



# **SERVICE LEVEL AGREEMENT**

## **FOR THE PROVISION OF SUPPORT SERVICES TO THE TRAFFIC COMMISSIONERS FOR GREAT BRITAIN BY THE DRIVER AND VEHICLE STANDARDS AGENCY**

**This agreement has no statutory or contractual basis but is issued with, and is subject to, agreement between the Traffic Commissioners for Great Britain and the Driver and Vehicle Standards Agency.**

Commencement: March 2021

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# **PART A – Overview**

## **1. Introduction**

1.1 The Traffic Commissioners (TCs) licence the HGV and PSV industries and take action against the non-compliant with the aim of ensuring road safety and fair competition within Great Britain. TCs also regulate the applicants for and holders of PSV and LGV vocational driver licences on behalf of the Secretary of State.

1.2 The importance of retaining the independence and impartiality of TCs, whilst exercising their statutory roles as a tribunal and regulator, were recognised in the legal Framework agreement signed by the Minister and the Senior Traffic Commissioner (STC) in June 2012.

1.3 In order to carry out their functions TCs require and receive support from the Department for Transport (DfT) and its executive agencies, including, the Driver and Vehicle Standards Agency (DVSA). Paragraph 7 of Schedule 2 of the Public Passenger Vehicles Act 1981 provides that: “Subject to the approval of the Treasury, the Secretary of State may appoint such persons to act as officers and servants of a traffic commissioner as he considers appropriate”.

1.4 To carry out their functions TCs require support staff to carry out administrative duties and to act under delegated authority.

## **2. Parties to this Agreement**

2.1 TCs do not actually manage any staff but delegate work undertaken on their behalf to named employees of the DVSA and this SLA enables TCs to oversee delivery of the functions. This was recognised in the DfT Motoring and Freight Services Group Corporate Governance Framework issued in June 2009 and requires the Chief Executive of DVSA to work with the STC in order to maintain the independence of the TCs and to ensure that each party can carry out their respective responsibilities.

2.2 DVSA is also the main enforcing authority with powers to investigate alleged breaches of the law. DVSA seeks to focus its resources on those operators who are regularly and/or seriously non-compliant and will intervene to protect the public. DVSA is committed to stopping dangerous and high-risk operators from using Great Britain’s roads, and in doing so will make sure that it makes financial sense to comply with the rules than break them.

2.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, each TC is the Controller and the DVSA is the Processor. The only processing that the DVSA is authorised to do in this relationship is listed within this SLA and may not be determined by the DVSA.

2.4 TCs cannot take action without evidence upon which to base their regulatory decisions. TCs therefore rely on DVSA to provide this evidence so that the TCs can ensure that those who repeatedly or deliberately break the rules standards lose their right to operate or drive commercial vehicles under GB licences. DVSA has set out the measures for enforcement, which TCs are entitled to expect as per the intention of Parliament. Those measures do not form part of this Service Level Agreement.

2.5 In addition DVLA provides support so that TCs can properly regulate the applicants for and holders of PSV and LGV vocational driver licences on behalf of the Secretary of State.

That support is outside the scope of this document but it does cover those DVSA employed staff who provide support to TCs regarding their driver conduct role.

2.6 TCs also receive support from other officials to ensure they have the resources required to undertake their functions in an efficient way, for instance, human resource functions (undertaken by DfT). Therefore, regular contact is maintained between DfT and the STC, acting on behalf of all TCs, to confirm these are in place. This SLA only covers support provided by the DVSA and therefore functions provided by other Government departments or agencies are out of scope.

2.7 The parties to this Service Level Agreement (SLA) are therefore:

- The individual Traffic Commissioners and
- DVSA.

### **3. SLA Implementation and Review**

3.1 The Government's Motoring Services Strategy sets out the goal of making DVSA more responsive and more flexible, with services delivered in ways that better meet users' needs. DVSA is committed to ensuring road safety and improving the experience of its service users and to providing value for money. This SLA therefore contributes to DVSA's objective of delivering services which are easy to use and valued by the people who need them, including traffic commissioners.

3.2 This SLA, whilst not legally binding between different parts of the Crown, defines the service to be provided by DVSA to the TCs in support of the legal Framework, assurance processes and delivery against the expectations of those who rely on the TCs' statutory functions. The SLA is therefore drafted so as to:

- ensure that the legal requirement for the TCs' independence is recognised and respected;
- define service level standards to the TCs and their corresponding agreed service levels, in order to deliver a service to operators and applicants that can be relied upon as part of their business planning;
- assist both licensing and compliance staff by clearly defining their roles and responsibilities and avoiding a conflict of interest due to their employment by DVSA;
- set out how data is handled and stored providing sufficient data assurance to TCs;
- assist in the management of resources across the Office of the Traffic Commissioners (OTC);
- provide clearly defined targets that will deliver improved budget setting and TC Strategic Objectives;
- supply a definition of services and arrangements for measuring performance.

3.3 The business service descriptions and service levels to be supplied through the OTC are set out at Part B.

3.4 This document will be implemented on 26 March 2021 and will be reviewed every three years or at the request of a TC or DVSA or if there is a major change in the arrangements for administrative support given to TCs.

3.5 Temporary amendments to this agreement, such as a post Covid recovery plan, can be annexed to this agreement, but any such document must be agreed by all Parties before it can take effect.

3.6 DVSA shall notify the TC immediately if it considers that any of the TC's instructions infringe the Data Protection Legislation.

3.7 All parties recognise the unique position of OTC staff. The Civil Service Code allows for working arrangements such as these. When staff working in the OTC are carrying out duties on TC functions the duty of confidentiality is owed to the TCs.

## **PART B – Services covered by the Agreement**

### **4. Services to be provided by DVSA**

4.1 This SLA recognises the DVSA's responsibility to support the traffic commissioners in their statutory duties. This SLA identifies the minimum standards which traffic commissioners and other stakeholders can expect from DVSA in delivering administrative support to the TCs.

4.2 OTC comprises of staff employed by DVSA to support the TCs in their core regulatory functions and is divided in a way which represents those functions: Licensing and Compliance alongside the necessary support functions to discharge those responsibilities.

4.3 Licensing support covers all aspects related to operator licensing including the processing of applications and granting of licences under delegated authority. This support is delivered centrally for all traffic areas by the OTC (Licensing) team based in Leeds.

4.4 Compliance support covers all aspects relating to ensuring that the operator licensing requirements are met. In particular, this relates to the TCs' tribunal function, which is delivered locally through the OTC (Compliance) offices situated across Great Britain.

4.5 The Traffic Commissioners' Corporate Office provides support for the TCs' administrative activities and is part of OTC. The TC Corporate Office provides essential corporate, risk management and policy support to the TCs in the delivery of their regulatory vision and strategic objectives, assisting with the delivery of TC portfolios and other work as determined by the TC Board. It also provides media engagement and incorporates the specialist knowledge of the TC Information Access Team.

4.6 As well as the resourcing of the Licensing and Compliance functions, including corporate and secretarial support, the following support functions are also in scope of this SLA:

- Estates and facilities
- IT
- Data handling
- Delegations
- Audit, risk and performance reporting
- Points of Contact for delivery of the SLA
- Monitoring of this Agreement
- Risk and Issue Management

4.7 The Service Level Agreement needs to reflect the relationship as set out in Schedule 2 of the Public Passenger Vehicles Act 1981. It will only do so if DVSA maintains a level of communication and responsiveness to be expected from a professional public body. If any part of the Agency fails to respect the commitment in this Service Level Agreement then the agreement may be terminated and alternative provision will be required. The traffic commissioners would consider routes for resolution before making any such direction.

4.8 If traffic commissioners consider routes for resolution are not available, the replacement of, termination of, or alternative provision for the agreement should be considered by the Senior Traffic Commissioner / DfT / DVSA tripartite. If agreement of the three parties at tripartite is not achieved, the issue shall be referred to the responsible DfT Director General for an opinion, prior to the agreement being terminated. Commissioners can suspend the agreement for a maximum period of 4 weeks pending this process if they consider there are very serious and acute failures.

4.9 The traffic commissioners are entitled to a level of service equivalent to any statement of intent or business plan measure for external customers.

## **5. Support for the TC functions**

DVSA has an ambitious strategy which seeks to put the people who use its services at the heart of what it does. TCs and those who rely on their licensing and tribunal functions are therefore entitled to a high standard of service. The provisions of this Service Level Agreement must therefore inform DVSA planning and business development.

OTC provides support to the TCs in delivering their regulatory functions including obligations under the Regulators' Code. In order to discharge the above responsibilities DVSA is required to ensure that there is a sufficiently robust infrastructure and staffing levels to deliver the minimum service levels in this SLA. DVSA must also ensure that there are systems in place to cover a wide range of support.

### **5.1 Personnel and staffing**

5.1.1 The following functions are carried out with the support of staff allocated to the Office of the Traffic Commissioner:

- Providing general and administrative office (including secretarial) support for the TCs;
- Processing of new operator licensing applications under delegated authority;
- Processing of variations to operator licences under delegated authority;
- Maintenance of existing licences under delegated authority;
- Processing of bus registrations under delegated authority;
- Processing cases received from the DVSA strategic and operational units and Bus Operator Account Managers (BOAM);
- Preparing submissions to TCs on regulatory issues or non-delegated licensing and bus registration matters;
- Public Inquiry support, including issue of call-up and decision letters and provision of a brief and clerking support to the TC;
- Provision of case papers upon appeal to appellate bodies;
- Managing in-house revocations;
- Processing applications for the return of impounded vehicles;

- Support for considering the suitability/fitness of applicants for vocational driving licences and the continuation of such licences when referred on behalf of the Secretary of State;
- Supporting training events, conferences and seminars in which TCs are involved;
- Providing access to information and training so TCs remain informed in support of their regulatory and judicial functions.

5.1.2 Operator licences are issued by the TC deployed to the geographical Traffic Area but as a matter of practice and for the benefit of responsible operators, TCs delegate specific functions to members of OTC staff acting on behalf of that individual commissioner. In cases of alleged non-compliance TCs may rely on staff within OTC (Compliance) to assist them and they also act under specific delegations. The details of how these delegations work are set out in STC's Statutory Document 8 – Delegation of Authority. If a member of staff exceeds an explicit and clear delegation then their actions are not those of the relevant TC and as a matter of public law, that TC cannot be considered liable for any prejudice/liabilities arising.

