



The Traffic Commissioners' Modernising Agenda

Celebrating **75** *years*



Foreword

The Traffic Commissioners' Modernising Agenda

In January 2004, the Traffic Commissioners embarked upon a series of internal discussions in which they considered their roles against the background of the principles of good regulation and their responsibilities to the various stakeholders with whom they work while carrying out their statutory functions.

The production of the Traffic Commissioners' Modernising Agenda marks the culmination of the initial phase of our development as modern, independent regulators and as a single person tribunal.

Philip Brown
Senior Traffic Commissioner
December 2006

Introduction

The Traffic Commissioners are appointed by the Secretary of State for Transport. There are seven Traffic Commissioners in Great Britain and their principal functions are to:

- license public service vehicle (PSV) operators;
- register local bus services;
- license heavy goods vehicle (HGV) operators;
- take regulatory action against the holders of licences who are non-compliant;
- determine contested applications where road safety and/or environmental objections are raised;
- consider the conduct and fitness of drivers who hold or apply for large goods vehicle (LGV) and passenger-carrying vehicle (PCV) driving licences; and
- hear applications for the return of vehicles detained under the impounding regulations.

In Scotland, the Traffic Commissioner has the additional functions of:

- hearing taxi fares scales appeals; and
- appointing parking adjudicators.

A list of the current Traffic Commissioners and their Deputies and a summary of the statutory functions and powers of the Traffic Commissioners are set out in Appendices 1 and 2.

Independence at the heart of operator licensing

Seventy-five years ago when vehicle operator licensing was created in Great Britain, the job of performing that role was given to Traffic Commissioners as licensing authorities. Thus, right from the start, independence was built into the system. Today, as then, Traffic Commissioners are supported by teams of civil servants, but it is the Traffic Commissioners who are entrusted with the decision-making process. The detachment from government and political influence remains a strength of the operator licensing regime and in modern times reflects the pattern of government regulating through bodies created by Act of Parliament but operating at arm's length from it. In times of respect for human rights, this independence continues as a safeguard between citizen and state and serves also to free ministers from operational decision making.

Objectives and philosophy

Traffic Commissioners, through the use of their statutory powers, seek to achieve the safe operation of goods vehicles and PSVs by reputable, competent, adequately funded persons who adopt robust management systems to support the undertakings Traffic Commissioners require of operators before licences are granted.

Road safety, fair competition and confidence in the road haulage industry and in bus travel sit at the centre of operator and driver licensing. These are the abiding objectives of the Traffic Commissioners and motivate their work.

Road safety – the context

Travel by road remains the least safe means of transport when compared with rail, sea or air. The unexpectedness and long-term consequences of road traffic accidents have devastating effects on individuals and families and are deeply upsetting to witnesses and the rescue services. For professional drivers, the road is their workplace, and the need for greater attention to health and safety

of those who drive in pursuit of their livelihoods has been highlighted by the Health and Safety Executive. Traffic Commissioners play their role in advancing road safety and have an awareness of the contributory factors to road accidents, such as inadequately maintained vehicles, driver fatigue, driving under the influence of alcohol or drugs and poor driving standards.

How Traffic Commissioners work

Traffic Commissioners are appointed to Traffic Areas within Great Britain. These are Eastern, based at Cambridge; North Eastern, based at Leeds; North Western, based at Golborne; Scottish, based at Edinburgh; South Eastern and Metropolitan, based at Eastbourne; Western, based at Bristol; West Midland, based at Birmingham; and Welsh, also based at Birmingham. The Traffic Commissioner for the West Midland Traffic Area is also the Traffic Commissioner for Wales. Traffic Commissioners are assisted by part-time Deputy Commissioners.

Licensing and compliance

Traffic Commissioners require licence applicants and holders to be able to satisfy the requirements of good repute, financial standing and professional competence and to adhere to undertakings. These undertakings are to make proper arrangements so that:

- the laws relating to the driving and operating of vehicles are observed;
- the rules on drivers' hours and tachographs are observed and proper records kept;
- vehicles are not overloaded, whether by goods or by passengers;
- vehicles are kept in a fit and serviceable condition;
- drivers report defects and these are followed up; and
- appropriate records are kept.

