



Senior Traffic Commissioner
for Great Britain

Statutory Guidance and Directions: Vocational Driver Conduct Consultation 2015

Summary of Responses

October 2015

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Part 1 - Introduction

- 1.1 In October 2014, the traffic commissioners published a set of [strategic objectives](#) to show how they will continue to champion safe, fair and reliable passenger and goods transport.
- 1.2 The strategic objectives outlined a planned review and modernisation of the regulation of HGV and PCV drivers with the aim of ensuring a consistent regulatory outcome for all drivers who commit infringements. This included a commitment to publish a revised Statutory Guidance & Directions Document on Vocational Driver Conduct by the end of 2015. The current [Document](#) was last reviewed in December 2011.
- 1.3 The [consultation](#), which was published on 13 July 2015 and closed on 7 September 2015, followed an informal gathering of information and evidence exercise in February / March 2015, including a meeting of key stakeholders in Birmingham on 4 March 2015.
- 1.4 During the consultation stakeholders were asked to comment on any part of the proposed revised Statutory Guidance and Directions Document. In addition, the following seven specific questions were asked:

Table 1.1	
No.	Question
Q1	Will the proposed revised document help to ensure a consistent regulatory outcome for drivers who commit infringements? Please provide reasons.
Q2	Are the referral and starting points in Annex A clear and easy to follow, and do they reflect the right approach for each specific offence? Are any specific and common offences currently missing from the Annex?
Q3	Is there further scope for offences to be dealt with by staff rather than by the traffic commissioner? If so, please provide details / examples.
Q4	Reference is made in Annex A of the Document to 'less serious' and 'more serious' non-endorsable traffic offences / drivers' hours, tachograph & WTD offences. Do you have any suggestions as to how 'less serious' / 'more serious' could be more clearly defined (e.g. by using additional or alternative examples) in order to ensure consistency in approach?
Q5	When the traffic commissioner is made aware, should all disqualifications committed in a commercial vehicle be referred to the traffic commissioner and/or a driver conduct hearing?
Q6	Is the use of case examples at Annex C helpful? Would the document benefit from additional cases examples and, if so, what should these cover? Are there too many case examples?
Q7	Do you have any views on how the Document should be communicated in order to promote safe, fair, efficient and reliable passenger and goods transport?

Part 2 - Executive Summary

- 2.1 A total of 32 responses were received, of which 27 were relevant to the consultation. We are grateful for the time people took to reply.
- 2.2 Not all respondents indicated an organisation or sector. However, from the information provided respondents were categorised into the following eight groups:

Organisation	Number of responses
Police Force / Enforcement Agency / Regulator	9
Trade Association	4
Operator	3
Local Government / Government Agency Government Department	3
Training Organisation	3
Union	1
Safety Group	1
Individuals	8
TOTAL	32

- 2.3 Table 2.2 below summarises the responses (by group) to five of the seven specific questions asked in the consultation. A more detailed summary of responses to all of the seven questions is presented in Part 3.

Questions	Yes	No	Don't Know / Unspecified
Q1. Will the proposed revised document help to ensure a consistent regulatory outcome for drivers who commit infringements? Please provide reasons.	6 (Police etc) 2 (Trade Association) 3 (Operator) 2 (Government etc) 1 (Union) 1 (Safety Group) 1 (Individual)	1 (Individual)	3 (Police etc) 2 (Trade Association) 1 (Government etc) 3 (Training) 6 (Individuals)

Q2. Are the referral and starting points in Annex A clear and easy to follow, and do they reflect the right approach for each specific offence? Are any specific and common offences currently missing from the Annex?	6 (Police etc) 1 (Trade Association) 2 (Operator) 2 (Government etc) 1 (Union) 1 (Safety Group) 1 (Individual)	1 (Individual)	3 (Police etc) 3 (Trade Association) 1 (Operator) 1 (Government etc) 3 (Training) 6 (Individual)
Q3. Is there further scope for offences to be dealt with by staff rather than by the traffic commissioner? If so, please provide details / examples.	1 (Union) 1 (Individual)	6 (Police etc) 2 (Trade Association) 2 (Operator) 1 (Government etc) 1 (Safety Group)	3 (Police etc) 2 (Trade Association) 1 (Operator) 2 (Government etc) 3 (Training) 7 (Individual)
Q4. Reference is made in Annex A of the Document to 'less serious' and 'more serious' non-endorsable traffic offences / drivers' hours, tachograph & WTD offences. Do you have any suggestions as to how 'less serious' / 'more serious' could be more clearly defined (e.g. by using additional or alternative examples) in order to ensure consistency in approach?	n/a	n/a	n/a
Q5. When the traffic commissioner is made aware, should all disqualifications committed in a commercial vehicle be referred to the traffic commissioner and/or a driver conduct hearing?	6 (Police etc) 2 (Trade Association) 2 (Operator) 1 (Government etc) 1 (Safety) 1 (Individual)	1 (Union)	3 (Police etc) 2 (Trade Association) 1 (Operator) 2 (Government etc) 3 (Training) 7 (Individual)
Q6 (part 1). Is the use of case examples at Annex C helpful?	6 (Police etc) 2 (Trade Associations) 2 (Operator) 2 (Government etc) 1 (Training)	1 (Trade Association) 1 (Operator)	3 (Police etc) 1 (Trade Association) 1 (Government etc) 2 (Training) 7 (Individual)

