argument and a bundle of authorities. The skeleton argument effectively repeated the arguments summarised above, again placing reliance on the terms of Statutory Document No. 2, which was included in the bundle. The bundle also contained the decisions in *Duncan McKee* [2014] UKUT 0254 (AAC), *NCF (Leicester) Ltd.* [2012] UKUT 271 (AAC), *Thandi Coaches (Red) Ltd.* [2021] UKUT 198 (AAC), *KDL European Ltd.*, Appeal 2007/459, *Lineage UK Transport Ltd.* [2023] UKUT 97 (AAC) and *VST Building & Maintenance Ltd.* [2010] UKUT 472 (AAC).

32. The first three of those cases were addressed in oral submissions as explained below. The skeleton argument contains a quotation from *VST Building & Maintenance* to the effect that traffic commissioners are entitled to require evidence demonstrating that maintenance will not be prejudiced by lack of financial resources, a proposition which we accept. *KDL European* involved an unsuccessful appeal based on the inadequacy of the reasons given in the written

decision. *Lineage UK Transport* was a case in which it was contended that the traffic commissioner's decision was disproportionate or at points irrational. We accept in principle that inadequacy of reasons, disproportionality and irrationality are proper grounds of appeal, but in the absence of written or oral submissions explaining the particular relevance of those two cases to the present appeal, we do not need to consider them further.

33. In his oral submissions Mr. Kumar on behalf of the Appellant addressed first the approach taken by the TC to the Appellant's accounts. He drew attention to paragraph 36 of Statutory Document No. 2, which he described as completely contrary to paragraph 12 of the TC's decision letter. He referred to paragraph 61 of Statutory Document No. 2, making the point that the Appellant is a small company, and then to Annex 6, drawing attention to the fact that the Appellant met the current assets ratio requirement.

34. We looked at the unaudited financial statements with Mr. Kumar. They were prepared by accountants but state on their face that they are unaudited. They are dated 25th February 2025. We accept that the ratios stated in Annex 6 are met. We were told, however, that the fixed assets included the vehicles used by the Appellant.

35. Mr. Kumar then took us to s.13A(2) and Schedule 3 paragraph 6A(2) of the 1995 Act. He pointed out that the conjunction "or" between sub-paragraphs (a) and (b) of paragraph 6A(2) means that financial standing may be shown by material other than certified accounts. He submitted that the TC had given no weight to the accounts and that he was wrong in so doing. It was contrary to the legislation.

36. Mr. Kumar then turned to the case law. He repeated that *Duncan McKee* was a very different case on its facts, having regard to the many unsatisfactory aspects of the operation in that case. By contrast, the inquiry before the TC was the Appellant's first public inquiry, the company was completely solvent, it had 10 people on its books and it was meeting all its liabilities. The case put to the TC showed more than mere hope and aspiration. He had not considered the whole of the Appellant's business and had failed to explain why he gave the accounts so little weight.

37. Our attention was drawn to paragraphs 11 and 12 of *NCF (Leicester)*, setting out the continuing nature of the financial standing requirement, and in particular the last sentence of paragraph 12 which states that the requirement is intended in particular to ensure that vehicles can be operated safely because the operator can afford to maintain them promptly and properly. We were also referred to paragraphs 14 and 15, which make the point that the requirement is not satisfied by a snapshot of the operator's position, but equally that the operator is not required to have the specified amount available 365 days a year. Mr. Kumar submitted that it was necessary to take account of the wider picture and the TC had in effect said that it was bank statements or nothing to show financial standing.

38. Mr. Kumar also referred us to paragraph 15 of the *Thandi Coaches* case and in particular to the reference there to the statement in *Michael Hazell (No. 2)* [2017] UKUT 221 (AAC) that financial standing can be demonstrated in a variety of

ways. He submitted that the bank statements which had been provided showed that the Appellant was paying salaries and pension contributions, meeting its obligations to His Majesty's Revenue and Customs and making maintenance payments. The business, he said was solvent. The bank loan referred to in the unaudited financial statements was a Covid bounce back loan. The credit card referred to was an old one. Two of the vehicles were leased.

39. Overall, Mr. Kumar submitted that the TC had departed from the case law and the sanction imposed was disproportionate.

