



Vehicle & Operator Services Agency

# Goods Vehicle Operator Licensing

## A guide to making objections and complaints

This guide and other forms and guides concerning operator licensing are available on the Vehicle and Operator Services Agency website. Also available on line is the Traffic Area Office publication "Applications & Decisions" which gives details of all Heavy Goods Vehicle licensing applications received by the Traffic Commissioner and the decisions taken on the applications. Check out the website at [www.businesslink.gov.uk/transport](http://www.businesslink.gov.uk/transport) Alternatively, operating licensing advice can be obtained by telephoning the VOSA National Telephone Number: **0300 123 9000\***

\*calls provided by BT are charged at a low rate. Charges from other providers may vary.

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# FOREWORD

**The main aim of this guide is to help organisations with a statutory right to object to an application for a goods vehicle operators licence to:**

- understand the main purposes of the goods vehicle operator licensing system; and
- answer many of the questions about ‘making a statutory objection’ against the grant of a licence or for a change to an existing licence.

More general information can be found in the booklet ‘Goods Vehicle Operator Licensing - A Guide for Operators’, which is available from [www.vosa.gov.uk](http://www.vosa.gov.uk) or tel: **0300 123 9000**.

This Guide also gives advice on how to make ‘complaints’ about the use of an operating centre and how to report to the Traffic Commissioner any possible breaches of licensing conditions or unauthorised activities by operators.

Annex 2 gives details of relevant legislation, copies of which can be purchased from HMSO or bookshops, or inspected at some local libraries.

**This guide does not provide legal advice.**

## PART 1

# Goods Vehicle Operator Licensing Environmental Provisions

### WHAT IS GOODS VEHICLE OPERATOR LICENSING AND WHO NEEDS A LICENCE?

- 1.1 Goods vehicle operator licensing is a system of licensing aimed at ensuring the safe and proper use of goods vehicles and the protection of the environment around operating centres (ie. the place where an operator normally keeps his/her vehicles when they are not being used).
- 1.2 Most users of commercial vehicles that weigh over 3.5 tonnes (ie. the maximum permitted total weight when loaded) require a licence. The holder of a licence is the 'operator'. A licence will authorise an operator to use up to a maximum total number of motor vehicles and trailers, and to use a specific operating centre or centres.

### HOW DOES AN OPERATOR OBTAIN A LICENCE?

- 1.3 An operator must hold a licence in each Traffic Area where he/she has an operating centre or centres. Licences often authorise the use of more than one operating centre.
- 1.4 Licence applications are made to Traffic Commissioners who are individuals appointed by the Secretary of State for Transport. They act as independent administrative tribunals under the supervision of the Council of Tribunals. There are eight Traffic Areas and seven Traffic Commissioners (Details of the Traffic Areas are at Annex 1).
- 1.5 The suitability of a proposed operating centre is just one of a number of matters which a Traffic Commissioner must consider before granting an application. Other matters include an applicant's fitness to hold a licence; the financial resources available for, and arrangements in place, to maintain his/her vehicles; and, where appropriate, professional competence.
- 1.6 Once a licence has been issued an operator can apply to amend (vary) it.

## **WHO CAN OBJECT TO THE GRANT OF AN APPLICATION?**

- 1.7 Objections can be made by statutory objectors such as local authorities, planning authorities, the police, and certain Trade Associations and Trade Unions. They may object to the grant of an application on the grounds of fitness, finance and the professional competence of the operator as well as on the environmental and general suitability of an operating centre.
- 1.8 Owners and occupiers of land or buildings near an operating centre who feel that the use or enjoyment of their own land would be adversely affected by the proposed operating centre use have a right to make their views known to a Traffic Commissioner. They are called representors; representations can be made only on environmental grounds.
- 1.9 Objectors and representors have different rights. This Guide concentrates on the rights of objectors.

## PART 2

# Objections

### WHO CAN MAKE AN OBJECTION?

- 2.1 The following organisations have a statutory right to object to an application for a goods vehicle operators licence or an application to vary a licence once issued:
- a Chief Officer of Police;
  - a Local Authority (but not a Parish Council);
  - a Planning Authority;
  - the British Association of Removers;
  - the Freight Transport Association;
  - the General and Municipal Workers Union;
  - the National Union of Rail, Maritime and Transport Workers;
  - the Road Haulage Association;
  - the Transport and General Workers Union;
  - the Union of Shop, Distributive and Allied Workers;
  - the United Road Transport Union.

