



Anthony Hazell
[2023] UKUT 150 (AAC)

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appeal No. UA-2022-001133-T

On appeal from the Decision of Kevin Rooney, Traffic Commissioner for the West of England dated 14th July 2022

Anthony Hazell

Appellant

Before: Upper Tribunal Judge Her Honour Judge Beech
Specialist Member of the Upper Tribunal Stuart James
Specialist Member of the Upper Tribunal Gary Roantree

Hearing date: 23rd May 2023

Representation:

Appellant: Mark Davies of Counsel instructed by Smith Bowyer Clarke on behalf of Mr Hazell

DECISION

The appeal is DISMISSED

Subject Matter: Application for an operator's licence; Good repute

Cases referred to: Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695.

REASONS FOR DECISION

1. This is an appeal from the decision of the Traffic Commissioner for the West of England ("TC") dated 14th July 2022 when he refused the Appellant's

application for a standard international public service vehicle licence for three vehicles under section 14ZA(2)(b) and schedule 3 of the Public Passenger Vehicles Act 1981 (“the 1981 Act”), as the TC could not be satisfied that the applicant (“Mr Hazell”) was of good repute.

2. The background to this appeal can be found in the appeal bundle and is as follows. Mr Hazell has a significant regulatory history as a PSV operator and transport manager. The early background was set out in paragraph 5 of the Upper Tribunal’s decision *T/2020/12 Michael Hazell*. Mr Hazell and his son Michael had been directors of Carmel Coaches Limited which had its licence revoked in June 2014 and both father and son lost their good repute and were disqualified under s.28 of the Transport Act 1985. Paragraph 5 records:

“..The regulatory action was taken as a result of serious and sustained failings in maintenance systems including prohibitions (two being “S” marked), a poor MOT pass rate, failure to adhere to the declared PMI intervals and an ineffective driver defect reporting system. Little improvement had been affected despite two unsatisfactory maintenance investigations and an adjournment of the public inquiry. In addition, Mr (Michael) Hazell had been unlawfully lending vehicle discs issued to his sole trader licence to Carmel Coaches which continued despite notice being given to him that the lawfulness of his actions was in issue. In determining the appeals, the Upper Tribunal concluded that it was a “very bad case” and that the facts demonstrated a “wilful disregard of the need to ensure regulatory compliance” on the part of Michael and Anthony Hazell and that the company was guilty of “serious, significant and sustained abuses of the licensing system”.

3. CM Coaches Ltd was then granted a licence on 9th February 2015. As there were concerns that this may have been a “front” for the Hazells, a prohibition was attached to the licence that neither Mr Hazell nor his son play any part in the business whatsoever. The prohibition was removed in respect of both Anthony and Michael Hazell in the latter part of 2016 and Michael Hazell became involved in the operation of the company.
4. As a result of his good repute having been restored, a PSV licence was granted to Carmel Coaches Ltd on 1st December 2016. Mr Hazell was a director and also the nominated transport manager. On 5th December 2018, a maintenance investigation was marked unsatisfactory and a preliminary hearing was conducted by the TC. Having attached an undertaking to the licence, the TC did not feel that a further public inquiry was necessary.
5. By 2018, significant concerns were raised about the maintenance systems of CM Coaches Ltd along with other administrative concerns and as a result, the company and Michael Hazell were called to a public inquiry. The TC’s decision was successfully appealed and a rehearing followed. Mr Hazell gave evidence on behalf of his son at the rehearing. In his decision dated 19th December 2019 (which was also the subject of appeal – *T/2020/12 Michael Hazell*), the TC made significant adverse findings against Mr Hazell which were summarised by the Upper Tribunal in paragraph 52 of *T/2020/12* in this way:

"In respect of Anthony Hazell, the TC found him to be *"a danger to the PSV industry as he is so grossly incompetent"*. It was deeply worrying that he was both a director and a transport manager of other entities. He should retire from the industry *"at the first opportunity"*. The TC *"struggled to identify"* a transport manager worse than Anthony Hazell. He *"completely missed the fact that having two separate safety inspections at different venues results in a loss of control. The chaotic maintenance system led to partial inspections days apart"*. The TC pondered how anyone could realistically consider the system to be satisfactory. Moreover, his *"insulting and patronising comments to an experienced vehicle enforcement manager illustrates his inability to work effectively in regulatory regime where safety is important"*. The TC noted that Anthony Hazell had applauded his son for *"putting his head over the parapet"* and complaining, making that comment soon after it was apparent to anyone with *"an iota of awareness that the very personal criticisms of a vehicle examiner were wholly unjustified"*. The description of the competition between mechanics was so ill judged that it *"beggars belief"*. *The fact that in one breath he promotes competition between mechanics and in the next breath claims that that is not what he intended, merely illustrates his unreliability as a witness. He says what suits his purpose at the time"*. Having watched and listened to Anthony Hazell give evidence it was no surprise that a previous Upper Tribunal hearing led to *"excoriating comments"* about him. He appeared to have blotted out those criticisms, setting himself out as a model of compliance when the opposite was true".

