



SENIOR TRAFFIC COMMISSIONER

Statutory Document No.8

DELEGATION OF AUTHORITY

(THE DELEGATION OF FUNCTIONS TO STAFF,
MULTIPLE LICENCE HOLDERS & LEAD TRAFFIC
COMMISSIONERS)

This document is issued pursuant to section 4C of the Public Passenger Vehicles Act 1981 (as amended). Representative organisations have been consulted in accordance with that provision.

Commencement:

Contents:

Page

GUIDANCE

2

Delegation

2 – 5

Multiple licence holders and lead traffic commissioners

5 - 6

Annex 1 - Instrument of delegation

7

Annex 2 - Suggested delegations by traffic commissioners

8 - 9

Annex 3 - Formulation of conditions and undertakings

10 – 11

Annex 4 - Multiple licence holders and lead traffic commissioners

12 – 14

Issued:

Senior Traffic Commissioner

4 December 2011

GUIDANCE

1. This guidance is issued under section 4C(1)(a) of the 1981 Act to provide information as to the way in which the Senior Traffic Commissioner believes that traffic commissioners should interpret the law in relation to the delegation of their functions
2. Operator licences are issued by the traffic commissioner for the geographical Traffic Area but traffic commissioners may choose, as a matter of practice, to delegate certain routine decisions to members of staff acting on behalf of the individual commissioner. Traffic commissioners might also delegate some of their functions to one of their deputy traffic commissioner colleagues.

Delegation

3. The Deregulation and Contracting Out Act 1994 allows the delegation of functions by traffic commissioners¹ to *any person in the civil service of the Crown who has been assigned or appointed to assist... in the exercise of his [her] functions*². The traffic commissioner may authorise an officer of his to exercise any function of his which is conferred by or under any enactment and to that extent will be treated as if the function had been carried out by the traffic commissioner in question.
4. The Secretary of State has of course delegated his functions in appointing VOSA to act as *officers and servants of a traffic commissioner*³.
5. The Human Rights Act 1998 guarantees the rights of individuals. Those rights cannot be interfered with, without the proper process of law. It is therefore important that all decisions, however trivial they may seem, are considered against this background and any doubts must be referred to the traffic commissioner. Notwithstanding the provisions of sections 69 and 74 of the Deregulation and Contracting Out Act 1994, members of staff acting on behalf of traffic commissioners are not permitted to take any decision which might be deemed to be judicial in nature and which should properly be taken by the commissioner exercising his or her power as a tribunal, nor any decision which might affect a person's rights and the limitations set out in section 71(1)(a) and (b) apply.
6. The power of delegation is a long accepted principle of public law:

"In the administration of government in this country the functions which are given to [office holders]...are functions so multifarious that no [office holder] could ever attend to them... It cannot be supposed that this regulation meant that, in each case, the [office holder] in person should direct his mind to the matter. The duties imposed on [office holders] and the powers given to [office holders] are normally exercised under the authority of the [the office holder] by responsible officials... Public business could not be carried on if that were not the case. Constitutionally, a decision of such an official is, of course, the decision of the [the office holder]. The [office holder] is

¹ Section 74(4)

² Section 79

³ Paragraph 7 of Schedule 2 to the Public Passenger Vehicles Act 1981.

*responsible. It is he who must answer... for anything that his officials have done under his authority, and, if for an important matter he selected an official of such junior standing that he could not be expected competently to perform the work, the [office holder] would have to answer*⁴.