A licence applicant is required to complete an application form, giving details of the person to be licensed, the number of vehicles and trailers required, the location of the operating centre, full details of the transport manager, the arrangements for maintenance, and any relevant convictions. The applicant is then required to give a declaration that specific undertakings will be fulfilled. In addition, financial standing has to be established, parking permission authorised

and a copy of the newspaper advertisement furnished. Failure to comply with any of these requirements imposes a mandatory refusal of the licence.

A newly licensed operator receives a new operator check from the Vehicle and Operator Services Agency (VOSA) to monitor compliance with the undertakings given. Vehicles have to be presented for annual testing. Roadside random checks enable VOSA to examine the mechanical condition of vehicles and the drivers' tachograph records. The majority of referrals to the Traffic Commissioner come from these sources.

In cases where there appear to be grounds for concern, VOSA intelligence staff prepare a case for consideration by the Traffic Commissioner, who ultimately decides whether a Public Inquiry should be called.

The purpose of the Public Inquiry

The Public Inquiry affords a Traffic Commissioner the opportunity to hold an inquisitorial examination, in a formal tribunal setting, of licence applicants and licence holders, before reaching a decision on whether to grant or refuse an application or take statutory action against a licence holder. These hearings form a substantial proportion of a Traffic Commissioner's duties.

Driver conduct

Traffic Commissioners play an important role in determining whether those who apply for, or already hold, licences to drive LGVs or PCVs are fit by reason of their conduct to do so. For HGVs this means examining the conduct of the driver in relation to road transport matters, for example dangerous/careless driving convictions, drink driving, speeding, using a mobile phone while driving, using a vehicle for smuggling, and so on. This is the same for bus and coach drivers, with the addition that general conduct can be looked at if it is relevant to the work the driver is likely to be doing.

In PCV cases, the Traffic Commissioner looks at sex offences, dishonesty, acts of a violent nature and other behaviour which might be relevant to whether a person is fit to hold the licence. Traffic Commissioners are mindful that the driver controls the point of access to and egress from the vehicle and is entrusted with looking after vulnerable people and their property. It is essential to ensuring confidence in bus travel that the public can trust drivers. Similarly, it is essential that those in charge of HGVs are responsible road users.

Registered local bus services

At a time when increased use of public transport is essential to reduce congestion and limit the adverse effects on the environment, the public need to have confidence in bus travel. The Traffic Commissioners have a critical role to play in ensuring that those who register local bus services run those services to time. Without reliability there can be no confidence in bus travel. Substantial financial penalties may be applied in extreme cases where a bus company shows a regular and consistent pattern of inexcusable unreliability in the operation of its registered services.

The Traffic Commissioners as modern regulators

Changes in the regulatory environment, technology, public expectations and working methods affect Traffic Commissioners as all others. The Traffic Commissioners welcome and support the identification and development by the Better Regulation Task Force of the five principles of good regulation. The Traffic Commissioners have paid particular attention to the Better Regulation Task Force report of October 2003, *Independent Regulators*, as having relevance to their work. The five principles are proportionality, accountability, consistency, transparency and targeting.

Proportionality

The administrative procedures required by Traffic Commissioners must be such as are necessary to achieve their objectives and to prevent fraud or other unlawfulness. In instances where operators have fallen short of expectations, Traffic Commissioners have to take a proportionate view. Traffic Commissioners have the power to close down haulage or bus and coach businesses and to deprive individuals of their livelihood and careers through revocation of operator and driver licences, and their other powers of suspension and curtailment can bite hard. It should be noted that certain circumstances, such as serious convictions, call for the mandatory revocation of an operator licence. The action taken by Traffic Commissioners must be proportionate to the shortcomings revealed in the evidence brought to them.