6. In March 2020, the DVSA conducted maintenance and record investigations at Carmel Coaches Ltd. Both were marked as unsatisfactory. On 21st September 2020, the company and Mr Hazell appeared at a public inquiry conducted by TC Rooney. He concluded having heard evidence from the DVSA officers and Mr Hazell, that the company's vehicles were not being kept in a fit and serviceable condition by a very wide margin; prohibition notices had been issued including "S" marked prohibitions for defects which should have been prevented by an effective maintenance regime. The TC described the defects records on the prohibitions as *"severe"*. The TC described Mr Hazell's approach to maintenance as *"old school"* to a degree that it made him *"dangerous"*. He appeared to *"lie at will"* and *"that he will say whatever he thinks appropriate to get him out of a spot"*. Mr Hazell was reluctant to accept that he should have a second or alternative transport manager and a concession to that effect was given with extreme reluctance. However, for that concession to be convincing, a new transport manager designate should have been put forward prior to the hearing. The TC concluded that Mr Hazell would not cede control. The same was true of a proposal that vehicle maintenance be outsourced rather than being undertaken by Mr Waters, the operator's long-standing in-house fitter whose competence as a fitter was questioned by the TC.
7. The TC concluded that Mr Hazell was *"totally set in his ways"* and that he mistakes experience for expertise. The TC concluded that Mr Hazell was incapable of managing the transport operation and so his good reputation as transport manager was forfeit and he was disqualified as a transport manager until he had sat and passed the transport manager certificate of professional

competence examinations. The company's licence was revoked. Mr Hazell and the company appealed the TC's decision but later withdrew both appeals.

8. On 11th May 2021, Carmel Coaches Ltd submitted an application for a standard international PSV licence authorising 5 vehicles. Mr Hazell and his daughter were directors of the company and Mr Hazell was the nominated transport manager. The application was considered at a public inquiry on 4th October 2021 by TC Denton. In his written decision dated 13th October 2021, the TC set out his concerns:
- a) Given the strong criticisms of Mr Waters' effectiveness as a fitter, he was surprised to see Mr Waters cited in the application as a second or alternative maintenance provider;
 - b) During the public inquiry of 21st September 2020, Mr Hazell's solicitor, Andrew Banks, had pushed him to a great degree to accept that he would have a second or alternative transport manager. However, Mr Hazell was again presenting himself as the sole transport manager, albeit on a licence with fewer vehicles than the predecessor licence;
 - c) Mr Hazell averred to the TC that his MOT pass rate had previously been quite good, considering the age of his vehicles. However, paragraph 41 of TC Rooney's decision recorded that the MOT failure rate since December 2016 had been 46% compared to a national average of 7.5%. Whilst Mr Hazell had challenged this figure before TC Rooney, he had not produced any evidence to support the challenge;
 - d) As for the roller brake tests, Mr Hazell told the TC that all he had done in the past was to simply look at the printouts and if the vehicle had "*passed*" then he assumed that it was satisfactory. Mr Hazell stated that he could not really be blamed for failing to read the detail of the printouts properly, although he would be happy to take a course upon how to interpret the printouts. The TC determined that Mr Hazell's evidence ignored paragraphs 25 and 45-50 of TC Rooney's previous decision which made it clear that Mr Hazell was at severe fault and had demonstrated "*in the most positive interpretation, a shocking lack of knowledge*";
 - e) Mr Hazell told the TC that he "*didn't think that anything much was wrong*" with the compliance record of Carmel Coaches Ltd. The overall impression he gave was that, despite some lip service to the need to take on board lessons learnt, he was still in denial about the extent of his past failings. No one reading TC Rooney's decision could possibly conclude that there was nothing much wrong with the company's compliance and Mr Hazell's performance;
 - f) The TC was further troubled when he heard that Mr Hazell had taken a two-day transport manager CPC training course at the first possible opportunity after his disqualification which was conducted remotely. Whilst TC Rooney had not specified either a timescale for re-taking the examination or any minimum requirement for training and learning in preparation for it, given the severe criticism of Mr Hazell that he was a) incompetent and b) that he wrongly considered himself competent, the TC would have expected him to have realised the need to rebuild his

knowledge from the ground up and undertake some lengthier training. Seven to ten-day courses were available throughout the COVID period;

