



ROAD TRANSPORT FORUM

What are the chances of coming away unscathed from a Public Inquiry?

The Traffic Commissioners' Annual Reports 2013-14 has recently been published and the data on Public Inquiries makes interesting reading.

Although the actual number of Goods Vehicle Operators Public Inquiries held has fallen from 996 in 2012-13 to 915 in 2013-14, the proportion of operators having their licences revoked at these hearing has increased by approximately 5% in the same period.

In 2013-14:

- Over 35% of Goods Vehicle operators attending Public inquiry had licences revoked.
- Over 48% of Goods Vehicle operators attending Public Inquiry had licences revoked or suspended.

It is important that operators prepare thoroughly for Public Inquiry and, not only make sure they take all the relevant evidence with them on the day, but make sure that evidence is presented properly to the Traffic Commissioner. It is an unfamiliar situation for most people and even the most confident and articulate of operators can become tongue-tied under the stresses of an Inquiry.

Operators should carefully consider the gamble they may be taking by attending a Public Inquiry on their own. An Operator should ask themselves:

- How important is my licence to my business?
- Could my business function without a Licence?

Paying for representation may appear an unnecessary cost to an operator called to Public Inquiry. However, that cost pales into insignificance when set against the financial cost of an unsatisfactory outcome.



Should you instruct a solicitor for your Public Inquiry?

A recent appeal against a Traffic Commissioner's decision at the Upper Tribunal highlights why you should be very careful when deciding whether to use a transport consultant or a solicitor to represent you at a Public Inquiry.

The company chose to engage the services of a transport consultant to represent them at the Public Inquiry. At the hearing, the operator's licence was revoked and the directors were disqualified from holding or obtaining a goods vehicles operator's licence for a period of two years.

The company and directors chose to appeal and instructed solicitors and a barrister to represent them at the appeal. The Upper Tribunal overturned the decision and the matter was remitted to be heard at a new Public Inquiry.

At the appeal hearing the company's barrister submitted that the transport consultant "had made a series of statements to the Deputy Traffic Commissioner which were factually incorrect and which fundamentally misrepresented the position of the operator and directors."

The Tribunal also took the view that the company had been offered "extraordinary advice", and not in a good way!

Presumably, having learned their lesson the hard way, the company will choose to instruct the solicitors to represent them at the new hearing.

In total, the process probably cost them three or four times the price it would have cost if they had simply instructed the transport solicitor in the first place!

A dozen facts on HGV compliance in Britain

The Department for Transport's Fleet Compliance Checks 2013/14 has been published and here are a dozen facts we've pulled out of it.

1. The overall prohibition rate has remained approximately constant. It is currently at 10.2%. It has remained between 9.8% and 10.4% for the last five years. Whereas in 1997 it was at 16.6%
2. The number of actual vehicle inspections has almost halved from a high in 2005 of over 4500 vehicles to a just over 2500 vehicles in 2013.
3. The area of Merseyside, Cheshire and North Wales receives the lowest proportion of prohibition notices in Great Britain. Only 4.3% of vehicles receive a prohibition, compared to 17.3% in the South East.
4. Sunday is the day which had the lowest proportion of prohibitions issued (3.7%). Friday has the highest proportion (12.1%).
5. May appears to be the safest month with 91.5% of vehicles receiving no prohibitions. Whilst strangely April appears to be the worst with 84.3%.
6. Rigid HGV's receive proportionately more prohibitions than articulated HGV's (12.9% compared to 7.8%)
7. 4-axle vehicles receive the highest proportion of prohibitions at 17.3%. 3-axle vehicles receive the least at 9.3% (disregarding 5 axle vehicles which were only stopped once last year).
8. You're most likely to get a verbal warning in the Western Traffic Area and least likely to in Scotland.
9. You're approximately twice as likely to get a verbal warning in the morning than the afternoon.
10. You're more likely to get a verbal warning on a Friday than any other day.
11. Macedonia has the highest proportion of prohibited vehicles in Europe with 77.8% receiving a prohibition. (Ignoring all countries which had less than 5 vehicle inspections.)
12. Latvia and Sweden were the only countries to have a lower prohibition rate than GB.

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