HOUSE OF COMMONS

Public Administration and Constitutional Affairs Committee

Oral evidence: Follow-up to PHSO report 'Driven to Despair', HC 904

Tuesday 17 January 2017

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Watch the meeting

Members present: Mrs Cheryl Gillan (Chair); Ronnie Cowan; Paul Flynn; Marcus Fysh; Adam Holloway; Kelvin Hopkins; Gerald Jones; Dr Dan Poulter; John Stevenson; Mr Andrew Turner

Dame Julie Mellor was in attendance.

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Witnesses

Andrew Jones MP, Parliamentary Under-Secretary of State, Department for Transport, Oliver Morley, Chief Executive Officer, DVLA and Ben Rimmington, Director of Road Safety, Standards and Services, Department for Transport.

Examination of Witnesses

Q1 **Chair:** Good morning and welcome, all of you, to the Public Administration and Constitutional Affairs Select Committee. Could you identify yourselves for the record?

Andrew Jones: Absolutely. My name is Andrew Jones. I am the Member of Parliament for Harrogate and Knaresborough and Minister for Transport.

Oliver Morley: Oliver Morley, Chief Executive of DVLA.

Ben Rimmington: Ben Rimmington, Director of Road Safety at Standards and Services in DfT.

Q2 **Chair:** Thank you very much. We are having this hearing this morning because something very unusual has happened. Most recommendations by the Ombudsman are accepted by the relevant Departments. In fact, I think it is the first time since the current Ombudsman was appointed that any Department has appeared to only partially accept the recommendations of the Ombudsman. It is quite a surprise, so we

thought we would have an evidence session and find out exactly what the problems were. I wondered if you could explain why you feel it is appropriate for the DVLA and the Department of Transport to disregard two of the recommendations on setting fitness-to-drive standards and on allowing people affected by mistakes to seek redress following the report "Driven to Despair". Minister?

Andrew Jones: Thank you. The first thing I would like to say is that we have accepted four of the six recommendations, but we have accepted the spirit of the entire report. Our objective is to have a system, which is a very important system for so many of our fellow citizens, that is responsive, easy to navigate and promotes road safety. I think that is where the PHSO's report was going. That is our objective. It has been a helpful report and we can accept the spirit in full and four of the six recommendations in particular, so I wouldn't say we had put them to one side.

Q3 **Chair:** Minister, when we are dealing with administrative justice it is all very well accepting the spirit, but accepting the actual recommendations is what we were looking for here. It is very unusual for a Department not just to accept the recommendations and move forward on that. Can I ask Mr Morley, what advice was given to Ministers on this, because this does set it aside and set it apart from other departmental responses?

Oliver Morley: Specifically, this is an unusual report. We have accepted the eight cases, the recommendations thereof, from the PHSO in entirety. The systemic report was a report of a different nature in that it was based on the eight cases and made recommendations that were far more wide-ranging than the eight cases themselves. So of the recommendations the two that were not accepted were not necessarily evidenced, in our view, by the eight cases. A lot of the report itself was unusual in that I think this was the first time a systemic report of this nature had been done with a Government Department or agency, so it was felt that we would look for, as the Minister said, the core elements of the report and make significant improvements. I would be happy to take you through them, but in terms of the two recommendations it was the felt that they were not actually evidenced by the report.

Chair: Mr Rimmington, do you want to add anything else to that?

Ben Rimmington: I agree with Oliver. There was complete understanding in the Department that the eight cases the report highlighted raised significant concerns, but we are also entirely satisfied that Oliver and his team have not only taken the right action in relation to those cases but had looked at their systems and delivered some very significant improvements in their systems on drugs and medical group, in response to those cases. It was just unfortunate that for the two recommendations, given the way they were framed—and we can maybe discuss the detail in due course—we did not feel we were able to accept them.

Chair: Okay, so you have made it quite clear you are still not backtracking on your original response to the Ombudsman report; you are still not accepting two of the recommendations. Perhaps during the questioning we will find out exactly why.

I am going to pass it over to members of the Committee now and Andrew Turner is going to start at the beginning, as it were.

Q4 **Mr Andrew Turner:** I ought to declare an interest in this, because I had a stroke 10 years ago and I was prevented from driving for certainly eight months and perhaps longer, I cannot remember.

What I wanted to ask is how are the standards set to evaluate someone's fitness to drive?

Andrew Jones: These are underpinned in law and that is then taken to produce a significant guide, a set of underlying principles and actions that are taken by medical professionals and the DVLA. It is quite a difficult case because each individual is, by definition, individual. One person's medical condition is not the same as another's so you have to treat each on its individual merits. That means it can be quite a complicated set of procedures to go through. The system is, I think, quite easy to access. As a member of the public you can look at this; it is going online. The changes that are being made within the DVLA are quite significant, but there will be many cases where there are complex medical conditions and—to use the NHS's cheerful phrase—multiple comorbidities, lots of different conditions all operating together, which means that they are then assessed by clinicians, clinicians with the DVLA and clinicians who regularly treat any of the customers.

Oliver, do you want to come in and talk about a bit further about the practice?

Oliver Morley: For the most part, I always start this by saying that 90% of people who apply to us on the basis of a medical condition retain their licence. In the case where there is a complex set of conditions, it is essential obviously that a qualified medical adviser, as we call them, but in fact an experienced doctor, reviews the case itself. One of the interesting questions around the specific recommendation in relation tostandards is that our view quite strongly is that we have made real strides in making it very clear to practitioners more widely that the focus is road safety. But at a certain point it is very important that a doctor reviews the case and uses their clinical judgment based on the regulations, the Secretary of State's medical panels and more widely to ensure that they are coming up with a decision that is focused on road safety.

Q5 **Mr Andrew Turner:** So you come with a customer, the customer wants to have his licence reinstated. How long on average does it take for you to make a decision?

Oliver Morley: On average it will take around 36 days. We have reduced it considerably since 2013, when it was around 52 or 54 days. It is fair to

say when there is a complex case—and we have increased the number of qualified doctors, but it is always a fairly challenging recruitment process, we have around 23 doctors now.

Mr Andrew Turner: It was more than—sorry, I have forgotten the number.

Oliver Morley: It was more than 36 and now we have brought that down considerably.

Q6 **Mr Andrew Turner:** How many for the top 10%? Where is the 10% cut-off?

Oliver Morley: The 10%, it is not a cut-off, it is very much based on the condition. For those, our target is 90% in 90 days and we have been recently beating that in terms of the total. I try not to direct the organisation entirely to that because that can create an environment where people are just trying to cut things off at 90 days. What I am trying to do is very much look at cases in the round.

Q7 **Chair:** Some of the complaints have taken years, haven't they? What is the longest period of time that you have taken to reach an adjudication?

Oliver Morley: The first thing I should say is that around 50% of the cases that are out for a longer period of time are with GPs, consultants and more widely. This is one of the points that we do make to the public who are waiting on a case. We may well be waiting on their medical practitioners to come back. In terms of the longest, I wouldn't have that to hand, I would have to come back to the Committee.

Q8 **Chair:** Could you let the Committee know what the longest is? Because there have been complaints that this process has taken an unreasonable length of time by anybody's standards, particularly when people's lives and livelihoods are involved, which is very, very serious.

Oliver Morley: I would very much agree, and that is why we have made such significant improvements over the past three years.

Q9 **Chair:** Would you also like to send us written evidence of those improvements so that we can see where you have improved? I think here the Ombudsman would like to come in and ask you a question.

