

Investigation Report

Investigation of a complaint against the Driver & Vehicle Agency

NIPSO Reference: 18622

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The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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EXECUTIVE SUMMARY

I received a complaint about the actions of the Driver & Vehicle Agency (the DVA) relating to the DVA's processing of the complainant's taxi licence renewal. The complainant's license expired while his renewal was being processed and as a result he was unable to work as a taxi driver.

Issues of Complaint

I accepted the following issue of complaint for investigation:

- **Whether the DVA processed the complainant's application for a taxi driving licence appropriately?**

Findings and Conclusion

The investigation of the complaint identified maladministration in respect of the following matters:

- (i) Failure to manage the complainant's medical assessment of fitness to drive in a timely and appropriate manner, thereby increasing the risk that his licence would expire while his renewal was being processed.
- (ii) Failure to properly communicate with Occupational Health Service regarding the processing of the complainant's taxi licence renewal application to ensure it was treated as a priority

I am satisfied that the maladministration I have identified caused the complainant to experience the injustice of distress, frustration, uncertainty, and the loss of benefit of a taxi licence. The complainant also sustained the time and trouble of pursuing his complaint.

Recommendations

I recommended that the DVA:

- (i) Issue the complainant with an apology in accordance with the NIPSO guidance on apology. This is for the failings identified, and should be issued within **one month** of the date of my final report.
- (ii) Provide the complainant with a payment of £350 by way of solatium for redress in respect of the injustice of distress, frustration, loss of opportunity, and time and trouble within **one month** of the date of my final report.

I welcome the fact that the DVA is exploring changes to its IT system that will hopefully facilitate a smoother evaluation process for taxi licence application. In response to the Draft Report, the DVA have explained how its new Commercial Licensing System (CLS) will provide additional benefits for Taxi Drivers. In particular, I note that the new system will eliminate physical forms and will allow for flexibility in the system to message an applicant at any stage, reducing time lag from the current postal system. I also welcome the response from the DVA indicating the complexities associated with processing Taxi Applications. Although my investigation has focussed on one particular aspect of one particular application, I recognise that every application – and every applicant -- is different. For the purposes of this complaint, I have focused on the DVA's processing of his medical application form. I consider there were a number of lessons to be learned which provide DVA with an opportunity to improve its services to the public. I recommend that the DVA:

- (iii) Review its practices in relation to its management of medical assessment applications taking account of the statutory provisions within the 1996 Regulations and other appropriate legislative provisions, to ensure that applications are processed in a timely manner;
- (iv) Carry out a review or audit of complaints similar to the complainant's to ascertain whether there have been service failings leading to injustice.

- (v) Review its SLA with OHS with a view to having an operational protocol allowing for efficient processing of Group 2 applications with agreed performance targets.

I recommended that the DVA develop an action plan to address these recommendations identified in my report and provide me with an update within six months of the date of my final report. That action plan should be supported by evidence to confirm that appropriate action has been taken (including, where appropriate, records of any relevant meetings, and an audit/review report where necessary amended policies/procedures should be evidenced and training plans for relevant staff established.

THE COMPLAINT

1. The complaint centred around the actions of the DVA in processing the complainant's taxi licence renewal. The complainant believes that the DVA failed to process his taxi licence renewal in a timely manner. He complained that this caused him stress, anxiety and financial loss as he was unable to earn a living as a taxi driver between 6 June 2017 when his licence expired and 24 August 2017 when his renewal application was granted.

Issue of complaint

2. The issue of the complaint which was accepted for investigation was:

Whether the DVA processed the complainant's application for a taxi driving licence appropriately?

INVESTIGATION METHODOLOGY

3. In order to investigate the complaint, the Investigating Officer obtained from the DVA all relevant documentation together with the DVA's comments on the issues raised by the complainant. The DVA provided copies of his taxi driving licence renewal application and medical forms. The DVA provided a copy of its Service Level Agreement (SLA) with Occupational Health Service (OHS), which

included the targets set for OHS. This documentation included information relating to the DVA's investigation of the complaint.

