



House of Commons
Business, Energy and Industrial
Strategy Committee

**Draft Legislative
Reform (Provision
of Information etc.
relating to disabilities)
Order 2022**

Second Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

*Ordered by the House of Commons
to be printed 28 June 2022*

Business, Energy and Industrial Strategy Committee

The Business, Energy and Industrial Strategy Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Business, Energy and Industrial Strategy.

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

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The current staff of the Committee are Zereena Arshad (Committee Specialist), , Matthew Chappell (Committee Operations Manager), Dr Rebecca Davies (Clerk), Catherine Kisanji (Committee Specialist), Catherine Meredith (Second Clerk), Ashleigh Morris (Senior Committee Specialist), Owen Sheppard (Media Officer), Lily Stoker (Committee Specialist), Tim West (Senior Media Officer), Louise Whitley (Senior Committee Specialist), Beatrice Woods (Committee Operations Officer) and Sue Wrightman (Committee Operations Officer).

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Introduction

1. The draft Legislative Reform (Provision of Information etc. Relating to Disabilities) Order 2022 (the ‘draft Order’) and Explanatory Documents were laid before Parliament on 12 May 2022 by the Department for Transport (the ‘Department’).
2. The purpose of the draft Order is to amend section 94 of the Road Traffic Act 1988 to expand the categories of medical professionals that may submit information to the DVLA for the purposes of assessing a person’s fitness to drive.
3. In paragraph 2.5 of its Explanatory Document the Department outlined that amending the legislation to provide that, where an authorisation has been given, another registered healthcare professional can provide information, will remove a burden which currently rests solely with doctors and will provide greater flexibility to individual GP surgeries and hospital teams. The change will not require the doctor to ask another healthcare professional to provide the information, but will allow another healthcare professional to provide information where the GP surgery or hospital team considers it appropriate to do so. The aim of the measure is to allow the most appropriate healthcare professional to provide the information which they have; in some cases that will remain the doctor but in other cases GP surgeries and hospital teams will be able to change their current practice and allow a different healthcare professional to provide the information.¹
4. The Government proposes to make the draft Order using the power contained in section 1 of the Legislative and Regulatory Reform Act 2006. Currently section 94 of the Road Traffic Act 1988² requires interaction with a doctor when considering the driver’s medical condition. The Order seeks to reduce the burden on doctors. A doctor may not be primarily responsible for the management of certain medical conditions. In some cases, medical conditions are managed by other healthcare professionals, for example, diabetes specialist nurses, who, despite having direct information about the driver’s disability, would not meet the current criteria as set out in legislation.
5. Rt Hon Grant Shapps, the Secretary of State for Transport, has recommended that the draft Order be subject to the affirmative procedure.³ The House of Lords Delegated Powers and Regulatory Reform Committee considered the proposal on Wednesday 8 June 2022 and concluded that this was appropriate.⁴

1 Para 2.5 Draft LRO Explanatory Document

2 Road Traffic Act 1988, [S.94](#)

3 Para 4.15 Draft LRO Explanatory Document

4 Delegated Powers and Regulatory Reform Committee, 3rd Report of Session 2022–23, [HL Paper 15](#)

1 Description of the draft Order

6. Under Section 94 of the Road Traffic Act 1988, only registered medical practitioners may submit medical information to the DVLA to inform the DVLA's decision as to whether an individual with a medical condition meets the appropriate health standards for driving. Registered medical practitioners are doctors registered and licensed to practise by the General Medical Council. This Order would allow a 'registered healthcare professional' registered with one or more of the following bodies to submit and be reimbursed for providing the medical questionnaire to the DVLA:

- a) the General Chiropractic Council
- b) the General Medical Council
- c) the General Optical Council
- d) the General Osteopathic Council
- e) the Nursing and Midwifery Council
- f) the Health and Care Professions Council

7. The Department for Transport carried out a consultation⁵ on the proposal between 8 November 2021 and 6 December 2021 in accordance with section 13 of the Legislative and Regulatory Reform Act 2006.⁶

8. The Department stated that the "majority of respondents in favour of the proposal agreed that it would provide greater flexibility and would allow the GP surgery or hospital team to determine who would be the most appropriate healthcare professional to provide the DVLA with medical information. Many respondents thought the proposal would reduce bureaucracy and improve efficiency, resulting in quicker licensing decisions by the DVLA for some drivers".⁷

9. Several respondents disagreed with the proposal, primarily on the grounds that other healthcare professionals would not have the skills and knowledge to complete DVLA medical questionnaires, and that doctor oversight would still be needed. Others noted that as professional indemnity insurance does not fall under NHS arrangements, any fee being offered to a registered healthcare professional to complete DVLA medical questionnaires, would need to cover the cost of indemnity.⁸