40. Mr. Kumar then turned to issues of procedural fairness. His first point was that the TC had not complied with the requirement in s.27(2) of the 1995 Act, read with subs.(3), to give notice of the proposal to revoke the Appellant's licence in sufficient time to allow the Appellant 21 days to make representations. He drew attention to the email of 25th March 2025 which attached a copy of the financial calculation prepared from the bank statements. (We note that in fact the Appellant had already been informed by an email from the OTC sent on 13th March 2025 that the average available balance was only £6,134, but we accept that that was also less than 21 days before the inquiry, although only just.) He acknowledged that the call-up letter of 19th February 2025 might have been sufficient, but argued that it had been overridden by the later emails, which did not refer to the accounts which had been submitted on 10th March 2025.

41. Mr. Kumar's second point was that, in considering the application for a grace period, the TC had failed to give adequate reasons for the revocation of the Appellant's licence because he had omitted to take the unaudited financial statements into account.

42. Thirdly, Mr. Kumar submitted that the TC had fettered his discretion by not giving the Appellant the opportunity to address the issue of a grace period. He drew attention to the evidence given by Mr. Singh at 00:01:30 of the second part of the transcript that the major investment of £65,000 to £70,000 had been completed and that the Appellant was now back to simple sales and the profit on sales. He pointed out that the result of the investment was to cut the need to make payments to third parties and repeated that the Appellant was not insolvent.

43. We put to Mr. Kumar that there had been difficulties with parts and missing vehicles, to which he responded that financial standing does not have to be shown 365 days a year. We also put to Mr. Kumar that there were debts in respect of finance on some of the vehicles, to which he responded that there was no evidence of outstanding invoices. Mr. Kumar's final point was that the Appellant had always been under the impression that the public inquiry was about maintenance, not finance.

Analysis

44. We take as our starting point the decision of the Upper Tribunal in *Morgan J Ltd.* [2024] UKUT 337 (AAC), which was cited by the TC in support of the proposition that the way in which appropriate financial standing is calculated in Statutory Document No. 2 is correct and appropriate financial standing should be

calculated in accordance with that document. The case is also cited in the Appellant's skeleton argument, which quotes paragraph 20 of the decision. It was in fact a case dealing with an application for a new licence, in respect of which Statutory Document No. 2 takes a different approach from that applicable when an existing licence is in question, and the proposition derived from it by the TC is perhaps expressed more broadly than the case would justify. Nevertheless, it is clear that the Upper Tribunal was of the view that the directions in Statutory Document No. 2 were to be followed and we agree. Moreover, the TC was obliged by s.1(2) of the 1995 Act to follow the general directions which Statutory Document No. 2 contains. We therefore proceed on the footing that the TC was right to approach the issue of financial standing in accordance with Statutory Document No. 2.

45. Paragraph 70 of Statutory Document No. 2 makes clear that if a traffic commissioner decides to consider financial standing at a public inquiry, the operator will be required to produce bank or equivalent statements for the preceding three months and that those statements will be considered in accordance with the provisions of Annex 5. That is what happened in the present case and the bank statements were duly provided. It is not disputed that, taken in isolation, they fell far short of showing financial standing.

46. Statutory Document No. 2 also makes clear that bank statements are not the only means of establishing financial standing. Paragraph 41 refers to overdraft facilities, credit cards, bank guarantees and insurance policies, by which an operator can obtain cash quickly. Paragraphs 61 and 64 refer to annual accounts which are audited or certified by a properly accredited person. Paragraph 68 refers to the circumstances in which physical assets may be taken into account. All of this is consistent with the provisions of Sch. 3 paragraph 6A of the 1995 Act, to which Mr. Kumar drew our attention.

47. The Appellant's difficulties begin with what Statutory Document No. 2 says about accounts which are not audited or certified by a properly accredited person. As paragraph 61 points out, companies which are "small" companies for the purposes of the Companies Act 2006 are exempt from the requirement to obtain audited accounts and the Appellant understandably took advantage of that exemption. It is clear, however, as explained in the report of the accountants to Mr. Sidhu which appears in the unaudited financial statements, that although those statements were prepared by a firm of accountants, that was done to assist Mr. Sidhu in the discharge of his responsibility for the preparation of financial statements. The statements are not certified.