- g) A small point but one that was indicative of the failure to learn lessons, was the mobile phone policy which was included in the operator's bundle. To put the TC's concerns into context, in May 2014, a Carmel coach was involved in an accident in which two passengers were killed and seven seriously injured. The driver was convicted of causing death by dangerous driving and causing serious injury by dangerous driving and sentenced to five and two years imprisonment to run concurrently. A major contributing factor was that the driver had made a number of hands-free mobile phone calls during the journey, one of which lasted for eight minutes at the time of the crash. The company's mobile phone policy read:

"... Company policy is to ban use of handheld phones and microphones while driving. Drivers are recommended to switch off their phones before starting the engine".

The TC found it "astonishing" that the company's mobile phone policy did not explicitly prohibit such use.

9. The TC gave Mr Hazell some credit for being prepared to give undertakings to meet his concerns by confining Mr Waters to minor repairs and "beefing up" the mobile phone policy to prohibit hands-free as well as handheld sets. However, the TC considered that he should not have had to seek such undertakings. He continued:

"I consider that Carmel Coaches Ltd and Anthony Hazell having failed so catastrophically to run a compliant operation in the past, and which Mr Hazell having now lost his good repute as a transport manager and been disqualified twice, the onus is heavily on the applicant to convince me that it deserves a third opportunity. For the reasons outlined above, I do not consider that it does. The fact that the licence application was originally for ten vehicles and had fitter Steven Waters on a par with Scania does not convince me that Anthony Hazell had in mind a radically streamlined and different operation from the outset. He has shown himself prepared to make concessions when asked to do so (eg the degree of Mr Waters's involvement, changes to the mobile phone policy) but it does not seem to have occurred to him to include them in his original plans. Mr Hazell also appeared to forget one of the changes offered: in his prior written submission he stated that only Scania would prepare vehicles for MOT, whereas at the inquiry he stated that both Mr Waters and Scania would do this. The issue is not a trivial one, as TC Rooney was so critical of the fact that Mr Waters appeared incapable of preparing and keeping vehicles in a condition where they would consistently pass their MOT. Evidence was presented that Mr Waters had gained IRTEC accreditation in April 2020, but the actual certificate was not available and in any case this had clearly not been enough to persuade TC Rooney in November 2020 that all was well".

In the circumstances, the TC was unable to conclude that Mr Hazell had re-established his good repute as transport manager or that he or the company could be trusted to comply with the requirements relating to roadworthiness of

- vehicles were he to grant the application. The application was refused under s.14A(2)(b) and (d), 14ZA(3)(a) and 14ZC(1)(a) and (b) of the 1981 Act.
10. On the 8th April 2022, the company's appeal against the above decision was dismissed by the Upper Tribunal.
 11. On 3rd December 2021 (some two and a half months after TC Denton's decision), Mr Hazell made an application in his own name for a standard international licence authorising three vehicles. The nominated transport manager was Graham Reynolds who was described as "*internal*" working six hours per week. Mr Hazell submitted:
 - a) A letter from John Burch, Manager of Wales & West CPT UK dated 14th July 2022 which was supportive of Mr Hazell. He confirmed that he had continued to be a member of the Confederation of Passenger Transport and had attended all regional and national meetings and compliance events. He also confirmed that Mr Reynolds had attended a three-day transport manager refresher course in January 2022. Mr Burch found Mr Reynolds to be attentive and engaged during the course;
 - b) Reference from his chartered accountant, his insurance provider, the Okehampton District Community Transport Group, Dragonfly Holidays and Stoke Park Finance all of which spoke positively of Mr Hazell as an individual and as an operator;
 - c) A maintenance agreement, unsigned by Mr Hazell dated 15th September 2021, in the name of Carmel Coaches Ltd. By paragraph 2(c), Scania agreed to "*carry out all renewals and repairs authorised by the Operator*";
 - d) A document entitled "*Carmel Coaches – Mobile Phone Policy*", the last paragraph of which is in the same form as that set out in paragraph 8 g) above but with the word "*recommended*" struck out in pen and "*must*" written in pen underneath;
 - e) An MOT history printout for vehicle NX53AAA.
 12. The application was considered by TC Rooney at a public inquiry which took place on 14th July 2022. Mr Hazell attended along with Graham Reynolds and John Burch. Financial standing and stable establishment/operating centre were not in issue.
 13. Mr Hazell told the TC that he had been in business for 40 years. He was reasonably fit and healthy and he wanted to carry on in coach operation for "*a little bit longer*". He had a lot of contacts in the industry and he continued to receive enquiries about coach hire. He did not want to be in business in a "*big way*"; it would be more of a hobby. He was passionate about passenger transport and he did not want to be "*kicked out*". He had premises and a couple of vehicles and a couple of historic vehicles. He had applied as a sole trader _because he had previously operated for 30 years as such without a regulatory history and because, at the time of the application, the appeal against the decision of TC Denton was still outstanding and so a new