7. The legal principle which permits delegation in this way is predicated on the proposition that the traffic commissioner is responsible for things done under his or her authority. The exercise of the delegation is dependant on two things:
 - the conferment of power must be permitted under legislation (see above); and
 - the existence of a person to whom the traffic commissioner can delegate without parting with ultimate responsibility⁵.
8. Traffic commissioners are in an analogous position to Chief Constables who are not the employers of the officers under their command but are legally answerable for them. The Carltona principle appears to apply readily in such a situation, with two well-established qualifications. One is that some functions are such that they cannot be delegated at all⁶ and the other is that any delegation has to be to somebody suitable. As Carltona demonstrates, who is suitable is for the office-holder to decide.
9. Parliament has conferred powers directly on a traffic commissioner because of the personal qualifications of the individual holder but allows the traffic commissioner to delegate those other functions for which qualifications are not required in their position at the apex of the hierarchical structure put in place to support him or her. Those functions relying on personal qualifications can only be delegated to equivalent office-holders. Whilst a member of staff may be described in an instrument of delegation as a proper and appropriate agent; that person does not become the proper and appropriate person⁷ as their actions under a delegation are those of the individual traffic commissioner.
10. Section 4C(1)(a) of the Public Passenger Vehicles Act 1981 (as amended) provides the Senior Traffic Commissioner with a power to issue guidance, and section 4C(1)(b), the power to issue general directions. These are separate powers but both are directed at the traffic commissioners. Section 4(4) requires that traffic commissioners act under general directions of the Senior Traffic Commissioner and shall have regard to any guidance issued by the holder of that office. The terms are not specifically defined and therefore reference must be made to the following subsections: (2) provides a non-exhaustive list of what might be the subject of guidance and (3) provides a non-exhaustive list of what might be covered by general directions. Those lists are not exhaustive but the intention of Parliament is that those matters covered by subsection (2) should not be the subject of directions and vice versa for those matters listed in subsection (3).

⁴ Carltona Ltd v. Commissioners of Works [1943] 2 All ER 560, as Lord Greene MR

⁵ R (on the application of the Chief Constable of the West Midlands) v Birmingham Justices & Others [2002] EWHC 1087 (Admin)

⁶ R v. Chief Constable of Greater Manchester, ex parte Lainton (C.A. 28 March 2000, unreported)

⁷ R (on the application of the National Association of Health Stores & Another) v Department of Health [2005] EWCA 154

11. Directions cannot be used to dictate the meaning and operation of any enactment or instrument as this would suborn the responsibility of the judiciary⁸ and would risk inconsistency with case law⁹. Any Directions issued under section 4C(1)(b) regarding the manner in which members of staff will carry out functions on behalf of individual traffic commissioners are subject to these legal principles. The delegations described in the attached annexes exist at the discretion of the relevant traffic commissioner whose functions are exercised under the delegation.
12. The effect of a delegation is that the authorised member of staff may take decisions under the delegated powers. The attached Annex provides suggested levels of delegation. Delegations must be explicit and specific. Whilst the Upper Tribunal has suggested that there is no general principle preventing staff in the Office of the Traffic Commissioner from deciding to take no further action in respect of a matter reported to them, unless there is some clear restriction imposed on them¹⁰, this does not fully reflect the public law. The Upper Tribunal was not asked to and so did not consider the relevant case law on delegation and the doctrine of legitimate expectation¹¹. For the avoidance of any doubt on the part of applicants, operators, staff acting on behalf of traffic commissioners or others this document makes it explicitly clear that any delegation must be in writing and not based on a misunderstanding of any custom or practice which might have developed amongst staff in one or more traffic areas.
13. If a member of staff exceeds an explicit and clear delegation then their actions are not those of the relevant traffic commissioner and as a matter of public law that traffic commissioner cannot be considered liable for any prejudice/liabilities arising. Where a decision is not listed in the delegation it must be referred to the traffic commissioner. In particular any decision that would have the effect of revoking or suspending or curtailing a licence, whether of an operator or a driver, must be referred to the traffic commissioner for consideration but the principle extends to information obtained by individual traffic commissioners as a data controller, which cannot be disclosed to any party without explicit authority. That is not to say that every referral requires a formal written submission.
14. Traffic commissioners will be aware of the overriding objective¹² in deciding promptly which issues need a full hearing and disposing summarily of the others. Issues such as minor changes or clarification of relevant legislative provisions should be dealt with by e-mail or in person, with a record of any decision made. Team Leaders and Senior Team Leaders are deemed competent to make minor amendments by way of clarification, such as ensuring that all matters at issue are covered by the listed legislation.

