



Traffic Commissioners
for Great Britain

Response to Covid 19 – Operator Licensing, Local Bus Service Registration and Vocational Driver Conduct

Advice for Operators – 20 March 2020

Foreword

The current situation continues to change and the guidance available to industry will evolve as the situation develops.

Both the goods and passenger carrying industries may face significant challenges in the coming months. To assist the industry the Senior Traffic Commissioner (STC) has, in accordance with his powers under the legislation, issued temporary guidance and directions to traffic commissioners on the exercise of their functions during this period. The published document allows traffic commissioners to support operators so that essential services can continue, either through the supply of goods, transportation of waste products or public transport provision.

It is frequently said that 'proportionality' lies at the heart of the traffic commissioner functions. What this means is that traffic commissioners will take into account the developing situation. The guidance provided reflects the changing priorities and allows for a flexible approach to be adopted in the administration and regulation of the functions carried out by traffic commissioners, whilst also ensuring safety. **It is important that operators ensure that they continue to maintain safety standards during this period and realise that regulatory action may be taken if unsafe practices are reported to the traffic commissioner.**

The temporary guidance can be found at:

<https://www.gov.uk/government/news/senior-traffic-commissioner-issues-a-statutory-document-in-response-to-the-covid-19-outbreak>

This guidance may change as the situation develops and it is advisable to periodically check for updated advice.

Notification of updates will be made through the traffic commissioners' news alert service. You can sign up for this service at:

<https://public.govdelivery.com/accounts/UKOTC/subscriber/new>

All applications for a traffic commissioner to consider using the powers listed below must be made in writing to the Office of the Traffic Commissioner and sent to Enquiries@otc.gov.uk. During this period our ability to respond to postal communication will be delayed and may not be possible.

Goods Vehicle and Public Service Vehicle Operator Licensing

1. Can I temporarily operate more vehicles than authorised to meet an urgent public demand?

You need to ask a traffic commissioner to grant a temporary exemption (in writing) from any requirement to hold a standard licence, which would otherwise be imposed by sections 2 and 3 of the Goods Vehicle (Licensing of Operators) Act. In summary this allows for a restricted licence holder to operate for hire or reward or for someone who does not hold a licence to use a goods vehicle for hire or reward or in connection with a business.

Traffic commissioners will only consider the use this power on receipt of a written request from the person / entity proposing to operate. All requests should be sent to Enquiries@otc.gov.uk setting out the proposal and justification. A traffic commissioner will need to be satisfied that an applicant is not unfit to engage in road transport. Additionally, a traffic commissioner may check that:

- the applicant is not insolvent
- there are no outstanding maintenance or other issues, which might impact on road safety
- that this is not an attempted device to avoid responsibility for alleged failures in compliance
- that the applicant has satisfactory facilities and arrangements for maintaining the vehicles used under the exemption in a fit and serviceable condition.

The traffic commissioner must be satisfied that the exemption is necessary for the purpose of enabling an emergency to be dealt with (in this case the current outbreak) or enabling some other special need to be met (arising from the outbreak).

The traffic commissioner must also be satisfied that the applicant is engaged exclusively in national transport operations, which will have only a minor impact on the transport market because of the nature of the goods carried or the short distance the goods are carried. In the exceptional circumstances of the outbreak the Senior Traffic Commissioner has advised the traffic commissioners that they are entitled to rely on a declaration to that effect signed by the person or officer of the corporate entity.

2. Due to challenging trading conditions I can no longer meet the requirement to be of the appropriate financial standing?

Financial standing for standard licence holders is an important means by which a transport business becomes established and is intended to support the maintenance of vehicles and trailers during operation. It is a condition of an operator's licence that changes in financial standing are notified to the traffic commissioner.

Operators who cannot meet the financial standing requirement and want to keep operating should write to the traffic commissioner and ask for a period of grace.

On considering whether to grant a period of grace a traffic commissioner will wish to be satisfied that:

- the operator is not insolvent
- there are no outstanding maintenance or other issues, which might impact on road safety
- that this is not an attempt to avoid responsibility for alleged failures in compliance.

Given the exceptional circumstances, the Senior Traffic Commissioner has directed that a traffic commissioner may rely on a satisfactory financial check within the last 12 months as evidence to support the granting of a Period of Grace.

Traffic commissioners recognise the challenging nature of the operating environment during this period of uncertainty and will give serious consideration to the grant of a Period of Grace to those standard operators who require it if the qualifying circumstances are met. The STC has suggested a starting point of 4 months, which may allow for an extension to the maximum period of 6 months, should circumstances require that.

3. I hold a restricted licence and cannot meet the requirement to have sufficient financial resources available due to restrictions on trade.

There is no power to grant Periods of Grace to an existing restricted operator. Operators who cannot meet the requirement to have sufficient financial resources should consider offering an undertaking to the traffic commissioner for a financial check to be carried out in the future and on a specified date.

4. Due to restrictions on movement I no longer have access to my operating centre. What steps do I need to take?

Where a standard operator *temporarily* loses access to an operating centre as a result of restrictions imposed during the outbreak, traffic commissioners will give serious consideration to the grant of a Period of Grace to operate from an alternative site.

The Senior Traffic Commissioner has set a starting point of 4 months Period of Grace for qualifying operators. That starting point is intended to allow an extension to the maximum period of 6 months should circumstances require that.

A traffic commissioner will wish to be satisfied as to where the vehicles will be parked in the alternative. It is recognised that during the period of the outbreak it may not be practicable to lodge an application for a new operating centre, which may only be required for temporary use.

Restricted licence holders do not have facility to request a Period of Grace but should notify the traffic commissioner for direction as to how to proceed.

5. Operational needs require me to operate more vehicles from my operating centre than the current authorisation. I am still within my overall vehicle authorisation.

The Office of the Traffic Commissioner has been instructed to try and assist operators and to prioritise applications. The optimal way to obtain grant of a variation is using the digital services available to operators. The purpose of the Statutory Document is to streamline the process as much as possible within the flexibility that already exists in the legislation. Operators should consider submitting a complete application as soon as the need arises and seek an interim direction which will be considered as set out in the statutory document.

6. I cannot maintain my vehicles in line with the stated intervals that I made a commitment to.

You should never operate a vehicle in an unsafe condition. You should adopt a risk-based approach as you know your business best and where the greatest risks are. Maintenance intervals can exceptionally and in limited situations, be extended in line with the principles set out below.

These principles only apply for essential transport services involved in the delivery of food, non-food (personal care and household paper and cleaning), door to door refuse collection and disposal services, health services and over the counter pharmaceuticals where their normal maintenance arrangements are affected by Covid-19. Where the concession is used, robust daily driver checks and effective use of vehicle monitoring systems are even more important. The principles are as follows:

- PMI intervals can be extended by up to 50% with a maximum of 17 weeks, whichever is the lesser, if it's not possible to obtain the PMI under the normal inspection arrangements This needs to take in to account whether any monitored defects were reported on the previous safety inspection.
- There is no need for a fresh maintenance contract but operators should update their licence records online. Use the box provided for the maintenance suppliers address briefly to record the temporary arrangements. You can access your records here:

<https://www.gov.uk/manage-vehicle-operator-licence>

- Evidence of the justification for the reduction such as a letter or email from your workshop confirming unavailability is to be kept with PMIs and to be produced to OTC/DVSA/police on request.
- Where the workshop facility is unavailable, consider using mobile inspections at operating centres. The inspection would need to be as full as possible and comply with the site's health and safety requirements. An instrumented brake test should still be conducted.
- DVSA have confirmed that they will not take enforcement action for vehicles operated with 'in-service reported' non-safety critical minor and major defects, where either parts or workshops are unavailable. This does not include using with and any dangerous defects or major defects associated to brakes, steering, suspension or tyres. Operators would need to keep evidence on the maintenance file where repairs have needed to be deferred due to these exceptional circumstances. The judgement of whether or not the vehicle is allowed to stay in service should be made by a suitably qualified technician. Guidance on the definition of minor, major and serious can be found in the DVSA [HGV](#) and [PSV](#) Inspection Manuals.
- DVSA have also indicated that they will suspend delayed prohibition action for vehicles which fall under these concessions. The operator must keep on the maintenance file evidence that the defects have been rectified.
- Where prohibitions are issued, depending on the nature of the defect, DVSA may be able to remove the prohibition by electronic submission of a fresh preventative maintenance inspection report and evidence that the defects have been repaired.

7. I am a transport manager but am required to self-isolate or I am absent from work through ill health.

The role of Transport Manager brings with it a lot of responsibilities (see paragraph 54 of Statutory Document No. 4). The conditions on the operator's licence require the operator to notify the traffic commissioner of matters which might impact for instance on the ability to show professional competence.

A traffic commissioner will then have to take a view on what is practicable in all the circumstances to meet the statutory duty. If a transport manager is in an 'at risk' group which limits their availability to attend an operating centre they are invited to submit a proposal to a traffic commissioner on how they will fulfil the requirements during the current situation. This may include the use of technology and other assistance.

Traffic commissioners would not normally expect to be notified of periods of short illness such as the general symptoms described in the current public health guidance or absences as a result of a 14-day self-isolation period.

Where a person develops more acute symptoms, it may be necessary to grant a Period of Grace. Recognising the additional challenges of recruitment during the period of the outbreak, the Senior Traffic Commissioner has set a starting point of 4 months Period of Grace for qualifying operators. That starting point is intended to allow for an extension to the maximum period of 6 months should circumstances require that.

8. I, or my transport manager, have an undertaking on my licence to complete training by a date before 30 June 2020, what should I do?

You should follow the general Government advice on travel and attendance at events. If you cannot attend a required training event within the period set out in the undertaking you should notify the traffic commissioner as soon as possible. You should include the steps that you have taken to comply, including enclosing a receipt for any bookings made, and request that the traffic commissioner considers amending the undertaking to allow more time to comply. You will be contacted with details of the traffic commissioner's determination.

Public Inquiry and Driver Conduct Hearings

9. I have been called to a Public Inquiry or a Driver Conduct hearing, will it go ahead during the coronavirus outbreak?

If a public inquiry or driver conduct hearing is postponed all parties will be advised as soon as possible. Anyone who is due to attend a Public Inquiry or a Driver Conduct hearing is advised to contact the relevant Office of the Traffic Commissioner on the day before the inquiry, to avoid unnecessary travel should the hearing be adjourned at short notice.

In considering whether a case should be adjourned the traffic commissioner will be concerned with the potential impact on road safety and may request medical evidence and/or travel documentation. Even if a case has to be adjourned the traffic commissioner may make directions that you will be expected to comply with.

If the hearing is to proceed anyone who is due to attend should read the latest Government advice:

<https://www.gov.uk/guidance/coronavirus-covid-19-information-for-the-public>

Anyone who has either a high temperature or a new continuous cough, or has recently returned from an affected area, is advised to follow published advice on [NHS 111](#) (this number works in Wales and Scotland) for advice and use the [111 Coronavirus Online Service](#) for medical help (you can also refer to [NHS Direct in Wales](#) and [NHS Inform in Scotland](#)). Current advice requires those demonstrating symptoms to self-isolate for a period of 7 days.

Do not go to a GP surgery, pharmacy or hospital. You do not need to contact 111 to tell them you're staying at home.

The current advice is that, as long as you do not have confirmed or possible coronavirus (COVID-19) infection, you should continue to use tribunals as usual. This advice might change and cases may be postponed.

If you, or the people who are coming to court with you, do have confirmed or possible coronavirus (COVID-19) infection, you should contact the court or tribunal in which the hearing is due to take place. You can find contact details on:

<https://www.gov.uk/government/organisations/traffic-commissioners/about/access-and-opening>

Local Bus Service Registrations

10. I am unable to run my registered services or wish to urgently register new services to assist in the transportation of essential workers.

Current legislation already allows operators to seek short notice dispensation from a traffic commissioner in certain emergencies. Traffic commissioners have a discretionary power (Regulation 7) to accept short notice applications for services and in particular:

- where the operator, due to circumstances he could not reasonably have foreseen, failed to make an application in sufficient time for the period of notice applicable;
- where an operator applies to register or vary a registration to meet an urgent or exceptional public passenger transport requirement.

In the event of widespread disruption operators who need to change their local bus service registrations at short notice are encouraged to apply using these provisions. Operators seeking to reduce or stop a service for a temporary period may like to consider lodging a variation application akin to a holiday service, where the registration automatically reverts back to the original route timetable at the expiry of the given period.

Traffic commissioners must consider each case on its own merits but will be alive to the challenging operating environment. In addition, the commissioners will work with the OTC management to ensure that there is enough capacity to process an increase in applications.

To relieve the administrative burden on operators the traffic commissioners have agreed to allow for a change in the usual registration process. Until notified otherwise operators seeking to make applications, variations or cancellations to local bus services can do so by emailing the Office of the Traffic Commissioner with more limited information as set out below. The email addresses are:

PSV-continuations@otc.gov.uk (England and Wales)
Steven.Jones@otc.gov.uk (Scotland)

In all cases where short notice dispensation is being requested the operator must provide detail of the grounds that it is being applied under and the justification.

At the time of issue operators in England must comply with the requirement to consult with the relevant Local Authorities and provide evidence of doing so to the traffic commissioner. Separate advice on this requirement may be released by the Scottish Traffic Commissioner.

Cancelling a service

Permanent cancellations of services can be applied for using email alone.

Varying an existing service

Operators are encouraged to make use of the provision to temporarily vary a service registration by either not running it for a period of time, changing the frequency of the timetable or altering the route.

Amended frequency – the operator should provide an email advising of the proposed date of amendment and the date when the previous registered service is to recommence. A timetable should also be included of the revised service.

Amended route – in addition to the email set out above the operator should include a revised timetable and route map.

Temporary cessation of service – the operator must provide an email advising of the proposed introduction of the change and the date that the previously registered service is to recommence.

Temporary variations can either be submitted with a defined end date after which they revert to the previously registered timetable or with the following wording:

“Variation is to be in place until otherwise notified or until 31 August 2020 whichever is the earliest date”

If the variation is not time limited (as set out above) or there are any form of permanent change to the previous registered timetable on recommencement the operator will be required to provide further details at a later date. The Office of the Traffic Commissioner will contact you with the requirements.

If an operator uses the Electronic Bus Service Registration system they can notify the traffic commissioner of temporary variations using the method set out above.

Registering a new service

If an operator wishes to register a new service they are encouraged to complete an 'Application to Register a Bus Service' PSV350 form and submit it electronically by email along with the registered particulars usually required.

Payment

Given the exceptional circumstances that operators are experiencing the traffic commissioners have decided to waive the fee for all applications that seek to temporarily vary a local bus registration. **This is on condition that the service is intended to return to the same timetable that was previously registered.**

A request to register a new local bus service is currently subject to the appropriate fee. Once the traffic commissioner has recorded the application an email will be sent to the operator advising that payment can now be made on-line. It would be helpful to allow for efficient administration if operators could make full use of the ability to pay on-line. If an operator wishes to pay over the telephone they should respond to the email stating this preference. They will then be contacted.

11. I do not want to amend services but some days I do not have the required number of staff to operate the service. Will I face regulatory action if I fail to run some services?

There is no blanket rule, but traffic commissioners will take into account the developing situation. The guidance allows for a flexible approach to the functions carried out by traffic commissioners.

Operators are reminded of the Statutory Guidance and Statutory Directions issued by the Senior Traffic Commissioner, in particular, the provisions of paragraphs 30-32 setting out the approach to Reasonable Excuse.