- application as sole trader diverted away from the history of Carmel Coaches. It had been suggested to him that he nominate a different Transport Manager.
14. The TC then heard from Mr Burch who repeated the information he had provided in his letter.
 15. Mr Reynolds was then called. He told the TC that he had spent 19 years operating a registered nursing/residential home. He had then purchased a sixteen seater minibus with a tail lift which was popular with the residents. He then applied for an operator's licence and purchased a larger vehicle which he converted into a passenger vehicle. Mr Hazell had been his transport manager. Once he had sold the residential home business in 2005/2006, Mr Reynolds used the vehicle on school contract work. He then started driving large goods vehicles and then reverted to passenger vehicles.
 16. Mr Reynolds confirmed that he was aware of the background to the application which he described as "*not pretty*". As Mr Hazell's transport manager, he would be in control of the key aspects of maintenance and compliance. Three vehicles would not require a huge amount of time, perhaps six to eight hours a week. He had a lot of experience in complying with regulations having operated in the care sector. He also had experience in employment law and health and safety. He had written a policy procedure book and undertaken risk assessments. If Mr Hazell did not do what Mr Reynolds required him to do, then he would resign. But the obvious way of dealing with issues was by discussion. He would put his view into writing and keep a copy and if an issue was still not resolved, he would resign. Mr Reynolds had asked for a contract of employment and Mr Hazell had used the CPT standard contract which was acceptable. It needed polishing up and a review by a solicitor, but the essential point was that there was a legal commitment on both sides. Mr Reynolds would continue to drive for Mr Hazell but he was not financially dependent on the work. He would use TruTach analysis for drivers' hours and he would use that for the working time directive requirements. He would be downloading the drivers' cards every 28 days and the vehicle units every 90 days.
 17. The TC asked Mr Reynolds why 90 days was important for downloading vehicle units. He thought that this was the limit of the memory function. He was not aware that this was the maximum limit set by EU Regulation 561/2006 and that every operator was required to put in place proper arrangements for managing drivers' hours and that 90 days would rarely satisfy the requirements for a coach operation. Mr Reynolds then asked the TC what time limit he would recommend. The TC informed him that it was the responsibility of the transport manager to undertake a risk assessment to ascertain the correct limit.
 18. The TC then turned to the maintenance contract and highlighted that the contract was in the name of Carmel Coaches Ltd, not Mr Hazell and that it had appended to it, a PMI sheet for a National Express vehicle. Mr Hazell assured the TC that Scania had said that it was "*quite happy*" to change the name on the contract. In response to questions put by the TC, Mr Reynolds said that he thought that the contract was for maintenance and rolling road tests. He did not appreciate that the contract was "*loosely worded and optional*" and that

paragraph 29(c) only covered repairs as authorised by the operator. He appreciated that he would have to renegotiate the contract with care. The TC advised that with Mr Hazell's history of putting dangerous vehicles on the road, he would not approve the contract as it stood.

