

The Traffic Commissioners' Appraisal Scheme 2011

TRAFFIC COMMISSIONERS' APPRAISAL SCHEME

This document outlines the approach taken to the introduction of the Traffic Commissioners' Appraisal Scheme, and defines:

- **what** the Appraisal Scheme is intending to achieve in terms of objectives and overall outcomes

AND

- **how** the Appraisal Scheme will operate in order to achieve those objectives and outcomes

This document will therefore cover the following:

Section 1

- 1.1 Objectives
- 1.2 Principles
- 1.3 Appraisal Criteria
- 1.4 Outcomes

Section 2

- 2.1 Responsibility for Operation of the Scheme
- 2.2 Scope
- 2.3 Appraisal Process
- 2.4 Dispute Resolution Process
- 2.5 Administration of the Scheme
- 2.6 Use of the Appraisal Information

Section 1

1.1 Objectives

1. To maintain the confidence of users in the performance of Traffic Commissioners by demonstrating a consistent and professional mechanism for appraisal and performance measurement.
2. To establish and maintain consistency of standards and practice.
3. To ensure that Traffic Commissioners acquire and maintain the competences necessary for their role
4. To enable individual performance to be assessed and measured against defined standards.
5. To identify individual training and development needs and to provide appropriate and timely opportunities to address those needs.
6. To provide a framework to gather and share feedback (i.e. good practice, barriers/issues for resolution) on all areas of the work of Traffic commissioners (i.e. its procedures, policies, governance etc.) – and to use this feedback to help shape future developments.

1.2 Principles

The following underlying principles will be adopted throughout the development, implementation and execution of the Traffic Commissioners Appraisal Scheme:

1. **Openness, transparency, consensus and fairness**
2. **Maintenance of judicial independence**
3. **Confidentiality**
4. **Support for Traffic Commissioners in the performance of their role**
5. **Evidence based assessment focussing on the competence framework**
6. **Non-interventionist approach by the appraiser during observation**

1.3 Appraisal Criteria

Appraisal will be based on performance in relation to the **JSB Tribunal Competences, Qualities and Abilities in Action (2007)**.

www.judiciary.gov.uk/publications-and-reports/judicial-college/JSB-guidance-frameworks/Tribunal-Competences-Qualities-and-Abilities-in-Action-2007

- **Knowledge and Values as it applies to the work of Traffic Commissioners and Deputy Traffic Commissioners**
- **Communication**
- **Conduct Of The Hearing**
- **Evidence**
- **Decision-Making**

1.4 Outcomes

The following outcomes are expected as a result of the implementation of the Appraisal Scheme – and link directly to the objectives as defined in Section 1.1.

1. Users will have confidence in the role of Traffic Commissioners and in the part they play in the preservation of road safety and ensuring fair competition between operators.
2. The successful completion of consistent performance appraisals for all members. Following every appraisal, the subsequent completion of an appropriate and actionable self-development plan to address any identified needs (i.e. where expected levels of performance as defined through the JSB Tribunal Competences, Qualities and Skills in Action (2007) have not been adequately demonstrated or evidenced).
3. The collation of all feedback provided throughout the appraisal process, and the appropriate action taken with regard to that feedback to inform and drive future improvements.

Section 2

2.1 Responsibility for Operation of the Scheme

1. The overall responsibility for the operation of the appraisal scheme lies with the Senior Traffic Commissioner (STC).
2. The Senior Traffic Commissioner shall oversee the operation of the scheme to ensure:
 - consistency of the operation of the scheme
 - that identified training needs are met in a timely and appropriate way
 - that best practice is disseminated
 - a regular review of the effectiveness of the scheme
 - that there is an appropriate revision of the scheme as necessary
3. The Senior Traffic Commissioner will convene regular meetings, at least once a year, of the appraisers to review the operation of the scheme and consider any changes that might be desirable.
4. The Senior Traffic Commissioner will delegate certain administrative functions in the operation of the scheme to an Assistant.
5. All confidential papers associated with the scheme will be maintained in the Senior Traffic Commissioner's office.

2.2 Scope

1. The scheme covers all full time Traffic Commissioners and fee paid Deputy Traffic Commissioners.
2. There is the expectation that if necessary Traffic Commissioners and DTCs will agree to a self-development plan which links to self assessment.
3. The scheme will be one of peer appraisal with the exception of the Senior Traffic Commissioner who will be appraised but, because of the appellant role, will not be an appraiser.
4. All appraisers will all have attended an appraisers' training session organised by the Judicial College. Appropriate and regular training will be provided to the appraisers to include (i) how to assess performance against the competence framework and record the observations; (ii) how to encourage self-appraisal; (iii) how to give

5. At the present time, it is the intention to appraise all members on a three year cycle, although there will be occasions when appraisal occurs within a shorter period, depending on sitting arrangements.
6. The purpose and scope of the appraisal scheme will be communicated to all members by electronic means, by regular circulars, and at all Conferences.