	1 (Union) 1 (Safety Group) 1 (Individual)		
Q6 (part 2). Would the document benefit from additional cases examples and, if so, what should these cover?	1 (Police etc) 1 (Government etc)	2 (Police etc) 1 (Trade Association) 1 (Operator)	6 (Police etc) 3 (Trade Association) 2 (Operator) 2 (Government etc) 3 (Training) 1 (Union) 1 (Safety Group) 8 (Individual)
Q6 (part 3). Are there too many case examples?	1 (Safety Group)	2 (Police etc) 1 (Operator) 1 (Government)	7 (Police etc) 4 (Trade Association) 2 (Operator) 2 (Government) 3 (Training) 1 (Union) 8 (Individual)
Q7. Do you have any views on how the Document should be communicated in order to promote safe, fair, efficient and reliable passenger and goods transport?	n/a	n/a	n/a

- 2.4 There was broad agreement that the Document will help to ensure a consistent regulatory outcome for drivers who commit infringements.
- 2.5 Only one respondent did not think that the referral and starting points in Annex A were clear and easy to follow, although a number of observations / comments related to specific offences were made which will be further considered prior to the release of the final Document.
- 2.6 Respondents generally thought that the proposed balance between cases handled by staff and those handled by the traffic commissioner was about right.
- 2.7 Most respondents were of the view that all disqualifications committed in a commercial vehicle should be referred to the traffic commissioner and/or a driver conduct hearing.

2.8 There was widespread support for the use of case examples, with most of those who responded indicating that the number presented was appropriate.

Part 3 - Detailed Summary of Responses

Question 1

Will the proposed revised document help to ensure a consistent regulatory outcome for drivers who commit infringements? Please provide reasons.

Q1	
Yes	16
No	1
Don't know / Unspecified	15

- 3.1 There was a positive response across all groups to the revised Document. Respondents indicated that the Document provides a framework and 'point of reference' and that it is clearly thought out and structured which allows for a consistent approach. It was also recognised that there will be exceptions which may result in deviation from the starting points and that the traffic commissioners have a wide discretion (as explained in the Document).
- 3.2 More than one respondent indicated that additional information would be helpful on how traffic commissioners are likely to respond to drivers who have opted to take an appropriate Awareness Course.
- 3.3 In order to bring consistency across different traffic areas, a number of respondents in the passenger sector indicated that clearer guidance is required as to the expectation regarding driver conduct matters being reported to the traffic commissioner.
- 3.4 One respondent indicated that the division between less and more serious offences was too vague which may lead to inconsistent outcomes.
- 3.5 One respondent indicated that the context of any offence should not be overlooked, including any potential pressure exerted from the employer.
- 3.6 A response from specialist road transport lawyers commented on a number of procedural issues, including those related to conjoined driver conduct hearings, proceeding with cases in advance of criminal proceedings, making decisions on drivers subject to bail conditions arising from criminal proceedings and burden of proof.
- 3.7 A number of suggested amendments were proposed by the Police on the sections related to sex offenders and, in particular, amending the text to include reference to Sexual Harm Prevention Orders and Sexual Risk Orders.
- 3.8 Some respondents indicated that the scheduling and outcome of driver conduct hearings needed to be better and more consistently communicated / published (across GB) in order to act as a deterrent and to help guard against drivers continuing to drive. Related to this, some suggested that the operator's role in hearings needed greater emphasis and the notification and outcome of hearings should be sent directly to previous / current employers.

Question 2

Are the referral and starting points in Annex A clear and easy to follow, and do they reflect the right approach for each specific offence? Are any specific and common offences currently missing from the Annex?