⁸ section 4D(2) of the Public Passenger Vehicle act 1981 and paragraphs 1.11, A7 and B6 of the Secretary of State's Guidance to the STC.

⁹ Al-Le Logistics Limited and Others [2010] EWHC 134 (Admin)

¹⁰ 2011/043 D A Lewis UPVC Installations Ltd & Another,

¹¹ i.e. where a decision-maker misunderstands the extent of his legal powers and offers to an applicant a benefit for which the applicant is not qualified under statute; a policy or procedure has been operated in such a way in the past so person can presume unless corrected that it will continue in the future; the decision-maker has promised a benefit and it would be unfair to break that promise, even if there are public interest grounds. In those circumstances a court may look at: Were the words or conduct ("promise/representation") which gave rise to the expectation clear and unequivocal? Did the person promising the benefit have legal power to grant it (or *ultra vires*)? Who made the promise and how many people stood to benefit by it? Did the person(s) to whom the promise was made take action in reliance upon it which has prejudiced them?

¹² See Statutory Guidance on Case Management

15. Staff cannot exercise delegated functions unless the individual has been specifically authorised in writing by the relevant traffic commissioner and only to the extent indicated by that instrument. Annex 1 provides a suggested instrument of delegation. Traffic commissioners will only grant delegations to named caseworkers, Team Leaders and Senior Team Leaders and other named staff, who are designated officers for the specified Traffic Area. As indicated above the traffic commissioners will wish to be satisfied as to the suitability of a member of staff before delegating functions, taking into account their relevant experience and training. Annex 2 provides a suggested starting point for delegations but individual traffic commissioners may choose to delegate further functions. Traffic commissioners may also remove delegations as they deem appropriate. The head of the Office of the Traffic Commissioner (OTC) and Licensing is required to keep and maintain a Delegation Register, which is to be updated every six months.
16. Relevant members of staff may suggest draft undertakings and conditions but the decision on whether to impose those restrictions remains with the traffic commissioner. Annex 3 provides guidance on the drafting of conditions and undertakings.

Multiple Licence Holders and Lead Traffic Commissioners

17. The seven full-time traffic commissioners, as well as being appointed to geographical Traffic Areas, may exercise reserved functions (i.e. not devolved), anywhere in Great Britain as a deputy traffic commissioner for the relevant Traffic Area. Traffic commissioners can and do delegate functions from a particular Traffic Area to another colleague. The delegation of functions to other traffic commissioners does not require written authority because the qualifications of the individual holder are already known as the basis of appointment to the post of traffic commissioner. The arrangements for multiple licence holders were introduced on the initiative of the traffic commissioners in post at the time and exist by the agreement of the current occupiers of the relevant posts. Annex 4 describes how that agreement works.
18. The legislation enables an operator's licence to be subject to revocation, suspension or curtailment (or in the case of PSV operators, a reduction in the number of authorised vehicles). In deciding what action is appropriate the presiding traffic commissioner must have regard to the nature and circumstances of each case in deciding what action is proportionate. Any decision must relate only to those operator's licences which are subject of the consideration on the papers or at a public inquiry. When considering financial standing¹³, however, the operator must be able to demonstrate appropriate financial standing for the total number of vehicles which are authorised on all its licences. If it cannot then the traffic commissioner may revoke some or all of the licences, by reference to the financial evidence provided by the operator. A determination by the traffic commissioner that the operator has insufficient funds to operate at all must, however, lead to the revocation of all operator licences relating to that MLH.

