



SENIOR TRAFFIC COMMISSIONER

Administrative Policy Guidance

2011 No.01

TRAFFIC COMMISSIONERS' STAKEHOLDER ENGAGEMENT AND CONSULTATION POLICY

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Acting Senior Traffic Commissioner

1. Introduction

1.1 The traffic commissioners' mission is *"to champion safe, fair and reliable goods and passenger transport"*.

1.2 The majority of traffic commissioner duties are concerned with their tribunal functions but they are also independent regulators. In that capacity they are under a duty to have regard to the statutory Regulators' Compliance Code when developing policies or principles or in setting wider standards or giving guidance. When not involved in hearings traffic commissioners actively engage with stakeholders: listening to industry, meeting with local authorities, trade organisations, passenger groups and operators, road safety charities and presenting seminars. External contacts are important to traffic commissioners both for information gathering and as part of their wide role of encouraging compliance and fair competition.

1.3 The successful delivery of the traffic commissioner function relies heavily on their ability to work with others. Traffic commissioners delegate and supervise work undertaken on their behalf by staff provided by the Vehicle and Operator Services Agency (VOSA) 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. Traffic commissioners also contribute to the development of policies by providing advice and by responding to consultations. They also engage with elected representatives from UK and devolved legislatures on general issues as well as other stakeholders. The independence of traffic commissioners and the protection of rights guaranteed under the European Convention on Human Rights are vital and this policy document is subject to the overarching Traffic Commissioner Framework. This document proposes an approach for traffic commissioners when engaging with stakeholders.

1.4 The purpose of establishing a consistent process for stakeholder engagement for traffic commissioners is to ensure that:

- there is effective two-way communication with relevant stakeholders;
- users comply because they understand the importance and value of compliance;
- messages are clear and consistent;
- engagement is used to inform further improvements;
- traffic commissioners deliver the kind of education and information sharing required by stakeholders;
- traffic commissioners have the opportunity to understand how regulatory interventions might impact; interventions are targeted and proportionate to risk;
- the reputation of traffic commissioners is maintained and improved;
- stakeholders promote traffic commissioners' achievements and reputation;
- there is an opportunity to dispel any misconceptions about traffic commissioners.

1.5 This policy draws on existing documents produced by traffic commissioners¹. Its implementation will be subject to traffic commissioner strategic and business plans. It identifies:

- the main user and stakeholder groups;
- the purposes and principles of engagement;
- the consultation approach;
- the roles and responsibilities of those who might be involved;
- the proposed approach to users and stakeholders.

¹ TC Leaflet, Framework, Modernising Agenda

2. Users and stakeholders

2.1 A user or stakeholder is any group or individual who could affect, or be affected by, the work of the traffic commissioners. Traffic commissioners have a large and diverse body of users and stakeholders. For the purposes of clarification these bodies have been grouped into three categories - users, providers and other stakeholders (as illustrated in the table below):

- Users are individuals who may use, or are required to use, the licensing and tribunal services.
- Providers are those organisations that supply support services to traffic commissioners such as the Office of the Traffic Commissioner and Licensing (OTCAL) staffed by Vehicle and Operator Services Agency (VOSA) employees.
- Other stakeholders include the Secretary of State and departmental officials, enforcement bodies such as VOSA and the Police, partners such as the soon to be unified Courts and Tribunal services, those who work on behalf of and represent the industries and those who scrutinise traffic commissioners' services from an external perspective such as the Tribunals Service.

2.2 While users are also 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 to educate and raise compliance in the goods and passenger transport industries. The functions of traffic commissioners are paid for by fees collected from users. Engaging with users is of particular importance in achieving the overall objectives shared by traffic commissioners.

2.3 The traffic commissioners recognise the differing needs of each of these three groups and that those needs might change with time and circumstances. The methods used to communicate with them might have to be tailored to meet their needs.

2.4 The Senior Traffic Commissioner will attempt to publish and update a list of those with whom traffic commissioners meet regularly and those organisations which will always be consulted.