19. Mr Hazell then mentioned the MOT pass rate of Carmel Coaches Ltd. He averred that in 2021, when he had vehicles to dispose of with MOT tests, he had eight straight passes and no failures. These did not show on the DVSA records because the vehicles were not covered by an operator's licence. He acknowledged that the vehicles had not been in use but averred that when vehicles had been idle during the pandemic, there were a lot of defects once they were started up again.
20. In his closing remarks to the TC, Mr Hazell accepted that at previous hearings, he had been reluctant to nominate an alternative or additional transport manager but then approached Mr Reynolds who had a lot of experience in a heavily regulated business (care) and had PSV and HGV experience. He seemed a suitable candidate for transport manager. Mr Hazell did not want to simply drive for someone else. He had been his own boss for 40 years and he wanted to have something he could leave to his family. The family had always been involved in passenger transport and he could not leave them a legacy if he simply drove for someone else. He hoped that the letters of reference helped to re-establish his good repute and in 40 years, there had never been a complaint from a customer or passenger. The fatal accident had had a devastating and traumatic effect upon him and whilst the accident was not maintenance related, he was not the sort of operator who would put a dangerous vehicle on the road because he was aware of the consequences. Mr Hazell then produced his mobile phone policy with the manuscript amendment. He was happy to adopt any wording that the TC suggested and no company driver had ever been prosecuted for mobile phone use.
21. The TC then retired to consider his decision. On his return to the hearing, he handed to Mr Hazell a document which showed that the company's vehicles had not had eight straight MOT passes in 2021. His oral decision was as follows:

".. there's considerable history, I've been out and retired and I've conducted the balancing exercise that I'm required to do. There are some positives in this application. I think Mr Reynolds is a credible TM, and I'll take what you say at your word. You're applying for a modest operation, there's outsourced inspections, finance and the operating centre are satisfied and I've seen references from customer and professional contacts. There are a number of negatives. There's a considerable adverse history over at least ten years. You have been given chances before and haven't come through, including by me in this room. Mr Reynolds is relatively experienced as transport manager (we note that this reads "inexperienced" in the written decision and that "experienced" must be an error) .. we saw that questions around drivers' hours management and he detailed the maintenance contract. The maintenance contract itself is with the wrong entity and refers to defects being repaired at operator discretion but actually means we're not much further forward than we were before. There's no clear, comprehensive mobile phone policy, with only a

manuscript amendment indicating prohibition of mobile phone useage, despite TC Denton's comments in that regard and I adopt them as my own. And Mr Hazell you've been reluctant to embrace change and you haven't demonstrated today that you're a different person. And you refer to previous good history and it is far from that, in the papers we've seen failure rates of 43% and you consider that as acceptable and you still seem to think you've done nothing wrong. Despite the view now of four different Traffic Commissioners and two tribunal panels and the papers before me. And you told me that you had eight straight MOT passes last year and you didn't, but this is a minor point. You refer to leaving a legacy but also this being a hobby. This is an application, the job is on you to prove that you've met the requirement of good repute and haven't done so and I'm not putting my name to a licence to be somebody's hobby, given the history that's there".

The TC's decision was confirmed in writing on the same day.

22. At the conclusion of the hearing, Mr Hazell stated that he felt that he was being harshly treated. Whilst the TC had stated that he did not like being told what to do, whenever he had been told to do something, he had done it. The TC had told him to institute rolling road tests as part of his PMIs and he had. He was asked to take the transport manager CPC examination again and he had.

The appeal

23. By way of an Appellant's Notice filed on 12th August 2022, Mr Hazell appealed. There was one ground of appeal:

"The Traffic Commissioner placed undue (sic) weight on the Applicant's regulatory history and insufficient weight on those steps taken by him to rehabilitate himself, so that the Traffic Commissioner's decision to refuse the application was plainly wrong."

24. At the hearing of the appeal, Mr Hazell was represented by Mark Davies of Counsel who produced a skeleton argument for which we were grateful. His global submission was that the TC had given undue weight to Mr Hazell's previous regulatory history and insufficient weight to his rehabilitation. Mr Davies went through the TC's negative findings in turn and we respond point by point:
 - a) the TC relied upon Mr Hazell's adverse regulatory history spanning at least ten years and determined that previous opportunities to re-enter the industry had ended badly for Mr Hazell. It was submitted that at least some consideration should have been given to the almost thirty years of "trouble free operation" enjoyed by Mr Hazell prior to 2012. Mr Davies submitted that this was the approach taken in paragraph 21 of the Upper Tribunal's decision dated 8th April 2022 (UA-2021-000358-T Carmel Coaches Limited). We do not accept this submission and repeat and adopt the Upper Tribunal's determination in paragraph 21: the TC was entitled to look at the more recent history as a more reliable guide as to what was likely to happen if the licence application was granted and the TC did not err in failing to specifically refer to an earlier trouble-free period. That determination is equally applicable in this case.

