



# Traffic Commissioners for Great Britain

## Administrative Policy Guidance

### **STAKEHOLDER ENGAGEMENT AND CONSULTATION POLICY**

This policy has no statutory basis and is issued with and is subject to the agreement of the Traffic Commissioner Board.

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## Introduction

1. The traffic commissioners' mission is "to champion safe, fair and reliable goods and passenger transport".
2. Traffic commissioners not only sit as tribunals but also develop policies and principles, provide guidance and set wider standards. The Senior Traffic Commissioner also, after consultation, gives guidance and directions under section 4C(1) of the Public Passenger Vehicles Act 1981.<sup>1</sup> For their non-tribunal activities traffic commissioners are under a duty to have regard to the [Regulators Code](#).<sup>2</sup>
3. Traffic commissioners actively engage with stakeholders, including Ministers, the commercial goods and passenger transport industries, local authorities and integrated transport authorities, trade organisations, passenger groups and operators, road safety organisations and enforcement agencies. External contacts are important to traffic commissioners both for information gathering and as part of their wider role of encouraging compliance that is aimed specifically at the promotion of road safety and fair competition. Traffic commissioners also contribute to the development of policies, for example by responding to consultations.
4. Traffic commissioners delegate and supervise work undertaken on their behalf by staff provided by the Driver and Vehicle Standards Agency (DVSA) and work closely with other Government officials to ensure that they have the level of support needed to undertake their functions in an efficient way.
5. The principles that underpin all engagement activity by traffic commissioners are that this will:
  - highlight the independence of traffic commissioners but be consistent in approach and take account of relevant government policies;
  - be impartial in ensuring no group has undue and disproportionate influence;
  - be open, transparent and focused with users and stakeholders, being clear how their views will be used and what they may influence;
  - support and promote improvement by sharing findings amongst traffic commissioners and, where appropriate, the [Department for Transport](#) and DVSA;
  - be cost effective, using the necessary resources and time to make a difference by targeting contact to maximise influence.
6. The purpose of establishing a consistent process for stakeholder engagement for traffic commissioners is to ensure that:
  - there is effective two-way communication with all relevant stakeholders;
  - operators and their employees understand the importance and value of compliance and are encouraged to comply;
  - messages are clear and consistent;

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<sup>1</sup> As amended by section 3 of the Local Transport Act 2008.

<sup>2</sup> Traffic commissioners are under a duty to have regard to the Regulators' Code (issued by the Department for Business Innovation and Skills in April 2014) when developing policies, providing guidance or setting wider standards

- engagement is used to promote further improvements;
- education and information sharing is delivered to stakeholders;
- regulatory interventions are visible and understood by industry, showing the impacts and demonstrating that interventions are targeted and proportionate to risk;
- there is an opportunity to contribute and respond to ongoing debates and dispel any misconceptions.

## **Users and Stakeholders**

7. Traffic commissioners engage with a large and diverse group of users and stakeholders with different and changing needs. For the purposes of clarification these groups have been divided into three categories:

Users are individuals, partners and companies who may use, or are required to use, the operator and vocational driver licensing services, including the tribunal. These include licensed operators, vocational licence holders, bus and coach passengers and representors and statutory objectors. Engaging with users is critical in achieving the overall objectives shared by traffic commissioners;

Providers are those organisations that supply support services to traffic commissioners such as the Office of the Traffic Commissioner (OTC) staffed by DVSA employees;

Other stakeholders include the Secretary of State and Government officials, enforcement bodies such as DVSA and the Police, local authorities and integrated transport authorities, trade associations, road safety organisations and the specialist trade press and the wider media.

8. While users are important stakeholders, they are highlighted as a group distinct from the others because traffic commissioners may engage with them in a different way, such as through seminars and other specific industry events to educate and raise compliance in the goods and passenger transport industries. Engaging with users is of particular importance in achieving the overall objectives shared by traffic commissioners.

## **The Regulators' Code and Consultation Principles**

9. The Regulators' Code clearly sets out what regulators, including traffic commissioners, must have regard to when developing policies and operational procedures that guide their regulatory activities. It also sets out what regulators must equally have regard to when setting standards or giving guidance which will guide the regulatory activities of other regulators.
10. The Regulators' Code includes the following broad requirements:
  - activities should be carried out in a way that supports those they regulate to comply and grow;
  - the provision of simple and straightforward ways to engage with those they regulate and hear their views;
  - regulatory activities should be based on risk;
  - information about compliance and risk should be shared;

- clear information, guidance and advice should be provided to encourage compliance;
  - the approach to regulatory activity should be transparent.
11. The Department for Business, Innovation & Skills (replaced by Department for Business, Energy & Industrial Strategy) issued guidance on 'Ensuring Effective Stakeholder Engagement'. Cabinet Office guidance for Government departments and other public bodies on principles for consultations was updated in March 2018.<sup>3</sup> The guidance was issued in order to improve the way Government departments and public bodies consult by adopting a more proportionate and targeted approach. The type and scale of engagement should be proportional to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focussing on real engagement with key groups rather than following a set process. The revised Guidance includes direction on timing, accessibility, transparency, feedback and practical considerations.
  12. Traffic commissioners will have regard to the Regulators' Code in the development of policies, principles, guidance and standards.
  13. The traffic commissioners will be guided by the [Cabinet Office's Consultation Principles](#) when engaging and consulting with stakeholders, unless other requirements are explicitly required under statute.<sup>4</sup>