¹³ See Statutory Guidance and Statutory Directions on Financial Standing

19. When determining matters at public inquiry for a multiple licence holder a presiding traffic commissioner, having regard to the evidence produced, may decide to make a direction in respect of one or more of the licences. Even if all of a multiple licence holder's operator licences are before a traffic commissioner at a single hearing, the traffic commissioner may decide that it is proportionate to make a direction against one or more rather than all of the licences¹⁴. For example a multiple licence holder might hold licences in three Traffic Areas. The lead traffic commissioner for their licence is based in the area where the multiple licence holder has its headquarters and the majority of its operating centres. There might be a compliance record suggesting maintenance issues in all the relevant Traffic Areas and a public inquiry may be called for the lead traffic commissioner to determine whether any action should be taken against any, or all of the multiple licence holder's licences. This is within the discretion of the presiding traffic commissioner¹⁵. On the evidence before the public inquiry the lead traffic commissioner might decide to make a direction for instance under section 26 of the Goods Vehicles (Licensing of Operators) Act 1995 in respect of one or more of the licences but decides that all the relevant facts suggest that it is proportionate to remove only the operator's licence in one Traffic Area.

¹⁴ See Statutory Guidance and Statutory Directions on Case Management

¹⁵ As above

ANNEX 1 – INSTRUMENT OF DELEGATION

From: NAME OF COMMISSIONER
Traffic Commissioner for TRAFFIC AREA



I hereby confirm that

NAME OF MEMBER OF STAFF

Who, having been nominated further to Paragraph 7 of Schedule 2 of the Public Passenger Vehicles Act 1981 as an officer and servant of the traffic commissioner, as defined in section 79 of the Deregulation and Contracting Out Act 1994, is authorised by me under the provisions of Section 74 of the Deregulation and Contracting Out Act 1994 to act and make decisions in accordance with the guidelines set out in the Annexe to the Statutory Guidance on Delegations and Multiple Licence Holders in the Traffic Area up to and including the level of until such time as I withdraw all or any part of the delegation.

Signed Date
.....
NAME OF TRAFFIC COMMISSIONER
Traffic Commissioner for the TRAFFIC AREA

ANNEX 2 – SUGGESTED DELEGATIONS

1.	Matters which will not be delegated		
a.	Disciplinary/regulatory directions and decisions.		
b.	Decision to hold a Public Inquiry.		
c.	Decision to adjourn a Public Inquiry.		
d.	Decisions on stays.		
e.	Acceptance of surrender of licences where there are outstanding compliance issues.		
f.	Decisions on impounded vehicles.		
g.	Decision to review an operating centre.		
h.	Agreement that the requirement for professional competence be temporarily unfilled pending a new appointment as transport manager (TM).		
i.	Dispensation regarding the requirement of professional competence.		
j.	Agreement to early start, variation or cessation of commercial registered bus services.		
k.	Continuation of licence on death, bankruptcy etc. (Regulation 31 and section 57) ¹⁶ .		
	Matters which can be delegated		
2.	Unopposed Applications	GOODS	PSV
a.	Granting of licence applications without objections or representations which meet requirements on finance, professional competence, maintenance and repute and where there are no recorded convictions ¹⁷ or concerns about the applicant or the TM and there is no history (i.e. previous representations or objections or complaints) logged against the operating centre.	AO	AO
b.	Granting of major variation applications without objections or representations and which meet requirements on finance, professional competence, maintenance and repute, and where there no convictions against or recorded concerns about the applicant or the TM and there is no history (i.e. previous representations or objections or complaints) logged against the operating centre, and the applicant does not seek to vary or remove licence conditions.	AO	AO
c.	Granting of Interims where all the following are satisfied: <ul style="list-style-type: none"> • all mandatory requirements such as repute, financial standing and professional competence are met; • the period for making representations against the proposed operating centre has expired and no representations have been received; • the operating centre is already listed on another licence and there have been no recorded concerns or conditions imposed OR, if the operating centre is a new site, it is located in an established industrial area. 	TL	N/A
3.	Opposed Applications	GOODS	PSV
a.	Propose conditions and/or undertakings to all relevant parties if deemed appropriate. There must be no attempt to coerce parties into acceptance of proposed conditions or undertakings. If there is any doubt, or if this method does not	TL (1)	N/A

