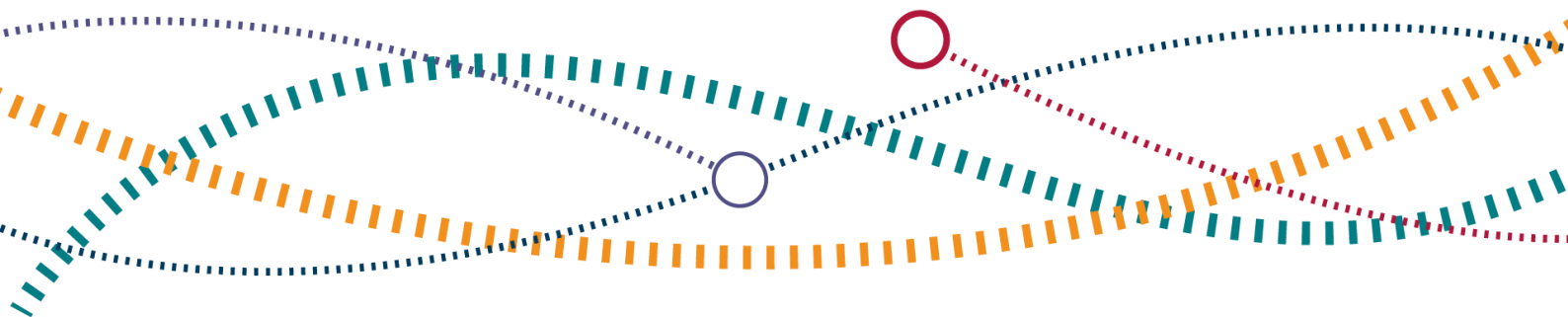




Train Driving Licences

Suspension and withdrawal guidance

25 April 2023



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Foreword

Suspending or withdrawing train driving licences

The Office of Rail and Road (ORR), train operators and licensed drivers each have legal obligations under the Train Driving Licences and Certificates Regulations 2010. This guide focuses on the requirements for maintaining the validity of a train driving licence, the actions operators and drivers need to take and ORR's role in suspending or withdrawing a licence. We will update this guidance as necessary to reflect our experience of dealing with licence suspension and withdrawal cases.

If we consider that the conditions for holding a licence we have issued are no longer being met, we will suspend or withdraw it. During a period of suspension, a train driver cannot drive trains on the mainline railway. But if the conditions for the licence are later met to our satisfaction, we will reinstate the licence. If we withdraw a licence, this is permanent. In order to drive trains on the mainline again, a driver whose licence has been withdrawn would need a completely new licence. Typically, a licence application is made by an employing train operator, although a driver may apply directly. ORR will only issue a new licence if we receive the necessary evidence that all the conditions for holding a licence are satisfied.

Background

The Train Driving Licences and Certificates Regulations 2010 (as amended) (TDLCR) give duties to different organisations and people. We have produced a series of separate guides to explain the duties and responsibilities arising from the TDLCR and how you can take appropriate action. Together these guides form a complete set of guidance documents. The separate guides are:

- for [train operators](#)
- to the [medical and occupational psychological fitness requirements for train drivers and the recognition process for doctors and psychologists](#)
- to [train driver training and examination requirements and recognition process](#)
- for [train drivers appealing against decisions made by their employer about the train driving certificate](#) issued to them.

We have also published a key facts leaflet for train drivers available on our website [here](#)

We have produced this guide to support an understanding of the requirements of TDLCR in relation to the suspension or withdrawal of train driving licences. However, we do not seek to cover every aspect of the legislation. It remains your responsibility to ensure that you are compliant with the relevant legislation. This guide does not introduce new duties or requirements, but it sets out what we consider to be good practice. Following the UK exit from the EU please be aware that TDLCR and associated legislation has been amended. TDLCR should therefore be read in conjunction with;

- the Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019, (S.I. 2019/677);
- the Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (2020/318);
- the Railways (Miscellaneous Amendments, Revocations and Transitional Provisions) (EU Exit) Regulations 2020 (S.I. 2020/786); and
- The Train Driving Licences and Certificates (Amendment) Regulations 2022 (S.I. 2022/85).