5.1.3 Delegations are made to the named individual on the basis that the person in question can be shown to be competent to act under delegated authority. All post holders, regardless of grade, require delegated authority from a TC before exercising a TC function. DVSA will ensure that before being recommended for delegated authority, the member of staff will have undergone training and a period of effective monitoring, during which their duties will be logged in order to demonstrate their progress. When nominating any person for delegated authority the relevant OTC manager will provide written assurance, including access to the record of monitoring carried out so that the TC can be satisfied as to the suitability of a member of staff before delegating functions. Any member of staff is subject to continuous assessment which must be recorded and made available to the TC on request. Continuous assessment is to apply to all OTC staff who benefit from an award of delegated authority from a traffic commissioner.

5.1.4 Withdrawal of delegation will generally follow an accepted route where the member of staff is notified in advance of poor performance. This would normally follow a period of notice that the standard of work has fallen below a level acceptable to the TC. However, there may be occasions where delegations must be withdrawn more quickly due to the seriousness of the circumstances. In all instances it will be the responsibility of DVSA to redeploy that member of its staff so that s/he might be retrained and found suitable duties, depending on the individual circumstances. The monitoring and withdrawal of delegations must be documented in the periodic audit reports produced by Head of the Office of the Traffic Commissioners (HOTC).

5.1.5 These principles extend to information obtained by an individual TC as a data controller and which must not be disclosed to any party without explicit authority. Any action that exceeds delegations will fail to meet the requirements of this SLA. Actions of DVSA staff working outside of their delegations or the data handling MoU will be handled in accordance with DVSA disciplinary procedures and processes. This does not prevent a traffic commissioner removing delegated authority for access to data necessitating the removal of that person from the OTC environment.

5.1.6 The Secretary of State has delegated responsibility for the provision of support staff to DVSA. Under its 'People strategy' DVSA is committed to a positive culture where its employees feel equipped and skilled to deliver the services customers require. This requires high-quality leadership, focused learning and development, modern ways of working, supported by efficient IT, HR and finance processes. The key service levels and standards against which DVSA are expected to deliver are set out in this Service Level Agreement.

DVSA will allocate appropriate resources to support the TCs to deliver their statutory functions in accordance with the intentions of the legal Framework and this SLA. Resources include the provision of staff with security of employment that allows for investment in training and the development of the required skills.

5.1.7 The allocation of resources to the traffic commissioner can be affected by management action taken against those staff who are responsible for providing administrative support to the traffic commissioners. For this reason, and recognising the unique insight that a traffic commissioner may have into the actions of a member of staff, it is a principle of this SLA that no management action to suspend (or place on 'gardening leave') a member of staff will be taken without consultation and giving regard to the views of the relevant traffic commissioner. If the member of staff provides direct support to more than one traffic commissioner this consultation will be undertaken with all relevant traffic commissioners. DVSA will have regard to their commitment under the Framework Agreement and this SLA and will mitigate the impact on any removal of resource from the TC functions.

5.1.8 This SLA recognises that operator fees pay for the services provided and in exchange DVSA will ensure that OTC has a workforce of the right size and shape, with the right skills to provide the following services now and in the future. The HOTC will report to the TC Board on the staffing situation within the OTC including the management of vacancies.

5.1.9 HOTC will maintain an accurate register of delegations that sets out the name, date and extent of delegation. HOTC must ensure that this register is updated no less than every six months and that the necessary audits take place. The delegations document will be made available to TCs upon request. Where a new TC is appointed or there is a change in deployment, it will be the responsibility of HOTC to ensure that delegations are kept up to date.

#### *Administrative and Secretarial Support*

5.1.10 DVSA will provide secretarial support to each of the TCs. Whilst the post holder will report to the local Senior Team Leader this SLA recognises that the post holder will act as a personal secretary to the TC and that a significant degree of confidentiality is therefore required. The core duties will be as follows:

- the production of documents, including written decisions;
- the management and filing of documents;
- administering communication on behalf of the Traffic Commissioner;
- a telephony service;
- meeting and diary management;
- make work related travel and accommodation arrangements and recording claims and registers.

5.1.11 In addition to the above core duties, the secretarial support may be called upon as agreed with the relevant TC to provide support to the TC Corporate Office, other TCs and other personal secretaries.

#### *Traffic Commissioner Corporate Office*

5.1.12 The main role of the TC Corporate Office is to provide support to the STC and TCs in their non-regulatory and administrative functions:

- support on the delivery of the strategic objectives and subsequent key priorities for TCs;
- as Secretariat to the TC Board;
- co-ordinating and developing delivery policy, including TC responses to external consultations;
- supporting TC projects and portfolios as and when required;
- supporting the drafting and publication of TC Administrative Policy Guidance Documents;
- co-ordinating the issue and publication of the STC Statutory Guidance Documents including the associated consultation process;
- providing management information to TCs;
- managing and co-ordinating data management and information access on behalf of individual TCs;
- providing communications support to all TCs including monitoring relevant media reports, briefings on media matters and for meetings with external stakeholders where requested, drafting and issuing press releases and dealing with press enquiries;
- co-ordinating the TC publication scheme including the TC web presence and the publication of the TCs' annual report;
- co-ordinating national stakeholder engagement;
- co-ordinating responses to Parliamentary Questions and Ministerial correspondence;
- identifying and supporting the management of TC risks;
- providing administrative support for the TC Complaints Protocol;
- supporting the office of STC;
- providing administrative support for the TC annual professional development seminar.

## **5.2 Accounting and Finance**

5.2.1 DVSA is established as a government agency within DfT. Most of DVSA's income comes from the fees charged for its services – for example, paying for a driving test. DfT also funds some of its enforcement work through the 'single enforcement budget'.

5.2.2 DVSA organises its finances under headings known as 'schemes' (for instances the Operator Licensing Scheme, the MOT scheme etc.). For each of these schemes, DVSA records the following:

- Income
- Expenditure.

5.2.3 Powers to charge fees is set out in primary legislation and those fees can only be used for the purposes indicated by Parliament. Operator licence fees are obtained using TCs' statutory powers. The DVSA Accounting Officer is responsible for the financial management of the licencing service. In setting out the performance standards and delivery times for each administrative support area to TCs this SLA provides for transparency and accountability in the collection and expenditure of that fee income.

5.2.4 The fees covered by this SLA are those provided for in the relevant statutes and regulations and in particular section 45 of the Goods Vehicles (Licensing of Operators) Act 1995, namely:

- in respect of applications for, or the variation of, an operator's licence;

- the continuation and multiple licence fees;

and section 52 of the Public Passenger Vehicles Act 1981, namely:

- in respect of applications for grant or continuation of an operator's licence,
- certificates of initial fitness,
- the issue of discs, certificates of qualification, and
- the issue of documents required in relation to journeys to and from places outside GB.

Where those fees have been subsumed into a one off payment, DVSA must account for the amount so that it can correctly be attributed to TC income.

5.2.5 On 1 April 2014, limited accounting functions were transferred to DfT, namely the expenditure on TC salaries, travel and subsistence, training budget, professional membership fees and subscriptions; DTC expenditure (fees, travel and subsistence) and any expenditure in accordance with the management instructions between DVSA and DfT relating to the transfer of payment of the above.

5.2.6 The DfT Accounting Officer is responsible for agreeing the budget required to fund the TCs' regulatory activity with DVSA in January of each year in order to ensure that finances are put in place ahead of the upcoming financial year. TCs are to be appropriately consulted well in advance of any budget setting for the upcoming financial year. Consultation will take place using the mechanism of the Tripartite meeting but can be escalated to the DfT Accounting Officer.

5.2.7 It is also essential for TCs to be provided with an accurate record of not only expenditure by DVSA but also the actual cost of the services provided to TCs, where this is not clear from the expenditure alone. A report containing this information for all schemes relevant to the income from the licensing fees and expenditure on the work of the TCs will be provided by DVSA at each TC Board. A representative of DfT will sit on the quarterly OTC fees group and provide assurances to the TC Board that appropriate financial processes are being followed.

5.2.8 In developing its 'commercial strategy' DVSA will in matters relating to traffic commissioners' functions recognise that any commercial business case must also take account of the needs of the OTC and will therefore involve OTC managers throughout the procurement process and make sure that commercial activity recognises the interests of OTC and that there's an agency-wide understanding of those needs in reviewing contract management and standards.

5.2.9 In respect of the DTC budget allocated to each Traffic Area, the relevant STL will produce an explanatory note and monthly report to account for any budgetary spend that may have occurred. This information will inform the monthly discussions between the relevant TC and their STLs to assess and review planned activities and DTC resource.

### **5.3 Accommodation specification**

5.3.1 DVSA is committed to ensuring the correct infrastructure so that its estate is safe and fit for purpose and that its sites are in the right location for service users. It is important that appropriate regard is shown for the different needs of TC service users and that concerns are addressed promptly by DVSA Estates. This Service Level Agreement recognises that particular attention is required so as to ensure that any space is designed and maintained

to a suitable and consistent standard so as to meet the needs of a modern tribunal and regulator.

5.3.2 DVSA will therefore provide working accommodation for TCs in accordance with the attached specification in each OTC (Compliance) office. It will also ensure appropriate support in the management of contractual and other formal agreements relating to accommodation, which must be to a standard that delivers the intent of the legal Framework. The detailed requirements for the TC offices and tribunal facilities can be found in the document attached at Annex B.

5.3.3 DVSA will carry out regular risk assessments of all accommodation for TCs and review them not more than every two years and in line with its statutory duties. Suitability of the accommodation, in particular with regard to the tribunal functions of the TCs, will be taken into account. This will include ensuring that business continuity plans are in place for each location and reviewed every six months.

5.3.4 In line with the principles described by the HMG Security Policy Framework security assessments will be carried out on all TC accommodation to ensure that the TCs and staff providing services to them or on their behalf under delegated authority, are able to operate in a secure environment. A process to provide supplementary security will exist to ensure appropriate security provisions are provided.

5.3.5 Accessibility assessments of the estates from which TCs operate will be carried out, in particular to ensure that the TCs and their tribunals are accessible by both public and private transport.

5.3.6 The above assessments will be carried out at regular intervals as agreed by TCs with the HOTC, on any existing TC accommodation. In advance of any office relocation, the above assessments will be carried out on any new potential sites being considered.