5 Amending the Road Traffic Act 1988 to allow registered healthcare professionals to complete DVLA medical questionnaires, Department for Transport [Consultation outcome](#), published 8 November 2021

6 Para 3.1 Draft LRO Explanatory Document

7 Para 3.9 Draft LRO Explanatory Document

8 Para 3.10 Draft LRO Explanatory Document

2 Assessment of the draft Order

Role of the Business, Energy and Industrial Strategy Select Committee

10. The Committee's function is to assess whether the proposals meet the statutory conditions required of an order under the Legislative and Regulatory Reform Act 2006 (the "2006 Act"), and to examine the proposals against a number of tests. Standing Order No.141 sets out the criteria under which the Committee makes that assessment.⁹ We set out our assessment of the draft Order against those criteria below.

Assessment against criteria

A: Appears to make an inappropriate use of delegated legislation

11. We considered the purpose of the draft Order with Department Officials and were satisfied that the draft Order does not make inappropriate use of delegated legislation.

12. There is nothing highly controversial in the proposals.

13. **We agree the draft Order does not make an inappropriate use of delegated legislation and therefore does not raise any issues in respect of this test.**

B: Serves the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft order under section 1 of the Act)

14. A burden is defined in s1(3) of the 2006 Act as any of the following: a financial cost; an administrative inconvenience; an obstacle to efficiency, productivity or profitability; or a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

15. The Department has identified the following administrative burdens (through a de minimis impact assessment) which the order removes or reduces:¹⁰

- a) allowing doctors the flexibility to determine that another registered healthcare professional is better able to address a driver's medical condition will free up their time to focus on vital patient care;
- b) removing the requirement that information be provided only by a doctor. Modern medical practice sometimes means that drivers will be seen more frequently by other healthcare professionals, who may have better and more up to date information available to them more readily;
- c) removing the requirement that the medical professional referred to in the authorisation must have at some time given medical advice or attention to the applicant;

⁹ [Standing Order No. 141](#), House of Commons Standing Orders. S.O. No.141 sets out the work of the Committee and its powers. Its primary role under S.O. No.141 is to judge LROs against a set of tests, and to come to a decision on whether or not an LRO has met those tests and whether or not it should be approved by the House. It also gives the Committee the power to consider "matters relating to regulatory reform". In the past, the Committee has used this power to conduct inquiries into regulatory policy.

¹⁰ Para 4.12 Draft LRO Explanatory Document

- d) increase efficiencies by allowing the most appropriate registered healthcare professional to provide information directly to DVLA, enabling DVLA to make a licensing decision more promptly;
- e) removing the burden from doctors without creating any additional burden within the NHS, as other healthcare professionals already assist doctors in completing DVLA medical questionnaires, but are not themselves authorised to provide information directly.

16. We questioned the Department on whether the new measures could potentially make the process of sharing medical information with the DVLA more complex. In its response, the Department explained that initially the DVLA will continue to write to a patient's GP and their GP will decide whether to pass on the information to another health professional.

17. The Department noted that:

the legislation has been drafted to be as flexible as possible, should there be any changes to the way that GP surgeries and hospital teams manage and devolve patient care in the future. Changing the legislation to this extent at this point enables the DVLA to respond more swiftly to changes in practices and to ensure that it is possible to investigate drivers' medical conditions fully with the appropriate healthcare professional (including doctors) within reasonable time periods. There is the potential to avoid unnecessary bureaucracy and future legislative changes if it is decided that an individual can authorise another healthcare professional directly, where it is considered safe and appropriate to do so.¹¹

18. We questioned the Department about whether the second phase, where it is envisaged that patients will contact the more relevant health professional (and not their GP) for information, will be more confusing for the patient. The Department noted that:

DVLA questionnaires are medical condition specific. Currently, the driver or applicant is asked to provide us with the details of the doctor or consultant who is treating them for that specific medical condition, and this is the person who the DVLA will send the medical questionnaire to. For example, if an individual notifies the DVLA that they have multiple medical conditions, each of which could impact ability to drive safely such as insulin treated diabetes and epilepsy, the DVLA will send one medical questionnaire to the individual's GP who is managing their diabetes and will send a separate medical questionnaire to the hospital consultant who is managing their epilepsy.

If the LRO is enacted, the DVLA will still write to the relevant medical practitioners, and it will be up to them to determine if they want to provide the required information to the DVLA themselves, or if the information can be provided by another registered healthcare professional within their GP surgery or hospital team, who has provided the most recent care to that individual.

11 Additional information from the DVLA, supplied to the Business, Energy and Industrial Strategy Committee

If a driver or applicant has several medical conditions, questionnaires could be completed from medical records by different healthcare professionals, who are managing that specific medical condition.