4. The DVA provided a description of the process of renewing taxi licences. As noted by the DVA, this *'process is a complex one'*. The DVA *'has a legal responsibility to ensure that an applicant for a taxi driver's licence is a fit and proper person to hold a taxi driver's licence.'* An applicant must meet various requirements to be deemed fit and proper, all of which are evaluated by the DVA as part of its renewal process. The DVA evaluates an applicant's fitness and competence to drive, including ensuring compliance with periodic training consistent with the relevant regulations. The DVA must also ensure the applicant has a right to work in the UK and has not be disqualified by reason of Immigration status from driving a taxi. Additionally, an applicant must undergo an Access NI Enhanced Disclosure Check (EDC). The DVA explained that *'[t]hese statutory requirements are in place to protect the travelling public. [Its] role is to balance the protection of the travelling public with the rights of applicants who have applied for a licence to work as a taxi driver.'* Finally, the DVA must also evaluate an applicant's medical fitness to drive. The DVA have noted that *'[t]he medical assessments forms one part of the whole application process.'* I have had regard to the DVA's explanation of the complexities of evaluating an applicant's fitness to drive. Although there are many aspects to a renewal application, my consideration of the complaint has primarily focused on how the DVA managed the assessment process relating to the complainant's medical fitness to drive.
5. The Investigating Officer also obtained documentation from OHS and 3FiveTwo¹ regarding its processing of the complainant's fitness to drive. For particular licence applications (based on applicants medical history), applicants must complete medical forms to ensure their fitness to drive can be established. OHS may also indicate the need for further clinical testing before a decision can be made on fitness to drive. OHS contract with 3FiveTwo to carry out these medical assessments. The Investigating Officer met with representatives from

¹ 3FiveTwo are contracted by OHS to provide additional medical testing.

OHS. The Investigating Officer and the Director of Investigations met with the DVA to discuss the issue of the complaint which is under investigation.

6. As Ombudsman, my role in the investigation of maladministration complaints is to examine the administrative actions of the DVA and those organisations acting on its behalf.
7. The information which has informed my final findings and conclusions are contained below. However, how I have weighed the evidence within the context of the complaint is a matter for my discretion.
8. A copy of this draft report was shared with the complainant and the DVA for the purposes of commenting on factual accuracy and the reasonableness of the findings and recommendations.

Relevant Standards

9. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case.

The general standards are the Ombudsman's Principles²:

- The Principles of Good Administration
- The Public Services Ombudsmen Principles for Remedy

10. The specific standards are those which applied at the time the events occurred and which governed the exercise of the administrative functions of the DVA (including those acting on its behalf) and the actions of those individuals who are the subject of this complaint.

11. The specific standards relevant to this complaint are:

- (i) The Service Level Agreement (SLA) in place between the DVA and OHS;

² These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

- (ii) DVA's taxi driver licence renewal process;
- (iii) The DVA's 'Assessing Fitness to Drive' guide;
- (iv) DVA taxi driver licence form PV15;
- (v) DVA medical form TLM1;
- (vi) The Taxis Act (Northern Ireland) 2008 (2008 Act); and
- (vii) The Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (1996 Regulations)

12. I have not included all of the information obtained in the course of the investigation in this report. However, I am satisfied that everything that I consider to be relevant and important has been taken into account in reaching my findings.

INVESTIGATION

Issue: Whether the DVA processed the complainant's application for a taxi driving licence appropriately?

13. The complainant stated that the DVA did not process his taxi driver renewal application in a timely manner. He said that he applied for his licence in April 2017. He telephoned the DVA to check on the status of the application on 22 June 2017, as he had not heard anything from them. His licence had expired on 6 June 2017.
14. The complainant also stated that although he applied for his licence renewal in April 2017, the relevant medical team had still not assessed his application when he called the DVA on 22 June 2017.
15. The complainant claimed that he did not undergo a medical assessment until 24 July 2017. Therefore his licence was not issued by the DVA until 24 August 2017. He believed that the DVA do not have adequate procedures in place to permit the timely processing of a taxi licence renewal where a medical assessment is also required.

