



The Traffic Commissioners' and Deputy Traffic Commissioners' Appraisal Scheme 2017

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Beverley Bell

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Senior Traffic Commissioner
February 2017

Introduction

This document outlines the approach of the Traffic Commissioners' and Deputy Traffic Commissioners' Appraisal Scheme, what the Appraisal Scheme intends to achieve in terms of objectives and overall outcomes and how it will operate in order to achieve those objectives and outcomes. It relies heavily on the JSB (now Judicial College) Judicial Skills and Abilities Framework 2014 and the JSB Appraisal Standards and Appraiser Competences in Tribunals Framework (December 2009). It applies to all traffic commissioners (TCs) and deputy traffic commissioners (DTCs). The 2014 Framework defines two levels of leadership and management roles. Level 1 applies to the STC and Level 2 applies to the full-time TC deployed to the relevant traffic area.

This document therefore covers the following:

Section 1

- 1.1 Objectives
- 1.2 Principles
- 1.3 Appraisal Criteria
- 1.4 Outcomes
- 1.5 Standards

Section 2

- 2.1 Responsibility for Operation of the Scheme
- 2.2 Scope
- 2.3 Appraisal Process and procedure
- 2.4 Dispute Resolution Process
- 2.5 Administration of the Scheme
- 2.6 Use of the Appraisal Information

Section 1

1.1 Objectives

1. To maintain the confidence of users and the public in the performance of Traffic Commissioners (TCs) and Deputy Traffic Commissioners (DTCs) by demonstrating a consistent and professional mechanism for appraisal and regular monitoring.
2. To establish and maintain standards and consistency of practice.
3. To ensure that TCs and DTCs acquire, maintain and demonstrate the appropriate qualities and abilities for effective and continued performance of their role.
4. To provide a practical framework for individual performance of the statutory functions to be assessed and measured so that they meet the defined standards as set out in the Statutory Guidance, Statutory Directions and Administrative Policies.
5. To identify individual training and development needs.
6. To provide training and development programmes informed by the identification of particular needs.
7. To create opportunities for TCs and DTCs to raise issues relating to procedures, training and their tribunal experience.
8. To provide a framework to gather and share feedback (i.e. best practice, barriers/issues for resolution) on all areas of the work of TCs and DTCs (i.e. its procedures, policies, governance etc.) – and to use this feedback to help shape future developments in the TC & DTC regulatory regime.

1.2 Principles

The following underlying principles will underpin the development, implementation and execution of the Appraisal Scheme:

1. Openness, transparency, consensus, professionalism and fairness
2. The maintenance of judicial independence
3. Confidentiality
4. A constructive and evidence-based assessment focused on the competence framework
5. Timely support for TCs and DTCs in the performance of their role
6. A non-interventionist approach by the appraiser during observation

1.3 Appraisal Criteria – skills and abilities

Appraisal will be based on performance by reference to the JSB Judicial Skills and Abilities Framework 2014.

- A. Assimilating and Clarifying information
- B. Working with others
- C. Exercising judgement
- D. Possessing and building knowledge
- E. Managing work efficiently
- F. Communicating effectively

1.4 Outcomes

The following outcomes are expected as a result of the implementation of the Appraisal Scheme and they link directly to the objectives as defined in Section 1.1.

- 1.4.1. Users and colleagues will have confidence in the role of TCs and DTCs and in the part they play in the promotion of road safety and fair competition between operators.
- 1.4.2. Users and colleagues will have confidence that TCs and DTCs will offer a consistent approach to the regulatory regime and that they understand the different regulatory and tribunal roles.
- 1.4.3. The successful completion of consistent performance appraisals for all TCs and DTCs to ensure that they acquire and maintain the necessary competencies.
- 1.4.4. Following every appraisal, the subsequent completion (where appropriate) of an actionable self-development plan to address any identified needs (i.e. where expected levels of performance have not been adequately demonstrated or evidenced).
- 1.4.5. The collation of all feedback provided throughout the appraisal process, and the appropriate action taken with regard to that feedback to inform and shape future developments in the TC & DTC regulatory regime.

1.5 Standards

1. The scheme must identify outcome standards to reflect the level of competence attained.
2. The scheme identifies a threshold level of competence that lends itself to two outcome standards: “Satisfactory” and “Developmental needs identified”.
3. The appraiser shall state the outcome standard at the conclusion of the appraisal.