### HOW ARE STATUTORY OBJECTORS NOTIFIED OF ANY APPLICATION?

- 2.2 Each Traffic Area regularly produces a publication known as 'Applications and Decisions' which contains details of all the applications for a licence made to that office during a given period. The publication is sent on request and usually by subscription to Statutory Objectors in the region covered by the Traffic Area. The list of recipients is kept as up to date as possible but if you feel that you should be receiving a copy and are not please contact your local Traffic Area.

### ON WHAT GROUNDS CAN OBJECTIONS BE MADE?

- 2.3 Objections can be made on environmental or non-environmental grounds or both.

## **ENVIRONMENTAL GROUNDS**

- 2.4 Environmental objections may be made under the provisions of Section 12 (1) (applications for) and Section 19 (2)(a) & (4)(a)(variations to) of the Goods Vehicles (Licensing of Operators) Act 1995.
- 2.5 The environmental factors that result from the use of land as an operating centre and which can be considered relevant to an objection may include:
- noise;
  - fumes;
  - pollution;
  - vibration;
  - visual intrusion.

## **NON-ENVIRONMENTAL**

- 2.6 Non-environmental objections may be made on one or more of the following grounds on the basis that the requirements of Section 13 of the Goods Vehicles (Licensing of Operators) Act 1995 cannot be met. They can relate to:
- a) the suitability of the applicant to hold an operators licence on the grounds that he/she cannot meet the requirements to be:
- of good repute (for standard licences only); or
  - fit to hold a licence (for restricted licences only); or
  - of appropriate financial standing (for standard licences only); or
  - professionally competent (for standard only).
- b) the suitability of the operating centre in relation to:
- size for the number of vehicles and trailers proposed to be parked there;
  - the safety of the entrance and exit arrangements from the site onto the public highway; or
  - parking facilities in or around the site.

## **MAKING AN OBJECTION**

- 2.7 An objection to an application for or variation to an operator's licence must:
- be made in writing to the Traffic Commissioner at the Traffic Area and should wherever possible quote the legislation under which the objection is being made;

## PART 2 - Objections

- be signed by an authorised signatory from the organisation making the objection;
- be received at the Traffic Area no later than 21 days after the date that notice of the application is published in 'Applications and Decisions';
- be copied to the applicant on the same day, or next working day, as the objection is made to the Traffic Commissioner;
- state specific grounds and give sufficient particulars so that the applicant knows the case he/she has to answer to.

2.8 If any of the above criteria are not met the Traffic Commissioner will not accept the objection as duly made unless there are exceptional circumstances.

### **WHAT HAPPENS NEXT?**

2.9 In the case of a valid objection the Traffic Area will usually write to the operator asking for further information about the proposed use of the operating centre and seeking comments on the matters contained in the objection. The applicant and the objector will also be encouraged to try to resolve any possible differences between them through direct liaison.

2.10 The Traffic Commissioner will then decide if he/she has sufficient evidence to make a decision on the application or whether to hold a Public Inquiry to hear evidence from both parties before reaching a decision on the application (see Part 5). If he/she considers that he/she has sufficient information to determine the application without a Public Inquiry the Traffic Commissioner will advise all parties of his/her intended decision and they will be invited to make further representation in writing or request that the matter is considered at Public Inquiry.

### **WHAT RANGE OF DECISIONS ARE AVAILABLE TO THE TRAFFIC COMMISSIONER?**

2.11 There are numerous options available to the Traffic Commissioner, the more usual are:

- grant the application as applied for;
- grant the application but attach conditions regarding the use of the operating centre;
- grant the application for a reduced number of vehicles and/or trailers;
- refuse the application.

### **IS THE TRAFFIC COMMISSIONER'S DECISION FINAL?**

2.12 Any decision not to grant an application in full, to attach conditions to the use of an operating centre or not to meet the wishes of a statutory objector can be challenged by appeal to the Upper Tribunal - Administrative Appeal Chamber (Transport). Forms and guidance are available from Tribunals Service, Upper Tribunal (Transport), 7th Floor, Victory House, 30 - 34 Kingsway, London, WC2B 6EX. Tel: 020 3077 5860  
**[www.administrativeappeals.tribunals.gov.uk](http://www.administrativeappeals.tribunals.gov.uk)**

## PART 3

# Complaints

### WHAT ARE COMPLAINTS?

- 3.1 Unlike objections which are made in response to applications complaints can be made at any time by anyone.
- 3.2 In general complaints can be about the use of an existing operating centre or about breaches of any of the terms, for example conditions, under which a licence was issued, including parking.
- 3.3 Where possible a Traffic Commissioner would encourage those parties involved to resolve any problems between themselves on a one to one basis. Quite often a direct approach to the operator can result in a satisfactory solution without substantial involvement by the Commissioner.