2.3 Appraisal Process

PLEASE REFER TO The JSB Appraisal Standards and Appraiser Competences In Tribunals (2009).

www.judiciary.gov.uk/publications-and-reports/judicial-college/JSB-guidance-frameworks/Appraisal-Standards-and-Appraiser-Competences-in-Tribunals-Framework-2009

1. The office of the STC will notify the appraisee of the proposed date and the appraiser's details at least **THREE WEEKS** before the date, by email. The email will attach a copy of the scheme and the appropriate forms. A reserve date should also be agreed to allow for cancelled hearings and these dates notified to the Senior Traffic Commissioner.
2. The appraisee must complete a self-assessment form and send it to the appraiser at least **seven working days** prior to the observation together with a maximum of **four** recent written judgements. The self-assessment form will be attached to the appraisal report form (see Annexes A and B).
3. The appraiser should ensure that he/she has contacted the appraisee in good time and should have familiarised him/herself with his/her responsibilities as described in **The JSB Appraiser Standards (2009)**.
4. Both appraiser and appraisee should arrive at the hearing **at least 1 hour** before the start time.
5. THE OTC listing officer should make every effort to ensure that cases are listed to start at a time appropriate to include this pre-meeting.
6. The appraiser will have a preliminary discussion with the appraisee prior to the hearing.

7. The appraiser will observe the pre-hearing preparation as well as the actual hearing but will not retire with the Traffic Commissioner during the proceedings.
8. At the end of the proceedings, or, if this is not possible, on a mutually agreed future date, the appraiser will have a face to face discussion with the appraisee about his or her performance. This should occur within seven days of the observation if at all possible.
9. If unable to observe some of the competences, it may be necessary to explore by questioning the appraisee's level of competence of the unobserved areas.
10. Feedback from the appraiser should relate to the competences and be evidence based.
11. The contents of the appraisal form will then be discussed by appraiser and appraisee, and be signed by both.
12. The form should then be returned to the Senior Traffic Commissioner no later than 14 days after the date of the hearing, via the Appraisal Assistant but under confidential cover. Email facilities may be used, but not FAX facilities.

2.4 Dispute Resolution Process

1. All disputes that cannot be resolved between appraiser and appraisee arising out of the appraisal scheme will be referred to the Senior Traffic Commissioner. In relation to the appraisal of the Senior Traffic Commissioner, any dispute will be referred to the Tribunals Committee of the Judicial College which will nominate an appropriate appeal body.
2. The Senior Traffic Commissioner can confirm or amend the outcome or, if it is considered that there should be another appraisal, another appraiser will be asked to carry out an appraisal.

2.5 Administration of the Scheme

1. Sufficient resources will be allocated within the budget, and administrative arrangements will be in place, to support the efficient management of an effective and continuing appraisal scheme.
2. The Senior Traffic Commissioner is responsible for the management of the scheme, but may delegate detailed day-to-day organisation of the scheme to the Assistant to the Senior Traffic Commissioner.

3. The appraiser will be provided with the brief for the hearing and copies of any previous appraisals.

2.6 Use of the Appraisal information

1. The appraisal forms, including the self-development plans and any other documentation will be kept by the Senior Traffic Commissioner in the personal files of the members (see Annexes A to C).
2. The appraisal report will be confidential, and will be seen only by the Senior Traffic Commissioner and the appraiser and appraisee.
3. The Senior Traffic Commissioner may use the information contained in the appraisal forms for the purposes of providing references if the appraisee consents.
4. The Senior Traffic Commissioner can use general issues arising out of the appraisal scheme for the purposes of planning training programmes, and for writing parts of the Annual Report, and for other matters concerning the development Traffic Commissioners.

(Name of STC)

Senior Traffic Commissioner

ANNEX 1

Traffic Commissioners' Appraisal Scheme **Guide for Appraisers and Appraisees**

1. Introduction

The jurisdiction of traffic commissioners includes granting applications, curtailment of authorisation, suspension of licences to operate, revocation of licences to operate and personal disqualification of operators and directors, as well taking action against transport managers who do not work to the requisite standard. Traffic commissioners also consider the conduct of drivers who hold or apply for licences to drive large goods and passenger-carrying vehicles. In considering those PSV operators who fail to operate in accordance with registered timetables traffic commissioners are required to follow a correct judicial approach which might also result in the imposition of financial penalties and/or the restriction of current and/or future registrations.