This publication was withdrawn on 22 February 2021

Section 2

2.1 Responsibility for Operation of the Scheme

- The Senior Traffic Commissioner (STC) has overall responsibility for the effective operation and management of the appraisal scheme.
- The STC shall oversee the operation of the scheme with the aim to ensure:
 - consistency of the operation of the scheme,
 - that identified training needs are met in a timely and appropriate way,
 - that best practice is disseminated,
 - that a regular review (and where appropriate revision) of the scheme and its effectiveness is carried out,
 - a procedure is in place for resolving any disputes that might arise concerning appraisal.
- The STC may delegate certain administrative functions in the operation of the scheme to a member of staff at the Office of the Senior Traffic Commissioner (OSTC).
- Confidential papers associated with the scheme will be maintained in a locked cupboard in the STC's office.

2.2 Scope

- All TCs and DTCs will be appraised.
- There is the expectation that TCs and DTCs will agree to a self-development plan, which links to self-assessment to promote continued improvement as well as deliver any specific training need.
- With regard to the TCs the scheme will be one of peer appraisal where the TC is appraised by the STC with the exception of the STC who will be appraised by a serving TC of sufficient seniority.
- With regard to the DTCs the scheme will be one of peer appraisal where the DTC is appraised by a TC.
- All appraisers should have attended an appraisers' training session organised and delivered by former or current trainers from the Judicial College. Appropriate and regular training will be provided to include

- a. how to assess performance against the competence framework;
 - b. how to encourage self-appraisal;
 - c. how to give constructive feedback;
 - d. how to write a comprehensive report; and
 - e. how to help the appraisee when necessary to produce an effective self-development plan.
- All appraisers should undertake refresher training every three to four years.
 - All appraisers must themselves have been satisfactorily appraised.
 - All appraisers are committed to the principle of continuous personal and professional development.
 - All TCs and DTCs will be appraised on a three-year cycle, although there may be occasions when appraisal occurs within a shorter period, depending on sitting arrangements.
 - Newly appointed TCs and DTCs must be appraised after the first 12 months of conducting public inquiries and preliminary hearings.
 - The purpose and scope of the appraisal scheme will be communicated to all TCs and DTCs by the STC.

2.3 Appraisal Process and Procedure

The appraisers and appraisees should remind themselves of the contents of the JSB Judicial Skills and Abilities Framework 2014 and The JSB Appraisal Standards and Appraiser Competences In Tribunals Framework (2009).¹

2.3.1. The STC will notify the appraiser and appraisee of the details when the appraisals are due by email together with a copy of the scheme and the appropriate forms. The appraiser and appraisee will fix a mutually convenient date for the appraisal and it is anticipated that this will take place **within 8 weeks of the notification**.

¹ www.judiciary.gov.uk/publications-and-reports/judicial-college/JSB-guidance-frameworks/Appraisal-Standards-and-Appraiser-Competences-in-Tribunals-Framework-2009

- 2.3.2. The appraiser must complete a self-assessment form and send it to the appraiser **at least seven days prior to the observation** together with a maximum of four recent written judgements. The self-assessment form will be attached to the appraisal report form (see Annexes A and B).
- 2.3.3. Both the appraiser and appraiser may refer to the previous appraisal (where available) upon request.
- 2.3.4. Where the STC considers it desirable for both parties to be provided with a copy of the previous appraisal in any event the STC will ensure that copies are provided **within at least 7 days of the appraisal date**.
- 2.3.5. The appraiser should ensure that he/she has contacted the appraiser in good time to arrange a mutually convenient appraisal date and location.
- 2.3.6. The appraiser and appraiser should arrive at the hearing at least 1 hour before the start time of the public inquiry or driver conduct hearing to enable a pre-appraisal discussion to take place.
- 2.3.7. The OTC listing officer should make every effort to ensure that cases are listed to start at a time appropriate to include this meeting. The OTC will ensure that a copy of the public inquiry or driver conduct hearing brief is provided for the appraiser **at least 7 days before the hearing date**.
- 2.3.8. The appraiser will observe the pre-hearing preparation as well as the actual hearing and may retire with the appraiser during the proceedings.
- 2.3.9. **At the end of the proceedings, or**, if this is not possible, **on a mutually convenient future date**, the appraiser must have a face-to-face discussion with the appraiser about his or her performance. This should occur within seven days of the observation if at all possible.
- 2.3.10. It is anticipated that observation for one working day will be sufficient for the appraisal to take place but if either the appraiser or appraiser request that a further day's hearing is observed then this request shall be accommodated. This will ensure that all of the competences are observed and will also allow for exceptional circumstances arising during the first day's observation
- 2.3.11. Feedback from the appraiser should relate to the competences and must be evidence based. It is to be noted that evidence includes not only the observation of the hearings themselves but also observation of the appraiser engaging with others such as members of OTC or DVSA staff.