## **5.4 IT support**

5.4.1 DVSA is committed to delivering a 'digital, data and technology strategy' which makes the most of the advantages which digital services can provide by continuously improving the user experience, increasing efficiency and reducing costs. Those same aspirations will be applied to the services offered to and on behalf of TCs. They will allow staff and TCs to work efficiently, providing reliable connectivity and remote access to applications. It is important that in reaching any decision on technology solutions DVSA has regard for its relationship with TCs and the users of their services particularly when seeking to reduce complexity in the IT architecture and technical code. This Service Level Agreement recognises the following principles:

5.4.2 DVSA will ensure that TCs and DTCs are properly equipped with computer equipment and up to date software applications and training required to fully carry out their statutory functions efficiently and effectively.

5.4.3 DVSA will ensure that all staff are properly equipped with computer equipment and software applications and training required to fully deliver the required quality and efficiency of service to the TCs.

5.4.4 The existing operator licensing IT system, Vehicle Operator Licensing (VOL) is developed and managed in accordance with the principles of HMG Security Policy Framework and the MoU agreed between DVSA and TCs. DVSA will ensure sufficient resource is provided to support the continuous improvement of the VOL Service and to

ensure it continues to meet Government Digital Service requirements and the requirements under the Framework Agreement.

5.4.5 Access to an electronic legal library will be provided containing case reports and legal research tools.

## **5.5 Data handling**

5.5.1 The TCs are data controllers. Therefore, access to data held on their behalf requires appropriate authorisation. Misuse of that data, or a failure to act consistently with the principles of the legal Framework and Data Protection Act (2018) and TC data governance, may provide grounds for withdrawing access.

5.5.2 Data accuracy is vital to quality service provision and largely dependent upon the actions of the individuals who as part of their work routinely input or change data. DVSA will implement suitable quality assurance processes to ensure satisfactory performance levels.

5.5.3 A dedicated Information Access team will be provided to support the TCs. This resource will not be shared with DVSA and reflects the fact that TCs are independent data controllers and that separate notifications for each TC and the STC are made to the Information Commissioner's Office.

5.5.4 Annex C sets out how data is handled and processed by DVSA on behalf of the TCs. Annex D sets out how data processed by DVSA on behalf of TCs is retained, scheduled, stored and destroyed.

5.5.5 DVSA shall provide all reasonable assistance to the TCs in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the TC, include:

- (a) A systematic description of the envisaged processing operations and the purpose of the processing;
- (b) An assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) An assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) The measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

5.5.6 DVSA shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) Process that Personal Data only in accordance with the details of this SLA, unless the DVSA is required to do otherwise by Law. If it is so required the
- (b) DVSA shall promptly notify the TC before processing the Personal Data unless prohibited by Law;
- (c) Ensure that it has in place Protective Measures, which have been reviewed and approved by the TC as appropriate to protect against a Data Loss Event having taken account of the :
  - 1. Nature of the data to be protected;
  - 2. Harm that might result from a Data Loss Event;
  - 3. State of technological development; and
  - 4. Cost of implementing any measures
- (d) Ensure that:

- (i) DVSA Personnel do not process Personal Data except in accordance with this Agreement;
- (ii) It takes all reasonable steps to ensure the reliability and integrity of any DVSA Personnel who has access to the Personal Data and ensure that they:
  - i. Are aware of and comply with the DVSA duties under this clause;
  - ii. Are subject to the appropriate confidentiality undertakings with the DVSA or any Sub-processor;
  - iii. Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the TC or as otherwise permitted by this Agreement; and
  - iv. Have undergone adequate training the use, care, protection and handling of Personal Data; and
- (e) Not transfer Personal Data outside of the EU or the European Economic Area (EEA) unless the prior written consent of the TC has been obtained and the following conditions are fulfilled:
  - (i) The TC or the DVSA has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the TC;
  - (ii) The Data Subject has enforceable rights and effective legal remedies;
  - (iii) DVSA complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
  - (iv) DVSA complies with any reasonable instructions notified to it in advance by the TC with respect of the processing of the Personal Data;

5.5.7 Subject to clause 5.5.8, the DVSA shall notify the TC immediately if it:

- (a) Receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) Receives a request to rectify, block or erase any Personal Data;
- (c) Receives any other request, complaint or communication relation to either Party's obligations under the Data Protection Legislation;
- (d) Receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) Receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) Becomes aware of Data Loss Event.

5.5.8 The DVSA's obligation to notify under clause 5.5.7 shall include the provision of further information to the TCs in phases, as details become available.

5.5.9 Taking into account the nature of the processing, DVSA shall provide the TC with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 2.3 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- (a) The TC with full details and copies of the complaint, communication or request;
- (b) Such assistance as is reasonably requested by the Customer to enable the TC to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) The TC, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) Assistance as requested by the TC following any Data Loss Event;

Assistance as requested by the TC with respect to any request from the Information Commissioner's Office, or any consultation by the TC with the Information Commissioner's Office.

5.5.10 DVSA shall maintain complete and accurate records and information to demonstrate its compliance with this clause.

5.5.11 DVSA shall resource appropriately a data protection officer as required by the Data Protection Legislation to provide support to the traffic commissioners.

5.5.12 Before allowing any Sub-processor to process any Personal Data related to this Agreement, DVSA must:

- (a) notify the TC in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the TC;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause, such that they apply to the Sub-processor; and
- (d) provide the TC with such information regarding the Sub-processor as the TC may reasonably require.

5.5.13 DVSA may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

5.5.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The TC may on not less than 30 Working Days' notice to DVSA amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **6. Monitoring, Audit and Performance Reporting**

### **6.1. Initial points of contact between TCs and staff**

6.1.1 The normal point of contact for TCs on 'business as usual' will be the STL for the relevant Traffic Area. The OTC (Compliance) STL and the dedicated OTC (Licensing) STL for each TC will hold monthly meetings with their TC to review the overall quality of the work within that office and to brief the TC on any significant matters that should affect either delivery of the SLA or the proper performance of the office.

6.1.2 Any issue or possible risks that are to be raised by OTC staff should be directed to the relevant TC. It will be for the TC to determine whether the issue is escalated and whether it is necessary to brief the STC and colleagues. If OTC staff wish to raise an issue that crosses all traffic areas, they must raise it with HOTC, who may in turn wish to raise it with the STC.

6.1.3 STLs, Team Leaders (TLs) and caseworkers will also make themselves available by phone or video conference on a regular basis to discuss cases, as and when required. Those S/TLs will visit TCs in their offices as and when necessary to discuss any serious issues.

6.1.4 HOTC will meet the individual TCs at intervals agreed by individual TCs. The HOTC will attend the TC Board meetings and will meet with the STC on a monthly basis.

6.1.5 Where a TC has an issue relating to the support provisions provided under this SLA, they should, where appropriate, contact the relevant STL. It may be recorded under the exception reporting arrangements at Annex E, which are intended to identify where delegations have been exceeded, operating instructions have not been followed or the Statutory Guidance and Statutory Directions have not been observed. If the issue is not resolved at this level to the satisfaction of the TC, it will be escalated by the TC to HOTC and thereafter if not resolved to the satisfaction of the TC to the STC, as below.

## **6.2. Risk and Issue Management**

6.2.1 Whenever issues arise or possible risks are identified, these shall be communicated in writing following any verbal contact and should clearly detail the nature of the concern and any preferred solution. These must be recorded on the OTC risk register.

6.2.2 In addition to HOTC, DVSA will appoint an Account Manager of sufficient seniority in order to ensure that issues which noticeably impact on the ability of TCs to carry out their statutory functions are dealt with promptly and in a way which complies with the expectations of this Service Level Agreement.

6.2.3 If an issue is of such concern that it poses a risk to the reputation or integrity of the TC, the issue will be escalated to an appropriate level, such as DfT via the STC.

## **6.3. Monitoring of this Agreement**

6.3.1 DVSA is committed to improving its services and to be seen as a trusted and effective organisation by users and stakeholders. Its strategy is to improve road safety, user experience and value for money. This aligns with the TCs' strategic objectives.

6.3.2 As part of existing Assurance Processes under the legal Framework, DVSA is required to provide quarterly statistics on performance against the SLA and including the delegations of the TCs. The Head of OTC will produce bi monthly written reports to each TC regarding compliance with the current service level agreement.

6.3.3 As a minimum, an annual meeting will take place between the Senior Traffic Commissioner (or representative), the DVSA Chief Executive (or appropriate representative) and DfT to update and discuss performance against the Agreement.

## **6.4. Audit and performance reporting**

6.4.1 The necessary HOTC audits will be carried out to ensure compliance with the agreement as set out at Annex E.

6.4.2 DVSA may also carry out regular audit checks on any aspect of the service provided by OTC or any other part of DVSA. Prior approval for the terms of reference of an audit of OTC must be obtained from the TCs in advance. Those terms of reference and the audit itself must comply with and reflect the principles of the legal Framework, upon which basis TCs will be in a position to cooperate with the auditors.

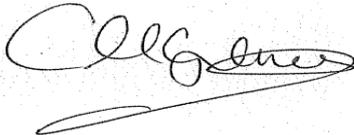
6.4.3 An Audit and Risk Sub-Committee incorporating TCs and OTC managers will provide assurance to the TC Board that appropriate measures are in place, reporting on risk and, where necessary, outline the remedial action required to be taken.

6.4.4 DVSA, through OTC must ensure that work carried out by staff supporting TCs complies with the Statutory Guidance and Statutory Directions and all relevant legislation. It will be open to scrutiny in line with Annex E.

6.4.5 HOTC will, by 16th May every year, provide a full report to the TCs detailing full year performance against each of the support functions identified above and delivery against the specific measures identified in the Annexes. It must include a summary of the audits performed by senior team leaders and their managers throughout the year, any remedial measures that were taken including details of any training of individuals or teams and refer to each occasion where delegations may have been exceeded, patterns identified and resolved. That report should explain how current performance benchmarks against the previous year performance. The purpose of the report is to provide formal assurance to the TC Board and DVSA Chief Executive that there is sufficient support so that the TCs can carry out their statutory functions and meet their legal obligations in the coming year, including an assurance statement as SIRO and DPO. If necessary it should include detailed draft corrective action plan and any proposed continuous improvement projects. The report should be in a form which can be referred to as part of the statutory reporting to the Secretary of State.