The appraisal scheme has been developed to encompass the wide ranging role of TCs in and out of the Inquiry room. It takes into account the work necessary to fulfil the role and links objectives to those competencies.

Further, consideration shall be given to the appraisee's compliance with the Senior Traffic Commissioners Statutory Directions, Statutory Guidance and administrative guidance. In particular:

a) Impounding cases

Where there is a hearing a written decision should issue within 14 days of its conclusion and where there is no hearing the decision should be communicated within 21 days of receiving the application. Those timescales are subject to extension where the traffic commissioner or deputy traffic commissioner considers it necessary in the interests of justice and fairness in the particular case.

b) Written confirmation of oral or short reasons

Where a traffic commissioner or deputy traffic commissioner indicates that he/she will issue a written copy of the decision and reasons for the decision he/she will aim to issue those written reasons within seven days of the conclusion of the hearing or the transcript becoming available, whichever is the later.

c) Cases where the decision is reserved

Traffic commissioners and deputy traffic commissioners shall endeavour to publish a written judgment no later than 28 days from the date of the final hearing, except in cases where a full transcript or part transcript is required. In the latter case, the target date for publication is 28 days after the transcript becomes available. This is subject to the availability of resources and other exceptional circumstances which might impact on the availability of the traffic commissioner or deputy traffic commissioner or dictate other priorities.

d) Case submissions

Case submissions shall be responded to with relevant reasons for the decision within 7 days of receipt. This is subject to the availability of resources and other exceptional circumstances which might impact on the availability of the traffic commissioner or deputy traffic commissioner or dictate other priorities.

2. Further information specific to the jurisdiction of the Traffic Commissioners regarding certain JSB competencies which will be considered.

A. Knowledge and Values

Linked Objective

To promote understanding of legal issues and the work of traffic commissioners through the development and communication of legal and regulatory policy and advice.

Professional Standards

- To enhance the reputation of traffic commissioners by maintaining good relations with relevant stakeholders;
- With regard to the Compliance Code:
 - Consult and involve regulated entities and other interested parties as appropriate in the development of risk methodologies.
 - Assist in the provision of general information, advice and guidance to promote understanding of how to meet regulatory obligations.
 - To assist in the provision of targeted and practical advice that meets the needs of regulated entities.
 - Identify opportunities, for instance through visits or other interaction, to provide positive feedback to regulated entities to encourage and reinforce good practices.

- Support and engage in effective consultation and feedback opportunities to enable continuing cooperative relationships with regulated entities and other interested parties.
- Delivering informed presentations, interviews and supporting other events to deliver the above objective.

Performance Measures

- Regular and appropriate contributions to the maintenance of the Statutory Guidance and Statutory Directions, reviewing and commenting on updates prepared by other colleagues;
- Contribute to wider policy development by providing advice where appropriate;
- Ensure development of policy is consistent and meets the wider responsibilities of traffic commissioners as regulators;
- Participation in seminars/road shows as appropriate;
- Contribute to the development of legal training for OTCAL staff as required;
- Liaise as appropriate with external stakeholders;
- Monitor opportunities for involvement with wider regulated industries, stakeholders;
- Consistent messages as agreed with traffic commissioner colleagues;
- Information, advice and guidance provided in clear, concise and accessible language, using appropriate format and media;
- Communication targeted to maximise the reach, accessibility and effectiveness of advice whilst ensuring efficient use of resources;
- Minimise duplication of attendance wherever necessary;
- Power point presentations are shared/adapted where appropriate to ensure consistency of message on national issues and efficient use of resource;
- Feedback forms assessed where available;
- Informal feedback from trade organisations or other relevant attendees;
- Positive reporting in trade, local and national press.

B. Communication

Linked objective

In support of the routine responsibilities for overseeing tribunal and regulatory work within the relevant local area, I will develop relevant staff; promote effective team working with other traffic commissioners and delivery to ensure the delivery of high quality services.

Professional Standards

Set challenging but realistic standards for individuals, the relevant OTCAL team and relevant projects; monitoring and reviewing performance to ensure quality and progress are satisfactory; supporting and investing in the development of staff, taking account of circumstances and experience as far as the constitutional position allows.

Performance Measures

- Proactive support for line management function within OTCAL;
- Encouraging cohesive team working;
- Communicating a shared purpose and understanding, implementing corporate decisions with energy and commitment;
- Encouraging appropriate behaviours and appreciating different perspectives;
- I will develop staff to help them to achieve their development plans;
- Providing feedback to individual staff, OTCAL management and to the STC as against the SLA;
- Effective team working for delivery.