2.3.12. It is desirable that the appraiser completes the appraisal form in the presence of the appraisee, that there is mutually beneficial discussion, that any self-development plan is agreed and that the form is then signed by both parties.

2.3.13. However, there may be limited circumstances where this is not possible and in such cases the appraiser will complete the appraisal form **within 14 days of the appraisal** and will send a copy to the appraisee marked "Strictly Private and Confidential". The appraisee will then have **14 days to respond** with a self-development plan where required.

2.3.14. The agreed and signed forms and any self-development plan should then be sent to the STC **no later than 14 days after completion of the forms** marked "Strictly Private and Confidential".

2.4 Dispute Resolution Process

2.4.1. In the event that the appraiser concludes that the appraisal process cannot continue the matter shall be referred to the STC. The STC shall specify the reasons for the cessation of the appraisal and the STC shall either specify that the appraisal must continue, or may appoint a new appraiser.

2.4.2. In the event that the appraisee concludes that the appraisal process cannot continue the matter shall be referred to the STC. The appraisee shall specify the reasons for the cessation of the appraisal and the STC shall either specify that the appraisal must continue, or may appoint a new appraiser.

2.4.3. In the event that the findings of the appraiser are not agreed by the appraisee the matter is to be referred to the STC.

2.4.4. After consultation with both the appraiser and appraisee the STC can confirm or amend the outcome of the original appraisal or, if the STC considers that there should be another appraisal appoint another appraiser to conduct a fresh appraisal.

2.4.5. In the event that the appraiser concludes that the appraisee might be unable, unfit or unwilling to continue to serve as a TC or DTC or has very serious concerns about the conduct and/or personal welfare of the appraisee that fact is to be referred to the STC. The STC will then consider all of the matters referred to in the appraisal and may then notify the Department for Transport of the matters that are of concern but will not disclose the appraisal documents. The STC will discuss the findings of the appraiser with the appraisee and may also notify the Department for

Transport of matters of concern. Such notification must not be made without the knowledge of the appraisee and a copy of the correspondence to the Department for Transport shall be provided to the appraisee.

2.5 Administration of the Scheme

- 2.5.1. DVSA and the Department for Transport will, in line with the requirements explained in the Legal Framework document, ensure that sufficient resources are allocated to support the efficient management of an effective and continuing appraisal scheme. Any failure to supply sufficient resources may be referred to the Secretary of State.
- 2.5.2. The STC is responsible for the operation and management of the scheme, but may delegate non-sensitive administration aspects of the scheme to a member of staff at the OSTC.
- 2.5.3. The STC will take all reasonable steps to ensure that all appraisal papers are kept confidential between the parties.

2.6 Use of the Appraisal information

- 2.6.1. The appraisal forms, including the self-development plans and any other documentation will be kept by the STC in the personal files of the TCs and DTCs (see Annexes A to C).
- 2.6.2. Subject to paragraph 2.4 the appraisal report and any accompanying self development plan will be confidential, and will be seen only by the STC, appraiser and appraisee.
- 2.6.3. Notwithstanding the above the appraisee may give their consent for their appraisal to be disclosed to a third party.
- 2.6.4. The STC will contact each TC and DTC upon receipt of the completed appraisal forms and any self development plan and will speak with them to ensure that any action points arising are dealt with in a timely manner and also to provide pastoral care and support to the relevant TC or DTC where appropriate. It is anticipated that this will be a positive and informal process and that it will promote self development and facilitate continued professional development. A summary note of the discussion will be made by the STC (see Annex 5)

- 2.6.5. The STC may use the information contained in the appraisal forms for the purposes of providing references if the appraisee consents.
- 2.6.6. The STC may identify common themes emerging as a whole from the appraisal process and in that event may choose to identify those common themes to all TCs & DTCs so as to facilitate discussion and development for the benefit of all TCs & DTCs.
- 2.6.7. In addition, the STC may use general themes arising out of the appraisal scheme for the purposes of planning either specific training programmes or for inclusion in the Annual Professional Development Seminar.