Accountability

Traffic Commissioners give reasons for their decisions, whether these be for the refusal of a licence application or at the end of Public Inquiries or other hearings. They are accountable to the Secretary of State through the requirement to

submit an Annual Report. In their judicial/tribunal function, the Traffic Commissioners are accountable to the Transport Tribunal and higher courts in that their decisions can be appealed and may be subjected to judicial comment and overturned. The Traffic Commissioners also fall within the supervisory jurisdiction of the Council on Tribunals and its Scottish Committee.

Consistency

Consistency of approach can be difficult to achieve in any area where discretion and judgement have to be applied. Regular meetings and training seminars, supplemented by Practice Directions and Senior Traffic Commissioner's Guidance Notes, afford Traffic Commissioners and their Deputies the opportunity to achieve a consistent approach to casework. Regular sharing and discussion of decisions and practices between Traffic Commissioners serve to promote consistency.

Transparency

Traffic Commissioners believe it is important that the transport industry, their representatives and the public have a good understanding of the role and work of the Traffic Commissioners. The Traffic Commissioners are determined to increase the profile of their role and the part they play in the wider road safety and public transport agenda. Better liaison with the trade press through press officers, seminar presentations throughout the country and an enhanced website presence will serve to demonstrate transparency. Traffic Commissioners welcome opportunities to speak at relevant events and to engage in dialogue with those who have an interest in their work.

Targeting

Traffic Commissioners do not seek to burden the well-run, compliant operator. It is right that attention should focus on those who cannot, or choose not to, run their businesses properly, or on those individual drivers who fall short in their conduct. It is also right to target those who, early in their licence holding, seem to show a poor understanding of their obligations. It is better to target those operators with swift regulatory and corrective attention than to let them operate below par and unsafely. Trust is at the heart of the operator licensing system, and Traffic Commissioners are entitled to trust that operators will adhere to their undertakings until there is evidence to the contrary.

The Traffic Commissioners as modern adjudicators

The Traffic Commissioners in their Public Inquiry and hearings role (that is, in their judicial tribunal function) also engage in training from the Judicial Studies Board (JSB). They adhere to and support the competencies identified by the JSB. Advice and guidance are provided under the supervision of the Council on Tribunals.

Working together

Traffic Commissioners do not work in a vacuum. Traffic Commissioners rely on the Secretary of State, whose duty it is to provide sufficient competent staff and adequate resources. Until 2003, support to Traffic Commissioners was provided in Traffic Area Offices of the Traffic Area Network, an outpost of the Department for Transport (DfT). In 2003 the DfT created VOSA and it is that agency which has the delegated duty to support the work of Traffic Commissioners. Given the essential independence of the Traffic Commissioners, care is taken to ensure that operators and drivers are not confused about the respective roles of VOSA and the Traffic Commissioners.

Traffic Commissioners have close working relationships with officials within DfT. This is necessary to ensure that Traffic Commissioners have the level of support needed to undertake their functions in an efficient and modern way. It also allows Traffic Commissioners to contribute to formulating policies for the Secretary of State, through providing advice and consultation to those tasked with submitting such policies. In Scotland and Wales the Traffic Commissioners engage with the devolved administrations and elected representatives.

There are many other stakeholders and Traffic Commissioners particularly welcome dialogue with the trade associations, road safety organisations, consumer bodies, local authorities, passenger transport authorities, trades unions and others. Good working relationships and mutual understanding play a crucial part in ensuring that the Traffic Commissioners' objectives are achieved.

Through engagement and consultation exercises, sharing of knowledge, giving evidence both to Parliamentary representatives and generally, Traffic Commissioners seek to inform and engage in a constructive and helpful manner, always with due regard to their statutory functions, integrity and decision making. Examples of successes in such engagement have been the Traffic Commissioners' consultation paper on transport managers; industry and DfT joint working on bus reliability; and working with the police, the Driver and


Vehicle Licensing Agency, the DfT, the Home Office and Her Majesty's Courts Service on capturing driver conduct information.

In November 2003, Traffic Commissioners decided upon a programme of discussions to modernise the way in which they work and how they are supported. Since that time, VOSA has enhanced IT systems for operators with the advent of Operator Self-Service applications, and has refined its policy of 'targeting' non-compliant operators. For their part, Traffic Commissioners' recent achievements have included increased scrutiny of the role of transport managers in the context of the requirement of professional competence and revisions to the guidance on the statutory requirement of appropriate financial standing for applicants or holders of operator licences. Guidance has also been given through Practice Directions on standards for local bus services and vocational driver conduct.

The next two years and beyond

In driving forward the Modernising Agenda, Traffic Commissioners have identified a range of aspirations:

- road safety – working more closely with others involved in the road safety agenda, including targeting regulatory action where it is most needed;
- bus travel and bus compliance monitoring;
- better use of technology;
- involvement in enhancing the competence and training of support staff employed by VOSA;
- performance appraisal for their judicial function;
- raising the profile;
- improving relations with the media through the use of the Government News Network and other press liaison; and
- electronic bus service registration.



Appendix 1

The current Traffic Commissioners, their Deputies and addresses

Eastern

Traffic Commissioner: Geoffrey Simms
Deputies: Mary Kane, Fiona Richards, Roger Seymour
and Timothy Swan
Address: City House, 126–130 Hills Road, Cambridge CB2 1NP
Tel: 01223 531028
E-mail: Geoffrey.Simms@vosa.gov.uk

North Eastern

Traffic Commissioner: Tom Macartney
Deputies: Mark Hinchliffe, Patrick Mulvenna and Liz Perrett
Address: Hillcrest House, 386 Harehills Lane, Leeds LS9 6NF
Tel: 0113 254 3290
E-mail: Tom.Macartney@vosa.gov.uk

North Western

Traffic Commissioner: Beverley Bell
Deputies: Mark Hinchliffe, Patrick Mulvenna and Liz Perrett
Address: Suite 4–6, Stone Cross Place, Stone Cross Lane,
Golborne, Warrington WA3 2SH
Tel: 01942 295021
E-mail: Beverley.Bell@vosa.gov.uk

Scottish

Traffic Commissioner: Joan Aitken
Deputy: Richard McFarlane
Address: J Floor, Argyle House, 3 Lady Lawson Street, Edinburgh EH3 9SE
Tel: 0131 200 3231
E-mail: Joan.Aitken@vosa.gov.uk

South Eastern and Metropolitan

Traffic Commissioner: Christopher Heaps
Deputies: Jonathan Black, Mary Kane and Timothy Swan
Address: Ivy House, 3 Ivy Terrace, Eastbourne, East Sussex
BN21 4QT
Tel: 01323 452403
E-mail: Christopher.Heaps@vosa.gov.uk

Western

Traffic Commissioner: Philip Brown (also Senior Traffic Commissioner
for Great Britain)
Deputies: Jonathan Black, Tim Hayden, Lester Maddrell
and Fiona Richards
Address: 2 Rivergate, Temple Quay, Bristol BS1 6EH
Tel: 0117 900 8516
E-mail: Philip.Brown@vosa.gov.uk

West Midland and Welsh

Traffic Commissioner: David Dixon
Deputies: Lester Maddrell and Roger Seymour
Address: 38 George Road, Edgbaston, Birmingham B15 1PL
Tel: 0121 609 6823
E-mail: David.Dixon@vosa.gov.uk



Appendix 2

Statutory functions and powers of the Traffic Commissioners

Traffic Commissioners are appointed by the Secretary of State under section 4(2) and schedule 2 of the Public Passenger Vehicles Act 1981 (PPV Act). There must be a Traffic Commissioner for each Traffic Area into which Great Britain is divided (section 4(1)).

In carrying out Public Inquiries, the Traffic Commissioner is considered to be a 'tribunal' for the purposes of the Tribunals and Inquiries Act 1971. Appeals against a Traffic Commissioner's decisions are made to the Transport Tribunal.

Traffic Commissioners are responsible under the PPV Act for the granting and issuing of public service vehicles (PSV) licences, the registration of local bus services under the Transport Act 1985 and the granting and issuing of goods vehicle operator licences (GVOL). The latter are issued under the Goods Vehicles (Licensing of Operators) Act 1995. Traffic Commissioners are also empowered to take regulatory action against licences and licence holders and their transport managers. Traffic Commissioners also have power under the Transport Act 1985 and the Transport (Scotland) Act 2001 (Act of the Scottish Parliament) to impose penalties for the failure to run registered services.

If requested to do so by a traffic authority, a Traffic Commissioner may, under section 7 of the Transport Act 1985, impose traffic regulation conditions for the purpose of preventing danger to road users or reducing traffic congestion. The Commissioner may regulate the routes and stopping places of local services and the period of stopping.

Under part IV of the Road Traffic Act 1988, Traffic Commissioners are given responsibility to consider the fitness based on the conduct of drivers who hold or apply for passenger-carrying vehicle (PCV) or large goods vehicle (LGV) driving licences.

The Secretary of State has power under schedule 2, paragraphs 3 and 4 of the PPV Act to appoint Deputy Traffic Commissioners. Paragraph 7 gives power to the Secretary of State to appoint such persons as he considers appropriate to act as officers and servants. In practice this is done through the Department for Transport and its Executive Agency, the Vehicle and Operator Services Agency.

External financial assessors are appointed to assist in complex financial standing cases.

The main statutory references (all references are to the Acts and Regulations in amended form) are listed below.

Passenger-carrying vehicle (PCV) licensing:

Public Passenger Vehicles Act 1981

Public Service Vehicles (Operators' Licences) Regulations 1995 (SI 1995/2908)

Transport Act 1985

Transport Act 2000

Transport (Scotland) Act 2001 (Act of the Scottish Parliament)

Local bus service registration

Public Service Vehicles (Registration of Local Services) Regulations 1986 (SI 1986/1671)

Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (SSI 2001/219)

Heavy goods vehicle (HGV) licensing

Goods Vehicles (Licensing of Operators) Act 1995

Goods Vehicles (Licensing of Operators) Regulations 1995 (SI 1995/2869)

Goods Vehicles (Enforcement Powers) Regulations 2001 (SI 2001/3981)

Vocational driving licences

Road Traffic Act 1988

Motor Vehicles (Driving Licences) Regulations 1999 (SI 1999/2864)

Appeals to the Transport Tribunal

Transport Tribunal Rules 2000 (SI 2000/3226)



Appendix 3

Other useful references

Department for Transport (DfT) and Vehicle and Operator Services Agency (VOSA) publications

The DfT and VOSA produce useful guides and leaflets to aspects of operator licensing, including:

The Safe Operator's Guide

Guide to Maintaining Roadworthiness – Commercial Goods and Passenger Carrying Vehicles

Public Service Vehicle Operator Licensing – Guide for Operators

Local Bus Service Registration – Guide for Operators

Local Bus Service Registration in Scotland – Guide for Operators

Goods Vehicle Operator Licensing – Guide for Operators

Traffic Commissioners' Annual Reports

Health and safety

Driving at work: Managing work-related road safety – Health and Safety Executive (HSE) and DfT

Workplace transport safety – HSE

Better regulation

Independent Regulators – Better Regulation Task Force, October 2003

Reducing Administrative Burdens: Effective Inspection (Hampton) – HM Treasury, 2005

Road Traffic Accident Statistics

Road Casualties Great Britain – Annual Report – Department for Transport and National Statistics

Scottish Transport Statistics Annual Edition – Scottish Executive and National Statistics

Vehicle Speeds in Great Britain: Annual Transport Statistics Bulletin – National Statistics

Websites

www.dft.gov.uk

www.vosa.gov.uk

www.scotland.gov.uk

www.hse.gov.uk

www.brc.gov.uk

www.hm-treasury.gov.uk/hampton

www.dft.gov.uk/transtat

www.scotland.gov.uk/transtat