Linked Objective Modernising

In support of traffic commissioners' commitment to improved methods of regulation, delivery of the tribunal service and taking account of the requirements of the Compliance Code to make proposals for change which are informed by the legislation, the needs of society and value for money.

Professional Standards

Investment in innovation and learning as a team through the application of job and other related expertise. Support modern regulation and the development of additional and alternative methods of delivery of the statutory intentions of road safety and fair competition through consistency regulate to ensure best use of resources and reducing the burden on industry whilst maintaining the overriding principles of the legislation.

Performance Measures

- Delivery in the context of the team, its workloads and other deadlines;
- Taking the initiative to continue improvements in service based on an assessment of risk and data;
- Consult and brief colleagues before piloting new approaches;
- Key messages and approach to be agreed in advance;
- Colleagues to be updated at key and/or agreed stages;
- Report to fellow TCs on outcomes of any pilot, with supporting data and recommendations to fellow TCs;
- Use experience and knowledge to full advantage;
- Effective use of all resources, including colleagues;
- Effective and well-argued communication of ideas supported by analysis, use of influencing skills at the appropriate;
- Effective team working and sharing of information with colleagues;
- Manage information to ensure efficient team working;
- Demonstrating an appreciation of the views of colleagues;
- Appreciation of different approaches and supporting.

C. Conduct of Cases

Linked Objective (Development)

Address personal development in the context of what is required as a specialist regulatory tribunal and licensing authority.

Professional Standards

Personal investment in your own development connected to the delivery of other objectives. Demonstrate a willingness to seek out and act on advice about improving your own knowledge and skills. Maintain and improve familiarity with relevant legislation, case law and current issues. Personal skills development to support others and deal with challenges positively and constructively.

Performance Measures

- Development of knowledge as an asset to the tribunal;
- Use of all opportunities to learn and develop targeted at the skills matrix and the needs of the tribunal;
- Sharing of job-related knowledge and experience;
- Contribution to the development of others;
- Keep up-to-date with legal developments by reading the trade press, relevant journals, appeal decisions and by conducting research;
- Awareness of projects being undertaken by colleagues and others within VOSA and DfT; and
- Requirements for CPD met (where appropriate).

E. Decision-making

Linked Objective

In support of the provision of the judicial process and fair decision making, I will ensure that ancillary decisions meet legal requirements and are delivered in a timely manner. Any interlocutory decisions, i.e. a decision which is ancillary to the actual final decision, but which is closely linked to that final decision so that it cannot to be considered 'procedural' or merely administrative, must also meet these requirements as it might impact on the fairness of the final disposal of a case.

Professional Standards

Good proactive conduct of cases and box work, supported by clear and timely decisions, which consider legal risks. Decisions are to be in clear, straightforward language addressing all relevant issues. Cases are to be conducted in accordance with Statutory Directions and taking account of Statutory Guidance. All decisions should take account of relevant human rights, other legislation and case law, as

appropriate with regard to the independence and impartiality required of traffic commissioners.

Performance Measures

- Limit in- chambers decisions to be successfully appealed where the reasons were within the control of the Traffic Commissioner;
- Proportionate regulatory decisions; Accurate record of basis for decisions;
- Provide advice to staff as and when required;
- Dealing with correspondence and requests for information within 14 days, or otherwise by acknowledgement within 7 days and then within a stated timetable for the substantive reply;
- Comply with all statutory deadlines and timetables where compliance is within the control of the Traffic Commissioner;
- Alert STC and colleagues on discovering a potential challenge to relevant tribunal legislation or a challenge based on human rights legislation;
- Appropriate use of resources in line with the overriding objective;
- Peer review at judicial appraisal;
- All to be consistent with up to date case law and legislation and in clear, straightforward language suitable to the audience;
- Demonstrate the requisite knowledge to meet the statutory requirements on TCs as individual public bodies.

ANNEX 2

Data Protection Act 1988: The Office of the Senior Traffic Commissioner will process personal data in this form within the provisions of the Act. You have a right to ask for a copy of the data and to ask for any inaccuracies to be corrected.



TRAFFIC COMMISSIONERS' AND DEPUTY TRAFFIC COMMISSIONERS' APPRAISAL FORM

PART A - APPRAISAL SELF ASSESSMENT FORM

(To be lodged with the appraiser 7 days before the appraisal date.)