Beverly Bell

Senior Traffic Commissioner

This publication was withdrawn on 22 February 2021

ANNEX 1

TRAFFIC COMMISSIONERS' APPRAISAL SCHEME GUIDE FOR APPRAISERS AND APPRAISEES

1. Statutory Functions

The jurisdiction of traffic commissioners (TCs/DTCs) includes considering and granting applications for goods and PSV operators' licences, considering and taking regulatory action against those licences including making orders for curtailment, suspension, revocation and personal disqualification of operators and directors and taking regulatory action against nominated transport managers. TCs and DTCs also consider the conduct of drivers who hold or apply for licences to drive large goods and passenger carrying vehicles. TCs and DTCs also consider and take regulatory action against those PSV operators who fail to operate local bus services in accordance with the registered particulars of the timetables. This action can include the imposition of financial and other penalties and/or the restriction of current and/or future registrations. TCs and DTCs determine appeals against the impounding of unauthorised vehicles that are impounded by DVSA.

TCs and DTCs also determine whether proposed or existing operating centres (the place where the vehicles are normally kept) are or remain suitable to be specified on operators' licences.

The TC for Scotland also has statutory powers to consider appeals by taxi operators against fare scales fixed or reviewed by Scottish licensing authorities and is also empowered under the Road Traffic Act 1991 to appoint adjudicators to consider appeals against penalty charge notices issued in respect of improperly parked vehicles in Scottish local authority areas where parking offences have been decriminalised.

The role of TC and DTC is both as a regulator, in which role they must have proper regard to the Regulator's Code², and as a specialist tribunal. These roles are explained in the Legal Framework document³. In fulfilling their statutory functions all TCs (including DTCs) are expected to have regard to the STC's Statutory Guidance and to follow the STC's Statutory Directions. In addition, administrative guidance has been issued with consent which provides a starting point for TC and DTC conduct. It is therefore right that consideration shall be given to the appraisee's compliance with the STC's Statutory Guidance and Statutory Directions and administrative guidance.

The appraisal scheme has been developed to encompass the wide ranging regulatory role of TCs and DTCs in and out of the Inquiry room. It takes into account the work necessary to fulfil the role and links objectives to those competencies.

² <https://www.gov.uk/government/publications/regulators-code>

³ <https://www.gov.uk/government/publications/framework-document-for-the-traffic-commissioners-and-department-for-transport-including-its-agencies>

2. Competencies specific to the jurisdiction of the Traffic Commissioners

The following are based on the JSB skills and abilities but must be assessed with regard to the Statutory Functions, as summarised above.

A. Assimilating and clarifying information: quickly assimilates information to identify essential issues, develops a clear understanding and clarifies uncertainty through eliciting and exploring information

Regulator elements

1. Possesses the ability to quickly absorb recall and analyse information, facts and legal argument
2. Identifies and focuses on the real issues; not lost in irrelevant detail
3. Properly applies appropriate legal rules and principles to the relevant facts
4. Is able to weigh evidence in order to decide the facts of a case

Leadership and management elements

Level 1 – establishes and communicates the evolving strategic direction of the traffic commissioner jurisdiction and leads the jurisdiction through personal example

Level 2 – communicates priorities and leads their within their traffic area through personal example

B. Working with others: engages with others to deliver regulatory functions, conducts proceedings appropriately, values diversity and shows empathy and sensitivity in building relationships

Regulator elements

1. Manages hearings through fair and objective direction and intervention.
2. Has an awareness of the diversity of the communities which the tribunal serves.
3. Works constructively with others to encourage co-operation and collaboration when needed.
4. Treats people with respect, sensitivity and in a fair manner without discrimination; ensuring the requirements of those with differing needs which are properly met.
5. Maintains effective relationships, demonstrating the appropriate balance between formality and informality in hearings and with all stakeholders.
6. Is able to recognise and deal appropriately with actual or potential conflicts of interest.
7. Can demonstrate when to apply the requirements of the Regulators' Code.

Leadership and management elements

Level 1 – Acts as the figurehead and builds effective relationships with stakeholders and within key policy areas across the jurisdictions.