Q2	
Yes	14
No	1
Don't know / Unspecified	7

- 3.9 All but one of the respondents who responded to this question indicated that the referral and starting points in Annex A were clear and easy to follow. Most thought that no obvious offences were missing.
- 3.10 One respondent indicated that insurance offences should be added to the Annex, whilst another wanted to see careless driving added for applicants and current holders. Another respondent indicated that the deliberate misuse of a digicard needed to be covered.
- 3.11 Three respondents indicated that they did not see the value in an additional three week delay for applicants with a CU80 offence. One respondent thought that a minimum delay of one month should be set, whilst the other two indicated that if a decision to award a licence has already been taken then there is little point in adding a further complication into the system.
- 3.12 One respondent indicated that an extended 4 week disqualification following a drink drive offence was not enough time to establish any track record of safe driving and it should be six months or nothing. The same respondent did not see any value in the proposed 'sliding scale' in Annex A for disqualifications over 12 months.

Question 3

Is there further scope for offences to be dealt with by staff rather than by the traffic commissioner? If so, please provide details / examples.

Q3	
Yes	2
No	12
Don't know / Unspecified	18

- 3.13 Most respondents believed that the proposed balance of the offences to be dealt with by staff rather than by the traffic commissioner was about right, clear and reflected the serious nature of many of the offences and the need to protect the public.

- 3.14 Some respondents outlined that the potential appearance before a traffic commissioner acts as a deterrent to poor and inappropriate conduct, that this should not be diluted any further and that any further change would potential diminish the seriousness of offences. One respondent believed that only the traffic commissioner should deal with cases and that if the offence was not serious enough for the traffic commissioner then it should be left to operators to deal with (who have robust disciplinary procedures in place).
- 3.15 Two stakeholders were of the belief that staff dealing with applicants added unnecessary administrative burden and that all provisional vocational licence applicants with an expired disqualification should be called to a hearing. One respondent thought that not all CU80 offences committed in a commercial vehicle should be referred to the traffic commissioner.
- 3.16 There was some support for further cases to be dealt with by staff. For example, one respondent indicated that conditional discharges related to drug, violence, public order and dishonesty offences for PCV drivers could be handled by staff in the first instance. One major trade association outlined that there was broad support amongst its members for staff to hand down any short (14-21 day) suspensions if a hearing before a traffic commissioner would simply be 'going through the motions'.

Question 4

Reference is made in Annex A of the Document to 'less serious' and 'more serious' non-endorsable traffic offences / drivers' hours, tachograph & WTD offences. Do you have any suggestions as to how 'less serious' / 'more serious' could be more clearly defined (e.g. by using additional or alternative examples) in order to ensure consistency in approach?

Q4	
Yes	n/a
No	n/a
Don't know / Unspecified	n/a

- 3.17 The police and enforcement related group of respondents were generally of the belief that it is not possible to classify each non endorsable offence into less or more serious. Many thought a case by case review is required which looks at any aggravating / mitigating factors (as well as intent, frequency, risk and circumstances). The presentation of aggravating and mitigating features in the Annex was regarded by this group as being helpful with any classification.
- 3.18 An approach based on sentencing / sanctioning guidelines for each offence was suggested by one respondent, with a level set above which is serious and below which is less serious.
- 3.19 One respondent indicated that, by definition, all non endorsable offences should be classified as minor. Another respondent outlined that less serious offences should be those which attract the smallest fixed penalty fines at the

roadside and that the more serious those which would attract the middle fixed penalty fine at the roadside.

3.20 A number of respondents indicated that additional case examples may be helpful in assisting staff and traffic commissioners to approach the categorisation of less / more serious offences in a consistent way. One respondent indicated that unless additional case examples could be provided then the less serious / more serious offences reference at Annex A should be removed.

3.21 Finally, one respondent indicated that a complex matrix of offence and sentence could be drawn up, but would in practice be more trouble than referring unclear cases to a traffic commissioner.

Question 5

When the traffic commissioner is made aware, should all disqualifications for offences committed in a commercial vehicle be referred to the traffic commissioner and/or a driver conduct hearing?

Q5	
Yes	13
No	1
Don't know / Unspecified	18

3.22 There was overwhelming agreement from those that responded that all disqualifications for offences committed in a commercial vehicle should be referred to the traffic commissioner. It was generally thought that referral to the traffic commissioner and a driver conduct hearing gives a better picture of an individual's driving record and that it was seen as a deterrent to both drivers and operators. However, one respondent indicated that traffic commissioner workload and the potential risk of missing other things needed to be considered.