## Signatories

### Traffic Commissioners

TC for North East of England	TC for Scotland
	
Tim Blackmore OBE	Claire Gilmore
Date: 26 March 2021	Date: 26 March 2021

TC for the North West of England	TC for the West of England
	
Gerallt Evans	Kevin Rooney
Date: 26 March 2021	Date: 26 March 2021

TC for London and the South East of England responsible for the South Eastern and Metropolitan Area	TC for Wales Comisiynydd Traffig i Gymru
	
Sarah Bell	Victoria Davies
Date: 26 March 2021	Date: 26 March 2021

TC for the West Midlands	TC for the East of England
	
Nick Denton	Richard Turfitt
Date: 26 March 2021	Date: 26 March 2021

### Driver and Vehicle Standards Agency

Director of Enforcement

Marian Kitson
Date: 30 March 2021

## Part C – Annexes

### Annex A

#### Licensing and Compliance Service Standards

The following service level descriptions work on the principle of providing a quality service to those who are regulated by the Traffic Commissioners. The standards set out in the following tables therefore recognise that Traffic Commissioners play a crucial part in the provision of the overall service standard to the licensed commercial vehicle industry. Consequentially, where a service requires TC input, it is expected that the relevant TC will respond to all submissions within 5 working days of submission completion and if delays are introduced to the overall delivery target because of the timeliness of the TC, that these delays will be recorded in the exception reporting. The standards also work on the principles of effective and efficient staff carrying out the work, that proper continuous training and development will be provided to them, that they will act properly within their delegations that the submissions will contain all relevant information and that proper reference will be made to the Senior Traffic Commissioner's Statutory Guidance and Directions.

Number	Service Area	Function	Description of measure	Target	Comment
1	Licensing	Application processing	Average processing time to determine applications for goods vehicle operator licences where a public inquiry is not held.	35 working days	The following cases will be excluded from this measure:  1. Applications where a direction is given by a traffic commissioner that a public inquiry is to be held, whether or not the public inquiry is subsequently convened.
2	Licensing	Application processing	Average processing time to determine applications for PSV operator licences where a public inquiry is not held.	35 working days	The following cases will be excluded from this measure:  1. Applications where a direction is given by a traffic commissioner that a public inquiry is to be held, whether or not the public inquiry is subsequently convened.
3	Licensing	Removal of transport manager	On removal of the last specified transport manager from a licence using digital services the OTC will contact the operator within three working days (15 working days for paper notifications)	The measure will be met in 95% of cases	There are no exceptions for this measure.

			with a deadline for a response.		
		Removal of transport manager	Any responses or failure to respond to the deadline which results in a licence failing to have a nominated transport manager will be actioned within 15 working days.	The measure will be met in 95% of cases	There are no exceptions for this measure.
		Removal of transport manager	In the event of an approved period of grace coming to an end without a transport manager being nominated, the case will be referred to the OTC Compliance team within 15 working days for revocation procedures.	The measure will be met in 95% of cases	There are no exceptions for this measure.
4	Licensing	Case management	Ensure the effective management of outstanding tasks so that the oldest task date is no more than 25 working days from the date that the task was due to be completed.	The measure will be met if 90% of outstanding tasks are no more than 25 working days past their due date	No exceptions.
5	Licensing	Local bus service registration	Applications to register, vary or cancel a local bus registration service to be accepted or referred to a traffic commissioner within five working days of receipt of the complete information <b>or</b> before the proposed introduction of the registered service in the event of a short	The measure will be met in 95% of registrations processed	No exceptions.

			notice application that is due to come into force within five working days		
6	Compliance	Public inquiries	Public inquiries to be listed to a date within 12 weeks of the traffic commissioner's decision to call the inquiry.	The measure will be met in 95% of public inquiries	Cases falling into one of the following scenarios will be excluded from the measure: <ol style="list-style-type: none"> <li>1. A pending court case;</li> <li>2. The unavailability of an appropriate venue where a case is to be heard away from an established office;</li> <li>3. Where a case is delayed to ensure maximum efficiency of an outside venue by ensuring a full listing for the day;</li> <li>4. When no sitting date is available as a result of commissioner availability or the tribunal room is at capacity;</li> <li>5. In the case of an adjournment request from the operator or traffic commissioner. This excludes adjournments as a result of deficient preparatory work by OTC;</li> <li>6. The required public inquiry statement from DVSA is not supplied in time for a case to be called within the 12 weeks. This has a caveat that the OTC has not delayed making the request for a statement and that the statement is still outstanding within six weeks of the end of the 12 week period.</li> </ol>
7	Compliance	Public inquiry	Letters calling an operator and/or transport manager to a public inquiry are despatched at least 25 working days prior to the public inquiry.	The measure will be met in 90% of cases	Cases will be excluded in the event of an inquiry being allocated a date within 30 working days of the decision to call the inquiry.
8	Compliance	Public inquiry	The public inquiry brief will be despatched to the traffic commissioner and applicant, operator and / or transport manager at least 20 working days prior to PI.	The measure will be met in 90% of cases	Cases falling into one of the following scenarios will be excluded from the measure: <ol style="list-style-type: none"> <li>1. Public inquiries called and scheduled in less than 20 working days so that the target could not be met;</li> <li>2. Where instruction has been given by a commissioner for the brief to be passed on a specific date. This does not affect service to an operator.</li> </ol>

9	Compliance	Public inquiry	Decision letters sent following a public inquiry, preliminary hearing or a revocation on papers to be despatched to the applicant, operator or transport manager within two or five working days dependent on the decision taken.	The measure will be met in 95% of cases	<p>The standard differs depending on the circumstance. If an operator is not present at an inquiry or the decision is deferred or in the case of a revocation on the papers the standard is two working days.</p> <p>In the event that an operator is present at a public inquiry and the decision is announced the standard is five working days.</p> <p>Cases falling into one of the following scenarios will be excluded from the measure:</p> <ol style="list-style-type: none"> <li>1. Where an inquiry or hearing is held at an 'away' venue and the required papers are not returned to the office within the deadline for service, i.e. as a result of several public inquiries being held in consecutive days. The target commences from the delivery of the papers into an office.</li> <li>2. Cases where a TC intends to include a written note of a verbal decision. The target commences on the delivery of the required note by the TC.</li> </ol>
10	Compliance / Licensing	Appeals	Case bundles to be sent to the Upper Tribunal within the deadline set.	The measure will be met in 100% of cases	The sole exception are for those cases notified and agreed in writing with the Upper Tribunal for late delivery.
11	Compliance	Case management	The preparation of a case submission to the traffic commissioner to be made within 15 working days of the complete information being received in the OTC.	The measure will be met in 90% of cases	No exceptions.
12	Compliance	Impounding	Impounding cases are to be processed by the OTC in accordance with the times set out in the relevant legislation	The measure will be met in 100% of cases	No exceptions.

13	Compliance	On paper revocations	The notification to an operator that a traffic commissioner is proposing to revoke an operator's licence without a hearing will be made within 15 working days of receipt from the date that the relevant information was received in OTC.	The measure will be met in 90% of cases	The only exception to this target is for work undertaken as a specific exercise requiring the bulk upload of data.
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## Dependencies

For this reason, we highlight that the delivery of these measures faces key challenges:

- Ensuring that the service is appropriately resourced so it can function effectively, with a vacancy rate within the business stream of no more than 5% ;
- A flexible approach to the use of contingent labour so that posts are filled at the time that they fall vacant.

In addition, it relies upon the following assumptions:

- A recruitment process that enables permanent staff to be recruited within an appropriate timeframe;
- Assumes that no major change to legislation or policy will require the redeployment of resource away from BAU;
- Applications received from the 1 May 2019 will be counted for the purposes of measure 1 and 2;
- Measure 4 will relate to tasks related to cases received from 1 May 2019;
- All other measures will be recorded at the time of the revised list of measures being introduced;
- Accurate reporting of all instances where the measures are not met and/or standards described in the Statutory Documents or Operating Instructions are not delivered. The requirement to report will be set out in the audit and reporting procedure to be introduced.

## Annex B

### Provision of individual offices for traffic commissioners and tribunal facilities

#### Background

1. Offices of the Traffic Commissioner (OTCs) exist to support the traffic commissioners. Each OTC must therefore provide suitable accommodation to enable TCs to carry out their tribunal functions, which includes convening and conducting public inquiries. DVSA has the responsibility for the provision of these premises. This document sets out the expected standard and service expected by TCs from DVSA in relation to the provision of the necessary premises.

#### General Requirements

2. The buildings provided should give “value for money” (in order that approval to use it can be obtained). The current Government targets of *office* space of 8m<sup>2</sup> per employee must be considered and the target overall costs per m<sup>2</sup> should be the average (or below) the cost for the area. However this will apply to the OTC office area only and not to the tribunal room, the traffic commissioners’ individual office or the advocates’ room. In line with previous OGC guidance “value for money” is defined as the optimum combination of ‘whole-life’ cost and quality to meet the requirements of the user.
3. The overarching requirement is therefore to provide the traffic commissioners with suitable accommodation in order to allow them to carry out their statutory functions in an effective and efficient manner whilst complying with all relevant legislation. Following initial discussions regarding any model that might be based on the Golborne office it is recognised that some of the accommodation needs will be dictated by the geography of the previous individual Traffic Areas. Some traffic commissioners may need to hear many cases away from the OTC, whereas others may list more at the OTC and as a result, there is greater pressure on the tribunal room. The requirements and experience of the traffic commissioner must therefore inform the process.
4. This document captures the requirements on DVSA to take account of the following:
  - The requirement to ensure that individual rights are protected including under the European Convention on Human Rights as incorporated into British law (local guidance on the interpretation of these should be sought from the TCs) and compliance with specialised Acts in relation to buildings such as building access under the disability rights provisions of the Equality Act 2010 (“EA 2010”) British (guidance on these is available within DVSA estates) and with reference to HMCTS;
  - The effects of devolution and in the case of Wales, the legal requirement for complete equality in the provision of services in both the Welsh and English languages as set out in the Welsh Language Act 1993 and the Welsh Language (Wales) Measure 2011.
  - The requirement to ensure that the Office of the Traffic Commissioner is recognised as being independent of DVSA testing and enforcement activities (even where there are DVSA activities co-located in an OTC building). This also includes the requirement to ensure that TCs are shielded from other DVSA activities that could have an impact on the cases they are hearing and the perception of independence.