Please note this guide is not intended for use in Northern Ireland. It is, however, intended to apply in relation to the Channel Tunnel, so far as is relevant. We periodically update these guides, and you can download the latest version of any of these guides from our [website](#).

Chapter 1

Executive Summary

1. TDLCR sets out the statutory duties for ORR, train operators and train drivers on the mainline railway in relation to the suspension and withdrawal of licences. The table at Annex 1 summarises the relevant key duties set out in the regulations.
2. If we are no longer satisfied that the conditions for holding a licence are being met, we will suspend or withdraw the licence. Only the ORR can suspend or withdraw licences that we have issued.
3. Chapter 3 of this guide sets out likely examples where we may consider suspending or withdrawing a train driving licence.
4. Train operators must have monitoring systems in place to ensure that their drivers continue to meet the conditions for holding a licence. Our expectation is that it will be necessary for train operators to notify ORR of matters which come to their attention and are relevant to the continuing validity of the licence¹. Further, there are specific requirements on train operators to notify ORR when a driver ceases employment as a train driver² and where a train driver has suffered work incapacity for a period of more than three months³.
5. Licensed train drivers also have duties under TDLCR, including immediately informing their employer if the state of their health calls into question their fitness to drive trains⁴.
6. It is an offence for a person to drive a train on the mainline unless they are authorised to do so by a train driving certificate and the person holds a valid train driving licence.
7. The licence remains the property of the driver until a decision to suspend or withdraw it is made by ORR. If we are minded to consider suspending or withdrawing a licence, we will notify the driver and their employer and ask them to provide us with any further information they would like us to include in our considerations before we

¹ TDCLR Reg 17(2) and (4)

² TDCLR Reg 16(1)

³ TDCLR Reg 17(5)

⁴ TDCLR Reg 17 (3)

make a final decision. If we decide to suspend or withdraw a licence, we will write to the driver with details of our decision and request that the licence is returned to us.

8. A train driving certificate is issued by train operators to the drivers they employ. The certificate sets out which rolling stock a driver may drive and over which infrastructure. Whilst there is a relationship between some of TDLCR's legal obligations on both operators and ORR, the licence and certificate are separate documents and are treated differently. Operators also have legal obligations in relation to the certificate which are also set out under TDLCR. A valid train driving certificate and train driving licence are both required before a person can drive a train on the mainline.
9. Suspension or withdrawal of a certificate is a matter for the train operator, and not the ORR. We clarify in Chapter 4 the specific actions an operator may take in relation to a driver's certificate.

Operators must have a system of monitoring in place for their drivers and the expectation is that they must tell us if that monitoring calls into question the continuing validity of the train driving licence⁵.

⁵ TDLCR Reg 17 (2) and (5)

Chapter 2

Our principles and policies for suspending or withdrawing a train driving licence

1. We use the following principles to guide all our actions relating to the suspension or withdrawal of a train driving licence:
 - **Regulatory duties:** TDLCR sets out a number of duties on ORR in relation to the suspension or withdrawal of a train driving licence. We apply these duties in reaching any decision;
 - **Policy positions:** How we interpret the relevant regulations within TDLCR and apply these are set out in this guide and a separate Quality Management System (QMS) document which guides our internal processes;
 - **Use of evidence:** Our expectation is that train operators provide us with clear evidence, submitted promptly, relating to matters relevant to issues which may justify suspension or withdrawal. We will also ask the driver whether they want to provide any evidence directly to us when we have to consider suspending or withdrawing a licence. Where any evidence is unclear, or we require further information, we will ask the operator or driver to provide this before we make a decision on a driver's licence. We rely on the evidence provided to us as we will not conduct our own investigations (but we may occasionally seek specialist advice);
 - **Case-by-case consideration:** We consider each case individually.
2. The following sections set out some of the underpinning policies we apply to suspension and withdrawal cases. Our policies should also be read in conjunction with the examples for suspension and withdrawal which we set out in Chapter 3.