Dame Julie Mellor: I did not want to ask a question, I just wanted to add some information, if I may. There is a Green Paper at the moment that is looking at sickness absence and benefits and how to get the best outcomes. One of the issues is speed. Oliver Morley was saying that very often it can be more waiting for information from GPs or consultants that takes some of the lab time in these cases. One of the things they found in the employment field that speeds things up is being transparent and making clear what information you need. You can empower the individual to go and get information from their consultant or GP and it happens a lot more quickly and so you get a result more quickly.

Q10 **Chair:** Have you done any interrogation of the cases where they have

taken very lengthy periods of time to find if there was a common factor, such as lack of transparency, and what you are requiring to be supplied either by the individual or by their medical practitioner?

Oliver Morley: We are very clear with the patient that we are awaiting something from their consultant or their doctor. One of the challenges with that is that consultants and GPs are very busy people and we have done quite a lot of testing to see how we could get that to work more quickly. We cannot pay GPs more to come back to us more quickly; there is no amount of money that would push the thing along more quickly. Yes, what we need is very much a more accessible service that would allow the customers to manage their account. We have started that process off with, for the first time, a way in which the customer can put in their medical inquiry to us online. We launched that on public beta in June this year and we are getting a significant amount of traffic through it now. So we think we are on the road to getting that transparency, but making medical information privately available online is always a challenging issue from the point of view of security.

Q11 **Chair:** I think most of us have renewed our tax with the DVLA and I was very impressed by your online system, so I am very much hoping that the new system that you are bringing in will prove to be successful. I presume you are monitoring this?

Oliver Morley: We are, absolutely. It is what would be called beta at the moment, which means that we are very much collecting a lot of information about it. Where someone has a simple condition we can get someone a response—if it is, "Carry on driving"—at the time, so it is almost instant.

Q12 **Mr Andrew Turner:** Do you pay GPs for supplying this information?

Oliver Morley: We do. I cannot remember what the figure is, but it is not huge. As I say, I think it is around the £40 to £50 mark for each one of them.

Q13 **Mr Andrew Turner:** For each patient?

Oliver Morley: For each patient. I would have to come back to you, but we do.

Mr Andrew Turner: I am amazed.

Q14 **Chair:** Can I just say, you pay them every time you ask them for more information or you pay them just a one-off payment?

Oliver Morley: It would be a one-off payment effectively per driving licence application.

Q15 **Chair:** That GP will have referred that patient or advised that patient probably that they should say—

Oliver Morley: There are multiple ways. Effectively we have a self-declaration system, but obviously a GP who has concerns can also tell us directly, but will probably prompt the patient very clearly to declare.

Q16 **Chair:** So the GP can tell you independently of the patient?

Oliver Morley: Yes.

Q17 **Chair:** Then you pay the GP £50 to provide a report on the patient?

Oliver Morley: Not necessarily. That sounds a little bit byzantine. I suspect if they come straight to us we would obviously talk to the GP themselves.

Q18 **Chair:** I am unclear, and transparency is everything, so if a GP contacts the DVLA and says, "I am worried about patient X"—

Oliver Morley: We would not pay them for that information, no.

Q19 **Chair:** No, but then you would register patient X and then you would go back to the GP and say, "I need detailed information" and at that stage you would pay the GP?

Oliver Morley: Yes, it would be case dependent, but yes, absolutely that would be—

Chair: Well, that is not byzantine, that is your practice.

Oliver Morley: No, what I was referring to as byzantine is that what we don't want to do is get into the position where we are paying GPs to basically confess their patients.

Q20 **Chair:** No, but it is still nevertheless the case that a GP will report a patient to you if they are concerned.

Oliver Morley: Yes.

Q21 **Chair:** You will then ask that GP for a full medical report for which you will pay that GP?

Oliver Morley: Yes.

Q22 **Mr Andrew Turner:** It seems to me—and I have no actual knowledge about this—very unusual for a doctor to report a patient's inability to drive. What he tends to do is say, "You had better report this, hadn't you?" and then he assumes that this has been done, although it may not have been done. Is that not true?

Andrew Jones: Yes, basically. Overwhelmingly it is a question of self-declaration and the conversations with clinicians are quite difficult conversations sometimes. Most families at some point will have to tackle it, particularly with some of the older members. I am just thinking about my own family, for example, "Should you be driving, Dad?" That is the sort of question that often happens. But we have a system that puts the

responsibility on the individual to self-declare, and that is done in the majority of cases, but it can sometimes come from clinicians.

Chair: Mr Rimmington, do you want to add anything?

Ben Rimmington: I have nothing to add.

Q23 **Ronnie Cowan:** Just some clarity here, there are 600,000 to 750,000 medical assessments every year. If I am one of those assessments, because they are all very personal, obviously, why am I being medically assessed in the first place? What got me on to that list?

Oliver Morley: Of the driving assessments or the medical assessments?

Ronnie Cowan: The medical assessments, 600,000 to 750,000 medical assessments a year. Why am I one of those people?

Oliver Morley: It is very much case dependent. People self-declare on our standard form or via the online service and then they will—

Q24 **Ronnie Cowan:** What would cause me to self-declare?

Oliver Morley: If your GP told you; if your family had concerns; if you had concerns about your ability to drive from a medical condition. You can go online, you can have a look and see there generally what the medical conditions are that the DVLA and our doctors are concerned about, so you get a picture there from those kind of things. There is also a lot of general discussion or chatrooms about specific medical conditions as well. You are expected to self-declare. At that point you will then submit a form or you will go online to submit that form to DVLA. At that point—

Q25 **Ronnie Cowan:** Okay, so I have self-declared. Presumably if I don't self-declare an issue, that would upset my car insurance?

Oliver Morley: There is a liability, yes, and insurers will put pressure on.

Q26 **Ronnie Cowan:** Okay, so I have self-declared. Who is assessing whether I can drive or not?

Oliver Morley: At that point when it comes in to us, there will be effectively a triage, an initial process where we will look at the form and in a lot of cases—

Q27 **Ronnie Cowan:** Who is "we"? Who is looking at this? How qualified is the person to make—

Andrew Jones: It is "we", the DVLA.

Ronnie Cowan: How qualified is the person who assesses my medical condition at that stage?

Oliver Morley: It is an early triage. We have trained medical advisers. They are not doctors at that stage, but they are there to review specifically. As I say, the volume is such that if every single form was

looked at by a doctor it just simply would not be possible. At that stage they do an initial assessment. The assessment at that point is basically on the basis of our fitness to drive guide, are those people effectively green? Do they go straight in? Can we immediately say, "You have a single condition and based on your declaration, we know it is acceptable"? They make that decision at that point. If they have any concerns, and I mean any concerns at that stage, and it is a very strict set of criteria, then they will be escalated to the—

Q28 **Ronnie Cowan:** That is with 10%, 10% get escalated?

Oliver Morley: It is around 10%.

Q29 **Ronnie Cowan:** Who does that get escalated to? Is that still within the DVLA or you now go out to a doctor?

Oliver Morley: No, it will be within the DVLA and they will be escalated to the medical adviser, who is effectively a qualified doctor.

Q30 **Ronnie Cowan:** Based on that process then, but for argument's sake here I have self-assessed, I have said I have a problem. It has been escalated to a doctor to look at it. The doctor comes back to me and says, "You are not fit to drive".

Oliver Morley: No. At that point our doctor, our expert doctor—

Q31 **Ronnie Cowan:** Sorry, are you contacting my GP?

Oliver Morley: No, not at that stage. At that stage they will basically look at the case and the form and at that stage they will make a decision, based on their clinical judgment, as to what they now need in terms of additional information. They may be able to make a decision based on the form alone; they may need to have some additional information from the patient themselves or they may go to the doctor or the consultant. There are some other things that they may do as well. They may, for example, ask for a driving assessment. They may go to an optician, depending on the condition, or they may ask for additional tests based on some of the recommendations of even more expert panels, the Secretary of State's panels as well. There are a whole set of things that they may need to ask for at that stage. Now you get a little bit more flavour as to why that might take a while if there is a complex case.