- The work that is carried out at the local OTC, the numbers of cases that are heard both at and away from the OTC any other or related activities taking place at those offices (e.g. the International Road Freight Office located within the OTC (Licensing) office.
- The requirement to protect the TCs and OTC staff from potential incidents, this includes safe escape routes from public rooms, the provision of appropriate facilities including toilets and where necessary counter facilities;

### **Accommodation Requirements:**

5. The following requirements are general in nature. There will be additional matters that will be dictated by the nature and requirements of the particular Traffic Area and the way in which it is managed. Other arrangements e.g. internal and external signage should also comply with the above principles.

### **Access:**

- The OTC premises must have access to good public transport links:
  - Some people attending hearings / some staff may not be able to drive;
  - To ensure commitment to equality legislation.
- This means that an OTC does not need to be in a city centre as long as good public transport links exist and it is centrally located.
- The OTC needs to be located in an area and a building, which gives security to both the staff and the business conducted (including documentation).
- The OTC needs to be in a building, which conforms to the disability rights provisions of the Equality Act 2010 and relevant Health and Safety legislation.
- The OTC is a public facing building, which needs to be in a good state of repair and decoration (reputational impact) which reflects the seriousness of tribunal proceedings.

### **Minimum requirements for the OTC premises:**

- A Public Inquiry (i.e. tribunal) room (see tribunal specification within the HMCTS Standards and Design Guide – January 2010 (*where the specification does not meet the minimum requirement a risk assessment will be carried out to identify mitigating actions/works with appropriate agreement gained from relevant TC to the works*));
- A visitor's waiting area with a minimum of 15 seats;
- A separate office for the TC with suitable office furniture, meeting area, adequate storage and filing capacity, and accommodation for deputy traffic commissioners;
- Appropriate accommodation for the TC's personal secretary so that confidentiality is assured and maintained;
- An Advocates room where those who represent operators at public inquiry can meet their clients;
- A separate conference room (in some areas this may be used as a second tribunal room);
- Open plan office/desks/personal storage and filing space for the OTC staff (desk numbers dependent on staff at the office);
- Adequate secure storage for live "compliance" files not catered for within 'personal storage' above;
- The ability to network the offices and connect to the DVSA IT infrastructure – (Communications Room);

- Appropriate access to male and female washroom facilities;
- Catering facilities to heat food up/make warm drinks etc;
- Sufficient parking for the traffic commissioner and their deputy TCs.

### **Tribunal Room Specification**

- The room provided for the tribunal hearing is to be of an adequate size, to accommodate 20 observers (members of the public) and seating provided for 4-5 advocates/parties. The tables provided for the TC, PI Clerk, witnesses and advocates must be large enough to ensure stability and functionality. There must be sufficient room on those tables for the TC, PI Clerk and advocates to be able to make full and proper notes and to have documents to hand. There must be room to ensure that documents cannot be overlooked by others attending the hearing.
- It is preferred that the tribunal hearing room be ventilated with windows that can be opened and closed and with air conditioning and heating so that the temperature is appropriate at all times of year. Good natural lighting is recommended or electric lighting, suitable in relation to the size of the room being used.
- The public inquiry room should reflect the authority and seriousness of proceedings.
- For safety, the TC and PI Clerk must have easy and uninterrupted access to an exit without the need to pass the parties who are appearing at the PI. The Bench should extend to the width of the room, so as to provide adequate security, and contain a means of access for the Clerk, as required. A 'panic' button system is required. The operator and tribunal attendees should sit on the opposite side of the bench to where the TC sits. The TC needs to be satisfied that the room is safe and secure.
- The facility to make telephone calls is required in or just outside the tribunal room.
- The tribunal room should be located to ensure compliance with the disability rights provisions of the Equality Act 2010. Under the EA 2010, it is unlawful to refuse or fail to provide to a person with a disability any service that is provided to any other tribunal users.
- The public inquiry room must be soundproofed or, if that is not possible, situated in a quiet part of the building, where interruptions and distractions are unlikely. It should be easily accessible both in terms of being reached by public transport and physically accessible by all parties.
- There should be an additional room (Advocates Room) close to the tribunal room where the legal representative and operator/driver/applicant can liaise in private. This room should also have adequate seating and a table for the legal representative to make notes.
- Toilets should also be available within easy access/walking distance of the public inquiry room. It is preferable that TCs should not have to share toilet facilities with those who appear before them at public inquiry but it is accepted that this may not always be possible at all OTC locations.

## **Approvals process**

6. The views of the TC on the overall OTC office layout must be taken into account. With regards to the tribunal room, the advocate's room and their individual office TCs must be properly consulted and their views given primacy. In the event that agreement cannot be reached the matter must be referred to the Department for Transport in accordance with the Framework Document referred to above.

## Annex C – Data Handling SLA

No.	Service Area	Measure	New / Existing / Amended	Target	Comment
1	Security breaches	Reporting	New	6 hours following identification of issue.	<ul style="list-style-type: none"> <li>Notification to the OTC SIRO will be made within this time period following identification.</li> <li>Notification can come from any member of the DVSA IMS team or OTC staff.</li> </ul>
2	Security Breaches	Reporting	New	Defined at point of initial report.	<ul style="list-style-type: none"> <li>OTC SIRO will indicate further level of reporting at time of first review.</li> <li>Incident dependent.</li> </ul>
3	Personal Data Breaches (GDPR / Data Protection Act)	Reporting	New	Immediately on discovery, but not later than 24 hours after discovery	<ul style="list-style-type: none"> <li>DVSA to notify the TC Information Access Team</li> <li>OTC Information Access Team and TC Data Protection Officer to advise and recommend to TCs if personal data breach notifications should be sent to the UK Information Commissioner's Office (ICO) and / or to the individuals affected.</li> <li>DVSA to cooperate with the OTC and TC Data Protection Officer to gather information, investigate, report to ICO within 72 hours of discovering the personal data breach (where required) and implement remedies.</li> </ul>
4	Audit Reports	Sharing	New	5 working days following receipt of findings	<ul style="list-style-type: none"> <li>Only applicable where IMS audits identify issues related to Traffic Commissioner data processing.</li> </ul>
5	Assurance Reporting	GDPR Compliance	New	In line with each OTC Audit and Risk Committee submission date	<ul style="list-style-type: none"> <li>DVSA will compile a data protection report for the ARC to be agreed at ARC and then submitted to the TC Board for their information.</li> </ul>
6	Data Protection / GDPR Training	Delivery	New	Annually for all OTC staff	<ul style="list-style-type: none"> <li>Training plan to be agreed with the OTC SIRO after consultation with the TC Data Protection Officer at the start of the financial year</li> </ul>

					<ul style="list-style-type: none"> <li>• Face to face training for staff once a year</li> <li>• Location appropriate to the staff locations</li> <li>• Subject matter covering data protection elements including security practices related to Traffic Commissioners' activities.</li> <li>• "All staff" excludes staff who are on long-term sick absence or maternity/paternity leave or equivalent.</li> </ul>
7	System Assurance	Testing	New	Annually	<ul style="list-style-type: none"> <li>• Independent security testing of systems processing Traffic Commissioner data.</li> <li>• Vulnerabilities identified shared with the OTC SIRO following report received by DVSA IMS.</li> </ul>

## Annex D

### Data Retention Schedule (Administrative Files) – NOT Operator licence files

The following data retention schedule indicates how long a file should be retained after the file has been created.

<sup>1</sup> This does not preclude lifecycle cleansing which will be included in the data retention implementation policy following agreement to this MOU.

<sup>2</sup> Where an indefinite disqualification has been determined then the files associated with that legal entity or individual must be held indefinitely, until the death of the affected person or an assessment by a TC that re-emergence is unlikely.

Function	Subcategory	Description	Primary Record Retention Period following file creation (see notes 1 and 2 for exceptions)	Update, Archive or Destroy	Justification
Delegations	Register	Register of all OTC Delegations sorted by area	Until superseded as per justification	Archive then Destroy	Previous 2 versions to be retained to provide assurance correct and track changes.
	Copy instrument	Copy delegations instrument. Original document is issued to staff with copy retained electronically	Until superseded	Destroy	Current version only to be retained as a subordinate of the delegations register.
Traffic Commissioner - Private Office	Correspondence	Any correspondence received by and issued by a traffic commissioner regarding any matter not specific to a licence	5 years	Destroy	n/a
	MP Correspondence	Usually linked to a licensing or compliance file	5 years	Destroy	To provide transparency and knowledge of engagement.
	Parliamentary Questions	Correspondence relating to Parliamentary Questions	3 years	Destroy	
Operator Licence Fee Reform		TC commentary on consultation	3 years	Destroy	Consultation is DVSA's activity and therefore they hold core documents. This only relates to TC activity

Complaints	Complaints		3 years	Destroy	
Data Sharing	MoUs		3 years	Destroy	
	Partner Access Agreements		3 years	Destroy	
Financial	Scheme Accounts		2 years	Destroy	Primary documents held by DVSA. TCs retaining for 2 years as processor of that data only
	Budgets		2 years	Destroy	Primary documents held by DVSA. TCs retaining for 2 years as processor of that data only
Strategy	Strategic objectives	Final published documents	5 years	Destroy	Held for the purposes of reviewing progress against objectives
Governance	Risk Registers	Historic register	5 years	Destroy	Destroyed after 5 years as all risks should have been addressed and /updated on a quarterly basis so more up to date registers available
Assurance	Audit reports	Includes any internal or external audit of systems and processes	3 years	Destroy	
Traffic Commissioners' Publication Scheme	Traffic Commissioner's annual report	Traffic Commissioner's statutory annual report to the Secretary of State. Does not include personal data	NOT A RECORD - THIS IS PUBLIC INFORMATION	Archive	Not a record but to be retained indefinitely to provide historical log.
	Statistics	Includes only those statistics which are published in the traffic commissioners' annual report	5 years or until no longer relevant	Destroy	To identify trends in regulation and compliance.
	A & D	Legal obligation to provide access. Timeframe not specified within legislation	Indefinite THIS IS NOT A RECORD IT IS PUBLIC INFORMATION	Indefinite retention of electronic copy	Indefinite due to obligation under statute to make available. GV(LoO) Regs 1995 requires this to be made available. The GV Regs are able to be satisfied by the National Archives of Gov.uk availability. As availability is at the OTC or any place TC may determine.

