

The commissioner FOR CYMRU

Welsh traffic commissioner Nick Jones delivered a 'realpolitik' view on the challenges of regulating road transport in a traffic area not previously strong on resources, along with thoughts on improving driver conduct



Nick Jones became the first ever (and long-overdue) full-time traffic commissioner for Wales in October 2016, having previously split that role with his duties as West Midlands TC. Until then, the Department for Transport (DfT) had concluded the small number of public inquiries (PIs) and hearings held in Wales didn't justify a full-time Welsh TC. While admitting that there have been few hearings, he added: "But there weren't many hearings because there weren't many investigations, so there weren't the PIs."

He continued: "Historically, I've complained that the standards in England were different to Wales in a number of respects. In the case of Wales, the DVSA had a presence on the A55 and the M4 but there wasn't much in between, and there's a lot of space in between. The very few cases that ever came to my attention [as Welsh TC] often involved operators who didn't even know what a traffic commissioner was! They can go decades without having any form of enforcement whatsoever."

There are also issues with Welsh language legislation that isn't being complied with, said Jones. "In some cases, it still isn't." He cited the DVSA's seminal Guide to Maintaining Roadworthiness document still only being printed

in English. "The law says it should be in Welsh, but that's as far as it goes. So there are significant issues there."

The good news is the situation is slowly improving. "In fairness, there are now more vehicle examiners and traffic examiners in Wales," confirmed Jones, before adding: "But that's only because previously there just weren't many." The previous lack of dedicated administrative facilities for the TC in Wales also looks like being rectified, following a promise by the Welsh government that the new Transport for Wales offices will include a new dedicated hearing room in Pontypridd, where inquiries will be held. The Welsh government, said Jones, had finally broken the log-jam on resources by providing effectively 100% of the TC's funding, while also providing funding 'backfill' for traffic commissioner Nick Denton in the West Midlands traffic area.

In the meantime, Jones has to make do with whatever facilities are available, with the 'ad hoc' nature of that arrangement highlighted by his comment: "I've been sitting in courts in Cardiff where I don't even have access to the Wi-Fi. I'm not allowed to use it because I'm not part of the Ministry of Justice." Given the regulatory role and responsibilities of the traffic commissioner, that's most peculiar.



In addition to the proposed Pontypridd hearing room, Jones will also have access to facilities in Cardiff for meetings. "And it looks like we're going to have accommodation for staff in north Wales, too. We might also have access to a building in Caernarfon, and I'm optimistic we're going to be in Caernarfon relatively soon, and then we can start recruiting. It's been two years, which has been very difficult."

One of the more worrying aspects of the Welsh TC's presentation was the poor understanding of legal compliance among some operators. Jones told delegates that in a number of recent cases, regarding not meeting O licence obligations, "operators have been incredibly frank with me, and if they'd been represented by a lawyer they may have been advised not to say certain things!"

Meanwhile, the Welsh government has asked

FACT

The statutory guidance for determining an individual's fitness to hold a vocational licence will be reviewed



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Nick Jones

Jones to assist in matters relating to devolution, and he'll shortly begin chairing an independent review panel looking into a proposed low-emission zone in the Cardiff Caerphilly area. The move follows legal action against the local authorities over poor air quality. Jones said the panel's remit is to "assess the plans, and give advice and feedback".

Switching to the topic of driver conduct, Jones played a key role in drafting the last major revision of the senior traffic commissioner's Statutory Guidance Document Number 6 on driver conduct. (It is available as a download to operators via <https://is.gd/ajjgil>.)

With interest growing from the press about driver conduct hearings, Jones asked how many delegates had ever attended one, before inviting them to contact their local traffic area office with a

view to attending a hearing as an observer, rather than a direct participant. It would, said Jones, prove an eye-opener: "You might find it worrying [when you see] the things people come up before me for."

On determining an individual's fitness to hold a vocational licence, Jones reported that the

present statutory guidance document is going to be reviewed, and that he'll again be involved in its redrafting. In particular, he's looking at including sanctions against those HGV/PSV drivers involved in a bridge strike. "It's been put to me that if a truck or a bus hits a rail bridge, the inconvenience to the travelling public and the expense to the economy generally is phenomenally high. The driver involved should have read a sign. I'd also add the transport manager is someone I'd be concerned about, because if there's a bridge strike, I'd be worried about why they hadn't ensured that a driver did not go down a particular route."

Jones said he'd discussed starting points for sanctions with industry and a consensus was six months' suspension or revocation. Would nine months be more appropriate, he asked the audience. One delegate replied that it would depend on whether the bridge height was accurately marked and signage was well placed.

Last year, Jones took action against two HGV drivers after they were spotted tailgating cars by a DVSA examiner. Jones originally called them to a hearing on drivers' hours offences. "I brought them before me and gave a suspension for the breach of the drivers' hours rules, but added an extra month on top for tailgating."

The TC also reported a growing number of cases where an employer has reported a driver on a disciplinary offence. However, others have been wary to do so. Jones advised: "I've had some operators who've wondered: 'Can we give you the information [on a driver] because of data protection legislation?'"

"There's a simple answer to that: yes, you do need to provide information, because you have a legal obligation and there are specific exceptions under the legislation." ■

TRAFFIC COMMISSIONERS – A USER'S GUIDE

Earlier this year, Welsh TC Nick Jones responded to calls for evidence from the Welsh Commission on Justice by providing a highly-readable history and explanation of the role of a traffic commissioner. Jones's text, available on <https://is.gd/ugukuc>, included some interesting observations on gender equality within the industry – where nearly

99% of all HGV drivers are men. The six-page document is well worth reading, as it sheds light on the role of the TCs who, to quote a former minister of state for transport, "have been among the most powerful individuals in the UK, representing prosecutor or inquisitor, judge, jury and executioner to the passenger and road transport industries".