The DVLA recognises that this is a new policy and marks a shift in current practice. Given the consultation responses showing the support for the policy, the DVLA is confident it will prove a positive change. However, the DVLA will monitor how this change is operating on a practical basis.¹²

19. ***We recommend that the Department outlines the new process very clearly in its explanatory material. We also ask the department to publish updated information on the phased implementation process and on how this is being managed.***

20. **We agree that the draft Order would reduce a burden.**

C: Serves the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft order under section 2 of the Act)

21. **The draft Order does not raise any issues in respect of this test.**

D: Secures a policy objective which could not be satisfactorily secured by non-legislative means

22. The Department stated that:

there is no non-legislative option for achieving the aim of widening the pool of medical professionals that can complete DVLA's medical questionnaires as the Road Traffic Act requires that this can only be done by doctors.¹³

23. **We conclude that this requirement has been satisfied.**

E: Has an effect which is proportionate to the policy objective

24. The Government stated that:

The effect and impact of the provision is proportionate to DVLA's statutory obligation to ensure that all drivers meet the minimum specified standards of fitness to drive. The objective of the provision is to improve the existing process and remove the current burden on doctors in providing crucial medical information to DVLA. The Secretary of State therefore considers the draft Order to be proportionate to the policy objective.¹⁴

25. **We agree that the effect is proportionate to the policy objective.**

12 Ibid

13 Para 4.3 Draft LRO Explanatory Document

14 Para 4.7 Draft LRO Explanatory Document

F: Strikes a fair balance between the public interest and the interests of any person adversely affected by it

26. In its Explanatory Document, the Department stated that:

The provision proposes a more efficient, streamlined and targeted approach to the existing process/policy and does not impact on the interests of any person or the public interest in determining fitness to drive to any greater extent that already exists in the medical licensing process.¹⁵

27. We questioned the Department whether current definitive oversight, whereby a registered medical practitioner is the sole provider of medical information, will be lost. The Department responded that the:

registered medical practitioner will retain oversight as initially, any request for medical information will be sent by the DVLA to the driver's doctor or consultant. The change will enable the doctor/consultant to decide if there is another healthcare professional(s) who manages the patient's care more closely and is better placed to provide the DVLA with information about the applicants/licence holder's medical condition(s). A healthcare professional other than a registered medical practitioner might, because of the way in which ongoing treatment is provided to the driver, be better able to answer the DVLA's questions. It is more effective, both in terms of responses directly to the DVLA and in reducing bureaucracy for GPs for the appropriate healthcare professional to complete the questionnaire and respond to the DVLA directly. If a driver's healthcare is complicated to the extent that their GP will need to provide information in addition to that of separate healthcare professionals, they are able to do so. No oversight is therefore removed from the registered medical practitioner.¹⁶

28. The Department added that:

this proposal adds flexibility to the current system of gathering information on medical conditions and improves its efficiency. We do not believe that road safety would be compromised as only appropriately registered healthcare professionals who have access to the information held on medical records will be able to complete the questionnaires. In addition, there may be some benefits to road safety if the most appropriate healthcare professional is completing the questionnaire as the information could be returned more quickly enabling the DVLA to make a quicker licensing decision around those who are not medically fit to drive, thereby removing their licences sooner.¹⁷

29. We also questioned the Department whether the changes will lead to a removal of protection of the public should the registered healthcare professional only have knowledge of one relevant or prospective disability whereas the patient's GP would have knowledge of another or several others. The Department responded that:

15 Para 4.8 Draft LRO Explanatory Document

16 Additional information from the DVLA, supplied to the Business, Energy and Industrial Strategy Committee

17 Ibid

The DVLA does not consider that there will be a removal of protection for the public. Protection of the public lies at the heart of the measure; the DVLA should have the most accurate information about the drivers' conditions to determine whether the driver can continue to drive. In practice, this information may be more complete and more accurate if provided by a registered healthcare professional(s) who is more closely involved in monitoring and treating the patients' condition(s).¹⁸

30. The Department noted that:

the DVLA issues individual questionnaires for each medical condition. They are completed from an applicant's medical record where all relevant information will be held. Initially we will continue to write to the doctor and/or consultant and it would be for them to determine if another health care professional would be better placed to respond. Potentially medical condition specific questionnaires could be sent directly to different healthcare professionals in the future, where it is considered safe and appropriate to do so.¹⁹

31. **We agree that this requirement is satisfied.**

G: Does not remove any necessary protection

32. The Department stated that :

The provision does not remove any necessary protection. All licensed drivers and driving licence applicants must currently meet the minimum health standards to drive and that legal obligation is not impacted or affected by the provision.²⁰

33. **We conclude that the draft Order does not remove any necessary protections**