Q32 **Ronnie Cowan:** We are at that stage. How long has that taken then?

Oliver Morley: We are now getting to cases within two days. We will initially start processing the cases and we expect to be through and out where it is a simple case quite quickly. It may be 20 days maximum, that kind of time, sometimes even shorter.

Q33 **Chair:** Can you define a simple case?

Oliver Morley: It is probably best, as I say, if we share the assessment of fitness to drive. A simple case would be one condition, a vision condition, for example. A simple thing might be something like glaucoma,

where it is a very clear thing and all that is needed for that is one test. I may be overstepping my medical mark. I can give you plenty of examples of simple cases. There are quite a few of them, but they are single conditions, maybe single tests where we effectively say, "All we need you to do is go to an optician, have an eye test. If that eye test is okay, you are done".

Q34 **Ronnie Cowan:** I have gone through the process, you have come back to me and said, "You are still not getting a driving licence back". How many complaints do you get at that stage? How many people are not satisfied at that stage by the process? I understand that where someone does not get their licence back they are going to be annoyed by that situation or upset by it, but how many genuine complaints do you get where people feel they have not been listened to properly or their condition has not been properly understood?

Oliver Morley: We probably average about 300 complaints a month, but that is not necessarily upheld complaints. I cannot say enough that the thing we least want to do is put people on the road who are unsafe. The flipside of that coin is the second least thing that we want to do—we do not want to take people off the road who should be on the road. People will complain; we understand it is taking away their livelihood.

Q35 **Ronnie Cowan:** People want to drive.

Andrew Jones: We fully understand that and the motives that Oliver is just explaining are absolutely fundamental here. We need to keep the roads safe, but to keep people active and able to use their licences. Licences are like a freedom ticket in many respects and of course they can be people's livelihoods as well. Getting that balance right is difficult, but that is the policy—protect the public while keeping people active.

Ben Rimmington: Can I just add, to follow this up, that it is by no means the case that while your case is being considered you are unable to drive. That is very far from the case.

Oliver Morley: For people who are having their licence condition considered, there is section 88 in the Act that allows people to drive if they are confident. It goes back to the kind of self-awareness, self-declaration point. It allows people to continue to drive while DVLA is considering their licence. This is after their licence has expired. Obviously, if their licence is currently valid then they continue driving on that licence. Section 88 is always a slightly tricky piece of legislation because it is effectively dependent on the individual themselves, but while DVLA takes time to consider, bearing in mind, with the number of doctors that we could apply to this, it is almost impossible for people not to have some gap on complex cases. It is important though that they can continue to drive.

Andrew Jones: Would it help the Committee, Mrs Gillan, if following on from this session I circulated the assessing fitness to drive document, which is the medical guide? I will do that so that everybody can see it.

Chair: Minister, we already have that. It is available to the Committee, but thank you very much. That is very helpful.

Andrew Jones: No worries.

Q36 **Chair:** Can I just ask you, of the 300 applications that you receive a month, what percentage—because that is about 3,600 a year—are deemed fit to drive and what percentage have their licence removed?

Oliver Morley: We have 600,000 medical applications—

Chair: No, you said you had 300—

Oliver Morley: That was complaints. Three hundred complaints of that 600,000.

Chair: Three hundred complaints, yes. Of those 300 complaints, how many are upheld and how many are overturned?

Oliver Morley: I do not have to hand the complaints that are upheld and responded to, in terms of the ones that come through. I may well do in my pack, but I do not have that at the moment. We can come back to you.

Q37 **Chair:** Could you write to the Committee and let us know? We would be very interested to know because part of this inquiry hinges on the fact that of the eight cases the Ombudsman looked at, six had their licences reinstated. As a ratio of examples of poor administrative justice, that is quite a large proportion.

Oliver Morley: Except that over the period of the eight cases that the PHSO is covering here there were 4.5 million driving licence applications. I think seven PHSO cases in addition to that have been reviewed. If you call the entire period 15 PHSO cases that have gone through that the PHSO has agreed to review as a proportion of that—

Q38 **Chair:** Mr Morley, one case of injustice is enough. That is what we are looking at. It makes such a difference to people's lives. It is so cataclysmic.

Oliver Morley: We absolutely can see the point of it but, Chair, this is a very difficult decision for the individuals—the doctors who have to make it and also for the individual who loses their licence.

Chair: We understand that, but we are looking at trying to improve this system and that is what the Ombudsman's report was about. You have rejected two points on the Ombudsman's report, which is why we are trying to probe you more.

Q39 **Kelvin Hopkins:** The Drivers Medical Group—which has the acronym DMG—is part of the DVLA and it makes decisions on whether someone

with a medical condition is fit to drive, but with advice from the Honorary Medical Advisory Panel. What is the relationship between the two organisations in terms of setting standards?

Oliver Morley: The Secretary of State appoints chairs to the medical panels and they are experts in their fields, I think it is fair to say.

Andrew Jones: Yes, there are six groups. They cover cardiology, neurology, diabetes, vision, alcohol or substance misuse and dependence, plus psychiatry. The panels meet twice a year and they look at medical standards and guidance, continually review it and inform this document.

Q40 **Kelvin Hopkins:** The members of the panels, the Honorary Medical Advisory Panels, they are all medically qualified or experts in their field, not just ordinary lay people?

Oliver Morley: Yes, and one of our doctors acts as secretary to each of the panels.

Q41 **Kelvin Hopkins:** Just out of interest, how many members typically are there of a panel? How many members would a panel have?

Oliver Morley: Six to eight generally, around that number.

Q42 **Kelvin Hopkins:** They would all be qualified people?

Oliver Morley: Yes, and generally experts in their field.

Q43 **Kelvin Hopkins:** My supplementary: how transparent are the standards currently to members of the public? Transparency is a concern.

Oliver Morley: The fitness to drive document, in fact, interestingly, back in 2009 was also available online. We tried to be transparent and have been throughout as transparent as we possibly can about the standards, the regulations that are available and have always been available online to people. Ironically, the document used to be called "At a Glance" and it was definitely not "at a glance" as a document. That is why its name has been changed, but that information has been available to all concerned.

Chair: Minister, can I bring the Ombudsman in here?

Q44 **Dame Julie Mellor:** I just wanted to clarify some of the issues about transparency that you will be raising, because I am sure Mr Morley is right in terms of the information that is available on the web, but I think part of our concern about transparency is transparency in the individual case because the decisions have to be made on the basis of the very specific circumstances and the impact on the functionality and the risk assessment in relation to specific circumstances. From some of the advice that we received from occupational health specialists, it seemed that quite a lot of standard letters are used in saying, "You are not going to be allowed to drive" whereas that may be where you could be more transparent by explaining how a decision has been made in the individual case. I just think there are two sets of issues. I wanted to clarify that.

Oliver Morley: The cases themselves raised very fair points around maladministration and we accepted those more widely. It was quite clear that the quality of our responses in some cases was just not good enough. We have tried to create an environment much more where the doctors themselves can engage more directly on a case. It is true to say that we were effectively looking at productivity as being one of the main issues and we have focused much more on whether we can get transparency, and clarity from the doctor throughout the process to make sure that the customer/patient understands much more the basis of their decision? It does not mean that they will be happier if the decision is to take away their licence, but it does mean at least that they will understand why the decision was taken.