- b) The TC failed to give proper weight to the proposed appointment of Mr Reynolds as transport manager, which went to Mr Hazell's rehabilitation and which plainly demonstrated that Mr Hazell had changed his ways and had taken on board previous findings that he was not fit to act as a transport manager himself. We disagree. Whilst Mr Hazell may have finally accepted that any application he made for a licence whether on his own behalf or on behalf of Carmel Coaches Ltd, which nominated himself as transport manager was doomed to fail and that he would have to nominate another, that on its own could not be taken as demonstrating that Mr Hazell had changed his ways. That could only be achieved by Mr Hazell accepting his considerable past failings as an operator and transport manager and demonstrating that he was a changed man. Passing the CPC examination and nominating an inexperienced transport manager upon the basis that he had considerable regulatory experience in the care sector was plainly insufficient.
- c) The reasons for finding that Mr Reynolds was relatively inexperienced as a transport manager were not grounds for finding that Mr Reynolds could or would not exercise continuous and effective oversight of the licence particularly when the TC found that Mr Reynolds "*presented as a credible TM*". Mr Davies pointed to the comments made by Mr Burch about Mr Reynolds. He averred that the deficiencies in Mr Reynolds' knowledge on drivers' hours management did not demonstrate a lack of experience to such a degree that it undermined his practical professional competence and as for the wording of the maintenance contract, the TC himself accepted that the arrangement was "*not unusual*". We are satisfied that there is nothing in this point. The TC's cautious approach to Mr Reynolds was well founded bearing in mind that he was proposing to manage and oversee Mr Hazell as an operator. Throughout his numerous appearances before TCs and the Upper Tribunal, Mr Hazell had not presented as an individual who willingly followed guidance or instruction, contrary to Mr Hazell's protestations at the end of the public inquiry. There can be no doubt that Mr Reynolds is inexperienced as a transport manager and his knowledge of drivers' hours management was lacking. The TC's description of Mr Reynolds as a credible witness is not inconsistent with the determination that he is inexperienced. What is obvious from the TC's judgment is that having found that Mr Hazell had been reluctant to embrace change and had not demonstrated that he was a changed individual, the nomination of Mr Reynolds did not give him any comfort that Mr Hazell would operate compliantly in the future irrespective of Mr Reynolds averring that he would resign if Mr Hazell did not follow advice and guidance. As for the maintenance contract, whilst it may not be unusual to find the same or similar wording in other maintenance contracts, in this case, the wording was wholly inappropriate and Mr Reynolds should have appreciated that when reviewing the contract. Moreover, he should have appreciated that the contract was in the name of the wrong entity.
25. Turning then to the mobile phone policy, Mr Davies submitted that the policy was unequivocal in its requirements by stating "*Drivers .. must switch off their phones before starting the engine*". This, Mr Davies submitted demonstrated

Mr Hazell's ability to adapt and it should not have been included as a negative feature. With respect to Mr Davies, his submissions miss the point. When the application of Carmel Coaches Ltd came before TC Denton, his comments about the mobile phone policy were clear and unambiguous. It is surprising to say the least that against that background, all that Mr Hazell had done with the policy was to make an amendment in manuscript. Whilst the TC did not say so, we find that this demonstrated that Mr Hazell continued to pay lip service to regulatory compliance and health and safety. If that was not so, he would have taken the time and made the effort to ensure that the policy was re-written and in an acceptable format rather than submitting a copy of the policy with scribbled amendments.

26. Mr Davies described as a "*mistake*", Mr Hazell's assertion that his vehicles had achieved eight straight MOT passes in 2021 but averred that this did not demonstrate that Mr Hazell was unable to see his own weakness (as stated in the TC's written decision). In fact, it demonstrated that with the nomination of Mr Reynolds, he had changed and that this was evidence of his rehabilitation. We do not agree. The bold and incorrect assertion demonstrated that Mr Hazell was prepared to make a statement to the TC which was factually incorrect. He clearly had not made the appropriate enquiries before making the statement, which is surprising bearing in mind the findings of two TCs which cast doubt upon his openness and truthfulness. His failing demonstrated a cavalier approach towards the application process, the TC and to regulatory compliance.
27. Mr Hazell has a significant and serious adverse regulatory compliance history. He does not accept his past failings and he did not impress the TC as someone who now wishes to embrace change. We could not identify any evidence before the TC which might have led him to conclude that Mr Hazell had regained his good repute and ought to be trusted with an operator's licence. In all the circumstances we are not satisfied that the TC's decision was plainly wrong in any respect and neither the facts or the law applicable in this case should impel the Tribunal to allow this appeal as per the test in *Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695*. The appeal is dismissed.



Her Honour Judge Beech
Judge of the Upper Tribunal
3rd July 2023