Level 2 – uses an inclusive approach to develop and maintain the reputation of the regulation within their traffic area.

C. Exercising judgement: demonstrates integrity and applies independence of mind to make incisive, fair and legally sound decisions

Regulator elements

1. Makes timely and appropriate decisions
2. Exercises sound judgement, common sense, and can distinguish when exercising tribunal functions.
3. Reaches clear, reasoned decisions objectively, based on relevant law and findings of fact
4. Demonstrates integrity and independence of mind
5. Does not exercise bias or prejudice

Leadership and management elements

Level 1 – Works to improve performance of statutory functions across the jurisdictions to ensure it can meet existing and future needs

Level 2 – Provides support to maintain and improve the performance of the regulator to meet existing and future needs

D. Possessing and building knowledge: possesses a detailed knowledge of the relevant jurisdiction, law and practice and demonstrates an ability and willingness to learn and develop professionally

Regulator elements

1. Possesses a high level of expertise within the traffic commissioner jurisdiction
2. Possesses an appropriate and up to date knowledge of the relevant law, its underlying principles and procedure including the Statutory Guidance and Directions issued by the STC
3. Shows an ability and willingness to learn and develop
4. Complies with the training requirements of the traffic commissioner jurisdiction

5. Contributes to the development and communication of legal and regulatory policy and advice in line with the strategic objectives.

Leadership and management elements

Level 1 – Encourages learning, keeps processes and knowledge up to date to meet evolving requirements within the jurisdiction, communicates developments relevant to the tribunal and regulatory functions.

Level 2 – Keeps processes and knowledge up to date and communicates developments within their traffic area and supports wider learning across the jurisdiction.

E. Managing work efficiently: works effectively and plans to make the best use of resources available

Regulator elements

1. Runs hearings effectively to facilitate a fair and efficient conclusion.
2. Prioritises effectively and minimises delays and irrelevancies.
3. Makes efficient use of resources within the tribunal and outside.
4. Shows ability to work at speed and under pressure.
5. Deals effectively with case management.
6. Undertakes necessary preparatory work.

Leadership and management elements

Level 1 – Maintains and improves efficiency within the jurisdiction

Level 2 – Takes responsibility for leading the efficient and effective use of tribunal time and regulatory resources within their traffic area.

F. Communicating effectively: demonstrates good oral and written communication skills and authority

Regulator elements

1. Establishes authority and inspires respect and confidence
2. Remains calm and authoritative even when challenged
3. Explains relevant legal or procedural information that is succinct, clear and readily understood by all
4. Asks clear, concise, relevant and understandable questions
5. Demonstrates willingness to listen with patience and courtesy
6. Articulates decisions using clear and concise language so that the parties clearly understand the findings, reasons and decisions.
7. Supports and delivers change within the tribunal

Leadership and management elements

Level 1 – Drives change across the jurisdiction

Level 2 – Oversees change within their traffic area

ANNEX 2

Data Protection Act 1988: The Office of the Senior Traffic Commissioner will process personal data in this form within the provisions of the Act. You have a right to ask for a copy of the data and to ask for any inaccuracies to be corrected.



**TRAFFIC COMMISSIONER/DEPUTY TRAFFIC
COMMISSIONER
APPRAISAL FORM**

PART A - APPRAISAL SELF ASSESSMENT FORM

(To be lodged with the appraiser at least 7 days before the appraisal date.)

Name:

Date of appointment:

Appraiser:

Date of Appraisal:

Date of previous appraisal:

In order that you may prepare for the appraisal visit and to enable an effective discussion with your appraiser, please complete the details above and the following form.

(Please make any additional comments on the back of this form.)

- 1) What were the objectives identified, if any, in your last appraisal? In your view have these been achieved?

- 2) What training in this, (or any another jurisdiction), have you attended since your last appraisal in this tribunal? Has the training assisted you in your role as a TC/DTC?

- 3) With reference to the Statutory Functions and the Competencies set out above, what do you consider to be the most effective aspects of your performance as a TC/DTC?

- 4) With reference to the Statutory Functions and the Competencies set out above, what aspects of your performance do you consider would most benefit from further development?

5) Are there any administrative or procedural matters that could be changed to assist you in the improvement of your performance as a TC/DTC?