48. The Appellant's case therefore falls within the scope of the statement in paragraph 64 of Statutory Document No. 2 that accounts which have not been audited or certified by a properly accredited person do not have the same evidential value as accounts which have been so audited or certified and may be disregarded without other corroborating evidence.

49. It is helpful at this point to refer to *Thandi Coaches*. As paragraph 15 makes clear, the Upper Tribunal's understanding of the traffic commissioner's decision in that case was that he had excluded consideration of the company's accounts

because they were unaudited. It was argued on behalf of the company first that the accounts had been certified by a properly accredited person because they had been signed by a director, as envisaged by the Companies Act, and secondly that even if the accounts were not certified, they had some evidential value and could not be excluded from consideration. The Upper Tribunal accepted the second submission and found that the traffic commissioner had erred in law by simply excluding the accounts from consideration instead of considering them and then attaching little or no weight to the accounts. It was therefore not necessary for the Upper Tribunal to decide whether or not the first argument was correct, but the point was considered in paragraph 16 of the decision and it was made plain that if a decision had been necessary, the decision would have gone against the appellant company.

50. The TC in the present case did not make the error of disregarding the unaudited financial statements but found them to have very little evidential weight, having regard to what is said in Statutory Document No. 2 as to how financial standing may be shown.

51. In our view, the TC was right to give little evidential weight to the accounts. The current assets are shown as consisting almost entirely of trade debtors, with only £4,220 cash at the bank and in hand. The year's operating profit does not appear to be reflected in any realisable assets. It is not obvious that trade debtors would provide a ready source of cash to meet maintenance bills in case of sudden need. The tangible fixed assets are shown as consisting of "plant and machinery etc.", which again might not be readily realisable. In so far as the vehicles were included in the fixed assets, it is hard to see how their disposal to raise cash would not affect the Appellant's business. It is also to be borne in mind that the profit for the year exceeds only slightly the amount said to have been spent on the brake tester and the garage, so it is difficult to see that even if the Appellant had continued to trade profitably after 31st May 2024 those profits would have fed into any assets which could have assisted in meeting the financial standing requirement. It is certainly the case that the profits did not lead to substantially increased bank balances. Those points, which reflect paragraphs 41 and 68 of Statutory Document No. 2, support the view taken by the TC, which is of course consistent with paragraph 64.

52. There is nothing in the case law which is inconsistent with the approach taken by the TC. Although Mr. Kumar is correct that *NCF (Leicester)* and *Thandi Coaches* recognise that financial standing can be shown in a number of ways, that the requirement does not have to be met 365 days a year and that the purpose of the requirement is to ensure that the operator is able to operate the vehicles safely because they can be maintained promptly and properly, a traffic commissioner is still entitled to require acceptable evidence. In this case the TC was faced with bank statements which did not show financial standing and the unaudited financial statements on which we have commented in the previous paragraph. General evidence of solvency in the sense of paying debts as they become due does not show that a company can afford to have its vehicles maintained promptly and properly. The correspondence with the OTC drew attention to alternative ways of showing financial standing, but there was no evidence before the TC that any of them were in place at the date of the public inquiry.

53. It follows that although we have accepted that the unaudited financial statements did show the ratios referred to in Statutory Document No. 2, we do not accept that the TC made a material error in the assessment of the evidence, as contended in ground 1 of the grounds of appeal and in Mr. Kumar's oral submissions. Specifically, in our view the TC followed rather than departed from the terms of Statutory Document No. 2. For the avoidance of doubt, we accept that the Appellant is a small company and was exempt from the requirement to produce audited accounts, but that does not get the Appellant home if it is unable to produce satisfactory alternative evidence of financial standing as envisaged by paragraph 6A of Schedule 3 to the 1995 Act. In our view, the approach taken was correct. In so far as the grounds of appeal suggest that the unaudited accounts were certified by a properly accredited person, we agree with the approach in *Thandi Coaches* that a director is not such a person.

54. For those reasons, we conclude that the TC did not make a material error in the assessment of the evidence and ground 1 of the grounds of appeal fails.