Q45 **Kelvin Hopkins:** Second supplementary following on from the Ombudsman. The Ombudsman suggests that, without clearer terms of reference and governance arrangements for the panels, it is difficult to understand how their advice influences the DVLA standards. What assessment have you made of the need to clarify the relationship between the panels and the DMG on standard setting?

Oliver Morley: We have taken significant steps to improve the governance again of those panels since the PHSO report. We have been far clearer in terms of the minutes and minute-taking, secretarial support and making sure that the views they take are enshrined far more clearly in terms of standard operating procedure. We have those links far tighter.

The PHSO report, I think fairly, pointed to something that I had picked up as well when I arrived, which is that it tended to be seven or eight doctors making quite difficult decisions around panels and then not necessarily minuting it in the way that we would expect.

Q46 **Kelvin Hopkins:** Just an aside—I should perhaps know this—you look very young, I have to say, compared with me at least.

Oliver Morley: I am not as young as I look.

Q47 **Kelvin Hopkins:** How long have you been in office?

Oliver Morley: I always feel I should say my age, Mr Hopkins, but—

Andrew Jones: You can if you want.

Kelvin Hopkins: I have nothing against young people, I have to say.

Oliver Morley: Forty-five.

Kelvin Hopkins: Forty-five. How long have you been in post?

Oliver Morley: Three years.

Q48 **Chair:** Can I just ask, these panels, how many of their members have driving qualifications or experience and therefore are familiar with the functionality of driving as opposed to the medical conditions themselves?

Oliver Morley: I do not know. I would definitely have to get back to you on that.

Q49 **Chair:** Could you have a look at that? How do you recruit them? Do you ask them to have experience of driving? Do you ask them to have some relevant background in transport?

Oliver Morley: No, it is not necessarily transport relevant, because of course the key question is condition and this is one of the issues around driving assessments.

Q50 **Chair:** No, can I just stop you there? I am interested that you are saying that it is about the condition because it is not, it is about the functionality. For example, on these panels how many occupational health specialists do you have? I understand you only have one on one of the panels.

Oliver Morley: The point around driving assessment is that it is fine for conditions where the condition can directly affect driving at the time. Fundamentally, for a condition like epilepsy it does not matter what happens in the driving assessment—or indeed for drug or alcohol abuse. It does not matter what happens in the driving assessment because it is very unlikely that a seizure or some such would take place during the driving assessment. It does not give the medical experts any insight into whether the condition poses a risk to driving. There is a mix. I think it is fair to argue that there could be more occupational health medical professionals. We would want qualified doctors on the panels, and I think it is something we should look at, but it does not answer the question more widely about fitness to drive because fitness to drive applies to the specific overall experience of driving and the risk within that context, as opposed to the specific experience on a driving assessment.

Q51 **Chair:** Basically, you are saying to me though that you have not asked the people who joined this panel about whether they do have any transport or driving knowledge, whether they have any occupational specialities—

Oliver Morley: I am saying very specifically that the focus of the panels is on medical conditions. Our doctors have a wide range of experience, including occupational health specialists.

Q52 **Chair:** Who overlays on the—

Oliver Morley: The DMG does.

Chair: —advice that the panels give to you on the standard-setting, the functionality aspects of it? Where do you get that from?

Oliver Morley: Our doctors do.

Q53 **Chair:** Your doctors are familiar—

Oliver Morley: Have a range of experiences.

Chair: —have experience of the functionality of driving?

Oliver Morley: They do. The vast majority of us do have experience in the functionality of driving anyway. In terms of our doctors, yes, we have occupational health experienced professionals.

Q54 **Chair:** How many occupational health professionals are on these panels?

Oliver Morley: They are not on the panels. I would separate between the panels, who are very much focused on the medical aspects of a condition, versus our own doctors—

Q55 **Chair:** Is it that you have another cadre of advisers, so you have the panels and then you have some occupational health specialists?

Oliver Morley: No. Our 24 medical advisers, as I call them, who are doctors, who are making the day-to-day assessments, have a mix of experiences and some of them have occupational health experience.

Q56 **Chair:** Could you let the Committee know how many currently sitting on the panels have occupational health experience so that we can see? How do you recruit these people?

Oliver Morley: Absolutely. When we recruit we look for qualified doctors with a range of experience. They have to be experienced generally, so they are not junior doctors, for example. We effectively go out via the normal channels, the way you would recruit doctors. We go through a fairly rigorous interview process with our chief medical adviser.

Q57 **Chair:** Are they remunerated?

Oliver Morley: They are remunerated, yes, absolutely.

Q58 **Chair:** At what level?

Oliver Morley: They are paid around £95,000 on average.

Chair: £95,000 a year?

Andrew Jones: They are on the payroll of DVLA.

Oliver Morley: Exactly. They are competitively paid with respect to—

Q59 **Chair:** But they are not permanent. They are part time?

Oliver Morley: They are permanent.

Chair: But that is their part-time job?

Oliver Morley: No, it is their full-time job.

Q60 **Chair:** It is a full-time job?

Oliver Morley: Absolutely.

Q61 **Chair:** What is your turnover of these medical experts? Presumably they need to go out and practise medicine to keep current as well.

Oliver Morley: A few of our doctors do locum as well, but they are seeing a significant number of cases. They also lecture. They also engage more widely with GPs on road safety. I can give you the full chapter and verse on how much work they do to maintain currency, but they are engaging with patients and GPs and consultants on a continuing basis.

Q62 **Chair:** It would be helpful if you could write to the Committee after this session and let us know who they are and what the turnover is on these panels and again their occupational health qualifications, because I think that will help us understand better how you cope with functionality as well as pure medical analysis of the situation.

Oliver Morley: Yes, absolutely.

Q63 **John Stevenson:** Mr Rimmington, can you confirm who is ultimately responsible for setting the standards?

Ben Rimmington: The standards begin with legislation; much of which derives from European legislation. Then it is a classic case of there being legislation that then needs to be interpreted and applied in the real world, which is where the Minister's document comes in, which sets that out in detail in a very practical way and then is interpreted in cases, as Oliver has described. So it begins with legislation.

Q64 **John Stevenson:** Begins with legislation and then the DVLA I presume, rather than the medical background—

Ben Rimmington: The DVLA is responsible for the interpretation and application of that legislation.

John Stevenson: You take responsibility rather than the medical panels?

Ben Rimmington: The panels are advising on the interpretation of the legislation effectively for the DVLA when it exercises its functions on behalf of the Secretary of State.

Q65 **John Stevenson:** Mr Morley, as a member of the public, what you always want from public organisations is information that is understandable, you want openness and you want transparency. If somebody makes an application and is rejected by yourselves, how do they go about appealing that decision?

Oliver Morley: We are very clear—and in fact have been very clear—about the avenues for complaint. First, they can obviously escalate the matter. We moved from four steps to a two-step process, but within the organisation there is a two-step complaints process. Once they have completed that, they can go to our own and DfT's own independent complaints assessor. Then if they are still not happy with that, they have one of two routes—they can either go to the PHSO or they can go to court. In fact, one of the roles that our qualified doctors take is to represent DVLA in court. It is fair to say that, on appeal to court, over 99% of our revocations are upheld.

Q66 **John Stevenson:** If somebody is rejected, I assume they get a letter from yourselves setting out exactly the reasons why they have been rejected?

Oliver Morley: I think it is fair to say that in the past we have been overly—what is the right way to put it—technical in the way we responded to people when we revoked people. We have tended to be very medical and very legislative. We have made considerable efforts as a result of the PHSO report and more widely to try to take people through the reasons for revocation a little bit more.

Q67 **John Stevenson:** I just want to follow this through. Somebody is rejected. They are not medical, they are not a legal person, so they want in plain English the reasons why they have been rejected.