¹⁶ See Statutory Guidance and Statutory Directions on Legal Entities

¹⁷ See Statutory Guidance and Statutory Directions on Good Repute and Fitness with regard to spent convictions

	seem suitable, the case is to be referred to the TC as early as possible.		
b.	Grant of new or major variation applications with agreed conditions and/or undertakings as above provided both sides agree the same proposed in writing.	STL (1) NOTE (1) See Annex 3	N/A
4.	Other Matters	GOODS	<u>PSV</u>
a.	Refusal of new applications or major variations, which are incomplete.	TL	TL
b.	Agreement that an application shall not be treated as withdrawn when the prescribed payment date falls on a day when the office is closed and the fees are received on the next working day.	TL	N/A
c.	Direction that termination of the licence for non-payment of fees by the fee due date may be disregarded for “exceptional circumstances”, provided the prescribed date falls on a day when the office is closed and when the fee is received on the next working day.	TL	N/A
d.	Propose to revoke licence on liquidation of a company or material change affecting the licence holder. Final revocation to be determined by the TC.	TL	TL
e.	Decisions regarding satisfaction of requirement regarding qualifications for professional competence.	STL	STL
f.	Agreement to less than 56 days notice to register, cancel or vary a registered service which is a tendered service, provided good reasons are given and the local authority/PTE supports the application and gives an assurance that there will be no competitive implications.	-	STL
g.	Acceptance of the surrender of a licence where there are no compliance factors.	TL	TL
h.	Acceptance of validity of advertisements if the wording is marginally incorrect provided that no person’s interests are likely to have been prejudiced.	TL	N/A
i.	Agreement to Schedule 4 transfers provided there are no conditions at the operating centre, no known complaints and the review period will not be extended beyond three years	TL ¹⁸	N/A
j.	Issue of section 19 and 22 permits	-	TL
6.	Delegations relating to decisions made by staff in the offices of the traffic commissioners	GOODS	<u>PSV</u>
a.	Decision to take no further action with respect to goods vehicle and passenger vehicle operators	TL	TL
b.	Decision to take no further action with respect to holders of vocational driving licences	AO	AO
c.	Decision to issue a warning to holders of vocational driving licences	AO	AO
d.	Propose to revoke licence on liquidation of a company or material change affecting the licence holder. Final revocation to be determined by the TC.	TL	TL
e.	Impounding – formal letter to VOSA advising that no application for return has been received.	STL	STL

Key:

STL	Senior Team Leader	Higher Executive Officer	HEO
TL	Team Leader	Executive Office	EO
AO	Case worker or Clerk	Administrative Officer	AO

¹⁸ See Statutory Guidance and Statutory Directions on Case Management

ANNEX 3 – FORMULATION OF CONDITIONS & UNDERTAKINGS

1. Guidance on format of conditions

- 1.1 Conditions must be:
 - 1.1.1 lawful and reasonable;
 - 1.1.2 unambiguous;
 - 1.1.3 capable of being monitored and enforced.

2. Road safety conditions/undertakings

- 2.1 Must prevent vehicles authorised to be used under a licence from causing danger to the public:
 - 2.1.1 at any point where vehicles first join or leave the public road when leaving or returning to the operating centre;
 - 2.1.2 on any road (other than a public road) along which vehicles are driven between such a point and the operating centre.

3. Examples of road safety conditions/undertakings

- 3.1 Authorised vehicles (including trailers) shall leave the operating centre by executing a right turn on to [] Road and shall enter by executing a left turn from that road.
- 3.2 Authorised vehicles shall enter and leave the operating centre in forward gear.

