

Senior Traffic Commissioner Statutory Document Flexible Practices for COVID-19

This document looks at the new guidance issued by the Senior Traffic Commissioner to assist the transport industry through the challenges presented by COVID-19, through flexible working practices and a balanced approach.

Most of the correspondence you receive will now be by email, so it is essential that you keep your email address up-to-date at [Manage your vehicle Operator Licence](#) and regularly check your email account.

Wherever possible, you should now contact the OTC electronically:

- [Apply for a vehicle Operator Licence](#) to apply for an Operator's Licence
- [Manage your Operator Licence](#) to manage, vary or surrender your Operator's Licence or add/remove a transport manager
- [General enquiries at OTC](#) for general correspondence, to apply for temporary exemptions to hold an Operator's Licence, or to apply for periods of grace
- [PSV registration continuations](#) to register, vary or cancel a bus registration in England or Wales
- [Scottish PSV](#) to register, vary or cancel a bus registration in Scotland

The guidance temporarily updates Statutory Documents 2, 3, 4, 9 & 14 and can be summarised as follows:

Periods of Grace

The regulations provide a procedure for the suspension and withdrawals of authorisations, i.e. for Periods of Grace, where a competent authority establishes that an undertaking runs the risk of no longer fulfilling the requirements laid down in the regulations. These requirements can be summarised as:

- a) Have an effective and stable establishment in the UK,
- b) Be of good repute,
- c) Have appropriate financial standing, and
- d) Have the requisite professional competence.

The periods of grace set by the Traffic Commissioners in this guidance, to rectify the situation are set out in the relevant paragraphs below.

The holder of a standard Operator's Licence seeking a period of grace must apply proactively.

In effect, the application invites the Traffic Commissioner to make an adverse finding that the operator cannot demonstrate that it meets any of the mandatory and continuing requirements, but under the new guidance members of staff in the OTC are expected to assist and advise standard operators with regard to applications for period of grace.

Operators must understand that if, upon the expiry of a period of grace, the requirement has still not been demonstrated the Operator's Licence will have to be revoked.

In relation to financial standing there are the options of relying on additional sources of finance or a voluntary reduction in authority.

Operating centre – unable to access

An effective and stable establishment is the premises which allow an operator to effectively and continuously meet the requirements to conduct its operations, i.e the operating centre. The Senior Traffic Commissioner has interpreted this to allow several sites, for instance an office and a separate operating centre.

An operating centre must be specified on the Operator's Licence and criminal proceedings may result from using an unauthorised operating centre.

If you are the holder of a standard Operator's Licence and, as a result of movement restrictions imposed during the outbreak, you are **temporarily** unable to access your operating centre you should notify the Traffic Commissioner. It is recognised that, during the outbreak, it may not be practicable to apply for a new operating centre, which may only be needed for temporary use, and Traffic Commissioners will give serious consideration to granting a period of grace for an alternative site.

In considering an alternative site, Traffic Commissioners will wish to be satisfied as to where the vehicles will be parked during the period of grace which, if granted may be set at a starting point of 4 months but extendable to 6 months.

Holders of restricted Operator's Licences do not have the facility to request a period of grace but should notify the Traffic Commissioner and seek direction of how to proceed.

Operating centre – more vehicles than authorised

If you are required by operational needs to operate more vehicles from your operating centre than currently authorised, but still within your overall vehicle authorisation, the OTC will try to assist and prioritise applications, and it is best to use the digital services available. You should consider submitting a complete application as soon as the need arises and seek an interim direction. The Statutory Document guidance seeks to streamline the process as much as possible within existing flexibility.

Operator's Licence – more vehicles than authorised

If you wish to operate more vehicles than authorised, to meet demand during this outbreak, you must ask a Traffic Commissioner (in writing) to grant a temporary exemption from any requirement to hold an Operator's Licence.

The Traffic Commissioner must be satisfied that the exemption is necessary to enable the emergency (the current outbreak) to be dealt with, or to enable some other special need (arising from the outbreak) to be met; and that the applicant is engaged exclusively in national transport operations which have only a minor impact on the transport market.

