

ROAD TRANSPORT LICENSING COMMITTEE

Committee Meeting

Minutes of a meeting held in public of the Road Transport Licensing Committee ("the Committee" or "the RTLCL") held at 09:30 on Thursday 21st April 2022 in the Board Room at Thie Slieau Whallian, Foxdale Road, St John's.

Present: Mr G Curphey (Chair)
Miss M Norman (Vice Chair)
Mr C Kniveton
Mr M Devereau
Mr J McBride

In attendance: Mr N Capewell (Secretary)
Mr S Callister (Project Co-ordinator)

The meeting commenced at 09:45.

Organic Construction Solutions ("OCS") – New GV Operator Registration

Mr Callister advised that the applicant wished to apply for an Operator Registration and operate one goods vehicle. He added that the registered address and the proposed operating centre were identified in the application as Unit 5, Springham Park, Spring Valley Industrial Estate, Douglas.

Mr P Titterton, a Director of OCS, entered the meeting at 10:08 and elected to give evidence under oath. He was accompanied by Mr J Hourihane, who chose not to give evidence.

Mr Titterton explained that the company was formed in 2010 and undertook bespoke construction projects with the aim of using as many organic materials as costs allowed. He confirmed that the company intended to use one 7.5 tonne tipper vehicle, bought in November 2021, which obliged them to apply for an Operator Registration.

Mr Titterton stated that OCS used BVS Vehicles for their regular safety inspections, which were undertaken every three months. BVS would keep maintenance records and OCS would keep receipts for work carried out. He added that they would use Autosparks Ltd to prepare their vehicle for its annual test and for any minor works required in between regular safety inspections. Both BVS and Autosparks issued copies of checklists for work carried out. Mr Titterton circulated a daily check and defect recording form and said that the vehicle would be used two or three days a week. He added that there were four potential drivers of the vehicle.

The Committee reminded Mr Titterton that he should enter into written contracts which would oblige OCS' drivers to inform him should their medical circumstances change to the extent that it would affect their ability to drive or if they were convicted of any offences.

Mr Titterton advised that the OCS fleet currently consisted of one truck, one mini truck and four vans and confirmed that OCS were of appropriate financial standing to maintain and operate their fleet. He added that OCS employed a quantity surveyor and an office manager to oversee all corporate aspects of the company.

The Secretary said that, as the responsible officer for a registered goods vehicle operator, Mr Titterton must be aware of the Road Transport Act 2001 ("the Act") and its supporting regulations. He further advised Mr Titterton to visit the RTLCL website to find the relevant legislation, paying particular attention to section 20 of the Act, which laid out the operator's responsibility to inform the Committee in writing should any OCS driver be convicted of an offence in the course of their transport undertaking within 28 days of that conviction.

The Secretary remarked that the Committee would shortly be discussing a proposal to make all operator discs registration-specific and Mr Titterton advised that he was in favour of the proposal.

Messrs Titterton and Hourihane left the meeting at 10:28 and the Committee proceeded to discuss the application.

Mr BS Hesketh – New PPV Operator Registration

The Secretary advised that the applicant wished to apply as a new operator under Part "A" of the Register of Public Passenger Vehicles through the addition of one Section 29 Ply for Hire vehicle of up to eight passenger seats in the East District (wheelchair accessible), following the transfer of business under the provisions of the Road Transport Regulations 2018, from the previous operator Mr JC Stevens. He added that the operating centre was identified in the application as 1 Thirlmere Avenue, Onchan and approval from the Planning Section at the Department of Environment, Food and Agriculture ("Planning") was not required as this address was already an approved operating centre.

Mr BS Hesketh entered the meeting at 10:32, accompanied by Mr S Hesketh, his father and nominated Transport Manager. Both men elected to give evidence under affirmation.

Mr BS Hesketh described what his responsibilities as a PPV Operator would be by stating that he would be working for himself and he would be responsible for vehicle maintenance as well as business advertising and marketing. As Mr BS Hesketh would be undertaking 99% of the driving, he confirmed that he would be responsible for completing daily checks on his vehicle as well as ensuring that regular safety inspections were scheduled at Auto Solutions Ltd every three to four months. He circulated a daily check sheet and maintenance schedule. The Committee suggested that he add a daily mileage column to the check sheet and include the registration number of the vehicle he was driving. Mr BS Hesketh said that he would make these amendments.

