

Trial by FIRE

Even on a restricted licence, the transport manager remains responsible for recording and carrying out truck maintenance, found traffic commissioner Nick Denton in a mock public inquiry. Steve Bannon reports

No business with an O licence ever wants to receive a calling-in letter from the traffic commissioner inviting whoever is responsible for its vehicles to attend a public inquiry.

The black block capitals at the start of the letter warning that its contents require urgent attention are worrying enough. Even more worrying are the black block capitals appearing a little while later which state that the outcome of the inquiry could involve the revocation of the firm's precious licence.

Fortunately, the majority of O licence holders never receive such a letter, because they comply with the undertakings they gave when the licence was originally granted. In particular, they maintain their vehicles properly and observe the drivers' hours rules.

However, Birmingham builders' merchant Brexit Building Supplies was most certainly called to a public inquiry, in which company director David Ashford was asked some awkward questions by West Midlands traffic commissioner Nick Denton (pictured, upper inset).

If you've never heard of this company – the holder of a restricted licence with three dilapidated trucks ranging from six to 13 years old and a single operating centre – then that is because it does not exist. What we're talking about is a mock public inquiry staged at the IRTE Conference to bring home to delegates the penalties that can be visited on them and their companies if they break the rules.

At least Ashford (who in reality is director, transport and compliance manager at KBC Logistics, and is pictured, main image) had had

the sense to seek legal representation, as advised in the letter.

Putting the case – such as it was – on his behalf was Andrew Woolfall, director of specialist transport law solicitors Backhouse Jones. James Backhouse, also a director at the firm, played the role of clerk to the inquiry and narrator (pictured, lower inset).

"You're not obliged to attend a public inquiry," he observed. "But you won't have much of a chance if you don't turn up."

A traffic commissioner has the power to suspend or curtail an O licence, as well as revoke it, he reminded delegates. He or she can also disqualify an individual as a transport manager and disqualify a company and its directors from holding a licence for a defined period, or indefinitely.

Allan Campbell of Road Transport Solutions, who is an operator licensing consultant, played the part of the Driver and Vehicle Standards Agency (DVSA) examiner. He had compiled a report on Brexit's three trucks, and had clearly not liked what he had found.

His schedule of seven roadworthiness prohibitions issued over the past two years – two of which were S-marked, denoting serious maintenance failures – ran to three pages and included everything from defective exhausts and illegal tyres to split or missing rear wings, along with brake lights and indicators missing or not working.

"It looks a lot worse on paper than it really is," Ashford pleaded. "I think the trucks are safe although they might look a bit scruffy round the edges."



"You're not obliged to attend a public inquiry, but you won't have much of a chance if you don't turn up"

James Backhouse

On visiting Brexit's operating centre at 14 Station Road, Campbell found that there were large gaps of up to 32 weeks in the six-weekly safety inspection reports, with only nine reports covering all three vehicles for the whole of 2016. He could only find one driver defect report book.

The company's MOT failure rate stood at 54% compared with a national average of 20%.

Other issues that arose were the failure of a driver to stop when signalled to do so by a DVSA enforcement officer, and Brexit's habit of repeatedly parking and loading its trucks in the street outside its premises rather than in its operating centre – a practice which had attracted complaints.

FACT

A traffic commissioner has the power to suspend or curtail an O licence, as well as revoke it



In addition to all the foregoing, Brexit's drivers had committed numerous hours offences involving failures to take breaks and weekly rests, and driving without a card inserted. Another question raised was whether the £50 charged by maintenance provider Fix It Garage was sufficient to cover a truly comprehensive safety inspection.

As the inquiry progressed it emerged that Ashford's son Duncan had been made responsible for the vehicles – even though he knew next to nothing about transport – after the previous transport manager left.

"He's not the sharpest tool in the box and he couldn't get a job anywhere else," Ashford said.

So had Duncan received any training to date to help him fulfil his role as transport manager? Apparently not. "I didn't think it was that difficult a job, to be honest," said Ashford.

Perhaps he could have given his son a few pointers. "I don't know anything about lorries," he said. "I just use them to move the stuff about." Duncan was apparently being sent on a training course in the very near future. "Don't know what he'll get out of it though," his father remarked.

Ashford was leaving trucks in the street because building materials he had bought were blocking their parking spaces inside his depot. "I didn't think it was that important," he said; despite the fact that it had been the subject of a previous public inquiry.

In mitigation, Andrew Woolfall said that David Ashford planned to attend a transport manager's Certificate of Professional Competence course. He accepted that several safety inspection sheets for

2016 were missing, but stressed that the inspections had been carried out, and added that this could be seen through invoices.

Safety inspection sheets for 2017 were all available, he said, and while no driver defect books had been completed in 2016 – "some of the drivers are not that sharp when it comes to writing," Ashford remarked – proper records had been kept this year.

Nick Denton clearly harboured strong doubts about this Damascene conversion, however. "Some of the things that were found caused my eyebrows, not just to shoot up, but to part company with my face," he remarked. "I found relatively little on the positive side of the balance," he said when issuing his decision. "Training for David Ashford has been booked, but only two days before the public inquiry," he added. "This is too little and too late."

He clearly doubted that Brexit's conduct would change. "The company has operated seriously unroadworthy vehicles and has failed to instil the necessary culture of safety into its drivers," he said.

"David Ashford clearly took no interest in the safety of the company's vehicles or in its compliance with the drivers' hours rules.

"The result was a company culture where vehicle and driver safety were simply ignored," he continued. "Road safety and fair competition against operators who take the trouble and go to the expense required to comply have been jeopardised. The company deserves to go out of business."

Not surprisingly, Brexit's licence was revoked; a verdict clearly endorsed by the conference delegates. Furthermore, David Ashford (still in character as Brexit's clueless director) was disqualified from holding or obtaining any type of O licence in any traffic area, and from being a director of any company holding such a licence for three years.

"You are clearly an incompetent person and your conduct has been disgraceful," Denton told Ashford.

While some of the exchanges between Nick Denton and David Ashford caused the conference delegates amusement, the most worrying aspect of this mock public inquiry is that it was apparently based on a real case, but with the names changed. What it underlines is that a failure to comply with O licence undertakings can lead to severe penalties – penalties that could ultimately result in the closure of a business. ■