## Roles and Responsibilities

### *The Senior Traffic Commissioner*

14. The Senior Traffic Commissioner has specific duties under section 4C of the Public Passenger Vehicles Act 1981<sup>5</sup> to consult before issuing any statutory guidance or statutory directions. The original Secretary of State's Guidance to the Senior Traffic Commissioner invited the Senior Traffic Commissioner to:

*set out how and in what circumstances s/he intends to use her/his powers under section 4C of the 1981 Act to issue directions and guidance. This should include the general approach the Senior Traffic Commissioner would usually expect to take as to consultation under section 4C(4) of the 1981 Act and the process for dealing with responses.*

15. The Secretary of State has also asked the Senior Traffic Commissioner to provide 'leadership'. In practice this will mean:
  - leading in engagement with industry on behalf of the traffic commissioners, particularly at national and senior levels;
  - leading engagement with the Department for Transport, its agencies and other Government bodies on behalf of the traffic commissioners;
  - agreeing the policy for stakeholder engagement in consultation with traffic commissioners;
  - maintaining constructive relations with other national and international stakeholders.

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<sup>3</sup> <https://www.gov.uk/government/publications/consultation-principles-guidance>

<sup>4</sup> See below 'Roles and Responsibilities' of 'The Senior Traffic Commissioner'

<sup>5</sup> As amended by section 3 of the Local Transport Act 2008

16. The Senior Traffic Commissioner has powers to issue guidance and general directions to the traffic commissioners about the exercise of any of their functions (except in relation to reserved functions) under section 4C(1) of the 1981 Act. Before doing so, under section 4C(4) of the 1981 Act, the Senior Traffic Commissioner must consult with:
- the Secretary of State;
  - the Scottish Ministers, if the Senior Traffic Commissioner considers it appropriate;
  - the Welsh Ministers, if the Senior Traffic Commissioner considers it appropriate;
  - such of the other traffic commissioners as the Senior Traffic Commissioner considers appropriate;
  - such organisations representative of the interests of local government, of London government, of Integrated Transport Authorities of combined authorities and of Passenger Transport Executives as the Senior Traffic Commissioner considers appropriate;
  - such organisations representative of the interests of users of public passenger transport services as the Senior Traffic Commissioner considers appropriate;
  - such organisations representative of passenger transport operators, and of road haulage operators, as the Senior Traffic Commissioner considers appropriate;
  - and such other persons as the Senior Traffic Commissioner considers appropriate.
17. That statutory guidance may include but is not limited to:
- the meaning and operation of any enactment or instrument relevant to the functions of the traffic commissioners;
  - the circumstances in which, and the manner in which, a traffic commissioner should exercise any power to impose any sanction or penalty;
  - matters which a traffic commissioner should or should not take into account when exercising any particular function.
18. General directions may include but are not limited to:
- the circumstances in which, and the manner in which, officers or servants of the traffic commissioner may exercise any delegated function;
  - the information which a traffic commissioner might be asked to be supplied in connection with the exercise of any particular function;
  - the procedure to be adopted in conducting inquiries under the legislation;
  - the circumstances in which a traffic commissioner should consult some or all colleagues.
19. Any Guidance and Directions issued by the Senior Traffic Commissioner will be subject to decisions of the higher courts and to subsequent legislation. The Senior Traffic Commissioner does not intend to conduct a full consultation where a change in case law or minor amendments to secondary legislation requires similarly minor amendments to any Guidance and will instead consult with other traffic commissioners, the Department for Transport and stakeholders informally.

Those updates will be made no more frequently than once in any month and published by the tenth day of the month. It is intended that more significant changes to the Statutory Documents will be limited to once every six months, unless circumstances require more immediate change and will generally take place in and around September and March. Changes that require formal consultation will be governed by the timeframe of that consultation, but all reasonable steps will be taken to align to the September and March period.

### *Traffic Commissioner*

20. As each traffic commissioner is a separate public authority, the non-statutory functions above stated are subject to agreement by the traffic commissioners, who each carry duties under the Regulators' Code. Traffic commissioners will therefore continue to:

- engage directly with users and industry in their traffic area(s) and area of individual responsibility;
- feedback significant information to traffic commissioners to promote a coordinated and consistent approach;
- act as ambassadors for the compliant industry and promote road safety and fair competition for the benefit of the general public;
- maintain constructive operational relationships with users, stakeholders and providers;
- engage regularly with each other by attending face to face meetings as well as communicating through different mediums regularly to ensure that all traffic commissioners are aware of stakeholder engagement being undertaken by each of them.

### **Monitoring and Evaluation**

21. The Office of the Senior Traffic Commissioner will be responsible for monitoring and reporting to the Senior Traffic Commissioner and traffic commissioners on the success of stakeholder engagement and consultation by:

- making consultations accessible to users of the services provided by traffic commissioner and publishing the results of formal consultations;
- monitoring the success of consultations by ensuring that the target audience is reached and that the process remains effective;
- reviewing the consultation process with a view to increasing its effectiveness;
- communicating in plain and accessible language.