### ON WHAT GROUND CAN COMPLAINTS BE MADE?

- 3.4 A complaint about an operating centre which is specified on a goods vehicle operator's licence can be on either environmental or road safety grounds.

### HOW DOES SOMEONE MAKE A COMPLAINT?

- 3.5 Complaints should be made in writing to the Traffic Area (see Annex I) in whose area the operating centre is situated. It should clearly:
  - a) state who the complaint is from;
  - b) state the grounds for complaint;
  - c) identify the operating centre concerned giving the full address of the operating centre and the name(s) of the operator(s) using the operating centre to which the complaint relates, and if relevant, and possible, details of the vehicles, and movements giving cause for concern.

### WHAT HAPPENS WHEN THE COMPLAINT IS MADE?

- 3.6 Complaints will be acknowledged and the person making the complaint will be sent further information about the complaints procedure and be asked to fill in a short form.

This is needed in order to provide the Traffic Commissioner with the further information he/she will need to consider the views put forward.

- 3.7 The relevant part of the form will be copied to the operator(s) concerned. This will give him/her the opportunity to comment on the matters raised and to rectify any problems of which he/she may not have been aware.

### **WHAT HAPPENS NEXT?**

- 3.8 Although a complaint may be made at any time against an operating centre specified on a licence, the Traffic Commissioner can only take immediate action if it is considered that the operator concerned is operating outside the terms of his/her licence. Otherwise, the time at which the Traffic Commissioner can act is determined by what is known as the 'Review Date' (see Part 4 for further information on the Review of Operating Centres).
- 3.9 Unless an operator applies to vary the use of his/her operating centre, (see paragraph 3.12) Traffic Commissioner has the opportunity to review the suitability of that centre only at five yearly intervals. On receipt of a complaint by a Traffic Area, it will be registered against the relevant operator's licence. If it is not a complaint that indicates an operator is operating outside the terms of his/her licence, the complaint will be brought forward and taken into consideration at the centre's review stage.
- 3.10 It should be noted that further complaints can be made by the same person at any time leading up to the review date should it be felt necessary to do so.
- 3.11 People who make complaints will be advised when the next review date is due and will be informed about the Traffic Commissioners decision at that time.
- 3.12 If in the meantime an operator applies to vary his/her licence in a way which would affect an operating centre the application will be published in As and Ds. People who have made complaints can make objections against the grant of the variation. The complaints already made will not be treated as objections. Separate objections will have to be made in accordance with Part 2 of this guide.

## PART 4

# Review of Operating Centres

### WHAT IS A REVIEW?

- 4.1 The complaints procedure (as outlined in Part 3), is linked to the Traffic Commissioner's ability to review the suitability of the operating centre(s) on an operator's licence. The Traffic Commissioner may conduct such a review every five years commencing with the date when a goods vehicle operator's licence came into force.
- 4.2 The review is not however automatic and is entirely at the Traffic Commissioner's discretion. In making his/her decision whether or not to review he/she will take into account any complaints received against an operating centre in the preceding five years.

### HOW WILL PEOPLE KNOW IF A REVIEW IS TO TAKE PLACE?

- 4.3 In most circumstances a person or organisation who has made a complaint against an operating centre will have been told when the operating centre(s) is due for review. Near to the review date the Traffic Area office may write to them again asking if the points made in the original letter are still relevant and if the writer still wishes them to be considered.

### WHAT HAPPENS NEXT?

- 4.4 The Traffic Commissioner will consider all the evidence before him/her and decide if it justifies a review of the operating centre concerned. As soon as the decision has been made people who have complained will be notified.
- 4.5 This does not mean that the operator is free to do as he/she pleases for five years. The review procedure does not affect the Traffic Commissioner's powers to act and take disciplinary action at any time if a licence holder is operating outside the terms of his/her licence, for example by breaking any condition of use that appears on the operator's licence.

