



ROAD TRANSPORT FORUM

TC calls for TM Refresher Training

It is the view of Nick Denton, Traffic Commissioner for London and the South East, that it is good practice for CPC qualified transport managers to have periodic one-day and two-day refresher training. His view is based on his experience at public inquiries of transport managers with qualifications dating back to the 1980s and 1990s who all too frequently seem to have made little effort to keep up with changes in the legislation and best practice, thus failing to ensure that their operators are compliant.

He points out that whilst HGV drivers are now required by law to undertake 35 hours training every five years, it is an anomaly that transport managers are not required to undertake any further training at all once they have obtained their qualification.

A good transport manager will keep up to date with developments and rules changes. Attending a refresher course from time to time is an effective way of doing this.

Mr Denton also considers that attending, on a voluntary basis, the 10 day course in preparation for the CPC exam would be appropriate for transport managers with qualification decades old who have not attended any refresher training since.

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Jared Dunbar comments that *“these views have been echoed by other Traffic Commissioners in Public Inquiries I have attended. I would advise all directors and Transport Managers to attend annual refresher training as a matter of good practice. I would also recommend that an annual audit is undertaken on the company’s transport systems so that it can flag up any failings in the systems before they become a serious problem and before the authorities discover them. We are all aware that sloppy or outdated working practices can take place over time. A regular audit and training system should catch these before they become a serious issue. Investing small amounts of time and money now, should prevent the costs and stresses of a prosecution or Public inquiry in the future.”*

New EU Enforcement Directive agreed

The EU Regulation on the categorisation of infringements has been finalised. It will come into force on 1 January 2016 giving a level playing field for the enforcement of road transport law across the whole of the EU.

Offences are categorised as Serious, Very Serious and Most Serious. An additional category of Minor Offences is applied but only for the purposes of the Enforcement Directive 2006/22.

The categorisation of infringements will work alongside the new, but as yet not fully functional, European Register of Road Transport Undertakings (O-Licensing in Great Britain) with the objective of bringing all more serious infringements to the attention of national licensing authorities, such as the Traffic Commissioners in Great Britain, wherever in the EC they are detected.

There is a formulaic relationship between the categories, so that one Most Serious event should trigger the national procedure for examining good repute. Three very serious offences per driver per year would have the same effect. Three serious offences count as one very serious offence.

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Jared Dunbar says that *“this should make British hauliers happier in the sense that it should raise standards across Europe whilst having little direct impact on domestic operators. Where it will impact British hauliers though, will be when they are undertaking international journeys. Failings discovered abroad will be brought to the attention of the Traffic Commissioners and those operators will run the risk of being called to Public Inquiry.”*

No requirement to send licence fee reminders

The Upper Tribunal has made it plain that the 1995 Act and the Regulations (made under that Act), make no provision for any reminder to be sent to operators before a continuation fee becomes due.

In the recent case of Seamus Joseph Patterson, trading as Patterson Plant, the Tribunal said that the obligation to pay by the prescribed time rests on the operator and it is the responsibility of operators, who wish to avoid automatic termination, to devise a suitable means of reminding themselves of the prescribed time for payment of the continuation fee.



It had been argued that the licence termination was premature because the Appellant tendered the continuation fee before the review date of 23 February 2014. That confuses the 'review date', which relates to the environmental suitability of the operating centre and does appear on an O-licence, with the 'prescribed time' for payment of the continuation fee, which is defined by Regulations, but is not expressly stated on the licence. There is no uncertainty about the meaning of the 'prescribed time' for payment.

The Regulations provide that the continuation fee must be paid: "before the end of the month which precedes the date of expiry of a period of 5 years beginning with the date of either the issuing of the licence or the most recent 5 year anniversary of that date whichever is the later". The first continuation fee must be paid by the end of the month immediately before the month in which the fifth anniversary of the start of the licence occurs. Thereafter the continuation fee is payable by the end of the month preceding each 5 year anniversary of the date of issue of the licence.

It is quite clear that the prescribed time is not, and never can be, the same as the review date. The review date occurs on every fifth anniversary starting with the date on which the licence is granted. The prescribed time for payment means that payment must be made before the end of the month that precedes each fifth anniversary starting with the date on which the licence was granted.

There are several ways in which an operator could and should be aware of the payment date. Use could be made of a diary entry, carried forward over the following five years. Use could be made of the operator self-service system set up by DVSA. Reference could be made to the O-licence discs displayed on the authorised vehicles. The date on the vehicle O-licence disc is the payment date and is not the review date. This means that operators would be well advised, as part of a walk-round check, to look at the date on the O-licence discs in their vehicles because it provides a simple and obvious reminder of the payment date.

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Jared Dunbar comments: "This case deals with a similar point to that covered in our February edition of the Road Transport Forum (2014/10), where the tribunal also dealt with issues surrounding review dates and continuation fees.

All these cases highlight the importance for an Operator to be aware of all relevant deadlines and dates. They should not presume that they will be sent any reminders and should keep all relevant dates carefully diarised."

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