<p>Users – those who benefit, either directly or indirectly, from the services that traffic commissioners provide:</p> <ul style="list-style-type: none"> ■ Operators ■ Drivers ■ PSV passengers ■ Representors & Objectors 	<p>Providers and their staff – those who provide support services to traffic commissioners through the Office of the Traffic Commissioner and Licensing (provided through VOSA).</p>
<p>Other stakeholders – This group includes:</p> <ul style="list-style-type: none"> ■ Trade associations and professional bodies for the industries that traffic commissioners regulate ■ Secretary of State and officials ■ Other government departments and agencies ■ Enforcing authorities: VOSA, Police, HSE etc. ■ Road safety organisations ■ Stakeholders who might comment on services, such as the Tribunals Service ■ The wider general public ■ Press and media. 	

3. Purpose and principles of engagement

Any engagement activity will support the traffic commissioner(s) in delivering the above 'mission'.

3.1 Purposes of engagement

- **User and stakeholder engagement should help to make the overall strategy and performance more effective.**

3.1.1 Regular feedback should be obtained from users and stakeholders on what in their opinion constitutes an effective service. The Senior Traffic Commissioner will lead so that feedback and the results of consultations can be analysed and used to inform, where appropriate, strategic planning and priority setting. Those results will be shared and discussed with traffic commissioner colleagues.

- **The views of users and stakeholders will inform the development of policies and procedures.**

3.1.2 Users and stakeholders will be involved when developing policies and procedures. Engagement will help to identify what needs to improve and to inform change.

- **User and stakeholder engagement will help to raise levels of compliance and positively raise the profile of the TC system.**

3.1.3 Through seminars and other engagement opportunities, users and their representatives will be informed of how they can achieve appropriate levels of compliance. Providers of support services will also be required to inform users and to feedback the views of those users.

3.2 Principles of engagement

3.2.1 The following principles will underpin all engagement activity:

Engagement activity 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 VOSA;
- be **cost effective**, using the necessary resources and time to make a difference by targeting contact to maximise influence.

3.3 Levels of engagement

3.3.1 Traffic commissioners will engage with users and stakeholders at the appropriate level and the method of engagement will depend on what is to be achieved. Traffic commissioner engagement may operate at a number of different levels:

- **information** – maximising the reach, accessibility and effectiveness of information about the traffic commissioners' services, their mission, expected standards, and regulatory decisions targeted at particular users through appropriate media;
- **consultation** – obtaining a broad spectrum of users' views on proposals or initiatives and taking them into account when decisions are made, seeking opinions on the directions and guidance to be issued by the STC;
- **involvement** – engaging users and stakeholders in becoming part of the solution by listening to their views and supporting them to bring about improvement, seeking out new ideas and suggestions.

3.3.2 Traffic commissioners recognise the Hampton Principle that regulators should provide authoritative, accessible advice easily and cheaply. Users who do not know or understand the relevant legal requirements will find it difficult to comply. Traffic commissioners can therefore improve compliance through greater focus on support and advice. In engaging with users, providers and other stakeholders, traffic commissioners should be clear about what they want to achieve and will ensure that the means of engagement is designed to achieve their objectives.

3.4 Senior Traffic Commissioner's consultation promise

3.4.1 The Senior Traffic Commissioner will:

- adhere to Cabinet Office consultation guidelines – see Appendix C;
- use consultation to become more effective, to shape statutory guidance and directions;
- share information and findings with traffic commissioner colleagues;
- provide clear information and make consultations accessible to all;
- provide a clear purpose for each consultation and give adequate time to respond;
- give feedback and show how the consultation process has influenced the outcome;
- place responses to consultations in the public domain.

4. Roles and responsibilities

4.1 The Senior Traffic Commissioner (STC)

4.1.1 The Senior Traffic Commissioner has specific duties under the Public Passenger Vehicles Act 1981, as amended by the Local Transport Act 2008, to consult in advance of issuing any statutory guidance or statutory directions. The Senior Traffic Commissioner is also subject to public law duties in relation to the exercise of other statutory functions. The Secretary of State's Guidance to the Senior Traffic Commissioner suggests that the Senior Traffic Commissioner develops a stated approach to consultation, i.e:

that the STC should 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 STC would usually expect to take as to consultation under section 4C(4) of the 1981 Act and the process for dealing with responses. (see below)

4.1.2 The Secretary of State has also asked the Senior Traffic Commissioner to provide 'leadership', in practice this may 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;
- agreeing the policy for stakeholder engagement in consultation with traffic commissioners;
- maintaining constructive relations with other national and international stakeholders.

4.1.3 The Senior Traffic Commissioner has powers to issue guidance and also general directions to the other 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 STC must consult with, among others, the Secretary of State, the traffic commissioners and the devolved administrations.