The circumstances for suspending or withdrawing a train driving licence

3. The conditions for holding a licence are set out in TDLCR. The conditions which are most likely to change during the course of a train driving career relate to the regulatory medical requirements (as detailed in TDLCR Schedule 1) and this may lead to us considering whether or not to suspend or withdraw a licence in relation to a driver's medical or psychological fitness. However, if we become aware that any of

the conditions for holding a licence may no longer be met - including those confirmed by an operator at the point of application - we will consider action.

4. Specifically, TDLCR requires that drivers:
 - pass periodic medical examinations at least every three years in accordance with Schedule 1 of TDLCR (if aged up to 55);
 - pass periodic medical examinations annually in accordance with Schedule 1 of TDLCR once a driver is aged 55 and over;
 - inform their employer(s) if they believe that their health may affect their fitness to drive trains.
5. For clarity, the provisions of TDLCR mean that we **must** suspend or withdraw a licence when we are satisfied that the conditions set out in Schedule 1 of TDLCR are no longer being met by a driver.
6. Normally, we will not take action to suspend or withdraw a licence if an internal appeal relevant to the validity of the licence is underway and has not been concluded. The expectation is that operators should provide us, at the earliest opportunity, with the full details of any decision connected to matters which could potentially relate to the holding of a licence. When doing so, they should clearly indicate whether an appeal is likely or is underway. During the appeal process, a driver may not be permitted to drive as a result of action taken by their employer. We expect to be informed promptly of the outcome of any internal appeal once it has concluded.
7. Matters exclusively relating to a driver's competency to drive trains is not a reason for us to take action to suspend or withdraw a licence as that is a matter which relates to the certificate and should be dealt with by the train operator. In Chapter 4, we describe the obligations for operators in this context as it relates to the certificate.

Operators' duties to tell us if a driver is incapacitated.

8. Employers of train drivers must inform us when a driver has a period of work incapacity for a period of three months or more⁶. We will update the driver's record on the train driving licence register to note this information.

⁶ TDLCR Regulation 17(5)

9. A driver's incapacity for a period of three months or more is not, on its own, a reason for us to take action to suspend or withdraw the licence. However, depending on the nature of the incapacity, it may be information which may be relevant to whether the conditions for holding a licence continue to be met.
10. On return to driving duties following a period of incapacity, operators will need to ensure the medical fitness of the driver in accordance with their ongoing monitoring duties. Operators also have separate obligations in relation to ensuring the competency of returning drivers, which are not a matter for the licence, but may relate to the certificate. More details about this are set out in Chapter 4.

Understanding the difference between suspension and withdrawal of a train driving licence

11. We apply our principles and policies when considering the suspension or withdrawal of a licence. That includes considering the specific evidence supplied to us for each case. If we consider that a condition for holding the licence is no longer met, we must suspend or withdraw the licence. A decision as to whether to withdraw or suspend a licence will be based on the evidence in the individual case, including whether or not there is a realistic possibility that a condition for holding the licence can be fulfilled within a reasonable period of time.
12. In relation to failed drugs and alcohol tests, following consideration of the specific facts of the case and any evidence put forward by the driver or operator, we will consider whether to suspend or withdraw the licence. Whilst all cases will be considered on their own facts, ORR views failed drug and alcohol tests as particularly serious. Withdrawal is likely to result so drivers will need to produce clear and cogent evidence to justify any other outcome.

Driver competency matters

13. In accordance with TDLCR, a driver's employer may advise us about matters solely relating to their competency. However, they are not obliged to do this.
14. If we receive such details, once we are satisfied that the issues raised relate solely to competency and therefore do not have any licence implications, we may share this information with the relevant ORR Railway Inspector. We will not record matters relating solely to a driver's competence on the train driving licence register.
15. We explain more about driver competency in relation to the certificate in Chapter 4.

Drivers employed by more than one operator

16. If a driver works for more than one train operator, it is important that each operator considers whether there might be cross-operator issues relating to the licence. Issues which it might be necessary to report to us should be coordinated between all employing operators so that we are presented with full evidence and a complete picture.

Evidence about a driver that does not come from the operator

17. Information relevant to a driver's licence validity might also come to light through our inspection activity. If that information leads a Railway Inspector to consider that there is an immediate threat to the safety of the railway, then we must take action. We explain more about this in Chapter 3.

Licences issued by other safety authorities

18. Up until 31 January 2022, EU-issued train driving licences remained valid for driving on GB railway infrastructure. Until that time, if a licence had been issued by another safety authority, only they could suspend or withdraw it, but ORR could prohibit a driver holding such a licence from driving trains in Great Britain. From 1 February 2022 all drivers on mainline infrastructure were required to hold a valid UK licence issued by ORR.

Renewal of train driving licences

19. Our [Guide for Train Operators](#) sets out the requirements for renewing a licence, typically towards the end of its 10-year period of validity. We will require a declaration from the driver's employer that the conditions for holding a licence are still being met, that the driver has met the requirements for any periodic medical examination⁷ and has undergone continuous training⁸. If we are not satisfied that any of these requirements have been met, we cannot renew a licence⁹.

Obligations on operators even after a driver has left their employment

20. ORR's expectation is that it will be necessary for operators to advise ORR and provide details about drivers where their monitoring calls into question the conditions for holding a licence. This applies even when a driver might have moved to non-driving duties, or when a driver may have subsequently left the operator's

⁷ TDCLR Reg 13

⁸ TDCLR Reg 29(d)

⁹ TDCLR Reg 12(2)

employment but their suitability to hold a licence came into question during the period of employment.

Chapter 3

Licence suspension or withdrawal examples

1. We describe below the most likely examples where we will consider whether the conditions for holding a licence continue to be met by a driver, and subsequently whether we must suspend or withdraw a licence.
2. We also explain what operators need to tell us. Operators must have a system of monitoring in place for their drivers and the ORR's expectation is that it will be necessary for them to tell us if that monitoring calls into question the continuing validity of the train driving licence¹⁰.
3. In line with our principles, we consider issues with licences on a case-by-case basis using the evidence we receive.

When and how should operators contact us?

4. A driver's employing operator should¹¹ contact us **immediately** with details when their monitoring calls into question the continuing validity of a licence. We will use that evidence, and any subsequent evidence provided by the employer and/or driver, to consider whether action needs to be taken in respect of the licence.
5. We have produced a [Suspension and Withdrawal Information form](#) which should be used by employers to supply information to us. Following review, we may also contact the employer or driver for further information. The form is available on the train driving and certificates page on our [website](#) under the 'Licence Suspension and Withdrawal' tab¹². Completed forms should be emailed to TDL.applications@orr.gov.uk marked in the subject line "Confidential: Suspension and Withdrawal Information form {operator name and date}".

Medical or psychological fitness

6. There are a number of circumstances relevant to suspension or withdrawal considerations which relate to a driver's ongoing medical or psychological fitness. For context, in order to be issued with a first train driving licence, all drivers must

¹⁰ TDLCR Reg 17

¹¹ TDLCR Reg 17

¹² Please only use the Suspension and Withdrawal Information form on the website, rather than relying on a downloaded version, as the form may be updated from time to time.

undertake and pass medical and psychological examination. Thereafter, there is an ongoing licence requirement to pass the periodic medical examination¹³.

7. The examples below are not exhaustive but illustrate some likely situations which may arise.

Example 1: A licenced driver fails a periodic medical examination

8. If a driver's employing operator becomes aware that the driver's fitness to drive trains is in doubt, or they have failed a periodic medical examination, ORR's expectation is that it will be necessary for the operator to notify ORR. We will review this information together with any subsequent information we receive from the employer and driver (if supplied).
9. We will consider whether the conditions for holding a licence continue to be met. For example, a medical examination report might conclude that a driver has failed some, or all, of the required tests. If we are not satisfied they are met, we will decide whether to suspend or withdraw the licence. If we suspend it, we will set out in a letter to the driver what action(s) are necessary for it to be reinstated in the future.

Example 2: A driver fails a drugs or alcohol test

10. A condition for holding a licence is passing the required medical examinations¹⁴ which includes periodic medical examinations¹⁵ to confirm that the licence holder has not been taking medication, drugs or substances which are likely to cause a reduction in attention or concentration.
11. Once we are informed of a positive test result (i.e. failed drugs or alcohol test results) and provided with appropriate evidence, we will review this information together with any subsequent evidence we receive from the employer and driver (if supplied). We will then consider whether the conditions for holding a licence continue to be met. If we are not satisfied they are met on the basis of a failed drugs or alcohol test result, we will decide whether to suspend or withdraw the licence.
12. As referred to above, whilst all cases will be considered on their own facts, ORR views failed drug and alcohol tests as particularly serious. Withdrawal is likely to

¹³ TDLCR Reg 8(2)(d), Sch. 1

¹⁴ TDLCR Reg 8.

¹⁵ TDLCR Reg. 13

result so drivers will need to produce clear and cogent evidence to justify any other outcome. We will write to the driver setting out our decision.

13. As with other decisions, we will typically await the conclusion of any relevant internal appeal process between the driver (or driver's representative) and their employer before making our decision.

Example 3: Changes in a driver's employment circumstances

14. A change in the driver's employment circumstances might have an impact on whether the conditions for holding a licence continue to be met, specifically the requirements for periodic medical examinations. Operators must tell us when a driver ceases to be employed by them as a train driver, and we may subsequently request additional details are provided using the '[Suspension and Withdrawal Information Form](#)' available on the [website](#).
15. If an individual ceases to work as a licenced train driver for any period of time which means any required physical fitness examinations have not been undertaken as required, then ORR will consider whether to withdraw or suspend that licence on the basis that that individual no longer satisfies a condition for the holding of it.
16. We would typically suspend the licence once the conditions for holding it are confirmed to be no longer met (by evidence from the operator and any information provided to us by the driver) but there is a realistic possibility of the driver being able to demonstrate compliance with the conditions within a reasonable period of time. We will explain the requirements for reinstating a licence suspended in these circumstances to the driver.
17. If the licence expires at the end of its 10-year period of validity but before any suspension has been lifted, the licence will cease to be valid and an application for renewal will need to be made. Arrangements for making an application to renew a licence are explained in separate guidance available on our website [here](#).

Other circumstances

18. There are a number of other circumstances where we will consider suspending or withdrawing a licence which may not relate to medical or psychological fitness examinations.

19. If a train driver poses a serious threat to the safety of the railway, we must take any necessary action¹⁶. This could include suspending or withdrawing a train driving licence.
20. When a licensed driver dies, their licence ceases to be valid and their employer(s) should notify us as soon as possible using the [Suspension and Withdrawal Information Form](#). We will re-confirm the driver's details with their employer(s) to ensure our respective records align. We will then withdraw the licence and update the driver record on the register. We will not write to the driver's address, contact their family or their estate. The physical licence may be returned to ORR directly if the driver's estate chooses to do so.

¹⁶ TDLCR Reg. 21

Chapter 4

The certificate and operators' responsibilities with regard to competency

1. This Chapter clarifies that matters solely in relationship to driver competency should be addressed through withdrawal or suspension of the certificate and are not within the scope of ORR to consider through the suspension or withdrawal of the licence.
2. It is the responsibility of the operator employing a licensed driver to take any necessary action should a driver's competence for driving be called into question. The action may include suspending or withdrawing the certificate. More details about operators' responsibilities in relation to the certificate can be found in our ['A Guide for Train Operators'](#).
3. ORR wrote to all operators in August 2020 with an update on train driver competency requirements contained within TDLCR. The following paragraphs reflect that advice.
4. There is a relationship between the management of competency by the train operator (under the certificate) and the train driving licence. Upon application for a licence, a train driver must be able to demonstrate to ORR that they have passed a general professional competence examination¹⁷. This examination does not provide evidence that competence has been maintained. The on-going monitoring of competence via periodic checks relates solely to the certificate. It follows that matters which relate purely to professional competence can only be addressed through the certificate where the results of a train operator's driver monitoring, or the results of any periodic or required tests or examinations, give rise to issues around his/her ongoing competence unless the driver poses a serious threat to the safety of the railway (see below).
5. However, there may be cases where there is a link between the ongoing monitoring of a train driver's competence and the validity of the licence. This is when the results of monitoring indicate concerns relating to competence which are associated with the train driver's medical or psychological fitness. In these cases, we will consider whether the licence should be suspended or withdrawn if the necessary conditions for a licence are not being met.

¹⁷ TDLCR Reg 8 and Schedule 3.

6. Only in cases where ORR considers that a driver poses a “serious threat to the safety of the railway” can it suspend or withdraw a licence on the grounds of professional competency alone¹⁸.
7. TDLCR duties in relation to managing train driver competence place a number of obligations on operators to ensure that the competence of individual drivers is monitored and maintained and that records of competence are kept up to date. Specifically:
 - Train drivers must pass the required specific professional knowledge examinations in order to qualify for a certificate to complement their licence¹⁹
 - Whilst a certificate is provided to a train driver, it continues to be owned by the train operator that issued it²⁰
 - Train operators must carry out periodic checks of their drivers, through tests and examinations, to ensure that they continue to meet the requirements of regulation 9²¹.
 - Train operators must monitor all of their train drivers to ensure they continue to meet all licence and certificate conditions²²
 - If monitoring calls into question a train driver’s competence for the job, or the continuing validity of their licence or certificate, the train operator must immediately consider what action is necessary, which may include suspending or withdrawing the certificate, requiring the driver to undergo the relevant examinations or tests, or informing ORR of matters relevant to the continuing validity of the licence²³
 - It is an offence for a train operator to deploy a person to drive a train unless they are authorised to do so by a certificate issued by it and the person has been issued with a licence²⁴

¹⁸ TDLCR Reg 21

¹⁹ TDLCR Reg 9 and schedules 4 and 5 apply.

²⁰ TDLCR Reg. 7

²¹ TDLCR Reg 15

²² TDLCR Reg. 17

²³ TDLCR Reg. 17

²⁴ TDLCR reg. 4

- ORR can issue a train operator with a reasoned request for a review of a driver's eligibility to hold a certificate where we consider that the holder no longer satisfies a condition for holding it. A train operator must consider this request and within four weeks notify us of its decision whether to suspend or withdraw the certificate or take any other action. Pending any suspension or withdrawal, or other conclusion of the reasoned request, we may prohibit the holder from driving a train in Great Britain²⁵
- If a driver ceases employment as a train driver, a train driving certificate issued by the train operator in relation to that person ceases to be valid. The train operator must ensure the driver is issued with a certified copy which should clearly show when it ceased to be valid²⁶. This applies regardless of whether there are any investigations or other proceedings which may relate to other grounds for suspending or withdrawing the certificate ongoing at the time of cessation of employment.
- The train operator must also provide the train driver with a copy of all documents providing evidence of the driver's training, qualifications, experience and professional competence relevant to train driving undergone, obtained or achieved by the driver whilst employed as a train driver by that train operator²⁷. (Our guidance includes the common template for certified copies of train driving certificates – see our [Guide for Train Operators](#)).
- Cessation of employment for any reason requires the train operator to notify ORR.
- Train operators must have and keep up to date a register of all certificates issued by them which should include details of any updating, renewal, amendment, expiry, suspension or withdrawal of any certificate, and record any loss, theft or destruction of any certificate. It must hold any data that appears on the certificate plus data relating to the checking requirements set out in regulations 9 and 15²⁸.

²⁵ TDLCR reg. 20(4)

²⁶ TDLCR reg. 16

²⁷ TDLCR reg. 16

²⁸ TDLCR Reg. 25 and para 2 of para 4 of Schedule 2

- Train drivers can appeal to ORR against certain decisions made by their employer concerning the certificate²⁹. We have published a [Guide to the Certificate Appeal Process](#).
- Train operators should undertake pre-employment checks when recruiting drivers, including those who already hold a valid licence. These checks should include the transfer of safety related information about that driver in line with RIS 3751-TOM Rail Industry Standard for Train Driver Selection published by the [Rail Safety and Standards Board](#). The production of a licence, or a previous certificate, is not a substitute for the normal pre-employment checks into competence and conduct.
- Train operators should also expect experienced train drivers to be in possession of a certified copy of his/her previous certificate. ORR inspectors will assess operator arrangements for managing certificates in relation to driver competence as part of ongoing inspection work around driver management.

²⁹ TDLCR Reg. 26

Chapter 5

Our process and procedures for suspending or withdrawing train driving licences

1. We follow an internal Quality Management System (QMS) core process to guide our decision-making on licence suspension or withdrawals.
2. The process ensures that prompt action is taken once we receive information which may call into question the validity of a licence. If further details or clarification are required, this will be requested from the employing operator. Separately, we will also write to the driver to notify them when we are considering whether the conditions for holding their licence are still being met, that we will review the evidence provided by their employer and that we may reach a decision to either suspend or withdraw their licence. We will give the driver an opportunity to provide us with any information they would like us to also consider in reaching our decision.
3. For all cases apart from when a driver has died or the conditions for holding a licence are clearly still being met (our QMS process sets out a specific procedure for these), an ORR Case Review Panel will review all the evidence in line with TDLCR, this guidance document and our QMS on suspension and withdrawal of train driving licences. The panel will be provided with all the information received by ORR about the case and will meet in order to reach a decision on a case. The panel's decisions will be recorded together with the reason(s) for reaching those decisions.
4. If a licence has been suspended or withdrawn, we will amend the driver's record on the Train Driving Licence register to show the new status of the licence. We will also write directly to the driver setting out the decisions we have taken, the basis for our decisions, what actions will need to be taken for any suspension to be lifted (if relevant) and the appeal process (see also Chapter 7). We will also ask for the licence to be returned to us within 14 days of the date of the letter. A similar letter will also be sent to the relevant operator (if the driver is currently employed).
5. When we receive a licence we have requested to be returned by a driver, it will either be destroyed (in the case of a withdrawn licence) or kept securely within our offices (in the case of a suspended licence). We will keep up to date records of all returned licences, including when the request was made for them to be sent to us, whether they have been received (and the date), and whether the licence has been destroyed or stored securely. We will follow up those licences which are not returned on time at

regular intervals, and we may contact the driver's employer directly to facilitate its return.

6. If we have suspended the licence, we will review any evidence we subsequently receive which aims to address the conditions required for the suspension to be lifted. If that is found to be satisfactory, the Train Driving Licence register will be updated, including recording the date when the suspension was lifted. We will write to the driver explaining that the suspension has been lifted and return their driving licence. We will also write a similar letter to the relevant operator (if the driver is currently employed). If incomplete or insufficient evidence is received which is intended to address the suspension, then we will contact the driver and operator (if the driver is currently employed) to explain this and the reason(s) why the information is incomplete or insufficient. We will provide details of the appeal process available to the driver.

Chapter 6

Data Protection

1. ORR has published a privacy notice that sets out how we collect and process personal data in relation to the TDLCR. This privacy notice also sets out how we handle the flow of information between ORR, train operators and other parties in connection with our obligations under the TDLCR. This is available on our website www.orr.gov.uk
 2. The UK General Data Protection Regulation provides that personal data can be collected, processed and disclosed if there is a lawful basis for doing so. Where ORR processes personal data in relation to the TDLCR, it is doing so on the lawful basis that the processing is necessary for compliance with a legal obligation on it, namely compliance with the requirements of the TDLCR.
 3. Regulation 18 requires ORR to inform a train driver's employer of any decision to suspend or withdraw a licence (as well as the driver themselves).
 4. Regulation 26 states that ORR must, upon request, supply information on the status of licences issued by it to an appropriate train operator or to the Department for Infrastructure (in Northern Ireland) or the Intergovernmental Commission (associated with the Channel Tunnel) and that it may provide such information to an EEA safety authority. Regulation 26A also provides for the sharing of information in relation to a Channel Tunnel train driving licence or certificate.
 5. There are also legal provisions which are relevant to the provision of information by train operators to ORR:
 - a) Regulation 17 permits train operators to supply ORR with any information that could question the validity of a licence and requires them to notify ORR of any period of work incapacity for a period of longer than 3 months. The regulation still applies in the event that any driver in question has subsequently left the train operator's employment.
 - b) Regulation 27 requires train operators to supply information where it has been requested by ORR and is in relation to certificates they have issued, or in relation to their functions under the TDLCR.
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Chapter 7

Appealing against ORR's decision to suspend or withdraw a licence

If ORR suspends or withdraws a licence, then the driver or their representative can lodge an appeal with the Secretary of State for Transport.

