



# Non-compliant vehicle operators and the 'Public Inquiry'

In the previous issue of *AccessPoint*, we discussed the common mistakes scaffolders can make with load securing and the resulting roadside inspection conducted by the Driver and Vehicle Standards Agency. In this article, **Hedy Aghdam** from transport management consultancy GVL Management Limited explains when a Public Inquiry might be called and what to expect.



A roadside stop by the Driver and Vehicle Standards Agency (DVSA) can discover not only an insecure load but also a number of maintenance issues, such as an out-of-date annual test certificate or under-inflated tyres. And if this DVSA check highlights a comprehensive failure in compliance, placing other road users in danger, this will lead to the operator being asked to attend a Public Inquiry.

## What is a Public Inquiry?

A traffic commissioner's Public Inquiry (PI) is a type of disciplinary hearing held to question the operator directly. In most cases, the PI is due because of failure to comply with the undertakings of the Operator Licence Regulations and the Goods Vehicle (Licencing of Operators) Act 1995. The operator is expected to explain any compliance issues and failures that have caused the concerns. The traffic commissioner will consider

evidence from the operator, usually alongside evidence provided by the DVSA and/or other regulatory authorities, and can decide to revoke, refuse, curtail, suspend and, in severe cases, disqualify an operator from operating heavy goods vehicles now or in the future – they have wide-ranging powers.

## Preparing for a Public Inquiry

Public Inquiries are set up by the government (under the Inquiries Act 2005) and are considered 'a Court of Law'. However, an operator does not necessarily require a solicitor to represent them at the PI. In fact, in most cases – with the permission of the traffic commissioner – a consultant or transport manager with PI experience can be more beneficial than a commercial solicitor because they have a better understanding of how the regulations are implemented in practice.

The main step for preparation for a PI is ensuring that you are

compliant with all the regulations set out in your operator's licence and that proper compliance systems are in place prior to the inquiry itself. A comprehensive audit, especially one undertaken by a DVSA-approved auditor, will determine whether your systems and procedures satisfy both the DVSA and the traffic commissioner.

A compliance audit covers all areas of the undertakings, including tachograph and driver hours, vehicle record keeping, maintenance and defect reporting. An audit and a full report of findings will identify the shortcomings and faults which can help the operator to correct and

improve the highlighted areas and be used as evidence to demonstrate compliance. Audits are undertaken by professional consultants with the knowledge and experience to explain regulations and requirements to the operator and assist them in putting things right.

## The role of a transport manager

Although restricted licence holders are not required to nominate transport managers, in the case of a Public Inquiry, some do employ transport management individuals to oversee vehicle and driver compliance.

Having a transport manager on board prior to the PI can be very effective because it suggests the operator is taking the required action to put things right. During the enquiry, the transport manager can show that they have improved systems within the business and will support the operator going forward.

Demonstrating the right approaches before and during a Public Inquiry can have an impact on the status of the licence and the outcome of the hearing.

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## Being called to Public Inquiry

A scaffolding contractor was asked to attend a Public Inquiry following repeated instances of insecure and overloaded vehicles and a recorded MOT failure. The company sought advice and ongoing consultancy support from GVL Management Limited regarding its overall level of compliance to address the failings and demonstrate to the traffic commissioner that it was seeking to become fully compliant with the regulations.

In response to the DVSA findings, GVL proposed a number of compliance solutions as below, which included appointing an external transport manager to take responsibility for the operator's licence and lead the improvement project.

- Ensuring vehicles are kept fit and serviceable, not overloaded and operate within given speed-limits
- Ensuring drivers promptly report, in writing, any defects/symptoms of defects that could prevent the safe operation of the vehicle
- Ensuring that the number of vehicles kept at the operating centre does not exceed the number of vehicles authorised
- Ensuring all records are accurately completed and that the correct systems and procedures are put in place to enable the operator to maintain regulatory compliance

In addition, necessary document revisions were completed and further recommendations, including driver training, made in relation to day-to-day management of the fleet department.