Mr BS Hesketh confirmed that he had brought a business plan with him and was happy to submit it at the end of the meeting. He circulated a "daily takings" sheet as well as a log of daily journeys and advised that he was currently driving for his father. He added that he had carried out around 1,000 journeys with Telecabs since becoming a PPV driver in February 2022.

Mr BS Hesketh confirmed that he had sufficient finances to maintain his transport undertaking, with expenses totalling roughly 20-25% of his takings. He added that was currently earning enough to pay himself a small wage and have enough left over to maintain his vehicle and advised that he had applied to the Department of Enterprise ("DfE") for a micro business grant and, should his application be successful, he suggested that this would serve to help expand his business.

Mr BS Hesketh was asked what he had actually bought from Mr Stevens. He replied that the transfer of business included Mr Stevens' Mercedes Vito vehicle and some client contracts. He stated that he was aware the Ply for Hire plate belonged to the RTLCL. Given that he only been a PPV driver for two months, the Committee asked why he wanted to be an operator now. Mr BS Hesketh advised that he had driven Mr S Hesketh's Ford Tourneo for Telecabs, but intended to stop using Telecabs as his service provider once his business took off.

Mr S Hesketh said that he had a lot of experience of being a PPV operator and was aware that all new operators with limited experience were advised to engage the services of a Transport Manager.

The Secretary advised Mr BS Hesketh to consult the relevant parts of the legislation as it applied to operators, particularly section 20, which dealt with the reporting of offences. He reminded both Mr BS and Mr S Hesketh that this section applied to both of them. As a new operator of a wheelchair accessible vehicle, the Secretary asked if Mr BS Hesketh was happy for the RTLCL to add his details to the list of wheelchair accessible vehicles on its website. Mr Hesketh said that he was and added that Mr Stevens would instruct him on the use of the wheelchair lift as he had no experience of operating such a vehicle.

Mr BS Hesketh stated that he had recently passed his minibus driving test. He was told to confirm this by email to the RTLCL office and his PPV Driver licence would be amended to allow him to drive minibuses.

Mr BS Hesketh was reminded that the RTLC received copies of all test failures experienced by PPVs at the Vehicle Testing Centre ("VTC") and should his vehicle have any significant failures he might be invited into a future to Committee meeting to explain what had happened.

Messrs Hesketh and Hesketh left the meeting at 11:09 and the Committee proceeded to discuss the application.

The public meeting was adjourned for private business at 11:10 and resumed at 11:42.

Mr TS Moore – Section 29 Ply for Hire Service Licence Application

The Secretary said that the applicant wished to apply for a Section 29 Ply for Hire Service Licence ("S29 Licence") on expiry, through the provision of one Ply for Hire taxi in the East District.

Mr TS Moore and Mr MCR Moore, his son and driver, were already present, having previously been involved in the private meeting. Mr TS Moore elected to give evidence under oath and confirmed that it was his intention to continue as a PPV operator.

Mr TS Moore was asked if he had made any progress with an employment contract between himself and his driver, Mr MCR Moore. Mr TS Moore argued that the taxi employed his son. As such, Mr MCR Moore was self-employed and not an employee of his.

Mr TS Moore then stated that Mr MCR Moore owned 10% of the business. The Committee reminded Mr Moore that his son was driving a taxi owned and operated by him. Should Mr MCR Moore not meet the criteria for self-employment, DfE legislation required a contract of employment to be drawn up and the Committee strongly recommended that Mr TS Moore made enquiries with the DfE to find out what was required of him. Despite this advice, Mr TS Moore was adamant that his son was sufficiently autonomous to be exempt from such a contract. The Committee was disappointed that Mr TS Moore continued to ignore its advice, given that every other operator understood this requirement.

The Committee reminded Mr TS Moore that the issues previously discussed in the private meeting were serious and it had to consider whether to grant him another S29 Licence or initiate a Formal Inquiry. It added that a Formal Inquiry was a distinct possibility, especially if there was another annual test failure when the vehicle was due its next annual test towards the end of this year.

Messrs TS and MCR Moore left the meeting at 11:53 and the Committee proceeded to discuss the application.

The public meeting was adjourned for private business and lunch at 12:06. It resumed at 13:45.