Appeals should include all details regarding the case, including details of the incident(s) involved, copies of hearing or appeal minutes, copies of communications with ORR etc. Upon request, ORR can provide copies of the information it considered when determining the suspension or withdrawal case to the driver or their authorised representative.

The appeal should preferably be sent by email to: rail.safety@dft.gov.uk

They can also be sent by post to:

Secretary of State for Transport
Rail Safety Team
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Annex A

Summary of regulations relevant to the suspension or withdrawal of licences

Duty	Wording
Train Operator	TDLCCR Reg 17(1) <i>“A railway undertaking, or infrastructure manager must have a system for monitoring train drivers employed by them to check that the requirements of these Regulations which apply to them are adhered to.”</i>
Train operator	<p>TDLCCR Reg 15 <i>“(1) The holder of a train driving certificate must pass periodic language and specific professional knowledge tests or examinations meeting the requirements described in regulation 9(3) and (4), and periodic tests relating to their employer’s safety management system.</i></p> <p><i>(2) For the purpose of paragraph (1), the frequency of periodic tests and examinations must be as determined by the railway undertaking or infrastructure manager that issued the certificate in accordance with its safety management system, but must not be less than the minimum frequencies set out in Schedule 6.</i></p> <p><i>(3) When the holder of a train driving certificate passes the tests and examinations required by paragraph (1) the certificate must be endorsed with a statement to that effect by the railway undertaking or infrastructure manager that issued it.”</i></p>
Train Operator	<p>TDLCCR Reg 17(2) <i>“If the results of that monitoring call into question a train driver’s competence for the job, or the continuing validity of their train driving licence or their train driving certificate, the railway undertaking, or infrastructure manager must immediately take any necessary action which may include–</i></p> <p><i>(a)informing the ORR of matters relevant to the continuing validity of the licence</i></p> <p><i>(b)requiring the driver to undergo the relevant examinations or tests referred to in regulations 13 or 15; or</i></p> <p><i>(c.) suspending or withdrawing the driver’s train driving certificate.”</i></p>
Train Driver	TDLCCR Reg 17(3) <i>“A train driver who considers that his state of health calls into question his fitness to drive trains must immediately inform the railway undertaking or infrastructure manager by whom he is employed.”</i>
ORR	TDLCCR Reg 18(1)(a) <i>“Without prejudice to regulation 21, if the ORR considers that the holder of a train driving licence issued by the ORR no longer satisfies a condition required for the holding of it or decides to suspend or withdraw the licence pursuant to paragraph (3), the ORR must suspend or withdraw the licence.”</i>
Train Driver	TDLCCR Reg 18(2) <i>“If the ORR suspends or withdraws a train driving licence the holder must surrender it to the ORR.”</i>

Duty	Wording
ORR	<p><i>TDLCR Reg 19 (1) “Without prejudice to regulation 21, if the ORR considers that the holder of a Northern Ireland train driving licence no longer satisfies a condition required for the holding of it the ORR must—</i></p> <p><i>(a)inform the Department for Infrastructure of this view;</i></p> <p><i>(b)give the Department for Infrastructure a reasoned request for a review of the holder’s eligibility to hold the licence, or for the licence to be suspended or withdrawn; and</i></p> <p><i>(c)notify the Intergovernmental Commission of the request.</i></p> <p><i>(3) Pending any suspension or withdrawal of the licence, or other conclusion on the request, the ORR may prohibit the holder from driving a train in Great Britain</i></p>
ORR	<p><i>TDLCR Reg 21(1) “If the ORR considers that a train driver is a serious threat to the safety of the railways it must immediately take any necessary action.”</i></p>
ORR	<p><i>TDLCR Reg 24(1) “The ORR must have and keep up to date a register of train driving licences issued by it or on its behalf, and in particular the register should include details of any updating, renewal, amendment, expiry, suspension or withdrawal of any such licence, and record any loss, theft or destruction of any such licence.”</i></p>
Train Operator	<p><i>TDLCR Reg 27 “Railway undertakings and infrastructure managers must, upon request, provide to the ORR any information relating to train driving certificates issued by them or any other functions carried out by them under these Regulations”</i></p>



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