6) Is there any training or additional support that you consider would enhance your performance as a TC/DTC?

7) Do you have any special needs that are not currently being met by the Office of the Traffic Commissioner or the Department for Transport?

8) Are there any additional comments that you would like to make or issues that you would like to discuss in the appraisal?

Signed: _____

Date: _____

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ANNEX 3



TRAFFIC COMMISSIONER/DEPUTY TRAFFIC COMMISSIONER APPRAISAL FORM

PART B - APPRAISAL FORM

(To be sent by post or email, when completed, to the Office of the Senior Traffic Commissioner)

Appraisee:

Appraiser:

Date(s) of appraisal:

Summary of type of cases observed

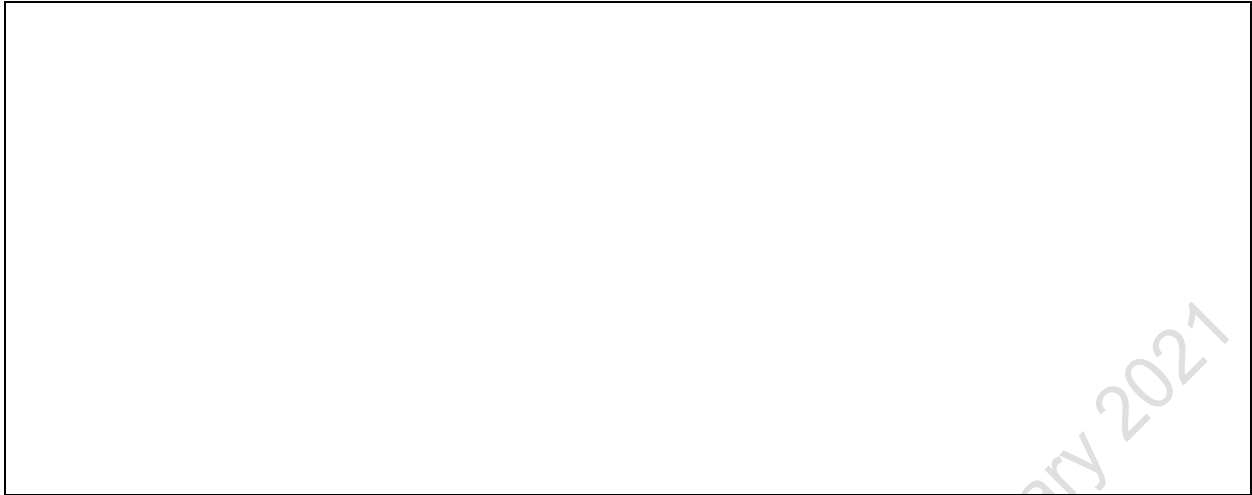
This publication was withdrawn on 22 February 2021

Summary of written decisions reviewed by appraiser, including, where relevant, comment on decision-writing skills



This publication was withdrawn on 22 February 2021

Summary of appeal cases reviewed at the appraisal (both dismissed and allowed)



Summary of work undertaken outside the Public Inquiry room



Competence Framework & Performance Indicators

Complete each box with reference to the specific competencies as set out above.

- Identify clearly the evidence that comment is based upon.
- Identify competencies that cannot be assessed.
- Identify the appraisee's strengths.
- Identify areas where the appraisee would benefit from development.

A. Assimilating and clarifying information.⁴



B. Working with others⁵.



⁴ See page 4 of Judicial Skills and Abilities Framework 2014.

⁵ See page 5 of Judicial Skills and Abilities Framework 2014.