	N & P	Legal obligation to provide access. Timeframe not specified within legislation	Indefinite THIS IS NOT A RECORD IT IS PUBLIC INFORMATION	Indefinite retention of electronic copy	Indefinite due to obligation to make available under statute. SI 1629/1986 REQUIRES that TC SHALL make available on request. This means that National Archives and Gov.uk is NOT an option. The PSV legislation lags behind GV legislation considerably on this.
Consultations	Internal	As per Administrative Policy Guidance 1: Stakeholder Engagement and Consultation	10 years	Archive, Destroy	To inform regulatory and policy decision making.
	External	As per Administrative Policy Guidance 1: Stakeholder Engagement and Consultation. Published on gov.uk	10 years	Archive	To inform regulatory and policy decision making.
	Sponsoring Department	Relates to DfT	10 years	Archive, Destroy	To inform regulatory and policy decision making.
	Support Agency	Relates to DVSA	10 years	Archive, Destroy	To inform regulatory and policy decision making.
	Responses	Includes responses to any consultation	10 years	Archive, Destroy	To inform regulatory and policy decision making.
Press Office	Press Releases	Communicates traffic commissioner decision to the media	10 years	Destroy	Maintained as per traffic commissioner decisions on licence record.
	Statements	Response to a media enquiry	10 years	Destroy	TCs may want to review earlier statements to ensure consistency
	Traffic Commissioner Briefing	Briefing on an industry item or media engagement	5 years	Destroy	May be relevant within 5 year period, after which becomes redundant.

	Operational Notes	Factual record of traffic commissioner decision	5 years	Destroy	May be relevant within 5 year period, after which becomes redundant.
Policy	Statutory Documents	Senior Traffic Commissioner's statutory guidance and directions. Published on gov.uk	5 years	Update, Archive and Destroy	Current and previous version or not less than 5 years if regular review to provide transparency and understanding.
	Administrative Policy Documents	Senior Traffic Commissioner's Administrative Guidance. Published on gov.uk	6 years	Update, Archive and Destroy	Current and previous version or not less than 5 years if regular review to provide transparency and understanding.
Bus Complaints - BOAM		Complaints regarding local bus services. Often cover more than one complaint type. Procedures detailed within OTC Procedures Manual	5 years except where attached to a licence record and then as licence record retention	Destroy	May be required for TC consideration.
OTC Administration		Includes licensing operations (LOPS) minutes and other minuted meetings including stakeholder and trade association meetings	5 years	Destroy	Provides assurance and transparency of decision making.
Information Access		Information access requests handled by TCFOI	5 years	Destroy	To support any subsequent information access activity.
Backup Server		Includes traffic commissioner and OTC staff emails.	2 years	Destroy	Only required to hold data which is relevant and up to date. E-mail data must therefore be cleansed to remove unnecessary data.
Traffic Commissioner Business Administration		Includes the minutes of traffic commissioner group meetings and subsequent documentation.	3 years	Archive or Destroy	All actions will have been implemented within 3 years or are redundant.
Stakeholder Engagement		Meeting minutes and correspondence	3 years	Destroy	Stakeholder engagement topics will have been superseded after 3 years and actions completed.

Traffic Commissioner / Deputy Traffic Commissioner appraisals and conduct		Appraisal of traffic commissioners including deputies as covered by Traffic Commissioner's Appraisal Scheme 2011. Conduct as covered by Administrative policy 3: guidance on Traffic Commissioners' Conduct	3 years	Destroy	Retained for 3 years for the purposes of continued evaluation and then destroyed or 12 months in respect of conduct.
Traffic Commissioner/ Deputy Traffic Commissioner Travel and Subsistence		Relates to traffic commissioners and deputy traffic commissioners.	7 years	Destroy	Maintained for tax reasons.
Hospitality		All TCs keep a register of hospitality in an agreed format. Rules contained within STC Administrative Policy Guidance 3: Guidance on Traffic Commissioners' Conduct	3 years	Destroy	There is a statutory requirement for this data to be retained.
Reimbursement of TC professional fees		Relates to traffic commissioners	7 years	Destroy	Maintained to support financial accounts.

## **AUDIT PROCESS FOR STAFF WORKING UNDER DELEGATED AUTHORITY FROM TRAFFIC COMMISSIONERS**

### **Section One**

#### **Introduction**

1. Staff are appointed by the Secretary of State to act as officers and servants of the traffic commissioners in accordance with Schedule 2 (7) of the Public Passenger Vehicles Act 1981. Staff working in the OTC on traffic commissioner functions do so on behalf of the traffic commissioners. Many of the activities are carried out under delegated authority.
2. The legal background to delegations is explained in Statutory Document No.8 'Delegation of Authority'. All work carried out on behalf of the traffic commissioners, particularly where it involves delegated functions, requires proper oversight and so there is a need for a record to be kept of the process of auditing the way in which staff carry out functions. This provides assurance to all who deal with the traffic commissioners and their staff so they can have confidence in the licensing system. These processes will also ensure that traffic commissioners have confidence in staff who carry out work on their behalf under delegated authority.
3. The processes defined below provides evidence of a transparent audit system and includes audits of all staff working at all levels within the Office of the Traffic Commissioner so as to provide the relevant traffic commissioner with assurance that the delegation system is working properly.
4. The processes set out below define the minimum requirements and that, if there are concerns about a particular member of staff that result in further training, the audit frequency and type should be recorded accordingly.
5. A distinction can also be drawn between those members of staff (at all levels) who have a number of years experience in the Office of the Traffic Commissioner and a consequent breadth of expertise (referred to as established staff) and those members of staff who are either newly recruited or who have relatively little experience in their new post (referred to as new staff). Those carrying out the audits must therefore ensure that proper training and auditing takes place with particular regard to new staff.
6. Similarly where a traffic commissioner has legitimate concerns about an individual member of staff they must raise it with the Head or the relevant Deputy Head of the Office of the Traffic Commissioner at the earliest opportunity so that steps can be taken to address those concerns. The final decision on whether to remove any delegation granted to a member of staff lies with the traffic commissioner alone and that any proposals by the Head or Deputy Head Office of the Traffic Commissioner to remove any delegations are to be discussed with the traffic commissioner who is responsible for making the final decision.
7. Operating Instructions (OIs) are an important control measure in addressing a number of the risks. The audit process must refer to the standards and procedures set out in the relevant operating instruction so that traffic commissioners are assured that an efficient

processing application is not made at the expense of the important gatekeeping function. Appropriate scrutiny on quality should not be compromised in a bid to achieve set measures.

8. Due to the differing nature of the licensing and compliance teams the audit process to be adopted will also differ. The process for licensing is set out in section two and that for compliance in section three.

## **Aims**

9. The assurance process must focus on all of the work of the OTC. Aside from the overarching aim to set out in the introduction the benefits of an effective procedure are:
  - a) To provide assurance to traffic commissioners that decisions made under delegated authority are made in accordance with the Senior Traffic Commissioner's Statutory Guidance and Statutory Directions. The failure to adhere to SD8 can result in decisions being taken by staff without delegated authority with the consequence that they are regarded as not being made by a traffic commissioner and therefore not recognised as such. This leads to reputational damage and potential road safety issues as decisions are rescinded and delays in the correct processing occurs. In the worst cases this can lead to the non-compliant operating for longer than would otherwise be the case.
  - b) Failing to provide suitable assurance could result in traffic commissioners removing delegations from staff. This would have the effect that many routine decisions that are currently made under delegation would require explicit decisions from the traffic commissioners increasing the OTC workload and resulting in the requirement for additional resource or delays in processing with the resultant risk.
  - c) It is the clear responsibility of managers to assure both themselves, their managers and the traffic commissioners that staff are trained to the required level and are performing the tasks expected of them, aligned to the wider range of Statutory Documents supported by Operating Instructions. Many of the decisions taken using delegated authority rely upon the correct application of processes further down the process line. In addition, the OTC is required to support the traffic commissioners in matters where decisions are not made under delegated authority. It is vital that staff provide the traffic commissioner with accurate and complete information via submissions and other documents that enable a traffic commissioner to make informed decisions on cases. Any failure to do so will repeat the risk to road safety and reputational damage set out earlier.
  - d) The Office of the Traffic Commissioner provide a range of statistics to the traffic commissioners and stakeholders. The assurance procedures must be capable of establishing and demonstrating the accuracy of the data provided by the OTC. Incorrect data not only affects the reputational standing of the traffic commissioners and the Office of the Traffic Commissioner but also impacts on the ability of the OTC to manage workflows and ensure the correct resourcing is in place.
  - e) Good assurance procedures help to identify weaknesses within Operating Instructions and processes. Reviewing individual cases can lead to improvements in the service provided to traffic commissioners and benefit the OTC as a whole.

## STC Statutory Guidance and Statutory Directions

10. All staff, particularly managers, must understand and follow the STC Statutory Directions and the Operating Instructions and refer to them as required. All STC Statutory Documents can be accessed at:

<https://www.gov.uk/government/collections/senior-traffic-commissioners-statutory-guidance-and-statutory-directions>

11. It is the responsibility of the relevant Deputy Head to ensure that managers undertaking an audit have themselves the knowledge of the Statutory Documents and Operating Instructions to ensure that the audit is effective.
12. This knowledge may be ascertained through discussion and shadow audits. Until the Deputy Head is satisfied of the competency of the relevant manager any audit prepared for a traffic commissioner must be certified by the Deputy Head as being accurate and complete.
13. OTC managers and staff should be given time to refresh their knowledge of the statutory documents should they be changed temporarily or permanently.

### STC Statutory Document No. 8 – Delegation of Authority

14. This is the key document on setting out the decisions that staff may exercise under delegation. Delegation is given to each individual member of staff and must be received in writing from the traffic commissioner. Delegations are individual both to the person and the function. A formal certificate of delegation must be issued to each person. The certificate will state for which functions that person is authorised to exercise delegated authority.
15. Delegations are granted by a traffic commissioner for licences held within that specific traffic area. The award of delegated authority by one traffic commissioner does not equate to a blanket delegation across all traffic areas. Only the traffic commissioner deployed to a traffic area can award delegated authority for operators holding a licence in that area.

**Annex 3** of the document provides the functions in the OTC that a traffic commissioner may consider awarding delegated authority. This is the starting point and it is open to individual traffic commissioners to limit the delegation awarded or to include additional functions or to staff at a lower level than that stated in the starting point.

**Annex 5** provides some parameters in which delegation can be exercised by relevant staff. Staff must abide by the parameters set out in this instruction.