Oliver Morley: Yes, which is not always possible.

Q68 **John Stevenson:** But at the end of the day they have the criteria that their driving assessment is set against. You have given the reasons for the fact that they have been rejected, so you want to have that in as plain English as possible. Do you, in the same letter, then set out the appeal process?

Oliver Morley: We do, yes. We start with complaints and we do also say that they have recourse to court at that point.

John Stevenson: That is set out in the letter?

Oliver Morley: That is set out in the letter.

Q69 **John Stevenson:** Do you have timescales for that as well?

Oliver Morley: In terms of the initial complaint, yes. We do not set out individually all the elements, but we will say that you need to lodge an appeal within a certain timescale.

Q70 **John Stevenson:** If you are rejected on 1 January, does it say that you have to appeal this by—I do not know—the end of February?

Oliver Morley: There are specific timelines for courts.

Andrew Jones: For court, yes. It is six months for England and Wales and three weeks for Scotland.

Q71 **John Stevenson:** Yes, I know about the court systems, but I am talking about your internal procedures. Do you set out timescales for appeals?

Oliver Morley: From memory, we do not put the court timescale on the letter, but we do put—

John Stevenson: I am not talking about the court timescale. I am talking about your internal procedures.

Oliver Morley: We do put our internal procedure—

Q72 **John Stevenson:** So you say, "If you are rejected on 1 January, you

have two months to appeal this decision"?

Oliver Morley: We don't close it off to that extent. We rather more talk about our response time, so, "If you wish to complain about this, we will get back to you in 10 days" kind of thing. We are not saying, "You have to do it by this time".

Q73 **John Stevenson:** So you say to them, "You have the opportunity to appeal this and we will respond within a set period of time"?

Oliver Morley: Yes, we are not guillotining them, exactly.

Q74 **John Stevenson:** Then you go to that procedure, the appeal level, then if that is rejected you can move on, and as you quite rightly say, you can either go to the PHSO or to court?

Oliver Morley: Yes, exactly.

Q75 **John Stevenson:** Go back a couple of steps: when you first reject and start investigating, you set out that the target is 90 days?

Oliver Morley: That is the kind of outside target. Generally for simpler cases we try to do that far quicker.

Q76 **John Stevenson:** Do you think there should be a time limit, an absolute time limit? There have been cases in this particular investigation or report where people have gone on for years. It just seems grossly unfair and inequitable.

Oliver Morley: Yes, we accept the point on maladministration. One of the problems that our colleagues at PHSO have found is that if you do put a guillotine on a date, what happens is your cases tend to go up against that date. So if we said 12 months for closure for everything, if there are still a lot of appeals to be made in that process, then what you will find is everything being pushed to 350 days. What we want to do, and what I think public sector bodies should be doing, is working as hard as we can to bring down the overall profile of case length and case time. That is what we have been working, and I think successfully, to do. I can understand why you would want to say, "Here's a guillotine", but I—

Q77 **John Stevenson:** The reason I say that is that it is quite interesting. If you ended up in the court procedure there would be strict timetables that you would adhere to, because if you did not the courts would come down on you very hard. I cannot see why you could not have the equivalent—

Oliver Morley: Because what you then see is a shift of our medical adviser resource to go to court to hear the appeal. Over 99% are upheld in our favour, which takes away from our existing doctor resource who could be dealing with cases.

Q78 **Chair:** Where do I go to on your website to find out exactly these practices and procedures?

Oliver Morley: If you go to gov.uk/dvla, it is fairly clear there. I would be able to do it on my phone; I could show you. If you search "medical inquiries DVLA" or anything like that you would also find it.

Q79 **Chair:** Because in your series of answers I am not sure, as a member of the public going to the DVLA website, that I would find anything that reflects what you have just been telling the Committee. You are basically telling us, "It is an open-ended process, which we are always trying to improve on. We are not going to set times and timetables because it may not be convenient to our workload". That might be a hard interpretation, but that is basically what you have just said, Mr Morley.

Oliver Morley: We have a very available complaints form, which explains exactly what happens in terms of the complaints process. We also try to give fairly clear guidelines as to what is happening on an individual case in terms of a timeline they would expect.

Q80 **Chair:** How often do you review your guidelines?

Oliver Morley: We have been reviewing them almost continuously over the past three years, I think it is fair to say. We have moved the overly-complicated, in my view, four-step process to a two-step process. We are much clearer with people about the time it takes to complain generally and how we expect to respond.

Q81 **Chair:** Just for the sake of clarity, who has that absolute ultimate responsibility for setting the standards? Does it lie with you as the DVLA or does it lie with the Department?

Andrew Jones: It ultimately comes from legislation and therefore through Government much—

Q82 **Chair:** So it is you, the Minister, who are responsible ultimately for setting the standards?

Andrew Jones: The legislation is very specific. It is generally European legislation and we participate, or have historically, in—

Q83 **Chair:** It will be British legislation soon.

Andrew Jones: There will be repatriation of the legislation so we have an underpinning in British law, absolutely, but let's not go there.

Q84 **Chair:** No, let's not go there. The buck does stop with you. I was going to say, as a Minister, how often do you have a look at these standards?

Andrew Jones: I have, as Minister responsible for the motoring agencies, been down to Swansea and reviewed the system online. I take generally a fairly customer-oriented approach to how people will react to them.

Q85 **Chair:** When did you last look at the standards?

Andrew Jones: Probably when I went down to Swansea and looked at some of it, which will have been in the last couple of months. I looked at some of it online in the preparation for coming in here today.

Q86 **Chair:** We need to reassure the public about this administrative process. We are obviously going to be critical about the administrative process to a certain degree as well, but it is good to know that the person who is ultimately responsible for it is looking at it. Do you not think it would be a good idea to have a regular check on what standards are being applied?

Andrew Jones: I have regular reviews with the DVLA on all of their operational issues. This is a significant operational issue and I want to make sure that we are effectively keeping our obligation, which is to keep our country mobile and at the same time keep our country safe. That is the tricky balance. I want us to be very customer-oriented in all of the ways that we approach issues within the Department.

Q87 **Chair:** I preface it by my own experience of doing tax online and so on. It is usually a very good and very efficient programme, which makes a change from other parts of Government.

Dame Julie Mellor: I wanted to go back to something that Mr Rimmington said at the beginning in your opening remarks that I thought might provide an opportunity to open things up. It was about standards. You said that you had concerns about the way the particular recommendation about standards was framed. I was disappointed to hear that, because we worked very hard with people at all sorts of levels in the Department and in the DVLA to find a form of words that would work for everyone, but if there is an opportunity to reframe at this stage in a way that would be acceptable to you, then let us explore it.

I heard the word "standards" was a problem. The issue for us was that in those cases and in the discussions with you we had real concerns that there would be repeated failures of the same flaws that we found in those particular cases. What we are interested in is some kind of review of the approach to assessing both function and risk, so taking both into account in relation to driving to make sure it is robust and therefore not repeating the failures. If there is a way of framing that that is acceptable to you, then this may be a way through it.

The examples obviously in our cases where we were concerned that there were flaws and that these could be repeated would be taking account of irrelevant information. For example, a mistake in a driving assessment was assumed to be to do with someone's vision and it was not. Or account was not taken of relevant information like new scans that would have shown whether someone did have a bleed from a fracture and therefore was at risk of a seizure and should be banned—or not. If we can frame something that says, "Yes, there is more work to be done to make sure that there can be robust assessments of both function and risk in relation to driving" it may be a way through.

Andrew Jones: Let us look at that. My concern was that the recommendation was that the DVLA should produce a set of clear evidenced-based standards. Quite frankly, I think that is a clear set of evidence-based standards informed by law and informed by senior clinicians and then interpreted by further senior clinicians who have experience in driving, so that was my concern with it. But I am happy to have a further conversation.

Q88 **Chair:** We are asking if you are open to this recommendation in the light of it, rather than saying, "No, we reject that recommendation". You could review your current situation in the light of the comments that have been made by the Ombudsman.

Andrew Jones: We have accepted the principle of them, but I do not accept that we do not have evidence-based standards. I will have a further conversation, but as it stands I would be—

Q89 **Chair:** Can I ask you to reflect on that, certainly what the Ombudsman has just addressed, and within the next week, if that is possible, to write back to the Committee? Maybe on reviewing the transcript of this you may consider that it is not an unreasonable request and it may be that you could move closer towards what the Ombudsman is requiring in this particular area that you have rejected. That would be very helpful to the Committee, because this is a very unusual state of affairs.

Andrew Jones: I will certainly take an interpretation—

Chair: Thank you. I appreciate that.

Q90 **Ronnie Cowan:** In multiple cases where individuals were found unfit to drive, that initial decision was overturned once the individual provided additional information. Is there some way we can improve that information process so the individual knows at the very first step what information they should be providing?

Oliver Morley: It is not just up to the individual. It is also information from their consultants, GPs and additional tests. What happened in quite a lot of these cases was that clinical judgment was made by our doctors around the right tests that needed to take place and over the time of the case it became clear that they may not have asked for or had asked for too much additional information that may or may not be relevant to the medical case in question. If that sounds complicated, it is because it is. A difficult medical judgment had to be made under quite considerable pressure and in this very small proportion of cases the issue was not inherently the medical standard, in our view. It was the clinical judgment; the doctor's application thereof. They do, for the most part, do extremely well in terms of communicating that to the customer.

Q91 **Ronnie Cowan:** The PHSO has said that advice from the complainant's own clinicians was at times disregarded. How does that happen, if you are asking for advice from clinicians who are giving you that advice and that advice is being disregarded?

Oliver Morley: There are examples where, in the PHSO's cases, the advice by the GP was later superseded by other advice, consultant's views, for example, or other tests. The answer to that is that our clinical experts will see thousands of cases a year of specific road safety related cases, whereas a GP may see, for example, one brain tumour a year. So our medical advisers may have very different views as to the implications for road safety of that condition than say a GP.

It is not to say we disregard GP advice, but we do not always accept it without escalating. In fact, some of the regulations around diabetes, for example, do require not only the GP and consultant's view but an independent third-party view as well.

Q92 **Ronnie Cowan:** In terms of feeding this information into the system from an individual's point of view, what are you doing to improve the system?

Oliver Morley: In this case, we have been trying very much to make much clearer the links between the panel's decision on a test or the latest research related to a condition and trying to codify and make things much simpler via the assessing fitness to drive document for customers and for GPs more widely.

The PHSO has a point in terms of standards, which is that we need to make sure that we can codify, from a regulatory point of view, as much as we possibly can, but it is the reality that there will always be cases where we have to have people using clinical judgment. I think in these cases people made mistakes.

Q93 **Ronnie Cowan:** I can see what you are saying in terms of how you are setting standards to measure against. My question is how do I, as an individual, get my information to you, knowing that that is information that is pertinent to the case you are looking at?

Oliver Morley: We should be leading you through that as much as possible, as should the GP and your own medical professionals.

Q94 **Ronnie Cowan:** So it is up to my GP?

Oliver Morley: No. It is up to the medical professionals who are working on your case, so they should communicate to you. On very complex cases, our doctors should be explaining, "These are the things that we need. These are the tests we need to see from you". We do for the most part explain fairly clearly, "We need this test. You need to go here" and we do pay for medical testing as well.

Q95 **Ronnie Cowan:** Am I submitting this information to you online?

Oliver Morley: No, at that stage we will be basically either talking directly to people over the phone or we will be writing letters. Recently—and this is again one of the problems with dealing with a medical professional more widely—there is an issue generally with sending complex and confident medical information via email, so we are trying to

speed that up as much as possible and using electronic methods. I have to say when I arrived, the one place where fax is still used is, I am afraid, the doctor's surgery and there are still quite a few faxes that we have to send out.

Chair: I am tempted to say, "What is a fax?" except I am old enough to know. Mr Cowan, anything about it?

Ronnie Cowan: No.

Q96 **Kelvin Hopkins:** There is clearly no argument that there is a vital role for medical diagnoses in determining fitness to drive, but that being said, what do you make of the Ombudsman's recommendation that this should be balanced with an assessment of the individual's functional ability to drive?

Andrew Jones: Yes, it is a balance, I think. It is a judgment call, isn't it, between keeping people active and keeping people safe? That is why we want experienced clinicians making the decisions and in an informed way liaising with the customer's personal clinicians.

Q97 **Kelvin Hopkins:** What advice have you taken on this matter? How has this been assessed?

Oliver Morley: We do use functional driving assessments. We have around 4,000 a year. One of the areas where we definitely did differ with the PHSO is this functional driving assessment point. Our view is that the medical assessment is fundamental and functional assessment only applies to certain conditions where it is very clear that functional assessment can help give insight into the severity of a medical condition.

This is not a driving test. It is not a second driving test. It is very much a question of whether you are functionally and medically able to drive, but the regulations are very clear. The questions are around medical fitness to drive and the functional assessment is only relevant where it relates to those medical conditions.

Q98 **Kelvin Hopkins:** How have you considered what role occupational health specialists could play in determining both the DVLA standards and also decisions about an individual's risk and fitness to drive?

Oliver Morley: It goes back to the original point, which is that the question is a medical one, whereas occupational health can give us insight into the functional fitness to drive. The overwhelming question is how that functional fitness relates to the medical fitness to drive.

Q99 **Kelvin Hopkins:** Then there is a question of the Canadian Risk of Harm formula. What work has the DVLA carried out to ascertain the applicability of the Canadian formula and will you publish the results of this work?

Oliver Morley: The Canadian Risk of Harm formula is an important part of road assessment globally because it was based on one of the most expensive and extensive pieces of road safety research that was made.

Obviously, it is tailored more globally, but what I would say is that this whole area is one of considerable international exchange. For example, in Australia and New Zealand and more widely the fitness to drive is partially based on our fitness to drive assessment. The CAA is moving to a self-declaration model and they are basing it on our assessment approach. Indeed, the police also use our fitness to drive assessment approach for their drivers. So this is an environment where there is considerable international collaboration, and as the Minister said earlier, the regulations themselves are significantly driven from EU law.

Q100 **Kelvin Hopkins:** I have touched on transparency in earlier questions, but how do you intend to ensure greater transparency in the way your standards are set and risk is assessed?

Oliver Morley: It is very much a continual process of trying to make this more transparent generally and improving governance on panels. The Department has a role to hold us to account for that transparency, and I think they do. Yes, as far as we are concerned we very much understand that the best way to get a good result, partly because the pressure can apply to third parties as well as ourselves, is to get the patient as engaged and focused and interested in the process as we possibly can. To do that, we need to be transparent.

Chair: The Ombudsman has indicated she would like to come in here.

Q101 **Dame Julie Mellor:** I just wanted to make a point of clarification following Mr Hopkins' question about the use of occupational health specialists, particularly in relation to assessing individual risk in relation to driving. We in our work beyond the eight cases and our discussions and roundtables with DVLA did not find any evidence of taking advantage of occupational health expertise in this area. For example, in the employment field, occupational health expertise has been used very well, not just to assess risk in clinical terms but to look at how to reduce it.

Chair: As in police drivers with diabetes?

Dame Julie Mellor: As in police drivers, which would be an instance that would be relevant to assessing driving by DVLA. The police were looking at people with diabetes and whether they were able to drive for the police and the risks of having a hypoglycaemic attack or retinopathy etc. What they found is that they could introduce restrictions on the police drivers or conditions on the police drivers that meant that people with diabetes who were at risk of hypoglycaemic attacks were able to drive. The kind of restriction or condition they introduced was that, in effect, police drivers with diabetes would run their sugars high, they would have regular blood tests and they would always make sure they had something with sugar before going on shift. We saw no evidence of that approach to looking at how you could reduce risk in order to place, rather than a ban, conditions on how people drive.

Chair: Would you like to comment on that?

Oliver Morley: From the point of view of the standards, that implies a relaxation of the standards and they are themselves enshrined in law. Although we would very much like to be in a position where we could say specifically to an individual, "If you did this, then we would be happy for you to manage your blood sugar in that way", for road safety purposes, as opposed to occupational purposes; we need to be as defined as we possibly can. Indeed, the PHSO's recommendation is that we were more defined as opposed to less defined.

Q102 **Chair:** You are not willing to consider that as a flexible option for people when our police forces do?

Oliver Morley: We can't. If you are not legal to drive under the regulations, I think the PHSO would have a very legitimate claim—

Q103 **Chair:** How does that square with the police's practice?

Oliver Morley: The police will be applying the vocational driving guidelines. Effectively they would have a licence, for example, and that would be absolutely fine. I am sorry to go back to basics. There are two levels, effectively, on quite a lot of driving licences between your standard driving licence and that of a vocational driver. For example, if you drive an HGV, we are obviously far more concerned about the risk level on that and therefore we are more stringent. In this case, a police driver has a normal driving licence and the question in that case is: are they able to drive that normal vehicle, but at high speed or whatever under those circumstances? The police have the option at that point to give more dispensation around occupational health. We do not.

Q104 **Chair:** Is this not an area you should be looking at though? Because if the police consider that an individual with diabetes is subject to certain conditions and can drive safely in quite extreme conditions, then surely that is something that should be examined by your organisation.

Oliver Morley: It is one that I would, I am afraid, hand over rather more to Government, Parliament and the Department to decide.

Q105 **Chair:** Mr Rimmington, is this not something you should be looking at?

Ben Rimmington: There is a legal bottom line in terms of what is possible with a certain given list of conditions derived from the legislation, and the interpretation of what that legal requirement means is something that the DVLA can do, taking account of different kinds of advice. The fact of that legal bottom line is something that has been devised under the European legislation.

Q106 **Chair:** We are in the very building that changes laws here, so I am saying is this not something that you should be looking at and making recommendations to Ministers? You are going to be also faced with driverless cars soon and automatic cars. You are obviously going to have to look again at your standards and the way you approach all of this. Surely this is also an area that should be up for review when you know

that our police force is engaging in this practice, which is appearing to be perfectly safe. Perhaps that is a flexibility that you need to be looking at, to recommend to Ministers that we look at changes in the law. The Ombudsman will just come in here and then I will let you come back, Mr Rimmington.

Dame Julie Mellor: This is just a very brief point to say this may be an area where you could seek expert occupational health expertise in relation to driving and the regulation.

Ben Rimmington: My response is going to be that we are always happy to look of course at evidence that suggests that legal or policy frameworks need to be changed. The level of evidence that the police would be looking at when they are considering fitness to drive to perform certain duties in the police is obviously a different question to the policy question of whether someone is fundamentally safe to drive on the roads. Therefore, the level of persuasion that might require might also be different, I would suggest.

Q107 **Chair:** Are you looking to the future? Are you looking to this area in regards to driverless cars?

Ben Rimmington: Driverless cars, we are looking very much at the entire legislative framework around that, the insurance framework and all kinds of issues on driverless cars.

Q108 **Chair:** Absolutely, so this is your opportunity to also revisit this area and see whether changes are required to enable the public to move about freely.

Oliver Morley: Yes. I would say this is a significant change in the policy approach and that is why I have demurred. It would be a very significant change. I know DfT says this a lot, but our roads are among the safest in Europe and in the world.

Chair: I do not think we are denying that. We are just trying to improve your systems or at least make sure that you have covered all the bases. Had you finished, Mr Hopkins? Sorry, I interrupted.

Kelvin Hopkins: I have.

Q109 **Chair:** Can I just say that the PHSO thinks that there have been many, many more people affected by this issue? Of those eight cases in "Driven to Despair" I thought it was very salutary, as I mentioned earlier, to find that six of them received their driving licences back. What assessment have you made of how many complainants might be similarly affected? Have you gone through that exercise now?

Oliver Morley: We have been through complainants more generally in terms of the total numbers. One interesting test for us was what would happen when the PHSO published their report in terms of the scale of response to that. The answer to that is that after the publication of the PHSO report and the Ombudsman's appearance on media, DVLA received 54 complaints—remember 300 a month—that made reference to it. Of

these, only seven complaints, and this is certainly in our more enlightened world, were fully upheld. I think there is still certainly a question as to whether, as I said before, our complaints process was transparent and has been transparent throughout. We are still not entirely convinced that there is a secret mass of people who have not had the opportunity to complain through the process.

Q110 **Chair:** Nevertheless, how would you answer the concern that there are people out there who have not, for one reason or another, complained? Are you actively putting on your website more information following the PHSO report?

Oliver Morley: We are trying to make our complaints processes as open as possible. As I said earlier, we do not have any guillotine, so we are very, very open to people coming back to us.

Q111 **Chair:** If you have an open-ended situation there where you may well get people coming back to you who may be watching this hearing or hearing about it who may want to take up their case again, what assessment have you made of the cost implications of this?

Oliver Morley: I do not think we have made any additional assessment in terms of the cost implications of additional compensation. We have had—

Q112 **Chair:** What contingency do you have set aside for people who have not complained to date who may now complain?

Oliver Morley: We have not set aside a specific contingency.

Q113 **Chair:** Have you not made any estimate at all?

Oliver Morley: No, we haven't, partly because—

Q114 **Chair:** Do you not think you should be?

Oliver Morley: Part of this process obviously is that we will be discussing the recommendations and we will then be able to get a little bit more clarity as to the nature of our complaints process and the issues that have stemmed from this report, and then we would be able to make a better estimate of a contingency.

Q115 **Chair:** Minister, do you want to add to that? Is that a satisfactory position, that you have an agency within the DfT that has not made this sort of assessment? It means that you have an open-ended liability.

Andrew Jones: No, I am not sure that is quite right. What we have is an existing complaints process, which can be escalated to include financial redress. I think the system is easy to access and has indeed been simplified to make it easier again. It is available online and available offline. To say there is a huge tail of cases going back years and years and years—it is very hard to say that this exists, because if it did exist why isn't it saying anything? This is the difficulty of an unknown unknown.

Q116 **Chair:** Minister, you know that in many instances people give up with the bureaucracy of Government.

Andrew Jones: That can potentially be the case.

Chair: They are so despairing. I appreciate from your position what you are saying. It is not a never-ending tail, but there is a likelihood. Already there was a 14% increase, I believe, in the amount of cases that were coming in following the highlighting of the PHSO report. It is not a tail going back years and years and years and years, although in the light of the timetabling of some of the decisions on these cases it could be years, because some of the decisions have taken far too long. I am just saying surely at some stage some estimate should have been made of the likelihood of that rather than saying we have done nothing on it. Mr Morley, I am just addressing it to the Minister. Don't you think it would be advisable to try to tidy up that area and at least have some sort of contingency planning for it?