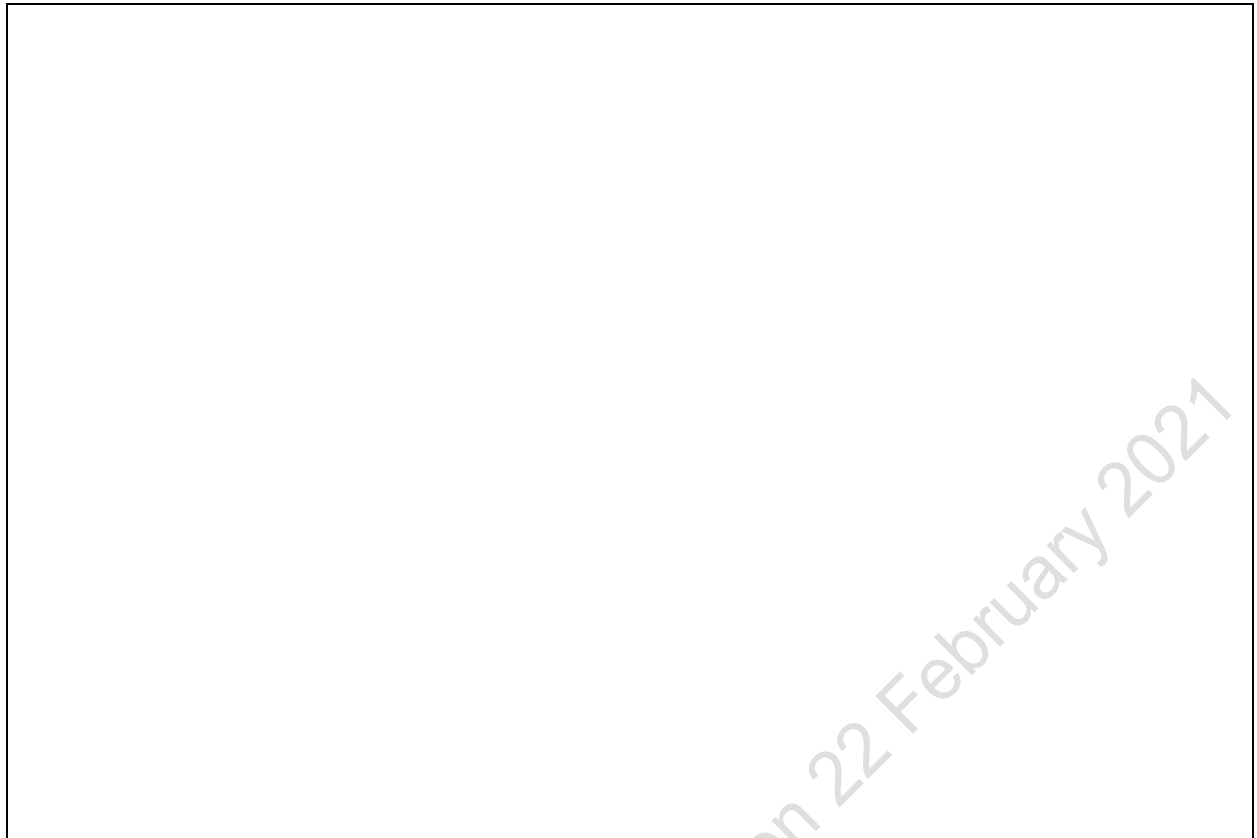
C. Exercising judgement⁶.



D. Possessing and building knowledge⁷.

⁶ See page 6 of Judicial Skills and Abilities Framework 2014.

⁷ See page 6 Judicial Skills and Abilities Framework 2014.



E. Managing work efficiently⁸.



F. Communicating effectively⁹

⁸ See page 7 Judicial Skills and Abilities Framework 2014.

⁹ See page 7 Judicial Skills and Abilities Framework 2014.



Summary of the appraisee's strengths



Summary of areas where the appraisee would benefit from development.



Suggested areas of development (e.g. attendance at training events, TC or judicial job shadowing, further guidance from a mentor to support self-development)

Any additional comments

CONCLUSION

SATISFACTORY/DEVELOPMENT NEEDS IDENTIFIED – *delete as appropriate*

I confirm that I have received a copy of the completed Annex 3.

Do you wish to make any further observations on the appraisal.

--

Signed (Appraisee):

Date:

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ANNEX 4

If all or some of the outcomes are not met, a Self Development Plan should be completed and attached to the appraisal report form and sent to the Senior Traffic Commissioner.

PART C

TC/DTC SELF-DEVELOPMENT PLAN

Appraisee:

Administrative Traffic Area(s):

Date of appointment:

Appraiser:

Date(s) of appraisal:

Please identify below agreed training or other self-development needs discussed at the appraisal that relate to the relevant competence(s).

Please expand the box as necessary or identify additional needs on the back of this form.

<p>1. Skill and ability</p> <p>2. Skill and ability</p> <p>3. Skill and ability</p>
--

Signed (Appraiser):

Date:

Signed (Appraisee):

Date:

ANNEX 5

Record of discussions (face to face or by telephone) between appraiser and STC following on from the appraisal



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