55. Closely related to ground 1 is ground 3, that the TC failed to give adequate reasons for giving little evidential weight to the unaudited financial statements. We accept that the reasons he gave were brief, consisting solely of a general reference to what is said in Statutory Document No. 2. It might have been better if he had identified some specific features of the statements which he had in mind when relying on the general provisions of Statutory Document No. 2 and we think that paragraph 15 of *Thandi Coaches* points in that direction, but we do not take the view that the TC was plainly wrong in limiting his reasons to a reference to Statutory Document No. 2, where unaudited financial statements are addressed. Accordingly ground 3 also fails.

56. Turning to procedural fairness, we deal first with the statutory requirement to give 21 days' notice of a proposal to revoke a licence for lack of financial standing, so that the operator has the opportunity to make representations. In our view, the call-up letter of 19th February 2025 plainly complied with that requirement. There was a clear warning, clear information as to documents to be provided and a clear reference to Statutory Document No. 2. Mr. Kumar was right to recognise that the letter could be seen as complying with the requirement. We do not accept his submission that the clear terms of the letter were overridden by the subsequent email exchanges. The email of 13th March 2025 warned Mr. Sidhu that the bank statements were insufficient and asked for evidence that the Appellant had access to additional funds such as an overdraft, credit card facility or other loan arrangement. The request was repeated in the email of 25th March 2025, on which occasion the Appellant was again referred to Statutory Document No. 2. The same point was made in the letter of 25th March 2025 refusing an adjournment. The obvious inference was that the unaudited financial statements did not fill the gap. The Appellant made no attempt to raise with the OTC the fact that those statements had been submitted. With hindsight, again it might have been better if the OTC had expressly stated that the statements were unlikely to be sufficient on their own, but the fact that the OTC did not do so does not override the effect of the call-up letter as notice for the purposes of s.27(2) and (3) of the 1995 Act.

57. It follows that ground 4 of the grounds of appeal fails, as does that part of ground 2 which was concerned with the effect of s.27.

58. The remainder of ground 2 relates to the TC's refusal to grant a period of grace, as do ground 5 and the remainder of Mr. Kumar's oral submissions. In so far as reliance was placed on the TC's failure to give reasons for treating the unaudited financial statements as of very little weight, the point is covered by what we have already said. Ground 2 does, however, seek to distinguish *Duncan McKee*, a decision which was clearly fundamental to the TC's reasoning on that aspect of the case.

59. It is correct to say that the facts in *Duncan McKee* showed a long history of difficulties over compliance with the licensing regime and two attempts by the transport manager to mislead DVSA (then known as VOSA, the Vehicle and Operator Services Agency). The passage quoted by the TC, however, is clearly a statement of principle which applies to the present case. The question for us is whether the TC made any error in concluding that there was no tangible evidence beyond mere hope and aspiration that granting a period of grace would be worthwhile and that there were reasonable prospects for a good outcome.

60. As the TC set out in his decision, he was told that at the date of the inquiry no credit card, overdraft or invoice financing agreement had been applied for and no loan facility was available. The Appellant did not know when a decision upon the application for Government assistance would be made. The Applicant was looking to change banks and hoped to be given a £10,000 credit card and an overdraft facility. We pause to comment that the overdraft facility referred to was a facility of a further £10,000, so that even if both the credit card and the facility were obtained speedily the Appellant would still be some £20,000 plus short of showing financial standing (the available finance being £10,000 plus £10,000 plus a bank balance of some £7,000).

61. In addition the evidence of Mr. Singh was that the Appellant had experienced difficulties with reduced work from November to March, inexperienced drivers and the breakdown of vehicles. It was relying heavily on sales and payment of invoices and expressed the hope that matters would be resolved in four to five months. We cannot see that that evidence went beyond hope and aspiration and became tangible evidence as envisaged in *Duncan McKee*. In particular, as we have already said, the unaudited financial statements did not show that the profit made over the year ending 31st May 2024 then appeared in a form in which it was readily available to the Appellant to meet unexpected repair bills. It follows that going back to sales and profits on sales, as it was put, would not necessarily give rise to the ability to show financial standing or even reasonable prospects that the Appellant would be able to do so.

62. In those circumstances the second part of ground 2 fails, as does ground 5. It cannot fairly be said that the TC fettered his discretion by not providing an opportunity to the Appellant to apply for a period of grace or that his exercise of his discretion thwarted or ran counter to the policy or objects of the legislation. The policy of the legislation is clearly first that operators should have a certain level of finance readily available so that traffic commissioners can be assured that they have resources which in case of need can be used to maintain and

repair vehicles promptly and properly, with a view to ensuring their safety when used on the road, and secondly that operators should be able to satisfy traffic commissioners that they do in fact have such a level of finance. The Appellant was unable to satisfy the TC of that fact when the requirements of the legislation, Statutory Document No. 2 and the case law were applied. The TC was not plainly wrong in his decision; rather, he applied those requirements correctly.