16. In consequence of this delay, the complainant stated that he lost his ability to earn a living as a taxi driver from 6 June 2017, when his licence expired, until after 24 August 2017 (when his renewal was granted).
17. During the course of this investigation, the Investigating Officer asked the DVA to provide guidance on the relevant legislative framework that applies to taxi driver licensing applications. I have considered the relevant legislation provided by the DVA, including the Taxi Driver Licence Regulations (Northern Ireland) 2014 (2014 Regulations). I have also considered the Taxis Act (Northern Ireland) 2008 (2008 Act); and in particular, section 25 of the 2008 Act. This is set out below for ease of reference:

'Section 25—

- (1) An application for the grant of a licence under this Act shall be made in such form, and include such declarations and information, as the Department may require.*
- (2) The Department may require an applicant to furnish such further information as it may consider necessary for dealing with the application...*
- (4) The provisions of this Act apply to the renewal of a licence as they apply to the grant of a licence.'*

18. The DVA also stated that the Motor Vehicles (Driver Licences) Regulations (Northern Ireland) 1996 (the 1996 Regulations) set out the applicable timeframes for accepting taxi driving licence renewal applications. In particular the DVA referred to the following extracts of the regulations:

Regulation 7 (1):

- 'The Department may consider an application for the grant of a licence before the date on which the grant of the licence is to take effect if the application is received by it—*
- (a) in the case of an application for a Group 2 licence, during the period of three months ending on that date,*
- (b) in any other case, during the period of two months ending on that date, and may during such period grant the licence so that it takes effect on that date.'*

Regulation 7 (7):

- 'An applicant for a Group 2 licence shall, if required to do so by the Department, submit in support of his application a report (in such form as the Department may require) signed by a qualified medical practitioner, prepared and dated not more than four months prior to the date on which the licence is to take effect, for the purpose of satisfying the Department that he is not suffering from a relevant or prospective disability.'*

19. As part of the investigation, DVA, OHS, and 3FiveTwo records have been carefully examined. The Investigating Officer and Director of Investigations also met with representatives from the DVA and the investigating officer met with representatives from OHS. From the information obtained as part of investigation enquiries, a chronology of the actions taken to process the complainant's licence has been detailed below:

Date	Action taken	Applicable Targets or Timeframes.
27/2/17	Reminder and PV15 form sent to the complainant to renew taxi licence.	14 weeks before the complainant's licence expired
27/3/17	TLM1 sent to the complainant as a result of DVA BF System.	10 weeks before the complainant's licence expired.
12/4/17	The complainant submitted incomplete application. Application did not contain verification of right to work in UK	
20/4/17	TLM1 Completed by the complainant's GPs	Three-and-a-half weeks after TLM1 sent to the complainant.
26/4/17	Completed application received by DVA. PV15 and TLM1 received.	Four-and-a-half weeks after TLM1 sent to the complainant. Six weeks before the complainant's licence expired. DVA's internal targets require TLM1 to be processed to OHS within 10 working days.
2/5/17	TLM1 Referred to OHS by DVA.	5 weeks before the complainant's licence expired. Processed by the DVA within their 10 day target.
5/5/17	TLM1 received by OHS. OHS process applications by the date received on a 'first come, first served' basis, unless the DVA request priority/urgent status.	OHS Targets for processing DVA referrals where no external medical information is commissioned: - Average 12 days. - 95% within 25 days.
6/6/17		The complainant's licence expired.
7/6/17	The complainant's TLM1 was reviewed by an OHS doctor who dictated a referral to 3FiveTwo for additional testing.	5 weeks after TLM1 referred to OHS.
22/6/17	The complainant called DVA for update. DVA requested that OHS process the application as a priority. OHS referral to 3FiveTwo transcribed.	Two-and-a-half weeks after the complainant's licence expired. Seven weeks after TLM1 initially referred to OHS. Once priority status has been requested, OHS target five working days to process the form.
28/6/17	Referral Transcription reviewed and sent to 3FiveTwo for specialist cardiology medical assessment.	Referred to 3FiveTwo within five working day target for urgent/priority applications.
29/6/17 – 4/7/17	3FiveTwo attempted to contact the complainant on several occasions to schedule his cardiology appointment.	Relevant 3FiveTwo Targets:- - Five working days from receipt of referral to first telephone contact

