

Neutral Citation Number: [2017] UKUT 438 (AAC)

Appeal No. T/2017/55

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER
TRAFFIC COMMISSIONER APPEALS**

**IN AN APPEAL FROM THE DECISION OF
Fiona Harrington, Deputy Traffic Commissioner for the
WEST OF ENGLAND TRAFFIC AREA dated 19 July 2017**

Before:

**Her Hon. Judge J Beech, Judge of the Upper Tribunal
Leslie Milliken, Specialist Member of the Upper Tribunal
David Rawsthorn, Specialist Member of the Upper
Tribunal**

Appellant:

ALISTAIR WALTER

Attendances:

For the Appellant: Harry Bowyer, Counsel instructed by Cartwright King solicitors

Heard at: Field House, 15-25 Bream's Buildings, London, EC4A 1DZ

Date of hearing: 24 October 2017

Date of decision: 8 November 2017

DECISION OF THE UPPER TRIBUNAL

IT IS HEREBY ORDERED that the appeal be ALLOWED in part and the case remitted for a hearing on the issue of good repute before a different Traffic Commissioner

SUBJECT MATTER:- Operator/transport manager; loss of good repute as Transport Manager without an order of disqualification and retention of good repute as Operator. Balancing exercise and proportionality.

CASES REFERRED TO:- Bradley Fold Travel Ltd & Peter Wright v Secretary of State for Transport (2010) EWCA Civ. 695.

REASONS FOR DECISION

1. This is an appeal from the decision of Deputy Traffic Commissioner Harrington for the West of England Traffic Area (“the DTC”) made on 17 July 2017 when she:
 - a) Curtailed with immediate effect Mr Walter’s operator’s licence from four vehicles and four trailers to three vehicles and three trailers under section 26(1) of the Goods Vehicles (Licensing of Operators) Act 1995 (“the Act”);
 - b) Determined that Mr Walter had lost his good repute as transport manager for an indefinite period. No rehabilitation measure was identified by the DTC as Mr Walter had previously obtained his CPC qualification as required by the DTC in 2012 following a public inquiry. Having made that finding, the DTC did not go on to make any order of disqualification as she was required to do under paragraph 16(1) of schedule 3 to the Act, whether for an indefinite period or for such period as she thought fit.
 - c) Revoked Mr Walter’s operator’s licence under ss.26(1) and/or 27(1) of the Act with effect from 23.59 on 15 October 2017 (later varied to 20 November 2017) if it appeared that Mr Walter’s operation continued to lack professional competence. Mr Walter was required to nominate a suitable transport manager for his licence, other than himself, with that individual being accepted by the Traffic Commissioner as being suitable. The period of grace was to enable Mr Walter to either wind down his business whilst using the licence or to satisfy the requirements of professional competence;
2. Whilst the grounds of appeal seek to challenge the loss of Mr Walter’s good repute as transport manager, the revocation of Mr Walter’s operator’s licence and the curtailment of the licence, the challenge to the licence curtailment was abandoned during the course of the appeal hearing and it was intimated that Mr Walter would be nominating a suitable transport manager by 20 November 2017 thus avoiding the revocation of his licence. In the circumstances, this decision is now confined to the DTC’s determinations in relation to Mr Walter’s good repute as transport manager.

Background

3. The background to the appeal can be found within the papers and the DTC’s written decision and is as follows: Mr Walter had previously been associated with Alistair Walter Transport Limited, a company which had held an operator’s licence since June 2003. As the Case Summary contained within the appeal bundle sets out in relation to that licence:

“Two maintenance investigations were carried out on 1 July and 6 August 2009, where the operator was issued with two “S” marked prohibitions. During the investigations a general lack of compliance in operator record management and vehicle maintenance, as well as a number of blatant inconsistencies in record-keeping led to a public inquiry on 25 May 2010. The result of the public inquiry was the revocation of their then operating licence. An interim licence was granted (to Mr Walter) with undertakings attached.

On 4 July 2011, the operator (Mr Walter) was granted an application for a new standard national licence with a variation authorising 5 vehicles and 3 trailers. The licence carried a number of undertakings. Traffic Commissioner Sarah Bell also requested that an MIG be carried out 6 months later to make sure that the operator was being compliant”.

The case summary did not provide the detail of the undertakings given by Mr Walter.