**Annex 7** provides an overview of the requirement to record Quality Assurance checks on decisions made under delegation and details the volume and timing of checks required.

## Section Two

### OTC Licensing Quality Assurance Requirements

#### 1. Introduction

In common with OTC Compliance, the licensing function is required to have an effective and robust Quality Assurance procedure in place. An effective procedure ensures that the administration provides appropriate levels of support to the traffic commissioners so that they can carry out their statutory functions in licensing and regulating the large vehicle industry.

#### 2. Delegation Register

The Deputy Head of Licensing has overall responsibility for the maintenance of the delegation register. The register must record each member of staff in the licensing team and their level of delegation. If a member of staff does not hold a delegation they must still be recorded within the register.

The Senior Team Leader (STL) must ensure that the register, where it relates to their respective office, remains up to date at all times. An accurate and complete register will be provided upon request.

The Senior Team Leader will also ensure that the register is reviewed at least every quarter and a record is kept to confirm that a review has taken place.

Senior Team Leaders must satisfy themselves that the delegation awarded within their office is at the appropriate level. Regard should be given to the experience of the team members and any issues raised as a result of the quality assurance exercises. It is incumbent on the Senior Team Leader to recommend additional delegations or the reduction in delegations where appropriate. All decisions on the award of delegation remain the sole responsibility of the relevant traffic commissioner.

The OTC Licensing Delegation Register can be accessed in SharePoint at: [Delegation Register](#)

#### 3. Quality Assurance Process

The formal quality assurance process will comprise of the following four distinct parts:

- I. Team Leader Assurance Audit

Each TL will conduct at least a 5% check of each function set out in the Section 6 'Scope of QA' on a quarterly basis throughout the year. The quarters are defined as April to June, July to September, October – December and January to March.

A report must be available to the relevant traffic commissioner and the Deputy Head of Licensing by the 21st day following the end of the period. A STL should conduct checks periodically throughout the quarter to ensure that issues are identified early and improvements noted.

Where appropriate, the 5% check should focus primarily on those cases where delegated authority was exercised as checks will be made routinely on cases where no delegated authority is in place.

The 5% check is a minimum requirement. It is an important aspect of the QA procedure that work completed by all staff is subject to review each quarter. Particular emphasis should be placed on those staff who are inexperienced, or where failings have been previously identified, or staff who have recently been awarded delegated authority. In these cases the STL will be required to carry out a greater number of checks than that set out above until satisfied that routine 5% checks are sufficient. In these cases a decision to reduce the additional checks should not be taken until at least two quarters have passed from any identified issues.

## II. STL Assurance Audit

All checks must be recorded by the STL with details of the action required to be taken.

The process does not remove the responsibility of team leaders to carry out their own assessment on staff. Team leaders are required to undertake checks to ensure a fair staff reporting system is in place and to identify training and development needs. Although these checks do not form the basis of the STL QA the STL should use the information gained by the team leaders to focus their own checks accordingly.

The findings of the completed quality assurance checks will be discussed across the Licensing STLs and the Deputy Head of Licensing and any relevant lessons that can be learnt are to be transferred to the 'Lessons Learnt' document held by the Deputy Head of Licensing.

## III. Deputy Head of Licensing Assurance Audit

The Deputy Head of Licensing will summarise all the results of the quality assurance checks in a report for the next Audit and Risk Sub-Committee. The report will include planned mitigation and action to be undertaken.

## IV. Feedback

An important feature of any effective quality assurance process is the reliance on immediate feedback when things go wrong, or examples of good work are identified. These help to form the basis for improvements. Feedback can take several different forms - verbal and written and can vary in severity. Many issues identified can be resolved informally with additional discussion or training and these will be recorded by the DHofL in a lessons learned log.

Where an identified issue is more serious (in risk or impact) or where wider lessons can be learnt it is important to have a system in place to record these so that they can be reported to the relevant traffic commissioner(s) and inform the development of an audit process. For this purpose, the Licensing team have a log to record all Exception Reports received. All recorded feedback will be reviewed by the DHOL with analysis undertaken of trends and common issues. This will inform training requirements within the OTC Licensing and the need for bespoke or standalone audits of an office.

It is the responsibility of all members of staff to identify and self-report any identified issues or training requirements. Advice can be sought from the relevant STL. Issues identified by

a traffic commissioner can be reported to the relevant STL, copying in the Deputy Head of Licensing.

Where serious issues are identified an investigation report should be prepared for the relevant traffic commissioner setting out the background and proposed mitigation.

It is not possible to set out all the circumstances which would warrant a specific Exception Report. The key considerations are:

- Has the issue prevented the traffic commissioner carrying out their function
- Has the omission of information led to a decision being taken than may otherwise have been taken if all the information was known;
- Has the actions of the OTC led to a decision being taken relying upon delegated authority which did not exist, e.g. has a member of staff issued a decision contrary to their level of delegated authority or outside of the parameters for doing so;
- Has the issue the potential to cause reputational damage to the traffic commissioner or the OTC;
- Has the provisions for the control of data control been breached;

#### **4. Scope of Quality Assurance Checks**

The TL, STL and Deputy Head of Licensing Quality Assurance checks will use standard templates for the quality assurance process, These templates are at Annex Two and set out the specific checks that will be carried out and will cover the following functions:

- Searches on VOL
- Advert (within delegation)
- Transport Manager ( CPC, CPD, Repute, in line with STC3
- Finances (legislation and in line with STC2)
- Fitness and repute (in line with STC1)
- Conditions /Undertakings/ BFs set
- DVSA compliance check (e.g. ECMS and intelligence)
- Effective use of case notes (recording)
- Decision letter (legislation, appeal rights)
- Two strikes
- Periods of Grace
- Finance undertaking
- Last T/M process

The items checked will remain under review and be adapted to meet the requirements identified by the feedback and audit process.

## **Section Three**

### **OTC Compliance Quality Assurance Requirements**

#### **1. Introduction**

In common with OTC Licensing the Compliance function is required to have an effective and robust Quality Assurance procedure in place. An effective procedure ensures that the administration provides appropriate levels of support to the traffic commissioners so that they can carry out their statutory functions in licensing and regulating the large vehicle industry.

#### **2. Delegation Register**

The Deputy Head of Compliance has overall responsibility for the maintenance of the delegation register. The register must record each member of staff in the Compliance team and their level of delegation. If a member of staff does not hold delegation they must still be recorded within the register.

The Senior Team Leader (STL) must ensure that the register, where it relates to their respective office, remains up to date at all times. An accurate and complete register will be provided upon request.

The Senior Team Leader will also ensure that the register is reviewed at least every quarter and a record is kept to confirm that a review has taken place.

Senior Team Leaders must satisfy themselves that the delegation awarded within their office is at the appropriate level. Regard should be given to the experience of the team members and any issues raised as a result of the quality assurance exercises. It is incumbent on the Senior Team Leader to recommend additional delegations or the reduction in delegations where appropriate. All decisions on the award of delegation remain the sole responsibility of the relevant traffic commissioner.

The OTC Compliance Delegation Register can be accessed in SharePoint at: [Delegation Register](#)

#### **3. Quality Assurance Process**

The formal quality assurance process will comprise of four distinct parts:

##### a) Local STL quality assurance checks

Each STL will conduct at least a 10% check (and a minimum of five cases) of each function set out in the Section 6 'Scope of QA' on a quarterly basis throughout the year. The quarters are defined as April – June, July to September, October – December and January to March. A report must be available to the relevant traffic commissioner and the Deputy Head of Compliance by the 15<sup>th</sup> day following the end of the period. A STL should conduct checks periodically throughout the quarter to ensure that issues are identified early and improvements noted.

Where appropriate, the 10% check should focus primarily on those cases where delegated authority was exercised. If the number of cases where delegation was exercised does not

equal 10% of the total number of cases for the period the STL must move onto those cases where no delegated authority was exercised.

Where the number of cases available to QA is fewer than five, e.g. impounding, every case must be subject to the QA check.

*Example One:*

In the period of the check there were 100 warning/NFA letters issued. 15 of these were completed under delegation. The QA should be conducted on at least 10 of the letters issued under delegation. There is no requirement to check any of the other cases, subject to an appropriate cross section of staff being checked.

*Example Two:*

In the period of the check there were 100 warning/NFA letters issued. Six of these were issued under delegation. The QA should be conducted on all six of these cases. A further check should be conducted on at least four of the cases where no delegation was exercised.

*Example Three:*

By the end of a quarter, thirty section statements have been issued. A 10% check would mean that three cases would be subject to the QA but as this falls below the minimum requirement this number has to be increased to five.

As some staff will not hold delegation or the number of staff carrying out a specific function exceeds five it is likely that total checks in excess of 10% will be required to ensure that an overall QA of the office takes place.

The 10% check is a minimum requirement. It is an important aspect of the QA procedure that work completed by all staff is subject to review each quarter. Particular emphasis should be placed on those staff who are inexperienced, or where failings have been previously identified, or staff who have recently been awarded delegated authority. In these cases the STL will be required to carry out a greater number of checks than that set out above until satisfied that routine 10% checks are sufficient. In these cases a decision to reduce the additional checks should not be taken until at least two quarters have passed from any identified issues.

All checks must be recorded by the STL with details of the action required to be taken.

The process does not remove the responsibility of team leaders to carry out their own assessment on staff. Team leaders are required to undertake checks to ensure a fair staff reporting system is in place and to identify training and development needs. Although these checks do not form the basis of the STL QA the STL should use the information gained by the team leaders to focus their own checks accordingly.

The findings of the completed quality assurance checks will be discussed across the Compliance STLs and the Deputy Head of Compliance and any relevant lessons that can be learnt are to be transferred to the 'Lessons Learnt' document held by the Deputy Head of Compliance.

The Deputy Head of Compliance will summarise all the results of the quality assurance checks in a report for the next Audit and Risk Sub-Committee. The report will include planned mitigation and action to be undertaken.

b) Deputy Head of Compliance Assurance Audit

The Deputy Head of Compliance (DHOC), assisted by the TCCO and the Driver Conduct Service Manager, is to undertake a full audit of each Compliance team every two years, subject to ongoing review. These audits will be scheduled to take place during the first quarter of the reporting year with a report prepared for the Audit and Risk Sub-Committee by 31 July of the respective year. The purpose of the audit is to provide assurance to the TC Board as to the accuracy and effectiveness of the STL audit and to ensure that identified lessons learnt have been implemented in all offices.