Mr GG Rees – Variation of a PPV Operator Registration

The Secretary said that the applicant wished to vary the operator registration under Part "A" of the Register of Public Passenger Vehicles by combining his previously separate Ply for Hire service licences to operate in the East District and the Malew District onto the same Ply for Hire plate. This would result in the same vehicle being allowed to operate in both Districts but there would be no overall increase in the number of service licences in use.

The Committee proceeded to discuss the application.

Ms SM Holt and Mr AJ Ramsay – Variation of a PPV Operator Registration

The Secretary advised that the applicants wished to vary the operator registration under Part "A" of the Register of Public Passenger Vehicles through a change in the name of the registration following the marriage of one of the joint operators. He added that the new name of the registration would be "Mrs SM Harrington and Mr AJ Ramsay".

The Committee proceeded to discuss the application.

Mr JA Stephen – Variation of a PPV Operator Registration

The Secretary said that the applicant wished to vary the operator registration under Part "A" of the Register of Public Passenger Vehicles through a change of registered address and operating centre. He added that the new registered address and operating centre were identified in the application as 7 Carnane Lane, Ballakilly, Rushen.

The Secretary advised that an assurance from Planning regarding the suitability of the proposed centre was not be required. Should the application be successful, the applicant would be surrendering 38 Ballakermeen Close, Douglas as an approved operating centre.

The Committee proceeded to discuss the application.

Geoff Cormode Ltd – Variation of a GV Operator Registration

Mr Callister stated that the applicant wished to vary an Operator Licence through the addition of one goods vehicle.

The Committee proceeded to discuss the application.

Manx Gas Ltd – Variation of a GV Operator Registration

Mr Callister said that the applicant wished to vary an Operator Licence through the addition of one goods vehicle.

The Committee proceeded to discuss the application.

Kinrade Bros. Haulage Ltd – Variation of a GV Operator Registration

Mr Callister said that the applicant wished to vary an Operator Licence through the addition of one goods vehicle.

The Committee proceeded to discuss the application.

Brendan Downey Construction Ltd ("BD Construction") – New GV Operator Registration

Mr Callister advised that the applicant wished to apply for an Operator Registration and operate three goods vehicles. He added that the registered address and proposed operating centre were identified in the application as Unit 29, Phase E, Middle Park, Middle Farm, Braddan.

Mr Downey, the owner/Director of BD Construction, entered the meeting at 14:03 and elected to give evidence under oath.

Mr Downey explained that he intended to operate one goods vehicle for his construction business, which was primarily focussed on new builds, extensions and infrastructure insurance work. He added that the company was established in 2014, employed four people and also operated four smaller vehicles.

Mr Downey confirmed that he would act as Transport Manager for the business and that daily checks would be undertaken by his drivers, with any faults being recorded and vehicles being sent to TG Plant Services for rectification. TG Plant Services would also carry out regular safety inspections every 12 weeks, which Mr Downey thought would be sufficient as the goods vehicle would not be used every day, and copies of all maintenance records would be kept at Mr Downey's office.

Mr Downey admitted that he didn't currently perform recorded daily checks of his vehicles but was going to do so if his application was approved. The Committee suggested that he should record mileage totals on the daily check sheets and to draw up contracts of employment with his drivers, so that they were obliged to report any convictions earned during the course of their duties and any changes to their medical circumstances which would affect their ability to drive. Mr Downey agreed that this was a good idea.

Mr Downey advised that he had applied to operate three goods vehicles so that he had enough capacity to continue operating in case of business expansion or the need for a spare vehicle should his main vehicle break down.

Mr Downey was reminded that the RTLC received copies of all test failures experienced by GVs at the VTC and should any of his vehicles have any significant failures he might be invited into a future to Committee meeting to explain what had happened.

Mr Downey confirmed that he had sufficient financial resources to operate and maintain his transport undertaking and the Committee reminded him that it was best practice to retain all records pertaining to his operation for at least 15 months. The Secretary recommended that Mr Downey consult the relevant RTLC legislation on its website. He added that section 20 of the Act was worth looking at as it dealt with his responsibility to report convictions to the Committee.

Mr Downey left the meeting at 14:17 and the Committee discussed the application.

Minutes of a public meeting – 29th March 2022

The minutes were read, reviewed and approved as a true reflection of that meeting with minor amendments being made.

Urgent Matters as Approved by the Chair

There being no other business, the public meeting was closed at 14:26.

The minutes were signed by the Chair Mr G Curphey on 24 May 2022

Noel Capewell
Secretary
Road Transport Licensing Committee