### WHAT HAPPENS IF A REVIEW IS TO TAKE PLACE?

- 4.6 The Traffic Commissioner will consider:
  - i) whether the operating centre continues to be suitable for the purposes for which the operator's licence authorises it to be used;

#### PART 4 - Review of Operating Centres

- ii) whether if it is considered to be no longer suitable, conditions for environmental or road safety reasons could be attached or changed which would make it suitable; or
  - iii) whether it is incapable of being made suitable by the imposition or changing of such conditions.
- 4.7 On a review the Traffic Commissioner has the power to remove an operating centre from the licence or to attach conditions or vary existing conditions.
- 4.8 The Traffic Commissioner can attach conditions for environmental reasons, such as the times vehicles use the operating centre, or for non-environmental reasons such as road safety.
- 4.9 The Traffic Commissioner can remove an operating centre from a licence for both environmental and non-environmental reasons. But in the case of environmental reasons the operating centre can be removed in only limited circumstances,

#### **IS THE TRAFFIC COMMISSIONER'S DECISION FINAL?**

- 4.10 Only the operator has a right of appeal against any decision made on review and then only if conditions have been varied or placed on the licence or if an operating centre has been removed. The only way complainants can challenge the Traffic Commissioner's decision on review or against his/her decision if he/she decides not to review, is by seeking a judicial review of that decision through the High Court.

## PART 5

# Public Inquiries

### WHAT IS A PUBLIC INQUIRY?

- 5.1 There are three main types of Public Inquiry - those called to determine licence applications; reviews of operating centres; and those called for disciplinary reasons. This Guide is concerned mainly with the first, though much of it applies equally to the others.
- 5.2 A Public Inquiry is a hearing held by a Traffic Commissioner before deciding some applications for goods vehicle operator's licences. He/she will consider evidence from the applicant, statutory objectors, representors or from other people appearing on their behalf. He/she may also call witnesses of his/her own or be assisted by a financial assessor.

### WHEN MIGHT A PUBLIC INQUIRY BE CALLED?

- 5.3 A Traffic Commissioner is not obliged to hold a Public Inquiry if he/she receives objections or representations. However where representations or objections have been received, or in cases where the Traffic Commissioner feels that further information, or clarification, is needed, Public Inquiries are usually called. This gives all interested parties an opportunity to make their case before the Traffic Commissioner or one of his/her deputies.

### HOW DO OBJECTORS KNOW IF A PUBLIC INQUIRY IS TO BE HELD?

- 5.4 Anyone who has made an objection will be advised in writing of the date, time and venue of the Inquiry and be invited to attend. They will be given at least 21 days notice and be asked to confirm whether or not they will be attending.

### WHERE WILL THE PUBLIC INQUIRY BE HELD?

- 5.5 Inquiries will usually be held at the Office of the Traffic Commissioner or at a venue as close as possible to the operating centre.

### WHAT HAPPENS IF OBJECTORS CANNOT ATTEND?

- 5.6 If someone cannot attend in person they may ask someone to attend on their behalf. This can be by Counsel or a Solicitor, or if the Traffic Commissioner agrees, by anyone else. The person standing in should be familiar with the grounds of objection and the Traffic Commissioner should be advised in advance of the name of the person who will be attending.

### **IS ANY PREPARATION NEEDED FOR THE INQUIRY?**

- 5.7 The Traffic Commissioner will have a copy of all objections but it is possible to present additional information (but not extra grounds of objection) or produce documents or photographs at the Inquiry. It is helpful if additional copies of evidence can be brought to the hearing since this will avoid having to take up a lot of time passing around the originals.
- 5.8 It is helpful to some people to prepare notes listing the relevant points they wish to raise at the Inquiry bearing in mind the factors the Traffic Commissioner may take into account. Those giving evidence at the Inquiry should stick to the facts giving examples where appropriate to support a case.

### **WHAT HAPPENS AT THE INQUIRY?**

- 5.9 Objectors should arrive in plenty of time to register with the Inquiry clerk who will make a note of names of people attending, and of those who want to speak at the Inquiry. Failure to register could result in losing the opportunity to be heard.
- 5.10 Once everyone is seated the Traffic Commissioner will enter the room. The clerk will announce the case by giving the name and address of the applicant, brief details, for example of the application and any representations and objections.
- 5.11 The Traffic Commissioner will commence the proceedings by giving his/her decisions on which objections or representations are valid and whether or not they should be heard.
- 5.12 He/she will then invite the applicant or his/her representative to outline the application and may ask questions relevant to the application.
- 5.13 Objectors, representors or people acting on their behalf will then be asked to present their cases in general terms. Any points raised may be questioned by the Traffic Commissioner or any of the other parties.
- 5.14 During the proceedings the Traffic Commissioner may ask the applicant what the effects may be on his/her business if he/she were to impose conditions on the licence.
- 5.15 Once all the evidence has been heard the Traffic Commissioner will invite all parties to summarise their case. No new evidence can be introduced at this stage.
- 5.16 Finally the Traffic Commissioner will consider all the evidence which has been put before him/her and will either announce his/her decision at the Inquiry or defer it to a later date. In either case all objectors will receive written confirmation of the decision and a statement of his/her reasons, if so requested.

### **IS THE TRAFFIC COMMISSIONER'S DECISION FINAL?**

- 5.17 An appeal may be made to the Transport Tribunal against the Traffic Commissioner's decision by either the applicant or statutory objector. Representors have no right of appeal.
- 5.18 A Traffic Commissioner can review his/her decision to grant or refuse an application if he/she is satisfied that there has been some procedural irregularity in dealing with it. A request to review the Traffic Commissioner's decision must be made within two months of the date of the Traffic Commissioner's original decision.

# ANNEX 1

## Traffic Area Offices

Traffic Area	Areas Covered	Office Address
<b>North Eastern</b>	<p>The Metropolitan Boroughs within South Yorkshire, Tyne and Wear and West Yorkshire</p> <p>The Counties of Durham, Northumberland, Nottinghamshire and North Yorkshire</p> <p>The Districts of Darlington, East Riding of Yorkshire, Hartlepool, Kingston upon Hull, Middlesbrough, North Lincolnshire, North East Lincolnshire, Nottingham, Redcar and Cleveland, Stockton-on-Tees and York</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>North Western</b>	<p>The Metropolitan Boroughs within Greater Manchester and Merseyside</p> <p>The Counties of Cheshire, Cumbria, Derbyshire and Lancashire</p> <p>The Districts of Blackburn with Darwen, Blackpool, Derby City, Halton and Warrington</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>West Midland</b>	<p>The Metropolitan Boroughs within West Midlands</p> <p>The Counties of Shropshire, Staffordshire, Warwickshire and Worcestershire</p> <p>The Districts of Herefordshire, Stoke-on-Trent and Telford and Wrekin</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>Welsh (Cymru)</b>	Wales (Cymru)	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>

Traffic Area	Areas Covered	Office Address
<b>Eastern</b>	<p>The Counties of Bedfordshire, Buckinghamshire, Cambridgeshire, Hertfordshire, Essex, Leicestershire, Lincolnshire (except the Districts of North Lincolnshire and North East Lincolnshire), Norfolk, Northamptonshire and Suffolk</p> <p>The Districts of Leicester, Luton, Milton Keynes, Peterborough, Rutland, Southend-on-Sea and Thurrock</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>Western</b>	<p>The Counties of Cornwall, Devon, Dorset, Gloucestershire, Hampshire, Oxfordshire, Somerset and Wiltshire</p> <p>The Districts of Bath and North East Somerset, Bournemouth, Bracknell Forest, Bristol, Isle of Wight, North Somerset, Plymouth, Poole, Portsmouth, Reading, Slough, Southampton, South Gloucestershire, Swindon, Torbay, West Berkshire, Windsor and Maidenhead and Wokingham</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>South Eastern &amp; Metropolitan</b>	<p>Greater London</p> <p>The Counties of Kent, Surrey, East Sussex and West Sussex</p> <p>The Districts of Brighton and Hove, The Medway Towns</p>	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>
<b>Scottish</b>	Scotland	<p>Hillcrest House 386 Harehills Lane Leeds LS9 6NF</p> <p>Tel 0300 123 9000 Fax 0113 2488521</p>

## ANNEX 2

# Relevant Legislation

The Goods Vehicles (Licensing of Operators) Act 1995

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

The Goods Vehicles (Licensing of Operators) (Fees) Regulations 1995 (SI 1995/3000)

The Goods Vehicles (Licensing of Operators) Act 1995 (Commencement and Transitional Provisions) Order 1995

EC Directive 96/26 as amended by 98/76 (Access to the occupation of road transport operator)

Council Regulation (EEC) No 881/92 (Access to the market in the carriage of goods by road within the community)

The Goods Vehicles (Community Authorisations) Regulations 1992