

Virtual member briefing – Managing drivers – a legal perspective

Questions and answers

Q1: Are spent convictions relevant to the Traffic Commissioner (TC)?

A: When considering reputations, TCs have a discretion as to what to treat as material but the power to consider spent convictions is described in Statutory Document No 1 as 'exceptional'.

Q2: Is there a simple document easily available with those items listed for reference (ie Speeding / overloading etc)?

A: It is contained in the Goods Vehicle (Licensing of Operators) Act 1995 in schedule 3 paragraph 1 and schedule 2 paragraph 5.

Q3: Would a speeding offence of a van that is on the fleet but not on the operator licence need to be notified?

A: The speeding offences relate to the individual, not the business, so yes in principle.

Q4: Is it necessary to report speeding offences to the TC?

A: In principle you should report speeding. How interested the TC would be is a moot point. As suggested in the briefing you can write, anonymising the driver and indicate that a speeding offence has occurred, would the TC be interested to know more?

Q5: Should you back date if you haven't been reporting?

A: I would not back date it as the requirement is to report within 28 days.

Q6: Is it just speeding offences you should report or any PCN's such as parking tickets etc?

A: I would not report parking tickets.

Q7: To report offences is this just for HGV/LGV drivers?

A: The requirement goes beyond drivers. In terms of example setting a TC may be concerned about a Director who has a driving ban and that they are not leading by example.

Q8: Traffic Commissioners are scrutinising how operators engage drivers, particularly regarding self-employed and limited company arrangements. Current guidance suggests that it's rare for commercial vehicle drivers to be genuinely self-employed, except for owner-drivers with their own operator licence. What is the opinion on this statement?

A: I think it's a good way of flagging the issue. Each case has to be looked at on its own facts. You should look at the jurisdiction (eg employment, tax, operator licensing etc.) and apply the relevant tests. Owning your own asset/tools of the trade is often an important factor. Also, if someone presents to a company without a vehicle the chances are higher that they are going to be subject to greater control by the organisation than if they had their own vehicle, which can also be a key indicator of employment status.

Q9: If you use an agency and during your checks regards these drivers, you discover that they are using mobile phones while driving an HGV on the road. Though they haven't been caught or fined by the Police or DVSA, would you be obliged or should you inform the DVSA or TC of the driver's activity, if this activity was an extreme case? Or just report this to the Agency?

A: I would be inclined to report to DVSA. The operator licensing system operates on trust. You would be expected to report behaviour of this kind which represents a real road safety hazard.

Q10: TMs should be asking how agencies manage the Road Transport (Working Time) Regulations and prove how they do what they say, do you agree and how can it be demonstrated?

A: Yes, by asking searching questions, and writing and asking for proof and keeping the responses.

Q11: A driver is stopped roadside and no offence is found, does this need to be reported to TC? Additionally, if an offence is found, what do you report?

A: If no offence is found, there is no need to report. If there were an offence, what you report would depend on what the offence was.

Q12: Reference speeding offences, does the TC differentiate between speeding offences received whilst driving on business vs those received in a private vehicle when off duty? Is the TC interested in speeding offences for car and van drivers who don't drive under the operator licence?

A: An offence in a commercial vehicle is likely to be given greater weight than a similar offence in a private vehicle. However, private vehicle offences and non operator licensed vehicles can be in scope.

Q13: Are we contravening any privacy laws by notifying of an offence picked up in a private vehicle in private time?

A: An analysis of privacy law is beyond the scope of this webinar, but one way that some operators approach the privacy point is by reporting the facts, without the identity of the driver, disclosing identity only if the TC requests it.

Q14: Our refuse drivers and loaders also suffer quite a lot of harassment from the public and it can be difficult to address this?

A: There are a number of actions you could take:

Encourage reporting:

- Create a clear, confidential reporting system for incidents of abuse.
- Train supervisors to log and escalate reports appropriately.
- Regularly review incident data to identify patterns or hotspots.

Provide mental health and emotional support:

- Offer access to counselling services or an Employee Assistance Programme (EAP).
- Provide mental health first aiders or peer support networks.

Equip staff with training and tools:

- Train staff in de-escalation techniques and how to handle aggressive behaviour.
- If it is really bad, provide body cameras or dashcams where appropriate, both for safety and evidence.
- Ensure vehicles and uniforms are clearly marked to deter aggression.

Raise Public Awareness:

- Run public campaigns to highlight the role and value of refuse workers.
- Use signage on vehicles or social media to promote messages like; 'Respect our crew – they're keeping your streets clean.'

Work with local authorities and police:

- Report serious incidents to the police and support prosecutions where needed.
- Collaborate with councils to identify problem areas and increase patrols or CCTV.

Document and follow up:

- Keep a record of all incidents and actions taken.
- Follow up with affected employees to ensure they feel supported and safe.

Q15: Where can I find further information about the changes to the Worker Protection Act reference taking reasonable steps to prevent sexual harassment?

A: Further information is available at the [Fawcett Society](#) and the [Equality and Human Rights Commission](#).

Q16: What are your liabilities regarding grey fleet?

A: We assume you are referring to privately owned vehicles used for business purposes, essentially, employee-owned cars used for work-related travel. See the answer to questions 4, 7 and 12. above.

Q17: Whose responsibility is it to report temporary drivers speeding offences, the agency or the operator?

A: We assume that in your example, the operator is the one with the operator licences, so the operator.

Q18: Is there guidance available via a document or online outlining director responsibilities to help put a document together as getting this information from one source is very difficult?

A: We are not aware of a single document but in essence, directors have to be pro-active in protecting what is often their greatest asset – the operator licence.

Q19: We have been told that RCVs which are exempt from loading do not need four roller brake tests (RBT) per year. Is this correct?

A: The Guide to Maintaining Roadworthiness indicates that where laden RBTs cannot be completed, then unladen RBTs should be undertaken where possible. The base line remains four times a year. I assume by RCVs you mean a compactor vehicle. The exemption applies for vehicles operating at 50% or more of permitted axle weights when unladen.

Q20: Could you give specific links to courses for those managing transport in a senior leadership team (SLT) in a Local Authority. No previous transport knowledge but normal Operator Licence Awareness Training (OLAT) not sufficient.

A: Logistics UK has courses recently refreshed designed for Directors/Senior Leaders which are easily adaptable for Local Authorities, as we do with many of our courses. There is a specific Director OLAT available [here](#), please get in touch with the [Training Team](#) for information on other courses and options available.