4.1.4 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.

4.1.5 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 TC 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 TC should consult some or all colleagues.

4.1.6 Any Guidance 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 the Guidance.

4.2 Traffic Commissioners

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

- engage directly with users and industry in their traffic area(s) and area of individual responsibility;
- feed back 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.

4.3 Offices of the Traffic Commissioners and Licensing (OTCAL)

4.3.1 OTCAL supports the traffic commissioners in line with delegations and the Service Level Agreements. Support services are subject to various duties including confidentiality. As indicated above the relationship with OTCAL and VOSA is fully explained in the overarching Traffic Commissioner Framework. In addition OTCAL will be responsible for feeding back via the Senior Traffic Commissioner any significant information or views gathered in the course of contact with users or VOSA.

5. Formal Consultation

5.1 Different types of consultation

5.1.1 Consultation can and does take a number of forms. It may be a one-off exercise or extend over a period of time. The Department for Business, Innovation and Skills has developed a code of practice on consultation and this is summarised at Appendix C (consultation criteria). The table below outlines the different types of consultation available:

Type	When to use it	Explanation
Informing	Where a decision has been taken and consultation is not required.	Providing information about the traffic commissioners, their aims, the administrative standards expected, advising on priorities for the coming year and the results of decisions.
Consulting	Where views will be taken into consideration when making a decision.	Discharging the Senior Traffic Commissioner's legal obligations. Obtaining views on proposals or initiatives and taking them into account when decisions are made.
Involving	Where we are asking for ideas and encouraging involvement in making a decision.	Seeking out new ideas and suggestions and encouraging stakeholders to participate in the decision-making process.

5.2 STC consultation principles

5.2.1 The following principles will apply to consultations undertaken by the STC:

- Consultation will be with members of the relevant group(s) as required by the statute.

- Consultation will usually be undertaken through a written consultation document, accompanied by a standard introduction setting out the purpose, consultees and timescale
- Consultation will normally be with all the stakeholders designated in the STC consultation policy (see Appendix E for list), unless there is a reason for only consulting with specific groups, but will always include traffic commissioner colleagues.
- Where appropriate, consultees will be provided with a structured consultation pro-forma on which to respond, although this will not preclude other responses (see Appendix D for an example of a response form).
- In line with the development of e-services in government, an on-line response facility will be developed as technology and access allow.
- All consultation documents and consultation responses will normally be considered as public documents, unless respondents specifically wish their responses to remain anonymous.
- Consultation will be proportionate to the issues involved. Major consultation will normally allow a minimum of twelve weeks for responses and, wherever, possible seek to avoid or extend the duration over traditional holiday periods. A shorter period may be appropriate in circumstances where there is an urgent requirement.

5.3 STC Consultation standards

5.3.1 To assist those wishing to respond the STC has adopted a standard process for consultation. This will:

- Provide a consistent approach and structure to consultations.
- Allow documents to capture information in a structured way.
- Provide a process which allows quality control, evaluation and monitoring of the process.
- Measure the effectiveness of consultation on decisions.
- Provide a system which can be adapted/improved based on qualitative and quantitative feedback.
- Demonstrate that the STC is listening to all groups and taking account of their views.

6. Monitoring and evaluation

6.1 The Senior Traffic Commissioner will be responsible for monitoring the success of stakeholder engagement and consultation by:

- making consultations accessible to users of the services provided by traffic commissioners and publishing the results of formal consultations;
- monitoring the success of consultations (response rate) 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.

Appendix A Consultation criteria

To be reproduced in consultation documents

When to consult - *Formal consultation should take place at a stage when there is scope to influence the outcome.*

Duration of consultation exercises - *Consultations would normally be expected to last for at least 12 weeks (but in appropriate cases it may be shorter).*

Clarity of scope and impact - *Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.*

Accessibility of consultation exercises - *Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.*

The burden of consultation - *Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.*

Responsiveness of consultation exercises - *Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.*

Capacity to consult - *those running consultations on behalf of traffic commissioners should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.*

Appendix B Consultation document template



CONSULTATION RESPONSE FORM

Name	
Address	
Postcode	
Email address	
Company name or organisation (if applicable)	
If you would like your response or personal details to be treated confidentially please explain why:	