4. Environmental conditions

- 4.1 Environmental conditions must prevent or minimise adverse effects on owners or occupiers of land in the vicinity of the place used or to be used as the operating centre.
- 4.2 Conditions may relate to:
 - 4.2.1 number, type and size of motor vehicles or trailers;
 - 4.2.2 vehicle and trailer parking arrangements at or in the vicinity of any such centre; and
 - 4.2.3 the hours at which operations (including maintenance, loading and unloading) may be carried out.

5. Examples of environmental conditions

- 5.1 Authorised vehicles shall not exceed 7½ tonnes gross vehicle weight.
- 5.2 The engines of authorised vehicles shall not operate for more than 5 minutes before the authorised vehicles leave the operating centre.
- 5.3 There shall be no maintenance at the operating centre.
- 5.4 Authorised vehicles shall be parked within the area hatched on the plan attached to the licence.
- 5.5 The hours of movement of the authorised vehicles at, into or out of the operating centre shall be confined to 0700 to 1900 Mondays to Fridays.

6. Reasons for imposing conditions/undertakings

- 6.1 The reasons for the attachment of licence conditions or acceptance of undertakings must always be clearly stated.

7. Important exception

- 7.1 Where novel forms of conditions or undertakings are agreed between the parties the Traffic Commissioner (TC) should be consulted to confirm the legality and appropriateness of what is proposed.

8. Removal of variation conditions

- 8.1 Conditions or undertakings imposed at public inquiry or by the TC personally In-Chambers may only be amended or removed by the TC (or his/her deputy).
- 8.2 Applications to vary or remove conditions or undertakings which are contested may be determined only by the TC (or his/her Deputy) after the public inquiry as appropriate.
- 8.3 Otherwise conditions or undertakings may be removed or varied subject to either:
 - 8.3.1 written agreement of all parties originally involved;
 - 8.3.2 lack of response to advertisement or Applications and Decisions publication;
 - 8.3.3 change in the circumstances which caused the original imposition of the conditions whether road safety or environmental.

9. Reasons for removing conditions/undertakings

- 9.1 Reasons for deleting or changing undertakings or conditions must always be given.

ANNEX 4 – MULTIPLE LICENCE HOLDERS & LEAD TRAFFIC COMMISSIONERS

1. Introduction

1.1 This document summarises the agreement between the seven traffic commissioners in Great Britain which allows the holders of operators' licences in more than one Traffic Area (a multiple licence holder "MLH") to be dealt with by a Lead Traffic Commissioner (LTC).

1.2 Holders of operators' licences in more than one Traffic Area will be allocated to a Lead Traffic Commissioner (LTC) to whom all applications relating to those licences will be referred.

1.3 All matters of non-compliance relating to a multiple licence holder will also be referred to the LTC in the first instance.

1.4 The process below sets out how the LTC will be allocated and the basis of the delegation of functions to the LTC from other traffic commissioners in whose area(s) MLHs hold licences.

1.5 As bus operators tend to operate as separate companies in each Traffic Area, this guidance will be more applicable to the holders of goods vehicle operators' licences.

1.6 Bus operators whose licences are granted to a group of related companies or which form subsidiaries of a parent company may, however, request that a lead traffic commissioner be appointed to deal with any matters that arise out of their related operator's licences. The only exception relates to Scottish public service vehicle licences where devolved powers exist in respect of bus punctuality matters.

1.7 The procedure is designed to ensure a clear and consistent approach to administration.

2. The lead traffic commissioner and multiple licence holders

2.1 The identity of the LTC for an MLH will be determined in accordance with the following criteria:

- the location of the operator's correspondence address/business head quarters, provided the operator holds an operator's licence in that Traffic Area; or
- where that is not applicable the location and number of operating centres and the number of authorised vehicles in a particular Traffic Area;

2.2 The licence holder may make representations to be allocated to a different LTC but the final decision will remain with the traffic commissioners.