The DHOC is to audit at least 10% of the cases previously audited in the period by the STL so that accuracy can be assessed. In addition, an equivalent number of 'new' cases must be audited. A minimum of ten cases must be audited with focus on the more recent cases over the last 12 months.

*Example one:*

300 public inquiries have been held over the year in one office. The STL has audited 30 cases. The DHOC is to audit 10% of the cases already audited (three) and at least three non-audited cases. This gives a total of six. The DHOC must then audit a further four cases to ensure a total of ten cases are audited. These should be divided between STL audited cases and new cases.

*Example two:*

1000 driver conduct cases have been processed in a 12 month period. The STL has audited 100 cases. The DHOC will audit 10 of these cases (10%) and 10 further cases. As 20 cases have been audited there is no requirement to audit any further cases.

The audit will also include interviewing staff to ascertain knowledge and understanding of the processes. A minimum of two case workers and one team leader should be interviewed. The DHOC should consider interviewing more staff if issues arise. This could include significant knowledge gaps, errors identified during the audit or where an office has a number of new staff.

Any identified failings and lessons to be learnt, will be addressed as set out above.

In addition to the full audit an intermediate audit will be undertaken over quarter one of each alternate year. This intermediate audit will consist of:

- an audit of at least five cases from each function previously audited by the STL
- a one to one discussion with the relevant traffic commissioner to establish any concerns
- further cases audited as required as a result of findings from the review of cases or discussions with the traffic commissioner

During both audits the DHOC will audit the Delegation Register, including the issue of Instruments of Delegation.

The outcome of both the full and intermediate audit will be reported to the relevant traffic commissioner and the TC Board via the Audit and Risk Sub-Committee.

Both audits may be combined with the thematic audit as set out in c) and/or with any audit relating to Health and Safety and building security.

Nothing in this document absolves the DHOC of the usual management responsibility to ensure efficient and effective operation of the compliance teams and to address failing identified through Exception Reports or from other sources.

#### c) Thematic Audits

In addition to the routine STL and Deputy Head of Compliance audits set out in a) and b) above, regular in-depth spot checks must be carried out in relation to specific functions or elements of a function. The purpose is to ensure that all offices are adopting a consistent process for specific functions that aligns with the Statutory Documents or Operating Instructions. Thematic audits provide greater flexibility for targeting specific functions as issues are identified and in an appropriate level of detail.

The topics for thematic audits are determined by the Deputy Head of Compliance and are undertaken under the direction and delegation from the Deputy Head of Compliance. The Deputy Head of Compliance will issue a Terms of Reference for each audit. A programme of audits may be developed over time but the programme is flexible to allow for changes in priority. When setting a programme the Deputy Head of Compliance will consider feedback from traffic commissioners or other managers. The Lessons Learnt log and Exception Reports may also provide insight for topics.

Any number of thematic audits can be carried out over the course of a year. Resource being the only restraint. It is expected that a minimum of two bespoke thematic audits will be required in any reporting year but this number will change with any identified requirement.

#### d) Feedback

An important feature of any effective quality assurance process is the reliance on immediate feedback when things go wrong or examples of good work are identified. These help to form the basis for improvements. Feedback can take several different forms - verbal and written, and can vary in severity. Many issues identified can be resolved informally with additional discussion or training.

Where an identified issue is more serious (in risk or impact) or where wider lessons can be learnt it is important to have a system in place to record these so that they can be reported to the relevant traffic commissioner(s) and inform the development of an audit process. For this purpose, the Compliance team have a log to record all Exception Reports received. All recorded feedback will be reviewed by the DHOC with analysis undertaken of trends and common issues. This will inform training requirements within the OTC Compliance and the need for bespoke or standalone audits of an office.

It is the responsibility of all members of staff to identify and self-report any identified issues or training requirements. Advice can be sought from the relevant STL. Issues identified by a traffic commissioner can be reported to the relevant STL, copying in the Deputy Head of Compliance.

Where serious issues are identified an investigation report should be prepared for the relevant traffic commissioner setting out the background and proposed mitigation.

It is not possible to set out all the circumstances which would warrant a specific Exception Report. The key considerations are:

- Has the issue prevented the traffic commissioner carrying out their function, e.g. has it (or could it of) resulted in the adjournment of a public inquiry;
- Has the omission of information led to a decision being taken than may otherwise have been taken if all the information was known;
- Has the actions of the OTC led to a decision being taken relying upon delegated authority which did not exist, e.g. has a member of staff issued a decision contrary to their level of delegated authority or outside of the parameters for doing so;
- Has the issue the potential to cause reputational damage to the traffic commissioner or the OTC;
- Has the provisions for the control of data control been breached.

Examples which **may** meet this criteria are:

- Relevant legislation omitted from call-up letter
- Failure to notify all parties of PI or correct date / venue
- Relevant and significant information omitted from call up letter that has, or could have, resulted in a different decision being reached by the TC, or the unnecessary adjournment of the case, or the embarrassment of the TC at the hearing
- Failure to update VOL with PI details or letters
- Failure to publish the PI or decision in A&D or N&P
- Failure to conduct an appropriate risk assessment of a PI case thereby putting TC, staff, operators or witnesses at risk
- Failure to include all significant information on the TC brief, e.g. previous history, relevant additional information e.g. new applications, etc
- Unnecessary cancellation of PI due to administrative errors, e.g. a failure to send the call up letter on time, failure to book outside accommodation, wrong date given in call up letter, etc
- Failure to provide the operator with all relevant information available to the TC prior to the inquiry
- Failure to bring an adjournment request to the notice of the TC as soon as possible on receipt
- Failure to notify all parties of an adjournment or decision of PI
- Failure of clerk to attend the PI on time
- Wrongful disclosure of information to third parties, e.g. financial details
- Inaccurate decision being issued to any party following PI
- Failure to ensure that all follow up work requested at the inquiry by the TC is carried out within the agreed timeframe

This is not an exhaustive list.

#### **4. Scope of Quality Assurance Checks**

The STL and Deputy Head of Compliance Quality Assurance checks will cover the following functions:

- Public Inquiry casework – From submission to following up after decision
- Warning / NFA letters
- Section statements
- In - office revocation cases
- Impounding cases
- Driver conduct cases

Standard templates for the quality assurance process are to be used for the STL and Deputy Head of Compliance audits. These templates set out the specific checks that will be carried out but will include the information below.

### All cases

The following list will apply to all functions within the audit:

Statutory Documents / Operating Instructions – That the processing of case work aligns with the Statutory Documents and OIs. Where it does not a clear audit trail exists.

Case notes – Check on the use and detail of case notes.

VOL fully updated – Complete check to ensure that all letters and documents correctly uploaded into one episode, the required action is shown in VOL, the case closed (if appropriate), follow up action set out in tasks correctly.

Tasks are recorded and follow up action taken.

Delegation - Description and record of any tasks carried out under delegation and that reasons for decision are stated.

Undertakings are requested in line with Statutory Documents, correctly recorded and removed appropriately.

Remedial action - The remedial action taken to prevent reoccurrence with justification for no further action.

SLA – A check that the dates listed on the SLA recording sheet match the dates that information was available, decisions made and despatch of letters.

### Public Inquiry cases

In relation to public inquiry cases the following list applies. This will be adapted for other functions where appropriate.

Submission – A check on whether the submission contains the relevant information and in a clear manner adhering to the relevant guidance in the Statutory Documents.

Quality of call up letter – A check on the presentation and format of the call up letter, whether the standard call up letter was used, that, as far as can be established, the correct legislation quoted, the letter was factually accurate in accordance with the submission, that it was sent to the appropriate people / entity and address in line with the agreed method of posting.

Published – Was the public inquiry correctly published prior to being held and on decision.

Quality of decision letter – A check on the presentation and format of the decision letter and the accuracy in communicating the TC decision with reasons given.

The items checked will remain under review and be adapted to meet the requirements identified by the feedback and audit process.

**Office of the Traffic Commissioner Licensing Exception Report**

**The following criteria should form a guide regards exception reporting of licensing cases.**

**Example of Licensing ER attached**

<b>Unsatisfactory aspect</b>	
Failure to identify or explain relevant links or information within the submission in respect of financial standing, professional competence, good repute or fitness	
TL / STL recommendation is not supported by the evidence in the submission	
Relevant legislation omitted from submission or incorrect legislation detailed in submission	
Failure to highlight inadequate finance in submission (inc where licences are held)	
Failure to identify or explain relevant links or information within the submission in respect of financial standing, professional competence, good repute or fitness	
Failure to identify licences held by the applicant in other areas which affect their financial standing or financial resources	
Out of time or unacceptable adverts not brought to the Traffic Commissioners attention	
Failure to detail the status of the RIU check e.g. completed or extant Transport Manager issues / suitability not addressed in the submission	
Failure to highlight issues regarding the invalidity of reps / objections to enable the Traffic Commissioner to rule on validity	

Comments

Submitted by:

Date:

## Office of the Traffic Commissioner Public Inquiry Exception Report

The following criteria should form a guide regards exception reporting of compliance cases.

Unsatisfactory aspect	
Relevant legislation omitted from call-up letter	
Failure to notify all parties of PI or correct date / venue	
Relevant and significant information omitted from call up letter that has, or could have, resulted in a different decision being reached by the TC, or the unnecessary adjournment of the case, or the embarrassment of the TC at the hearing	
Failure to update VOL with PI details or letters	
Failure to publish the PI or decision in A&D or N&P	
Failure to conduct an appropriate risk assessment of a PI case thereby putting TC, staff, operators or witnesses at risk	
Failure to include all significant information on the TC brief, e.g. previous history, relevant additional information e.g. new applications, etc	
Unnecessary cancellation of PI due to administrative errors, e.g. a failure to send the call up letter on time, failure to book outside accommodation, wrong date given in call up letter, etc	
Failure to provide the operator with all relevant information available to the TC prior to the inquiry	
Failure to bring an adjournment request to the notice of the TC as soon as possible on receipt	
Failure to notify all parties of an adjournment or decision of PI	
Failure of clerk to attend the PI on time	
Wrongful disclosure of information to third parties, e.g. financial details	
Inaccurate decision being issued to any party following PI	
Failure to ensure that all follow up work requested at the inquiry by the TC is carried out within the agreed timeframe	

Comments

Submitted by:

Date: