



Steering you through 2018



Operating within the licensing regime can at times seem like an onerous task. This is especially the case for well-established operators who may no longer have the systems in place to ensure a compliant operation. It is a common theme that operators are complying but there is no paper trail or documentation to show this.

The haulage industry comes with its own complexities; the logistics of having a large number of vehicles on the road, making sure contracts are fulfilled and deliveries made on time are just some of the considerations for operators.

It is also common for the operator licence itself to take a back seat to other areas of work undertaken by the company. The licence can seem like a small element of the business, but the most important questions to ask are will the company continue to operate without the benefit of an operator licence? What would the cost to the company be, and the impact on the employees if the licence was lost?

If the answers are that the impact would be great, financially and logistically, then it is imperative that the obligations under the licensing regime are fully met and at the forefront of the Directors' minds. Transport and licensing should be on the agenda for every board meeting and



**Mike Hayward,
Partner**

careful consideration given as to how those obligations are being met.

Whether a large company or a sole trader, if a licence is granted the onus is on the company or individual to ensure the obligations are met. Operators should strive to do this to the highest standards rather than to the minimal requirements. When making an application for an operator's licence; whether a restricted or standard licence, declarations are signed. This not only includes that all the information on the form is true and correct but also undertakings.

Once a representative signs the form they are entering into an agreement, a relationship of trust, with the Traffic Commissioner that they will comply with those undertakings throughout the life of the licence. A renewal is sent out every five years to confirm the information held by the Traffic Commissioner is correct.

There is also a reminder of the undertakings and the operator is asked

to sign to confirm they are still adhering to them.

All operators should consider whether they are complying with the undertakings and if there are any shortcomings, these should be rectified immediately.

These undertakings act as a safeguard for members of the public – making sure that vehicles operating on the roads are safe and roadworthy, have been well maintained and drivers are well rested and not tired.

They also protect the operator from any minor issues through to catastrophic accidents. It is about protecting you, your business and your reputation. As an operator you want to avoid regulatory action being taken against you or any criminal prosecution against your company or you personally.

There are some basic issues that you should consider, regarding repute, finance, transport managers, operating centres, legal entities, maintenance and drivers.

You can find further information on these on our website, at

www.woodfines.co.uk/blog/steering-you-through-2018





Woodfines' Transport team represents operators and drivers on a national basis by providing bespoke commercial, regulatory, litigation and employment support. Our team of experienced commercial lawyers will work in partnership with you to maintain and protect the reputation of your organisation and enhance the success of your business.

On 19 July 2016, the European Commission concluded a five-year EU antitrust investigation into six leading truck manufacturers. The Commission investigation established that between 1997 and 2011, there had been collusion between the manufacturers in the European Economic Area to fix the price of units over 6 tonnes.

In addition, the investigation demonstrated that these unfair pricing practices were timed to coincide with the introduction of emissions technologies so that the cost of those technologies, including Euro 3 and Euro 6, could be passed on to customers by stealth. Five of the manufacturers - MAN, DAF, Daimler, Iveco and Volvo/ Renault - agreed to reach a settlement with the EU Commission worth a record EUR2.9bn. However, Scania refused to cooperate with the European Commission during the investigation or accept its July 2016 findings.

On 27 September 2017, the Commission imposed a fine of €880,523,000 on Scania for breaches of EU antitrust laws.

Any person or firm affected by the Commission's antitrust investigation may bring a complaint to the national Courts of England and Wales and seek compensation on the basis that a Commission decision constitutes binding proof that the manufacturers have engaged in illegal antitrust practices.



Andrew Carter,
Partner

In effect, any operators which leased or purchased tractor units during this period may be entitled to compensation. It is not necessary for the operator to have contracted directly with the manufacturer and in addition to seeking direct losses for the price fixing, operators may be able to claim compensation for any secondary or consequential losses.

Claims for compensation should be brought before the Competition Appeal

Tribunal in London. The Competition Appeal Tribunal is a specialist judicial body with cross disciplinary expertise in law, economics, business and accountancy and whose function it is to hear and decide cases involving competition or economic regulatory issues. Early indications are that operators may stand to recover up to £6,000 per unit on average.

If you are an operator, whether sole trader or large corporate entity, and you would like advice from us about how to make a claim for compensation please get in touch.



Success for Cross-Border Taxi Licensing Operator

Woodfines' Transport team recently successfully acted in the first known prosecution under the Deregulation Act 2015. With Mike Hayward and Nathan Taylor-Allkins, Skyline Taxis and Private Hire Limited and its Managing Director, Gavin Sokhi, have succeeded in persuading the Divisional Court to dismiss Milton Keynes Council's appeal by way of case stated and have had the lawfulness of their booking arrangements, which utilises the iCabbi computerised system, upheld.

The Milton Keynes private hire and taxi operator, represented by Kevin Leigh and Daniel Oscroft of No5 Barristers' Chambers, had successfully persuaded the Magistrates' Court that there was no case to answer before District Judge Malcolm Dodds sitting at High Wycombe Magistrates Court. Milton Keynes Council then appealed by way of case stated to the Divisional Court where the matter was heard before Lord Justice Hickenbottom and Mr Justice Gilbart.

They handed down a comprehensive judgment dismissing the appeal and



Nathan Taylor- Allkins
Solicitor

ruling that the Deregulation Act changes clearly were not intended to inhibit modern commercial life by requiring manual booking systems.

The Council had alleged that the iCabbi computerised system operated by the company breached the change in the law regarding subcontracting work to another licensed operator. In this case that operator was another part of the Skyline business licensed separately by the neighbouring South Northamptonshire District Council.

Milton Keynes Council saw this as a test case and sought to argue that the law required human intervention in the booking system and further that acceptance of the cross-border booking had to occur physically in the other district.

The Divisional Court held that there was nothing in the statutory scheme that prevented associated licensed operators sharing the same computerised system. Skyline and Mr Sokhi have long and unblemished records as operators and the judgment of the High Court confirms that they are responsible operators that have fully engaged with adopting the iCabbi system following deregulation.

The Divisional Court agreed with the District Judge that the iCabbi system specifically provided for a lawful method of transferring bookings between licensed operators in different districts and provided a thorough record of such bookings that showed they were lawfully contracted.

For more information on this ruling or any other taxi, transport or regulatory query, please get in touch.



Revised Financial Standing Levels

In December 2017, the Office of the Traffic Commissioner issued the 2018 financial levels for commercial vehicle operators.

These revised financial levels came into effect on 1st January 2018. Applicants and existing operators must now meet the new requirements.

The revised financial levels for standard national and international licence applications and operators are:

There is no change for applicants or holders of restricted licences. The levels remain at £3,100 for the first vehicle, and £1,700 for each additional vehicle.

If you have any concerns or questions regarding the financial requirements, or would like us to carry out a business/financial healthcheck on your business and/or vehicles, please do get in touch.



Michelle O'Garro
Solicitor



	2018	2017
First Vehicle	£7,950	£7,850
Additional Vehicle	£4,400	£4,350

Woodfines Transport Conference 2018

Date: Thursday 3rd May 2018
Time: Starting 08:30
Venue: IWM Duxford,
Cambridgeshire
Cost: £45.00

We are pleased to confirm that the headline speaker at our May conference will be Senior Traffic Commissioner, Richard Turfitt.

Further details and speakers will be announced on our website
www.woodfines.co.uk/event/road-transport-conference

For bookings, please contact **Kerry Ransby** on **01234 270600** or email at kransby@woodfines.co.uk

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