The Traffic Commissioner may check that the applicant is not insolvent, there are no outstanding maintenance issues which might affect road safety, that the applicant has suitable facilities or arrangements to maintain the vehicles that will be used in a fit and serviceable condition, and that the application is not an attempt to avoid responsibility for alleged compliance failures.

The exemption may allow a restricted Operator's 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.

Financial Standing – Standard Operator’s Licence

Financial standing is an important means to establish a transport business’s security and ability to support the maintenance of vehicles and trailers during operation. It is a condition of your Operator’s Licence that you must notify the Traffic Commissioner of any changes in your financial standing. Current financial standing requirements require that holders of standard Operator’s Licences must be able to demonstrate readily available finance of £8000 for the first vehicle and £4450 for each additional vehicle authorised.

The challenging trading conditions caused by the outbreak of COVID-19 may mean that you cannot meet the financial standing requirement of your standard Operator’s Licence. If you find you are unable to meet the financial standing requirement and you want to continue operating, then you should contact the Traffic Commissioner and ask for a period of grace.

Traffic commissioners may give serious consideration to granting a period of grace, starting at 4 months but extendable to 6 months. Traffic commissioners may rely on a satisfactory financial check within the last 12 months as evidence to support the grant of a period of grace, alongside being satisfied that:

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

Financial Resources – Restricted Operator’s Licence

The Traffic Commissioners have no power to grant a period of grace to the holder of an existing restricted Operator’s Licence. Such an operator who cannot meet the requirement to have sufficient financial resources should consider offering an undertaking to the Traffic Commissioner or a financial check to be carried out in the future and on a specified date.

Undertaking – Professional Competence/Transport Manager

Regulations require that at least one person with a genuine link to the operator and who is qualified with Certificate of Competence to act as Transport Manager. When considering the suitability of a person to act as Transport Manager, Traffic Commissioners are aware of the duties summarised in the paragraph 54 of Statutory Document No. 3 and will consider what is practical in all the circumstances to meet the statutory duties of the Transport Manager.

Operator’s Licence conditions include the requirement for the operator to notify the Traffic Commissioner of matters which might impact the Operator’s Licence, including the ability to maintain professional competence. If so notified, the Traffic Commissioner will have to take a view in the circumstances to meet the statutory duty. If a transport manager is limited in their availability to attend an operating centre, they should submit to the Traffic Commissioner a proposal on how they intend to fulfil the requirements, including use of technology and other assistance.

Normally Traffic Commissioners would not expect to be notified of periods of short illness affecting a Transport Manager and the professional competence of the undertaking, including absences as a result of a 14-day self-isolation period. In the current situation when a person may develop more acute symptoms, and recognising the potential challenges of recruitment, operators should make early contact with the Traffic Commissioners, who may consider granting a period of grace. Again, the starting point is set at 4 months with possible extension to 6 months.

Goods Vehicle Operators – Interim licences

Interim Operator's Licences may be granted to give temporary authority to applicants for goods vehicle Operator's Licences. The interim licence or variation may be granted in the same terms or different terms to those applied for.

To grant an interim licence the Traffic Commissioner requires to be satisfied that, on the face of it, the applicant meets the requirements of professional competence, financial standing and good repute, and this has been interpreted to include fitness and availability of finance for a restricted licence.

The Traffic Commissioner will wish to be satisfied that:

- The operator/applicant is not insolvent,
- There are no outstanding maintenance or other issues which might impact on road safety, and
- That the application is not an attempt to avoid responsibility for alleged failures in compliance.

It should be remembered that the operator would still be under an obligation to notify the Traffic Commissioner if the required level of finance was not subsequently available, and the Traffic Commissioner may take account of any undertakings given when reaching a decision on interim authority. The Traffic Commissioner may impose novel undertakings, such as granting interim authority on receipt of an undertaking that the interim licence will be surrendered after a specified period with a specified date set.

Temporary guidance documents

The full temporary guidance documents can be found at:

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

and at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/873232/stat doc contingency planning.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/873232/stat_doc_contingency_planning.pdf)

**IF YOU HAVE ANY QUERIES PLEASE CALL
FOSTER TACHOGRAPHS & TRANSPORT COMPLIANCE ON
01772-655155 OR EMAIL tom@fostertachographs.co.uk
who will direct your query to the most appropriate person**