4. In November 2011, a maintenance inspection was carried out by a vehicle examiner which was marked as “unsatisfactory”. That resulted in a public inquiry before DTC Harrington which took place before the DTC in June 2012. The Case Summary sets out the following:

“ .. The decision at the inquiry on 6 June 2012 was as follows:

- *The operator’s licence was curtailed to two vehicles and two trailers with immediate effect.*

Mr Walter was found to no longer meet the requirement of being professionally competent. It was recommended that in order to regain his competence he must pass a Certificate of Professional Competence. Furthermore, the operator no longer met the requirement to be professionally competent, at the current time, pending the appointment of a suitably qualified replacement transport manager. Mr Walter’s reputation was tarnished as an operator and transport manager by the shortcomings found”.

5. There are no other documents within the appeal bundle relating to the findings of the vehicle examiner or the public inquiry save for a letter from the Office of the Traffic Commissioner (“OTC”) noting the outcome of the public inquiry and attaching the following schedule of undertakings given by Mr Walter:

- (1) Compliance with all the following undertakings will be audited by a suitably qualified external consultant (“the Consultant”) every twelve months following the safety inspection of authorised vehicles and trailers. The first report will be submitted to the Operator no later than Friday 27th July 2012. Audit reports will be retained for at least 2 years. A copy of the report will be forwarded to both VOSA and the Traffic Commissioner by the Consultant within 14 days of its submission to the Operator.
- (2) The Consultant will provide a written undertaking to the Traffic Commissioner to comply with the Undertaking Number 1 above and to

inform the Traffic Commissioner in writing within 7 days of the termination of his contract with the Operator.

- (3) The Operator will notify the Office of the Traffic Commissioner in writing within 7 days of any change in the Consultant used confirming the name and credentials of the replacement. Any agreement with the consultant to be used must include an undertaking by that consultant as set out in Undertaking Number 2 above.
- (4) Safety inspections will be carried out by a suitably qualified external third party provider. Not less than every other PMI and pre-MOT preparation will be undertaken at a commercial garage. The safety inspections undertaken at the operator's premises will be carried out in the presence of the transport manager.
- (5) Safety inspections will be pre-planned 6 months in advance and never more than 6 weeks apart. The PMI reports will be fully and properly completed, including a signed certificate of roadworthiness, showing rectifications and retained for at least 2 years. The vehicles and the trailers will not be used under this licence unless and until a PMI record sheet is received following the most recent PMI which is signed off to show that all notified defects affecting roadworthiness have been repaired and signed to certify the vehicle or trailer as fit and roadworthy.
- (6) An audit of safety inspections will be conducted in not more than six months and not less than annually thereafter when 1 vehicle and 1 trailer will be checked by the Consultant or other suitably qualified consulting engineer. The findings will be recorded and made available to staff from VOSA or the Office of the Traffic Commissioner on request. After four consecutive, satisfactory audit reports the Operator may apply to have this undertaking removed from the licence.
- (7) Compliance and maintenance systems including documentation and records will be audited by the Consultant or other suitable (sic) qualified independent third party or trade association every twelve months. The first such audit will be carried out no later than 31 December 2012. Audit reports will be prepared, acted upon and retained for at least 2 years. A copy of the report will be forwarded to the Traffic Area Office within 14 days of its receipt together with the Operator's proposals for implementing its recommendations. After four consecutive, satisfactory audit reports the Operator may apply to have this undertaking removed from the licence.
- (8) There will be a nil defect daily driver reporting system. Defect reports will show rectifications and all reports will be retained for at least 2 years.
- (9) The Transport Manager will undertake a random audit of at least 1 driver per week to ensure he or she is undertaking their walk round checks correctly. The findings will be recorded and made available to staff from VOSA or the Office of the Traffic Commissioner on request.
- (10) All authorised vehicles and trailers will have a rolling road brake test ("RBT") at every other safety inspection not including the MOT. The results will be recorded and records kept for at least 2 years.
- (11) All authorised vehicles will have a thorough and effective pre-MOT inspection including an RBT. Records to be kept for at least 2 years.

- (12) All authorised vehicles and trailers will have wheel security inspections every week, which will be recorded in writing, including details of any problems found.
 - (13) All tachographs will be independently analysed by a suitably qualified external third party provider. Monthly reports will be prepared, acted upon and retained for at least 2 years.
 - (14) A driver CPC training programme provided by qualified training provider will be implemented and fully completed by 01 September 2014. The first 7 hour module will be completed by 30 September 2012; it will be on drivers' hours, tachographs and DDR. The operator will also ensure that all existing and new drivers will receive additional annual training on drivers' hours, tachographs and DDR where this has not been covered that year by the Driver CPC training given. A report on the satisfactory completion of this training is to be included in the Consultants monthly report. Written details of sessions and attendees must be submitted to the Traffic Area Office within 10 days of the course. Records of all such training sessions and attendees will be kept for at least 2 years.
6. Shortly following the public inquiry, Mr Walter nominated Robin Cooke as transport manager. On 17 March 2014, Mr Cooke wrote to DTC Harrington to inform her that he had resigned his position as external transport manager to Mr Walter's licence. The letter continued:
- "This is due to a situation with his partner Mrs Tickell developing a serious problem with her attitude to authority and compliance. I have given them several opportunities to rectify this but despite my best efforts this has now become irresolvable. Although Mr Walter has become more compliant in the last 21 months, in my honest professional opinion, he will continue to need serious support from a transport manager who also has technical expertise if he is to continue operating"*.
- The letter did not result in the DTC making a request for a further DVSA visit to the operating centre although an application to downgrade the licence to restricted was granted. The licence was subsequently upgraded to a standard international in May 2015 with Mr Walter as the nominated transport manager (Mr Walter having obtained a CPC qualification). Then in February 2016, Mr Walter's authorisation was increased to 4 vehicles and 4 trailers.
7. On 8 November 2016, Mr Walter was driving one of the licenced vehicles when he was stopped by Traffic Examiner Edmonds during a roadside check. Examination of Mr Walter's driving licence card revealed that his Category C + D entitlement had expired on 17 July 2016. Mr Walter was subsequently convicted of an offence of driving otherwise than in accordance with a licence and fined £500. During the subsequent public inquiry, the DTC accepted that Mr Walter's failure in this regard had been unintentional and inadvertent.
8. TE ("Traffic Examiner") Edmond's report resulted in TE Bendle undertaking a systems check at the operating centre on 18 November 2016 (no

maintenance investigation was conducted). At this stage, Mr Walter had 3 vehicles and no trailers in possession and his main business involved skip work and poultry transport. It was reported that Mr Walter had recently employed Jane Chidlow, who held a PSV CPC qualification to “*oversee the duties normally assigned to a transport manager*”. Ms Chidlow was employed for one day a week. The impression TE Bendle gained was that Mr Walter did not have any active role as an operator and transport manager and that Ms Chidlow had implemented the systems that existed whilst Mr Walter allowed Ms Chidlow and others to discharge his responsibilities. TE Bendle found deficiencies in the recording of Mr Walter’s hours of driving and other duties; a failure to submit tachographs for independent analysis every month; there was no evidence that Mr Walter checked the infringement reports when they were returned; the single analysis report that TE Bendle perused showed that all of the drivers’ hours infringements identified by the analysts were committed by Mr Walter himself including mode switch offences. It was impossible to ascertain what rest Mr Walter had taken and the Working Time Directive records that did exist (the system being only recently implemented), related to another driver employed by Mr Walter. There was no evidence of training in relation to drivers’ hours and records and there was no drivers’ handbook containing relevant information. Overall, TE Bendle’s assessment of the operational systems was “unsatisfactory”.

9. TE Bendle attached to her report, the last two independent audits submitted to the DVSA under undertaking No. 1. The May 2014 audit noted that Mr Walter was operating without a transport manager although steps were being taken to find a replacement. Out of twenty recommendations in the report, thirteen were classified as “essential” with “immediate action required”; one was “essential” requiring action within 2 months; four were “important” requiring action within 3 months. Included in the thirteen essential recommendations which required immediate action were actions in respect of wheel security, brakes, tachograph analysis and records. The 2015 audit which was carried out in October 2015 only covered vehicle maintenance and was surprisingly short compared to the 2014 audit. The only reference to drivers’ hours and records was as follows:

“A record of WTD is kept on a digital file and is run over a 26 week period. Tachographs are now going to an external checking company. Although this has fallen behind Mr Walter has been checking the .. discs. Mr Walter and staff cover all aspects of the transport operation to a high standard.”

It was noted that Jane Birt had been appointed to oversee all aspects of vehicle and driver operations and that she held a PSV CPC. The Tribunal assumes that this is a reference to Ms Chidlow.

10. In her report, TE Bendle gave advice to address deficiencies in ten areas. She noted her disappointment that some of the recommendations she had made had also been made in the 2014 Audit, for example, advice about systems relating to drivers’ infringements, recording of other work, checking that agency or casual drivers were “suitable” to drive and the Working Time Directive.

11. In answer to TE Bendle's report, Mr Walter wrote a letter setting out the steps that had been taken since her visit including "*tacograph discs are now going to be sent monthly for analysis*" and included an arrangement whereby Mr Walter and Ms Chidlow would have fortnightly meetings "*to discuss any issues and for Mr Walter to check over any recent action*".
12. The public inquiry took place on 20 June 2017. TE Bendle's evidence was agreed. Mr Walter attended and was represented by Mr Atkinson of OTB Eveling solicitors. Ms Chidlow did not attend. When Mr Walter gave evidence he was led through it by Mr Atkinson to a degree which this Tribunal found to have been unacceptable in the circumstances as it was impossible for the DTC to properly assess whether Mr Walter did in fact have any grasp or understanding of the systems which had been introduced by Ms Chidlow.
13. About the attendance by TE Bendle on 18 November 2016, Mr Walter stated that the reason he did not answer any questions asked by TE Bendle about his transport manager functions and responsibilities was because it appeared that TE Bendle and Ms Chidlow were getting on so well that he "*had a job getting a word in edgeways*". He would however, have been able to assist TE Bendle with her enquiries. Since her visit, he had tidied up the office; he had instituted random gate vehicle checks although he accepted that in relation to one that had been produced for the DTC, the defect found at the check was not marked as having been rectified; Ms Chidlow had set up a schedule to record the days upon which drivers had used a tachograph so that she could cross check it with those which had been handed in. Mr Walter accepted that a copy of that schedule which had been produced for the hearing showed that the system had not been used since January 2017; he now provided Ms Chidlow with the hours he spent upon other work so that she could make the necessary working time directive calculations. Of the annual audits obtained to comply with undertaking no.1, he had failed to obtain one for 2016 because of a misunderstanding on his part about what was expected of him. He accepted that the undertaking he had given concerning tachograph analysis was for monthly checks by an independent analyst. He further accepted that in the 2015 audit it was recorded that tachograph analysis had "*fallen behind*" and that it was not taking place monthly which he asserted was as a result of advice given by Robin Cooke. Mr Walter confirmed that he had taken over as transport manager and that in 2016, he had signed the operator licence renewal form in 2016 in which he declared that the undertakings he had given in 2012 were being complied with although he thought that Mr Cooke had been into the OTC and had some of the undertakings varied, although he did not give any further detail. The DTC referred Mr Walter to a tachograph report from Chartwell dated 21 May 2017 which covered the months January to April 2017 which demonstrated a continuing failure to comply with the undertaking to submit the charts for analysis on a monthly basis. The report itself noted 28 infringements, including break and rest infringements, although there was no evidence of falsification.
14. As for a forward planner, Mr Walter produced a photograph of it which showed inspections up to May 2017 and not six months ahead. Mr Walter

stated that this was because he filled the chart in using pencil and the detail was not evident on the photograph. He did this because the preventative maintenance inspections “*crept forward*”. The DTC did not accept his explanation.

15. He was not complying with undertaking no. 12 (weekly wheel security checks). The checks were being undertaken monthly and he accepted that there had been a lapse in the checking of driving licences because “the lady” who was responsible for those checks had undergone a knee operation. However, they were now being undertaken on a three-monthly basis. A record was now being kept of completed driver CPC modules and Ms Chidlow gave talks when there was time although he accepted that he had not received any drivers’ hours or records training since 2013 and the other full-time driver had not received any since 2014. He assured the DTC that refresher courses would be arranged for the drivers. Mr Walter considered that he had made significant improvement since the public inquiry in 2012 and he hoped to “*close the gap*” in the future between “*expectations and deliverance*”.
16. Following the public inquiry, Mr Atkinson sent an email to the DTC attaching further evidence which the DTC took into account. Neither the email nor the attached documents were included in the appeal bundle although the documents were subsequently sent to the Tribunal. They were in fact images of a fleet maintenance chart with forward planning to May 2018; a signed maintenance agreement and a tachograph schedule.

The DTC’s decision dated 19 July 2017

17. The DTC found that Mr Walter had failed to comply with the undertakings numbered 5 to 9, 12 and 13 (so seven in all) and that those breaches along with Mr Walter’s conviction resulted in findings in respect of s.26(1)(c)(i) and (ii), 26(1)(f) and (h). She then undertook the required balancing exercise. On the positive side was that in February 2016, the Traffic Commissioner had been satisfied that Mr Walter met the requirements of the Act because she granted an increase in Mr Walter’s vehicle authorisation to four vehicles and four trailers from the curtailed level of two vehicles and two trailers. Further, in 2015, Mr Walter had regained his good repute and his professional competence by passing the CPC qualification. It appeared that the undertakings were being complied with at that time although compliance was not sustained. The DTC accepted Mr Walter’s “*general explanations that administrative failures and work difficulties drew his time and attention away*” from his duties as transport manager along with his misunderstanding as to the requirements of the undertakings but his explanations did not excuse the failings found. They occurred despite the regulatory action and retraining required in 2012 which should have caused Mr Walter to place compliance at the forefront of his mind, particularly in his role as transport manager. Corrective actions had been taken by him but apparently reactive to the roadside check, TE Bendle’s systems check and the public inquiry rather than from the continuous, proactive management and monitoring required of an effective transport manager. Considering the position “*in the round*”, the DTC

found that Mr Walter had lost his good reputation as a transport manager. The DTC could not trust Mr Walter as an operator without the support of a suitable transport manager. His reputation as operator was “*very seriously tarnished*”. The DTC gave Mr Walter a period of grace to nominate a suitable transport manager but that if he failed to do so by 20 November 2017, his licence would be revoked.

The Appeal

18. At the hearing of this appeal, Mr Bowyer appeared on behalf of Mr Walter and a skeleton argument was submitted in advance for which we were grateful. Mr Bowyer summarised the appeal in this way: the “*meat of the matter*” was the decision of the DTC to remove the good reputation of Mr Walter as a transport manager indefinitely. The first ground of appeal (which was essentially repeated in ground 3) was that the DTC had failed to place sufficient weight on the extended period of compliance between 2012 and 2016 and placed too much weight on Mr Walter’s non-compliance in 2016 and 2017, particularly when the DTC had accepted Mr Walter’s explanations for his failings in terms of compliance and that in the circumstances, the DTC had failed to undertake a sufficient and proper balancing exercise. The undertakings given by Mr Walter were described in the skeleton argument and by Mr Bowyer as being “*extensive and unusually onerous*” and it was submitted that this should have been taken into account.
19. The Tribunal pointed to the fact that it was Mr Walter, who through his then solicitor, Tim Culpin (who is a highly respected specialist in the field of road transport regulation), offered the undertakings that are recorded on Mr Walter’s licence on his behalf. Whilst the undertakings are indeed extensive and onerous, they were, in all likelihood, the minimum that was required to address the very serious regulatory failings found in 2011, less than a year following the grant of Mr Walter’s licence, which in turn followed the revocation of the previous licence with which he was connected. In the absence of the undertakings, in all likelihood, revocation of Mr Walter’s licence would have been inevitable. Mr Walter cannot now complain about the breadth and number of the undertakings in those circumstances. It was for him to comply with them or to apply to the DTC to vary them. We are not satisfied that the DTC should have had specific regard to the onerous nature of the undertakings in those circumstances.
20. We further pointed to the resignation letter of Mr Cooke in 2014 and the Audit report of the same year which together demonstrated that Mr Walter’s regulatory compliance after 2012 appeared to leave a lot to be desired although there had been improvement. We are not satisfied in the circumstances that the DTC placed insufficient weight on Mr Walter’s regulatory compliance between 2012 and 2016 which Mr Bowyer had to concede was “*less than rosy*”. As for the weight which could or should have been attached to Mr Walter’s failings in the recent past, the DTC was perfectly entitled to take a dim view of Mr Walter’s lack of compliance. The documents he relied upon at the hearing did not generally assist him and demonstrated

continued breaches of the undertakings. By way of example, the tachograph analysis report and the random vehicle gate check. The forward planner did not even cover the date of the hearing let alone project six months forward, the entries ending as they did in May 2017. We are satisfied that the DTC was entitled to take the view that she did in respect of Mr Walter's failings in respect of compliance from 2012 and since 2016.

21. The next point was that the DTC failed to consider or identify any alternative realistic route to rehabilitation rather than making the finding that she did. Mr Bowyer suggested that the DTC could have ordered that Mr Walter attend a transport manager refresher course or a drivers' hours and records course. He submitted that the transport manager CPC qualification course does not in fact include a module covering the issue of how to deal with infringements once found and as a result, the course does not "*leave you fully equipped to manage a haulage company*". We are satisfied that there is nothing in this point. The DTC clearly considered Mr Walter's conduct as transport manager, against the backdrop of the undertakings he had given as an operator in 2012 and the previous requirement imposed upon him to pass the CPC examination. We do not accept that a refresher course or a drivers' hours and records course were realistic alternatives to losing his good repute in the circumstances particularly in relation to the latter suggested alternative, when the main issue was Mr Walter's failure in having the charts analysed on a monthly basis in the first place!
22. The final ground of appeal concerned the proportionality of the decision.

Discussion

23. We have not set out the detail of Mr Bowyer's final argument or indeed our full answers to the grounds of appeal raised. The reason for that approach is that we are satisfied that this appeal must succeed in relation to the issue of good repute and proportionality. It is clear from the DTC's decision, that she felt able to compartmentalise the issue of good repute as an operator and the issue of good repute as a transport manager in Mr Walter's case. It is questionable whether such an approach is feasible or appropriate when considering an individual in Mr Walter's situation and if it is feasible or appropriate, the DTC did not set out the reasons for such a proposition in her judgment. It was Mr Walter as operator who signed the application for an operator's licence and in doing so, gave the eleven standard undertakings which are designed to ensure that vehicles are kept fit and serviceable, that records are kept, the rules on drivers' hours and tachographs are observed, that the operation of the vehicles remain within the law (amongst other requirements). It was Mr Walter as operator who gave the additional undertakings to the DTC when his operation was called up to a public inquiry in 2012. At that stage, Mr Walter had held the licence for less than a year; he had been involved with one licence which had been revoked and he was found not to be professionally competent. It was Mr Walter as operator who completed the five-yearly renewal application form in 2016, declaring, as he was required to do, that all the undertakings attached to the operator's licence

were being complied with. It was Mr Walter as transport manager who made a declaration on his TM1 nomination form confirming that he understood his responsibilities set out in seven bullet points, six of which mirror the undertakings given by Mr Walter as operator along with confirmation that he would undertake effective and continuous control of the operation of the vehicles. In the circumstances of this case and in the absence of any detailed reasons for doing so, we cannot evaluate the DTC's reasoning or approach when determining that Mr Walter had lost his good repute as a transport manager but not as operator and vice versa.

24. The Tribunal has concluded that in the absence of reasons, the DTC's decision appears to be flawed. If it is the case that the DTC did not consider it to be a proportionate response to find that Mr Walter had lost his good repute as an operator, then she should have addressed the issue of proportionality with reference to *Bryan Haulage (No.2) (2002/217)* and *Priority Freight (2009/225)*. Further, having found that Mr Walter had lost his good repute as transport manager, she was required to disqualify him in that capacity, which she did not do. We do not consider it appropriate against the background of this case to impose a period of disqualification ourselves without giving Mr Walter an opportunity to make representations. If we were to do so, then in view of the DTC's findings that Mr Walter's loss of repute was for an indefinite period, the period of disqualification we would impose would have been indefinite.
25. We are satisfied that this is a case where the law and the facts impel us to interfere with the DTC's decision as per the decision in *Bradley Fold Travel Ltd & Peter Wright v Secretary of State for Transport (2010) EWCA Civ. 695* and the appeal is allowed. The case will be remitted for reconsideration before a different Traffic Commissioner. It may assist for a further vehicle and systems investigation to take place prior to the call up letter being issued. In the interim, the requirement to nominate a suitable transport manager by 20 November 2017 stands, failing which Mr Walter's licence will be revoked.



**Her Honour Judge Beech
8 November 2017**