Name:

Date of appointment:

Appraiser:

Date of Appraisal:

Date of previous appraisal:

Other tribunal appointment(s) and dates of appointment:

Dates of most recent appraisals in other jurisdictions:

*In order that you may prepare for the appraisal visit and to enable an effective discussion with your appraiser, please complete the details above and the following form.
(Please make additional comments on the back of this form.)*

- 1) What were the objectives identified, if any, in your last appraisal? In your view have these been achieved?

- 2) What training in this, or any another jurisdiction, have you attended since your last appraisal in this tribunal? Has the training assisted you in your role as a TC/DTC?

- 3) With reference to the JSB's Tribunal Competences – Qualities and Abilities in Action and any relevant jurisdiction specific competences, what do you consider to be the most effective aspects of your performance as a TC/DTC?

- 4) With reference to the JSB's Tribunal Competences – Qualities and Abilities in Action and any relevant jurisdiction specific competences, what aspects of your performance would most benefit from further development?

- 5) Are there any administrative or procedural matters that could be changed to assist in the improvement of your performance as a TC/DTC?

6) Is there any training or additional support that you feel would enhance your performance as a TC/DTC?

7) Do you have any special needs that could be better met by the Office of the Traffic Commissioner?

8) Are there any additional comments that you would like to make or issues that you would like to discuss in the appraisal?

Signed:

Date:

ANNEX 3



TRAFFIC COMMISSIONERS AND DEPUTY TRAFFIC COMMISSIONERS APPRAISAL FORM

(To be sent by post or email, when completed, to the Office of the Senior Traffic Commissioner)

PART B - APPRAISAL FORM AND TC/DTC SELF-DEVELOPMENT PLAN

Appraisee:

Appraiser:

Date of appraisal:

Summary of type of cases heard¹

Summary of written decisions reviewed by appraiser, including, where relevant, comment on decision-writing skills

¹ For example maintenance, impounding, driver conduct hearings.

Summary of appeal cases reviewed at the appraisal (favourable and unfavourable)

Summary of work undertaken outside the Inquiry room²

Competence Framework & Linked Objectives

Complete each box with reference to the specific competences as set out in the JSB's *Tribunal Competences – Qualities and Abilities in Action*.

- Identify clearly the evidence that any comment is based upon.
- Identify competences that cannot be assessed.
- Identify the appraisee's strengths.
- Identify areas that could benefit from development.

A. Knowledge and values.³

(To ensure a suitable level of knowledge of the jurisdiction, law and procedure relating to the TC role and an understanding of the appropriate principles and standards.)

² For example case submissions, training, public speaking etc

³ See pages 4 and 5 of *Tribunal Competences – Qualities and Abilities in Action*

B. Communication⁴.

To ensure effective communication between the TC, parties, witnesses, support staff and other stakeholders.

C. Conduct of cases⁵.

To ensure fair and timely disposal.

⁴ See pages 6 and 7 of *Tribunal Competences – Qualities and Abilities in Action*

⁵ See pages 8 and 9 of *Tribunal Competences – Qualities and Abilities in Action*

D. Evidence⁶.

To ensure that all relevant issues are addressed by eliciting and managing evidence.

E. Decision-making⁷.

To ensure effective deliberation, structured decision-making and disposal of the case.

⁶ See pages 10 and 11 of *Tribunal Competences – Qualities and Abilities in Action*

⁷ See pages 12 and 13 of *Tribunal Competences – Qualities and Abilities in Action*

F. Diversity and fair treatment.

For extra information refer to Fairness in Courts and Tribunals:

www.judiciary.gov.uk/publications-and-reports/judicial-college/Fairness-in-Courts-and-Tribunals

Any aspects of diversity and fair treatment not covered above, with reference to JSB Equal Treatment guidance.

Conclusion

Aspects of performance that would benefit from being addressed.

Competence(s)/knowledge/skills to be developed.

Suggested learning activities

Training

Judicial shadowing

Guidance from mentor to support development

Additional suggestions

ANNEX 4

If all or some of the outcomes are not met, the Self-Development plan should be completed and attached to the appraisal report form and sent to the Senior Traffic Commissioner.

PART C

SELF DEVELOPMENT PLAN (Optional)

The Traffic Commissioner/Deputy Traffic Commission Self-Development Plan

Member:

Traffic Area(s):

Date of appointment:

Appraiser:

Date of appraisal:

Please identify below agreed training or other self-development needs discussed at the appraisal that relate to the relevant competence(s).

Please expand the box as necessary or identify additional needs on the back of this form.

1. Competence

2. Competence

3. Competence

Signed (appraiser):

Date:

Signed (appraisee):

Date: