

Targeting non-compliance

The focus for law enforcement is changing as the traffic commissioners and DVSA review their strategies in light of modern technology.

Andrew Woolfall explains

Coming months are likely to see significant changes in the ways operators interact with regulators (the traffic commissioners) and the main enforcement authority, DVSA. Why? Mostly because last year's annual report from the traffic commissioners trailed a change of compliance focus, while the triennial review introduced the prospect of financial sanctions at public inquiries. But also because DVSA has continued to build on its remote enforcement office plus and now plans to introduce 'earned recognition', so changing the basis of OCRS (operator compliance risk score).

Looking first at the traffic commissioners' strategy, the 2014/15 annual report revealed a continued trend of reducing public inquiry hearings for HGV operators (859 for 2014/15, compared with 915 and 996 in the previous two years). This reflects the statement made by senior traffic commissioner Beverley Bell that the commissioners are looking at ways of diverting less serious cases away from public inquiry so as to make best use of tribunal time and avoid unnecessarily calling operators to hearings.

Diversionary measures introduced include a renewed focus on education and operator seminars. Cases deemed

less serious are also being dealt with by preliminary hearings or formal warnings. That said, HGV operators called before the commissioner to a public inquiry do now face the very real prospect of action being taken against their licences. While there was a drop in the number of HGV licences revoked during 2014/15, there was a clear increase in the number of suspensions and curtailments, while some 70 transport managers were disqualified.

In contrast to HGVs, PSV operators saw an increase in the number of public inquiries (2014/15 saw 252 hearings, compared to 231 the year before and 179 in 2012/13). These statistics suggest that the traffic commissioners are targeting attention on those who cannot, or choose not to run their business properly.

LEGISLATIVE CHANGE

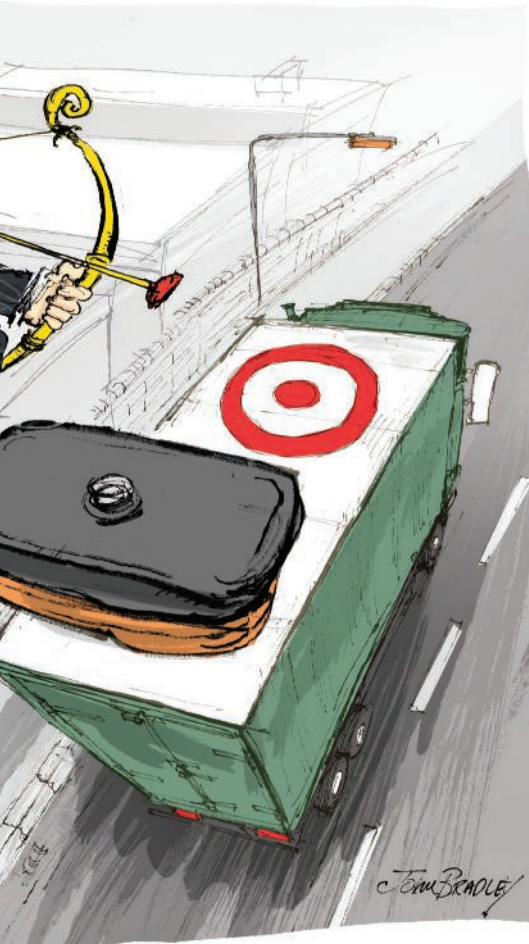
Although the commissioners may be looking to adopt more surgical approaches to public inquiries, the DfT has responded to the traffic commissioners' triennial review and confirmed that their role will continue – although with several proposals for the future, some requiring legislative change. These include: the introduction of a single national traffic area for operators holding multiple licences; the



removal of the traffic commissioners' involvement in environmental matters; and the introduction of a more formalised process at public inquiries, including the potential to levy costs on non-compliant operators.

The latter is one of the most important proposals. In addition to licences being at risk of revocation, suspension or curtailment, operators called to public inquiry could now face having to pay thousands of pounds in costs – and those would be on top of fixed penalty notices or prosecutions. The coming months will see whether this comes to fruition.

Turning to the DVSA, the remote enforcement scheme is now being rolled out nationally. Typically, if an 'S'



marked prohibition was issued at the roadside, the operator would expect a follow-up visit to the operating centre when all records and a selection of vehicles would be inspected. However, the new scheme effects a risk assessment on the need for such a visit.

Under this programme, operators with good OCRS ratings and compliance records are dealt with remotely. The operator is asked to submit paperwork (often including vehicle maintenance files along with driver training records) and a decision as to whether the matter should be reported to the traffic commissioner or dealt with in some other way is then made through a desktop exercise.

So operators with a good compliance

history, who receive an out of character prohibition notice will not necessarily face the inconvenience of a fleet inspection. The flipside is that operators with poor compliance histories may find they are subject to more detailed operator centre investigations, with DVSA targeting businesses that the commissioners believe are either incapable of being compliant or choose to operate in an illegal manner.

To assist the national roll-out of remote enforcement, DVSA has indicated its intention to review how OCRS is calculated. It has been almost four years since the last revision and proposed changes include: the removal of the 'straight to red' triggers; sifts being formally recognised as encounters; and the introduction of a single rating calculated by combining the two separate aspects of roadworthiness and traffic. This overall score is likely to be the determining factor in decisions such as remote enforcement and earned recognition.

NEGATIVE POINTS

DVSA investigations will contribute to OCRS, which will no longer only be determined solely by MOT pass rates, prohibition notices, prosecutions, etc. Subjective assessments, such as fleet visits, traffic examiner visits and desk-based assessments, will now count.

Investigations will be treated as if they were an encounter, and be classed as 'satisfactory', 'mostly satisfactory', 'unsatisfactory' and 'unsatisfactory - refer to traffic commissioner'. Satisfactory and mostly satisfactory results will result in negative points that could reduce OCRS in favour of the operator.

Changes to the points system include a reduction in the number of points given for prosecutions and a removal of double counting where a fixed penalty is issued for a roadworthiness offence and a

prohibition notice has also been given.

We are still awaiting a date for the introduction of any changes but, once again, it is clear that many operators might see their OCRS rankings change significantly overnight.

What about 'earned recognition'? At a time when the traffic commissioners and DVSA are seeing competition to their authority - from initiatives such as FORS and CLOCS, and 'quality recognition' schemes including Truck Excellence from the FTA - DVSA is introducing its own voluntary best practice scheme. 'Earned recognition' is neither a new benchmark nor a rating system and will not replace OCRS. However, it will acknowledge operators with good compliance histories and which can demonstrate that they have successful systems and procedures in place.

The reward will be lighter touch enforcement from DVSA, both in terms of vehicles stopped at the roadside and fleet inspection visits. The expectation is that DVSA will want access to an operator's real-time driver and vehicle data. This may well include opening the digital door to online tachograph data, drivers' hours systems and vehicle maintenance files. The system is currently being trialled by selected operators nationally and may well change its form before it comes into effect in the latter part of this year.

In closing, be warned that operators failing to seize the chances offered by DVSA are more likely to be stopped at the roadside, visited at their operating centre and face hearings. They also face the prospect of financial penalties from the traffic commissioners in addition to regulatory action. Never before has there been a greater incentive to improve and prove compliance. **TE**

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