Question 1: for example - Do the guidance and directions provide sufficient clear details to inform industry and other stakeholders? If not, what changes would you make and why?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Answer 1:		

Question 2: for example - Do any parts of the guidance and/or directions require clarification? If so, please refer to the paragraph number and explain why.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Answer 2:		

Question 3: for example - Are there any aspects of guidance and directions which, as drafted, should not be included? If so, please explain why.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Answer 3:		

Question 4: for example - <i>Are there other provisions not included in these guidance and directions that should be? If so, please explain what they are.</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Answer 4:

Question 5: for example - <i>Are there aspects of these Guidance and Directions which seem likely to increase your financial or administrative burdens? If so please explain what they are and, if relevant, what changes would reduce the increase.</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Answer 5:

Please send your completed form to: sstc@otc.gsi.gov.uk or by post to:

Please ensure that if you submit your response by post it is clearly marked for the attention of

The deadline for responses is:

Appendix C Consultee list

Administrative Justice & Tribunals Council	Institute of Road Safety Officers
Arriva Plc	Institute of Road Transport Engineers (IRTE)
Association for Road Traffic Safety Management	Institute of Transport Administration
Association of British Insurers	Institute of Transport Safety
Association of Chief Police Officers	International Road Freight Office (IRFO)
Association of Chief Police Officers (Scotland)	Local Government Association
Association of International Couriers and Express Services	London Councils
Association of Vehicle Recovery Operators	London Organising Committee for the Olympic Games
Association of Road Transport Lawyers	Magistrates Association
Association of Police Authorities	Ministry of Justice
Association of Transport Coordinating Officers	National Association of Local Councils
Automobile Association	National Farmers Union
BRAKE	National Limousines and Chauffeurs Association
British Association of Removers	Olympic Delivery Authority
British Industrial Truck Association	Parliamentary Advisory Council for Transport Safety (PACTS)
British Institution of Traffic Education Research	Passenger Focus
British International Freight Association	Passenger Transport Executive Group
British Safety Council	Pedestrian Association
British Vehicle Rental and Leasing Association	Public & Commercial Services Union
Business Enterprise and Regulatory Reform	Public Transport Consortium
Bus Users UK	RAC Motoring Services
Campaign for Better Transport	Retail Motor Industry Federation
Chartered Institute of Logistics and Transport	Road Haulage and Distribution Training Council
Chartered Institution of Waste Management	Road Haulage Association
Coach Operators Federation	Road Haulage Association Scotland and Northern Ireland
Community Transport Association UK	Road Operators Safety Council
Confederation of British Industry	Road Rescue Recovery Association
Confederation of Passenger Transport Scotland	Road Safe
Confederation of Passenger Transport UK	Road Safety Advisory Panel
Confederation of Passenger Transport Wales	Road Safety Wales
Consumers Association	Road Transport
Convention of Scottish Local Authorities	Royal Society for the Prevention of Accidents
County Road Safety Officers Association	Secretary of State for Transport
Crown Offices and Procurator Fiscal Service	Scottish Environment Protection Agency
Department for Transport	Scottish Executive
Department of Environment for Northern Ireland	Scottish Ministers
Deputy Traffic Commissioners	Scottish Motor Trade Association Ltd
Driver and Vehicle Agency (Northern Ireland)	Skills for Logistics
Driver and Vehicle licensing Agency	Society for Motor Manufacturers and Traders (SMMT)
Driving Standards Agency (DSA)	Stagecoach Holdings Plc
Eddie Stobart Ltd	The National Union of Rail, Maritime and Transport Workers (RMT)
Environment Agency	The Union of Shop, Distributive and Allied Workers (Usdaw)
Environmental Transport Association	The United Road Transport Union
First Group Plc	Trades Union Congress (TUC)
Freight Transport Association	Traffic Commissioners
Guild of British Coach Operators	Trading Standards Institute
Health & Safety Executive	Transport for London (TfL)
Health & Safety Lawyers Association	Tribunals Service
Heavy Transport Association	UNISON
Highways Agency	Unite Union
Historic Commercial Vehicle Society	Vehicle and Operator Services Agency (VOSA)
HM Revenue and Customs	Wales TUC
Home Office	Welsh Assembly Government
House of Lords	Welsh Consumer Council
Information Commissioner	Welsh Local Government Association
Institute of Highway Incorporated Engineers	Welsh Ministers
Institute of Highways and Transportation	