H: Does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise

34. The Department stated that:

the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise; the provision will not alter the existing obligation that DVLA, acting on behalf of the Secretary of State, must refuse a licence if the licence holder or licence applicants does not meet the minimum health standards for driving.²¹

35. **We agree the draft Order does not raise any issues in respect of this test.**

18 Ibid

19 Ibid

20 Para 4.9 Draft LRO Explanatory Document

21 Para 4.10 Draft LRO Explanatory Document

I: Is not of constitutional significance

36. The Department stated that:

The Secretary of State does not consider the provision to be of constitutional significance as it does not fundamentally alter the current legislative status quo, given current practices of doctors having to collate information from other healthcare professionals. The provision streamlines existing practices and seeks to ensure that essential information as to someone's capacity to continue driving is provided by the person best able to provide it.²²

37. **We agree that the proposals are not of constitutional significance.**

J: Makes the law more accessible or more easily understood (in the case of provisions restating enactments)

38. **The draft Order does not raise any issues in respect of this test.**

K: Has been the subject of, and takes appropriate account of, adequate consultation

39. As noted above, the Department carried out a formal consultation on the proposal between 8 November 2021 and 6 December 2021.²³ A total of 411 responses were received.²⁴

40. The Department noted, that in response to the consultation, “the Government has decided to proceed with the LRO to change the wording in the legislation to allow other registered healthcare professionals as well as doctors to be able to provide information to DVLA”.²⁵

41. **We conclude that the draft Order has been subject to adequate consultation.**

L: Gives rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No. 151 (Statutory Instruments (Joint Committee)) as are relevant

42. **The draft Order does not raise any issues in respect of this test.**

43. *We conclude that the draft Order meets the required preconditions and tests. Whilst we did not think it sufficient to not approve the draft we do have general policy concerns about the phased approach proposed by the Department and how this might be operated differently across the country. We therefore ask the Department to write to the Committee when it proposes to move from phase one (where a GP designates another health professional) to phase two (where a patient designates a health professional of their choice) with a review of phase one and how phase two will be rolled out with sufficient safeguards.*

22 Para 4.11 Draft LRO Explanatory Document

23 Para 3.1 Draft LRO Explanatory Document and see also [Consultation outcome: Amending the Road Traffic Act 1988 to allow registered healthcare professionals to complete DVLA medical questionnaires](#)

24 Para 3.7 Draft LRO Explanatory Document

25 Para 3.15 Draft LRO Explanatory Document

Conclusion

44. We conclude that a satisfactory case has been made in favour of the proposal and recommend that the draft Order be approved using the affirmative resolution procedure.

Formal minutes

Tuesday 28 June 2022

Members present:

Darren Jones, in the Chair

Tonia Antoniazzi

Alan Brown

Richard Fuller

Ms Nusrat Ghani

Paul Howell

Charlotte Nichols

Mark Pawsey

Alexander Stafford

Draft Report (*Legislative Reform (Information etc. Relating to Disabilities) Order 2022*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 44 read and agreed to.

Resolved, That the Report be the Second of the Committee to the House.

Ordered, That the Chair make the Report to the House.

[Adjourned till Tuesday 5 July at 9:45am]

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st Special	Decarbonising heat in homes: Government Response to the Committee's Seventh Report of 2021–22	HC 208

Session 2021–22

Number	Title	Reference
1st	Post-pandemic economic growth: Industrial policy in the UK	HC 385
2nd	Climate Assembly UK: where are we now?	HC 546
3rd	Post-pandemic economic growth: Levelling up	HC 566
4th	Liberty Steel and the future of the UK steel Industry	HC 821
5th	Pre-legislative scrutiny: draft Downstream Oil Resilience Bill	HC 820
6th	Pre-appointment hearing of the Government's preferred candidate for Chair of the Financial Reporting Council	HC 1079
7th	Decarbonising heat in homes	HC 1038
8th	Post Office and Horizon - Compensation: interim report	HC 1129
9th	Revised (Draft) National Policy Statement for Energy	HC 1151
10th	Draft Legislative Reform (Renewal of National Radio Multiplex Licences) Order 2022	HC 1199

Session 2019–21

Number	Title	Reference
1st	My BEIS inquiry: proposals from the public	HC 612
2nd	The impact of Coronavirus on businesses and workers: interim pre-Budget report	HC 1264
3rd	Net Zero and UN Climate Summits: Scrutiny of Preparations for COP26 – interim report	HC 1265
4th	Pre-appointment hearing with the Government's preferred candidate for the Chair of the Regulatory Policy Committee	HC 1271
5th	Uyghur forced labour in Xinjiang and UK value chains	HC 1272
6th	Mineworkers' Pension Scheme	HC 1346