63. We should also comment on the submission in the grounds of appeal that the decision was pre-determined and the public inquiry was simply a formality. We think that in making that submission the Appellant may have been influenced by the fact that it approached the inquiry on the footing that it was about maintenance, as Mr. Kumar said in his final submission, and the Appellant was not prepared to deal with finance. It was no doubt an unwelcome shock when the TC raised the question of finance at the very outset and in the event disposed of the matter on that basis. It is certainly the case that there were serious issues relating to maintenance which were identified in the call-up letter. On the other hand, as we have said, the call up letter stated that financial standing was in issue and the Appellant was warned twice that the bank statements did not show financial standing and was asked to provide evidence which did. The need to show financial standing was also clearly stated in the letter dated 25th March 2025 refusing an adjournment. The decision was not pre-determined and the inquiry was not a formality. It was an opportunity for the Appellant to produce evidence to satisfy the TC that the requirement of financial standing was met. Unfortunately, the Appellant seems not to have realised the importance of the issue despite the communications from the OTC.

Conclusion

64. For those reasons, our conclusion is that the TC's decision was not plainly wrong and the appeal against revocation is dismissed. Given the finding that financial standing was not shown at the date of the inquiry and the refusal of a period of grace, the effect of s.27(1) was that revocation was mandatory.

65. It is unfortunate that as a result of the TC's decision to deal with the case on the basis of financial standing alone there has been no decision on the various other matters to which the call-up letter refers and, as the TC put it, they "lie on the file". Although we understand that in the light of the decision the TC reached on financial standing the licence was subject to mandatory revocation whatever view might be taken on the other matters and that therefore a full investigation of those matters was not necessary, the fact that they lie on the file may be thought to create a degree of uncertainty as to the approach which will be taken if the Appellant now decides to apply for a new licence, as the TC envisaged might be the case. The final section of the transcript at 0:6:00 refers to the TC as being willing to keep the door open "if you can deal with the other matters" and at 0:6:30 the TC said that he had had to think very carefully about giving the Appellant a month before revocation "for the other matters that are on file".

66. Given that element of uncertainty, the Appellant may now wish to consider taking advice on whether to apply for a new licence with the necessary financial evidence as explained by the TC in paragraph 29 of his written decision. Clearly

whether it does so or not will depend both on its ability now to provide satisfactory evidence of financial standing and to deal with any remaining questions over maintenance and compliance issues. In view of the time that has elapsed since the TC's decision, both aspects may appear very differently now from how they appeared when the decision was made.

67. As we said in paragraph 2 above, the TC granted a stay of his decision to allow the Appellant to pursue its right to appeal. He had power to do so under s.29(2) of the 1995 Act, which, as set out above, allows a traffic commissioner to direct, where an appeal is brought, that a direction under s.27(1) shall not take effect until the appeal has been disposed of. We therefore direct that for the purposes of s.29(2) the appeal is to be treated as disposed of 28 days after the date on which this decision is issued.

68. We also observe that the decision to conclude the inquiry solely on financial grounds had wider implications than the creation of a degree of uncertainty for the Appellant. The "other matters" were serious maintenance and compliance concerns which had prompted the DVSA investigation and formed a substantial part of the case before the TC, as the Appellant itself recognised. Although revocation on financial grounds was mandatory once the relevant findings had been made, it is unfortunate from the regulatory perspective that findings on those further matters were not made. Such findings would have provided important regulatory certainty, as well as certainty for the Appellant, and might have avoided the present position whereby matters of potentially significant concern remained undetermined whilst the Appellant continued to operate under the protection of a stay pending the determination of this appeal.

69. We apologise for the delay in producing this decision, which was caused by other professional commitments of the judge.

Elizabeth Ovey
Judge of the Upper Tribunal

Sarah Booth
Kerry Pepperell
Specialist members of the Upper Tribunal

Authorised by the Judge for issue on 13th August 2026