

## Introduction

Secretary of State, I have pleasure in enclosing my annual report for the year 2009-10, although it is very much regretted that the Welsh Traffic Area continues to be treated as an administrative adjunct of the West Midland Traffic Area – a comment that I have repeated in every annual report since my appointment. The fact that hearings are held in Wales, that there is a separate annual report and there are some separate statistics, are probably the only features that show Wales as a distinct area.



### Summary of achievements

I refer to my report as commissioner for the West Midland Traffic Area and do not seek to repeat general comments made in that report. I do, however, endorse the comments in my West Midland report concerning lack of monitoring of compliance with registered bus timetables because within Wales it is a different story. The Welsh Assembly Government has funded additional bus compliance officers and this allows most operators to be monitored more effectively and regularly. This, in turn, has led to remarkable levels of compliance which are far better than those seen in England. The Welsh Assembly Government deserves the credit for this as its funding has enabled effective liaison between the monitors and operators. Within England it is often claimed that it is difficult to run to timetable in a busy city or in difficult mountainous terrain – results in Wales show that this is not the case. I often receive reports of compliance in excess of the 95 per cent target set by traffic commissioners. Where compliance is 100 per cent I congratulate the operator concerned. A note of caution on this issue is that the officers in South Wales are becoming stretched as a result of the number of complaints over poor service and the apparent number of “bus wars” breaking out between rival operators.

Despite the fact that the Welsh Assembly Government has no statutory duty to assist me as traffic commissioner, it recognises the benefit to the people of Wales of an effective regulator.

Accordingly, it has provided encouragement in my work – a feature that is appreciated by me.

I receive more complaints from Wales about bus matters but this reflects the different culture flowing from an awareness of my role and my assistance is often sought. This contrasts with the English regions where a traffic commissioner will struggle to address concerns effectively. The number of MPs and Assembly Members who seek my intervention or ask me about my role is a feature that I welcome. In the case of Wales I feel that I can make a genuine impact. Traffic commissioners in England struggle because of the lack of resources.

### Delivering outcomes

As a former public sector chief executive I often reflect that if the support mechanisms for public inquiries were designed from scratch, it would undoubtedly be very different to the current model. Value for money is defined by the Office of Government Commerce as “*The optimum contribution of whole life cost and quality to meet the requirements of the user.*” I am unaware of any analysis of time spent finding venues; time spent on staff and traffic commissioners travelling and so on. Often the travelling time for a hearing is far in excess of the sitting time.

Particular problems have arisen in finding venues, this is especially so in South Wales where refurbishment of court accommodation often resulted in difficulties in finding a suitable hearing centre. Merger of the management bodies for Crown and County Courts with magistrates' courts has

resulted in synergies for the respective organisations, which can make better use of accommodation; unfortunately it often results in a failure to meet my needs. This is a symptom of the traffic commissioners being one of very few tribunals that do not fall within the remit of the Tribunals Service.

The keen interest in Wales to obtain improvements in service arises from our attempts to reach out to local communities, with buses being seen as an integral part of service provision. Concerns are often expressed by community representatives. One of the interesting questions, which I am not in a position to answer, is whether there is scope for a system of bus registration which is more closely connected with the local community that the buses are intended to serve. A number of options have been suggested and passed to officials.

## **Challenges**

Previous annual reports commented on how in parts of rural Wales the standards are lower than in equivalent parts of England, this remains the case for the reasons spelt out in my introduction to last year's annual report.

As I write this report I am in my fourth year as a traffic commissioner but have yet to be resourced to hold an operator seminar for goods vehicle operators, this is a concern. Whilst there is a substantial need for improving awareness generally, this is especially so in the case of the holders of restricted licences who do not have an obligation to employ a qualified transport manager.

I am therefore grateful to the trade organisations who have sought to fill the vacuum created by the lack of funding for my running of seminars in Wales. Both the trade associations and I face challenges on how to educate the goods industry in Wales.

In a written decision during the reporting year I commented on the fact that all parties before me, including the solicitor, VOSA representative, operator and drivers, spoke Welsh as a first language. An interview was relayed to me in English. Curiously, a traffic examiner interrupted a question I asked and spoke to the operator in Welsh. When I asked her to translate what she said, my exact words were repeated back to me. This confirmed that the operator and drivers spoke and understood English, but their fluency was not the same. When I asked why the interview was not in Welsh the response was that having an interview in English did not require a translation back into Welsh; on the other hand, having an interview in Welsh would require a translation back into English. I was left with the impression that the decision to have the interview in English was resource based. In this case, there was no evidence of the operator having previous contact with VOSA despite having operated for a number of years.

The above paragraph illustrates why there should be separate operator seminars held in South, Mid and North Wales and that at least one of the seminars should be in the Welsh language. This might be optimistic as I have yet to run a seminar for goods vehicles. I feel that operator seminars targeting those that hold restricted goods vehicle licences in Wales would provide value for money and would be more cost effective as an education process than waiting for problems and bringing an operator to public inquiry.

## **Acknowledgements**

I refer to my acknowledgements in my report as Traffic Commissioner for the West Midland Traffic Area which apply equally to Wales.

**For more information about Traffic Commissioners:**

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**Office of the Traffic Commissioners**



**TRAFFIC COMMISSIONERS**  
 What you need to know

***Our Mission: to champion safe, fair and reliable passenger and goods transport.***

#### Key facts about Traffic Commissioners:

- As regulators, whilst we carry out judicial functions, we can be more flexible than judges to achieve those aims of safe, reliable and fair transport of passengers and goods.
- The system for Traffic Commissioners is the cornerstone of a fair licensing system.
- Operator licensing is about managing risks to safety, allowing fair competition whilst also seeking greater reliability for passengers.
- We represent a modern approach to regulation, allowing independent and value for money decision making.
- We are committed to being a good partner – working with others to improve safety, competition and the reliability of road transport.

There may be times when members of the public become concerned about the conduct of an operator, or want to object to the granting of a proposed operating centre in the vicinity of where they live, or are unhappy with the punctuality of a local bus service. If there is anything upon which you think that a Traffic Commissioner could take action then you can contact us at our offices or ask VOSA staff to investigate by contacting their national number: 0300 123 9000 or by e-mail: [enquiries@vosa.gov.uk](mailto:enquiries@vosa.gov.uk)

VOSA provides a range of licensing, testing and enforcement services with the aim of supporting improvements in the standards of roadworthiness of vehicles so that operators and drivers can comply with road traffic legislation.

## The service we provide:

As Traffic Commissioners we share an objective in promoting the following values in the course of our work:

### *Proportionality*

Where operators and/or drivers have fallen short of expectations, the action taken by Traffic Commissioners will be proportionate to the shortcomings revealed in the evidence brought to them.

### *Accountability*

We give reasons for our decisions (for example following refusal of a licence application or at the end of Public Inquiries or other hearings). As mentioned already those decisions can be appealed. In other areas we are accountable to the Secretary of State and also fall within the supervision of the Administrative Justice and Tribunals Council and its Scottish Committee.

### *Consistency*

We aim for consistency of approach. This should not be mistaken for uniformity in an area where discretion and judgment have to be applied on a case by case basis. We act within published guidance, Practice Directions and case law. We supplement this approach with regular meetings, the sharing of good practice and training.

### *Transparency*

We want all stakeholders and the wider public to understand our role and are committed to increasing the profile of our work in support of wider road safety and the public transport agenda. Much of our work and hearings are in public. In addition we use a variety of media including training and seminar events to get our message across.

### *Targeting*

We do not want to overburden well-run, compliant operators. We have to trust operators to adhere to their undertakings until there is evidence to the contrary, when we will take action. We therefore support efforts to focus regulatory intervention on those who cannot, or choose not to, run their businesses properly, or on those individual drivers who fall short in their conduct. We can act swiftly to target corrective attention rather than let unsafe or unreliable operations continue.

## Who are we?

There are 7 full-time Traffic Commissioners in Great Britain who are supported by a number of part-time Deputies. We have backgrounds in transport management and regulatory law. We licence the operators of public service (buses and coaches) and large goods vehicles (via a centralised office). We also register local bus services and consider the conduct of drivers who hold or apply for licences to drive large goods and passenger-carrying vehicles. We take action where road safety and/or environmental concerns are raised; against licence holders who fail to comply with road safety and competition rules; bus operators who fail to operate their services on time and decide whether impounded vehicles should be returned. More detail on what we do is set out below.

As use of these vehicles directly impacts on the lives of other road users, pedestrians and on passengers who rely on public transport, we use our powers to ensure that people operating these vehicles are reputable, competent, and adequately funded. Our actions are intended to encourage all operators to adopt robust systems, so that there is fair competition and that the operation of goods and public service vehicles is safe.

## Who we work for:

We are appointed by the Secretary of State for Transport, who is responsible for providing our resources, but we work on behalf of everyone. We work at 'arms length' from the Department for Transport (DfT). This is often described as a 'modern' approach to regulation. In reality it allows decisions to be open and transparent. We are regulators but when we decide a case at a public inquiry we are acting in a judicial capacity. That means that we have to ensure that, like any other tribunal in GB, the proceedings are fair and free from any unjustified interference or bias. This removes from Ministers the burden of operational decision making, protects the rights of interested persons and avoids overburdening the civil courts so that decisions can be made more quickly.

We delegate and supervise work undertaken on our behalf by staff provided by the Vehicle and Operator Services Agency (VOSA) and

work closely with other Government officials to ensure that we have the level of support needed to undertake our functions in an efficient way. We also contribute to the development of policies by providing advice and by responding to consultations. We welcome the opportunity to engage with elected representatives from UK and devolved legislatures on general issues as well as other stakeholders. Traffic Commissioners are independent of VOSA and DfT.

High standards are expected of people such as Traffic Commissioners who work in public life. As we act on behalf of the public it is right that we are accountable. Traffic Commissioners are answerable to the Secretary of State for the way in which we discharge our general duties and we have terms and conditions of appointment. However in order to ensure that everyone can be satisfied that decisions to be taken at hearings are fair, the Secretary of State cannot exert control over those 'judicial' functions. In those cases we are answerable to the Court of the Transport Tribunal, which hears appeals against our decisions. We also provide an annual report to the Secretary of State. The publication of that report and other documents and plans allows members of the public to see what we have been doing and what we hope to achieve on their behalf.

#### **What we do:**

Traffic Commissioners are responsible for the granting and issuing of public service vehicle operators licences, the registration of local bus services, and the granting and issue of goods vehicle operator licences. We also take regulatory action against members of industry to ensure that they always comply with their obligations and in those cases where operators have no intention of complying or are incapable then we can take them off the road or put them out of business. We also impose financial penalties against bus companies for failures to run registered local transport services on time. Where vehicles have been impounded for operating illegally we decide if they will be returned.

We are also given responsibility to consider on behalf of the Secretary of State the fitness of drivers or those applying for passenger carrying vehicle or large goods vehicle driving licences based on their conduct. Traffic Commissioners seek to ensure that drivers whose conduct

might impact on the safety of the public, and in particular those driving public service vehicles, can be trusted with those responsibilities.

We can also be asked to impose traffic regulation conditions to prevent danger to road users and/or reduce traffic congestion and/or pollution, which has been particularly effective in reducing 'bus wars'.

When not involved in hearings we actively engage with our stakeholders: listening to industry, meeting with local authorities, trade organisations, passenger groups and operators and presenting seminars. We try to assist Parliament and the devolved administrations when new legislation is proposed, for example by giving evidence before the Transport Select Committee. External contacts are important to Traffic Commissioners both for information gathering and as part of our wide role of encouraging compliance and fair competition.

#### **Our Hearings:**

It is the Traffic Commissioner who ultimately decides whether to call an operator or driver to a hearing. This is an important part of our duties and allows us the opportunity to examine, in a formal setting, the applicant or licence holders, before reaching a decision on whether to grant or refuse an application or to take action against the licence holder.

Whilst our hearings are termed 'Public Inquiries', as regulators we can be more flexible than the courts in achieving our object of safe, reliable and fair transport of passengers and goods. If we are not satisfied that a person should hold an operator's licence then we can refuse them that licence; if an existing operator does not keep to the rules designed to ensure road safety and fair competition then we can reduce the number of vehicles that they can run under the licence, suspend or revoke that licence and so stop them from running the relevant vehicles; we can also disqualify people from and/or stop them from being involved with the operation of a goods or public service transport business; or take less drastic action, depending on what is most proportionate.