3.23 One respondent indicated that the traffic commissioner only needs to be involved where a court has disqualified a driver and then the driver reapplies for a licence.

3.24 Finally, one respondent indicated that drivers should only be called to a hearing following a 3 year disqualification or following repeat offences, and that any previous hearings should only be considered retrospectively when considering the appropriate sanction.

Question 6

Is the use of case examples at Annex C helpful?

Q6 (part 1)	
Yes	16
No	2
Don't know / Unspecified	14

Would the document benefit from additional cases examples and, if so, what should these cover?

Q6 (part 2)	
Yes	2
No	4
Don't know / Unspecified	26

Are there too many case examples?

Q6 (part 3)	
Yes	1
No	4
Don't know / Unspecified	27

- 3.25 A number of respondents indicated that the case examples could be expanded / rewritten to provide examples relating to 'less' and 'more serious' non-endorsable offences.
- 3.26 Two respondents from the PCV sector indicated that the audience of the case examples needed to be considered further. They were of the opinion that if the intended audience was the driver then the section should be rewritten and made more relevant. Another respondent believed that there should be a very small number of case studies to give a 'flavour' of how the system works and at the same time not give drivers a false sense of what might be the outcome. One respondent thought that if the sanctions were more clearly defined then a number of examples may not be relevant.

Question 7

Do you have any views on how the Document should be communicated in order to promote safe, fair, efficient and reliable passenger and goods transport?

Q7	
Yes	n/a
No	n/a
Don't know / Unspecified	n/a

3.27 A number of suggestions were made regarding the communication and dissemination of the final Document. These included:

- a) publication on appropriate websites;
- b) circulation via trade unions and trade associations;
- c) production of a mini-handbook / leaflet / guide;
- d) launch in each traffic area;
- e) send directly to all operators, drivers, transport managers etc;
- f) adding to driver CPC training syllabus;
- g) adding a 'tick-box' on licence application / renewal forms to confirm awareness of the Document;
- h) promoting at points of training and when tests are taken;
- i) issuing a reminder on responsibilities when test passed;
- j) encouraging operators to provide a summary of the Document to their staff.

3.28 A number of respondents indicated that the scheduling and outcome of hearings should be routinely published to raise awareness and act as a deterrent.

Part 4 – Senior Traffic Commissioner’s Comments / Next Steps

- 4.1 Responses have indicated that there is wide spread support for the draft Document. However, this summary has outlined a number of valid and valuable comments that will need to be considered in further detail, involving others as appropriate (especially where there are resource implications) In addition, more detailed drafting comments (not contained in this summary) will also need to be analysed prior to the release of the final document, with the aim of making the Document clearer and unambiguous.
- 4.2 The benefit of maintaining any reference to less and more serious non-endorsable offences in Annex A will be considered further in light of the constructive responses received. In many instances a case will very much depend on its individual facts and, therefore, it may not be appropriate to specify starting points for regulatory action.
- 4.3 Although the overwhelming number of responses were supportive, a small number of responses questioned the value of the starting points for regulatory action following a disqualification and/or mobile phone (CU80) offence/s, However, the Senior Traffic Commissioner sees value in such action in order to give a strong message on the standards expected of a vocational driver.
- 4.4 In relation to referrals and the handling of offences and warning letters by staff, confirmation of exact procedures and timing will be subject to a further review of resources and cost, as well as the need for certain cases to be judicially considered on their individual merits.
- 4.5 Whilst it is encouraging that respondents consider the wider audience of the Document as being vocational drivers, the statutory basis of the guidance is directed at traffic commissioners, deputy traffic commissioners and administrative staff. However, the Senior Traffic Commissioner agrees that it is important to raise awareness amongst drivers in order to remind them of the responsibilities that come with vocational driving, and to act as a deterrent where necessary. Respondents to the consultation have made numerous suggestions on how best to communicate the proposed revised Document. The most efficient and productive way of communicating the contents of the Document within the resources available will be carefully considered.
- 4.6 It is recognised that the legislation relevant to vocational driver conduct is less than clear and open to interpretation in some areas. As a result, any new Document will be regularly reviewed in order to consider the practical implementation and impacts of any revisions and also the applicability of any additional case law.
- 4.7 The Senior Traffic Commissioner will consider the responses further in view to amending and finalising the final Document. It is expected that the final Statutory Guidance and Directions Document on Vocational Driver Conduct will be released by the end of 2015.