3. Multiple licence holders and the allocation of business between traffic commissioners

New and variation applications

3.1 All applications made by a MLH will be made to the LTC for that operator.

3.2 The LTC will decide whether he/she should deal with the application, or whether to allocate the case to the traffic commissioner in whose Traffic Area the (proposed) operating centre(s) is/are located.

3.3 To ensure that local views are reflected the LTC will normally allocate cases relating to operating centres to the traffic commissioner located in the Traffic Area in which the operating centre is located.

3.4 If necessary, a public inquiry will be held in the Traffic Area to which the MLH's application relates and will be heard by the local traffic commissioner or a deputy traffic commissioner.

3.5 Where the LTC considers applications for a MLH which relate to other Traffic Areas, the LTC will deal with all applications.

Multiple licence holders and non-compliance

3.6 All cases of non-compliance relating to an MLH will be referred to the LTC for that MLH who will then consider what action to take.

4. Process

4.1 Operators who hold licences in more than one Traffic Area have been allocated a Lead Traffic Commissioner (LTC).

4.2 The purpose of these directions is to provide a standard procedure for preparing a case submission to the LTCs. These directions should be read alongside all relevant Statutory Guidance and Statutory Directions. There should be sufficient finance to cover all relevant licences¹⁹.

4.3 The overriding concern in preparing case submissions is relevance. If a traffic commissioner requires additional detail the LTC can request it.

4.4 Any case submission in relation to an operator should clearly state that the operator is an MLH and the submission is with the LTC for initial consideration. Unless otherwise directed, if the LTC is unavailable for whatever reason the submission shall be referred to a nominated traffic commissioner or deputy traffic commissioner.

4.5 If the LTC determines the submission should go to any other traffic commissioner, the LTC will e-mail a reply in those terms stating to which traffic commissioner the referral is to be sent and the reason for the referral.

¹⁹ See Statutory Guidance and Statutory Directions on Financial Standing

4.6 An MLH case submission should normally include the following:

- details of the licence held in each area where relevant, including the number of vehicles and trailers, the name of the transport manager and details of the operating centres;
- a short compliance history for each licence covering the last five years with particular emphasis on relevance (e.g. any previous findings for similar breaches), if an application generates a National Intelligence Unit request or if the system shows a relevant compliance history;
- the reason for the current submission (to include the licence to which it refers, if it is not in relation to all licences held);
- an overall summary of the operator across their licences in narrative form. In particular consideration at this stage should be given to any jurisdictional issues; and
- the caseworker and the Team Leader's recommendation.

4.7 It is anticipated that referrals of existing MLHs will operate in the following way: investigations by VOSA will identify whether the operator is a Multiple Licence Holder. VOSA staff will carry out an investigation on the local licence in the usual way. If the investigation results in the recommendation to refer to a traffic commissioner OTC will obtain a report on all other linked licences. That report will have a breakdown of the compliance history including references to prohibitions, annual tests and any convictions and will require an overview of the operator's performance. The report will then be passed to the LTC via a submission from the relevant OTC with the usual recommendation. The submission should provide a summary of the 'local' licence where alleged non-compliance has been identified in addition to details of any relevant adverse history on the other linked licences.

5. Decision

5.1 The LTC will decide what action, if any, is to be taken in relation to each of the licences. If the LTC forms a view that only one licence area needs consideration, the LTC will indicate whether the submission should be referred to the traffic commissioner for the area in question to decide what action should be taken.

5.2 If the LTC determines that licences in more than one area may need action, the LTC shall make the decision on what action should be taken in relation to each licence. Any warnings will be actioned by the Lead OTC. If the decision is to hold a public inquiry, the LTC shall state in which area it is to be held and whether they or a different traffic commissioner shall hear the cases. In the case of an operator with a licence in the Scottish Traffic Area, the LTC (and staff when making recommendations) should be alive to jurisdictional issues and whether there should be two public inquiries and in these circumstances which Inquiry should be heard first.