Andrew Jones: I constantly look at the number of cases that come in and also the number of complaints and the complaints that are upheld. It is at a remarkably low level, given the real scale that we are talking about. We are talking about 3,000 or so new cases on a heavy day.

Q117 **Chair:** But, Minister, with respect, that is not the point we are making.

Andrew Jones: No, I do understand the point you are making.

Chair: Even if there is one administrative injustice in the system, it is up to us to try to improve it and certainly the PHSO to set out their findings.

Andrew Jones: Yes, I understand that, but I simply do not think it is proportionate to introduce some kind of retrospective scheme going out to look at all the various cases over the past based upon the evidence of the future. I do not think this was an evidence-based recommendation.

Q118 **Chair:** For people who have had their licence removed and believe that an injustice has been done, you would encourage them to recontact the DVLA, wouldn't you?

Andrew Jones: If there has been an injustice, they should seek to correct, yes. That is what the complaints procedure is about. That is why it can go through to court.

Chair: That is what we need to make sure, that people are aware.

Andrew Jones: Indeed, but I do not think that is the same thing as saying we should be having a scheme that goes back to suggest we contact all the various DVLA customers over various years.

Q119 **Chair:** That is not what I was suggesting. I was suggesting that you should have some sort of contingency built into your system. As you can see, there has been an increase in this area following the report. Mr Morley, I did not want to cut you off in your prime.

Oliver Morley: I will be super quick. The complaints are returning to the previous level. There was a spike just over the period of the PHSO report, but they are returning to the previous level.

The other point I would make is we did discuss it with our auditors, just to be clear, in terms of contingency and they were of the view at that stage that it was not worth putting in a specific contingency for it, a specific liability. Obviously they will keep an eye on it when it comes to auditing our accounts for this year.

Q120 **Mr Andrew Turner:** Do you recognise the disadvantages of living in rural areas compared with towns?

Oliver Morley: Yes, absolutely.

Q121 **Mr Andrew Turner:** How do you interpret what is going on by different areas?

Oliver Morley: We cannot give dispensation, because the other truth of rural areas is that rural roads are the most dangerous roads. We cannot give specific dispensation for where they live in the rural area, even though obviously it is really important for their livelihood and getting around. The fact is that they drive on dangerous roads. We try, as much as possible, for no fear nor favour. It is really unfortunate and we really sympathise, but in the end the question has to be: are they safe to drive in line with the standards?

Q122 **Mr Andrew Turner:** How adequate do you think your complaints handling processes are in this area?

Oliver Morley: I think we understand how acute this can be. It is not something we like doing. I have personal experience in my family, among friends, and more generally. I am at the second stage of the complaints process, so I see individuals and I know what it means to them. We do not do this lightly at all.

Q123 **Mr Andrew Turner:** I can think of an example in my constituency where someone lost their licence because he had Asperger's. He first of all succeeded in passing a driving test, and then for various reasons he had to hand it in. Then he was told, "Yes, you can apply again". But he was dissuaded, although he was then allowed to go again, because he felt that what was happening was not something he could cope with. Whose responsibility is it to get these things right?

Oliver Morley: I think that is where we have really changed our approach on communications around this. The first thing it says on our website now is, "90% of people retain their licence". We are trying to communicate to people that that is what we are trying to do, trying to make it easier. I think the medical forms are, of their nature, extremely complicated and difficult. That is why we are trying to bring online services, which certainly people with mental health can find less of a challenge. We are trying extremely hard to make it easier for people to

go through the process. We understand that slapping down a big D4 form with all the medical conditions in the world on it, which is, unfortunately, what we need to do, is sometimes very, very challenging.

Q124 **Mr Andrew Turner:** What determines whether the application gets a provisional licence or a full licence?

Oliver Morley: They are in a lot of cases defined in the medical condition itself and the regulations around specifically the length of licence that one would receive if you had that type of medical condition, because we would want to be confident it was not going to deteriorate over time. Also in some cases there is the opportunity for clinical judgment from our doctors to make a decision on the length of time a driver would receive a licence for. It is a combination of the two. In some cases it is prescribed in law that it should be three years or one year or five years, and in some cases it may be our medical advisers who make that decision.

Q125 **Mr Andrew Turner:** I am trying to work out which is the better option. Is it better to apply for a provisional licence that would give you the benefit of somebody in your passenger seat who can drive, or is it better to give you a full licence, but you have to pass the test?

Oliver Morley: No, sorry, provisional is what you have when you have not passed your driving test. We do not give those. What we will do is give a shorter-term full driving licence, not a provisional licence. The provisional licence is only for people who have not passed the driving test.

Q126 **Mr Andrew Turner:** It is for people learning to drive?

Oliver Morley: Exactly.

Mr Andrew Turner: That is what a provisional licence is for.

Oliver Morley: What we do is give a shorter-term full licence.

Q127 **Dame Julie Mellor:** I just want to make a couple of points of clarification, if I may, Chair. One was I wanted to make a correction in terms of this particular recommendation not being evidence-based. It is not evidence-based in that it is unknowable how many people may have been affected. I just wanted to clarify that. I wanted to clarify in addition our concern that led to the recommendation that the DVLA should make people who may have been affected aware of our decisions and the ability to complain. Take the research that we have done that shows that 40% of those who feel they have been let down by a public service do not complain because they fear that they will not be taken seriously, that it will not make a difference and that it is all too complicated. Then in this instance, with some of the things that were happening in terms of the level of injustice, we would ask: should people be made aware so that some of that 40% do follow through?

Also the lack of transparency in the individual decisions, which Mr Morley has acknowledged, again would make it difficult for someone to know

whether they should complain, because they do not know how the decision has been made in their case. I think it may be useful for the Committee in this instance to, as part of its additional evidence collection, ask what some of the associations for drivers who have to go through this process think in terms of whether there is unmet demand to be able to make a complaint. That would be the Road Haulage Association, the International Glaucoma Association, the disability drivers organisations and so on.

Chair: Thank you. Unless anybody else has any questions, first, I thank Dame Julie, the Ombudsman, not only for her report but for joining us at the horseshoe here and giving us the benefit of clarification on various points, which is exceedingly helpful. I remind the witnesses that the reason we are having this hearing is that, very unusually, it would appear that the Department has rejected two recommendations from the Ombudsman that have been arrived at by looking at real cases in real people's lives. They are, very simply, specifically the outstanding recommendation for the need for evidence and risk-based standards for determining fitness to drive, and the setting up of a scheme to remedy complaints for others similarly affected by the issues identified in the PHSO report.

During this evidence session I have heard what the Minister particularly has been saying and I have charged you with returning to this Committee with various pieces of information in writing. I would ask you again to consider your reaction to the PHSO report and give you the opportunity to write further to this Committee and see if, after this session, and on reflection, you may be able to embrace the report in full. There is considerable latitude in what has been suggested by the Ombudsman for you to set your own parameters. It is not a Procrustean bed; quite the reverse. It seems to me to contain broad and sensible recommendations that you would do well to take on board, particularly in the light of the way technology is moving ahead in the world of driving.

Most of all, particularly, Minister, we are very grateful for the work that the DVLA does and the Department for Transport in this area. We need to keep our roads safe and it is a very difficult balance to strike. It is also a great inhibition of somebody's liberty and freedom to ban them from driving. Therefore we are trying to make sure that this system leads to less injustice, rather than more, and also continues to make sure that our roads are the safest in the world. Thank you for the work you do and thank you for coming here before us. I hope you will reflect on the questioning of this Committee and maybe come back with some more positive news. Thank you.