		<ul style="list-style-type: none"> - 10 working days from first telephone contact to date of first offer of appointment. - 10 working days from date of consultation to ECG investigation. - 15 working days from last investigation to discharge date.
5/7/17	The complainant called 3FiveTwo back and his appointment was booked for 24 July. OHS' timeline reflects that the complainant informed them 24 July was his first available date as he was on holiday.	
24/7/17	The complainant had his specialist cardiologist assessment and had a heart monitor fitted.	3 days outside of ten day target due to the complainant being on holiday.
27/7/17	Heart monitor returned by complainant	
27/7/17 – 15/8/17	3FiveTwo did not upload the data from the returned heart monitor to the complainant's electronic file. As the data did not appear on the complainant's record, 3FiveTwo staff attempted to contact the complainant to schedule a 48 hour heart monitor.	
15/8/7	The electronic data from the monitor was located and uploaded to the complainant's file.	
23/8/17	Letter from 3FiveTwo Cardiologist clearing the complainant for relicensing.	3 days beyond 15 day target.
24/8/17	The complainant called 3FiveTwo medical. 3FiveTwo have stated that the complainant was informed at this time that he had passed his medical. The complainant has disputed this, stating that he was not told he had passed his medical. The complainant's Licence was approved.	11 weeks after licence expired. 17 weeks after application received by DVA. 18 weeks after TLM1 signed by GP. 21 weeks after TLM1 sent to the complainant

20. As part of investigation enquiries, the Investigating Officer wrote to the DVA to request clarification on how the DVA processed the complainant's application. I have reviewed the DVA's responses to enquiries dated 26 April 2016 and 28 September 2018 as well as its responses to my draft report. I note the DVA have stated that '*a renewal reminder was sent to the complainant on 27 February 2017... and a separate medical reminder issued to the complainant on 27 March.*' This separate medical reminder included the TLM1 (medical form).

21. The DVA provided a chronology of events, which was reviewed as part of the investigation. This chronology indicates that the complainant submitted an incomplete application on 12 April 2017 and his completed application was

received by them on 26 April 2017. This included both the PV15 (general taxi application) and the TLM1 (medical application) forms. The TLM1 form was forwarded by DVA to OHS for medical assessment on 2 May 2018. The DVA stated that the complainant's completed licence application was not received until 26 April 2017 and believe that *'this delayed the application process considerably'*.

22. The Investigating Officer queried why the DVA do not set targets for OHS in respect of its processing applications where additional information is required. I note from the DVA's response that although OHS had a 12 day target to process 'routine' medical reviews, *'[t]here is no target in place for OHS completing medical reviews where additional tests or information are required.'* *'Often OHS medical advisers are delayed while they wait for medical notes from the applicant's GP, consultant, or other medical professionals or availability of very specific specialised tests.'* In fact, the DVA acknowledged that because of the additional processing needed, these complex referrals can take *'significantly longer'*. The DVA explained that *'[t]he process of scheduling and completing medical tests is one for OHS. The timescales will vary substantially from case to case, depending on the nature of the medical condition and the type of specialised tests required.'* The DVA also stated that *[d]ue to the nature and complexity of additional medical tests, it is not possible to set specific targets. Each referral is dealt with on a case by case basis, taking into account the specialist nature of the test required.'* I note that the DVA's website sets out general information for taxi licence renewal applicants. At interview, DVA staff confirmed that senior officials from the DVA and OHS meet regularly to discuss targets.
23. I note other relevant DVA performance targets include: *'95% of taxi licences issued within 10 working days'*; and *'100% of qualifying medical forms referred to OHS within 10 working days'*. The DVA stated it *'processed the complainant's application in a timely manner and at all stages within turnaround targets.'*

24. The DVA stated that it was in contact with OHS on a number of occasions to expedite the grant of the complainant's taxi licence. This included *'interced[ing] with OHS and 3FiveTwo Healthcare on the complainant's behalf on several occasions to expedite the application process and prevent any further delay'*. I note one occasion in particular after the complainant contacted the DVA on 22 June 2017. DVA *'staff contacted OHS immediately and requested that the complainant's medical report should be assessed urgently'*. However, the DVA also acknowledged that it had not contacted OHS on the complainant's behalf before he called the DVA on 22 June 2018.
25. The Investigating Officer sought clarification about why applicants are advised to apply for renewal between 10 and 12 weeks, but not more than 14 weeks, before expiry. The DVA responded that applicants are advised *'that applications normally take 10-12 weeks to process'* and instruct applicants not to apply for a licence earlier than 14 weeks because *'the timescales set help to ensure that medical evidence and criminal record information is current before the decision is taken to grant a licence'*.
26. I note that in response to enquiries, the DVA offered an explanation as to why they do not accept applications earlier than 14 weeks before expiry. *'Applicants for a taxi licence must satisfy a number of requirements at time of application, including conduct and medical fitness checks. The Access NI enhanced disclosure checks are valid for 90 days... The reminders are issued approximately 14 weeks in advance to facilitate the checking processes for both medical and criminal record checks. The timescales set help to ensure that medical evidence and criminal record information is current before the decision is taken to grant a licence.'*
27. The DVA acknowledged that because of the set timescales, in complex cases such as the complainant's, there is a risk that the medical review will not be completed before the applicant's licence expires.
28. The complainant's application comprised of two separate application forms. These forms were the general taxi licence PV15 form and the TLM1 medical

form. As part of the investigation, both forms were reviewed. All taxi applicants applying to renew a taxi licence must complete a PV15 form. Certain applicants who are over 45 years of age, or who have a specified medical condition, must complete the additional TLM1 medical form.

29. As part of the investigation enquiries, the DVA provided a copy of the PV15 form. I note that the PV15 form has an opening section titled '*Important Notes*' which instructs that applications '*normally take 10-12 weeks to process. It is recommended that you apply at least 10 weeks, but not more than 14 weeks, before a licence is required or your current licence is due to expire.*'
30. I refer to Section 8 of the PV15 form which outlines the medical requirements for taxi licensing. I note that this section states that '*[f]irst time and renewal applicants 45 years or over or applicants who have declared a medical condition will be asked to have a medical form completed by their GP.*'
31. This form also provides instructions to applicants that '*[w]hen a medical review is required the Department will send out another GP medical form*'. The '*medical form*' referenced is the TLM1 form. The PV15 does not outline when the TLM1 will be sent to applicants, or a desired timeframe for applicants to return the completed application.
32. I have reviewed the complainant's TLM1 form. The DVA sent a TLM1 form to the complainant on 27 March 2017. The complainant's GP completed the form on Thursday 20 April 2017 and it was received by the DVA on Wednesday 26 April 2017. I note that this was approximately six weeks before the complainant's licence was due to expire. Once the TLM1 form was received by the DVA, it was passed to OHS for assessment on 2 May 2017.
33. I note that the TLM1 form states that applicants who '*are applying to renew [their] licence on or after age 45*' will be required to have a medical. I note the complainant's date of birth on the TLM1 indicates that he was over the age of 45 at the time of his renewal application.

34. In response to the draft report, the DVA provided further information regarding the medical review process. This process *'is most commonly used in cases where a licence holder requires a medical review during the currency of their licence. Taxi driver licences are issued for a period of 5 years, but, based on the nature or severity of certain medical conditions OHS may only be able to clear the applicant for a shorter period. In the vast majority of cases where medical reviews are required, the applicant is medically cleared for 1, 2, or 3 years which prompts the system to issue a medical reminder during the currency of the licence.'* With regards to the medical reminder that was sent to the complainant, *'as OHS medically cleared him for 5 years, the system as updated to reflect this... as the complainant had not submitted his renewal application by the medical review date, then the system automatically generated a separate medical review reminder.'*
35. The DVA's website, NI Direct³ has been reviewed by my Investigating Officer. I note that the content is similar to that provided on the PV15 form. The website states that the DVA *'will send a TLM1 medical form out to [the applicant] when [it] receives [the applicant's] application'*. The NI Direct website also publishes general information for applicants, including setting out the medical requirements for applicants aged 45 years or older.
36. As part of the investigation, the Investigating Officer met with the Medical Director and the Client Advisor from OHS (the OHS representatives).
37. The OHS representatives explained there are three possible options when processing a TLM1. *'[O]nce it gets referred to a Medical Advisor they will make an assessment in terms of what information there is and decide: can make a decision there and then?; if they need further medical advice that may [mean] writing back to the person's General Practitioner, or their hospital consultant?...[Or] if we need a specialist medical assessment we refer to 3fivetwo'.*

³ <https://www.nidirect.gov.uk/articles/applying-or-renewing-taxi-driving-licence>

38. The OHS Representatives stated that the complainant's TLM1 form was received by it on 5 May 2017. The Investigating Officer sought clarification on the actions taken to process the complainant's TLM1. The OHS representatives explained that a medical officer from OHS reviewed the form on 7 June 2017 and dictated a referral to 3FiveTwo for additional cardiology testing. This referral was transcribed on 22 June. I note that this was the same day that DVA asked OHS to prioritise the complainant's application.
39. The OHS representatives explained that the referral, having been transcribed, was sent back to the medical officer for proof reading. The medical officer reviewed the referral decision and it was sent to 3FiveTwo on 28 June 2017.
40. The Investigating Officer sought clarification about OHS' performance targets. The OHS representatives explained that the 12 day turnaround target set by the DVA only applies to cases that do not require medical testing or additional records; *'[b]asically what we call further medical evidence, so if we need any other evidence really then, that's not included in the targets.'* The OHS representatives explained that the 12 day target did not apply to the complainant's application as his application required additional medical evidence.
41. The OHS representatives also explained that there are certain instances where the DVA may request that an application be treated as a priority. There are two priority categories used by the DVA. The first is 'Source of Danger', which OHS aim to process *'within 24 hours'*. The second category is 'urgent', which OHS process *'within 5 days'*.
42. The OHS representatives explained that when the complainant's licence was being processed, *'the main driver'* in determining priority was the date the application was received. The OHS has since changed this approach. Now, OHS *'try and, working with the DVA, they will highlight cases to us on a weekly basis and [OHS] will try to clear those to make sure the driver isn't, you know, his licence doesn't expire while [OHS are] holding it for an exceptional period of*

time. That's only something [OHS] only started... during the summer of this year' (2018).

43. The OHS representatives explained that OHS were experiencing challenging volumes of applications at the time the complainant's application came in. *'At that time there were heavy workloads of licence applications in relation to that. At that time there were over 1,100 outstanding and when the complainants application was received in February it was 1,100 received and over 2,000 outstanding at August 2017, so during that period of time workloads increased from 1,100 which is quite high, to over 2,000. When you compare that to the previous years there was 800 outstanding at the same period of time, at the start of the same period of time. So there had been a spike.'*
44. At the time the complainant applied for a renewal, OHS noticed *'a big, big increase in the number of referrals we've seen from DVA. I think this year, '17/'18, [OHS] received something like 16,000. If you go back to about 2012 I think it was about 12,000 or 13,000, so it's been a gradual year on year ramping up of it.'*
45. The Director of Investigations and Investigating Officer met with two representatives from DVA. These were the Head of Passenger Transport Licensing and the Head of Driver Licensing. The Head of Passenger Transport Licensing is responsible for processing taxi driver licence applications. The Head of Driver Licensing, among other responsibilities, oversees the DVA's relationship with OHS. The DVA explained that the complainant's renewal application was a standard five year taxi licence renewal.
46. Both DVA officials interviewed confirmed that taxi applicants are not permitted to drive if their licence has expired. They also explained that other types of licence holders are permitted to continue to drive if they have submitted their renewal application to the DVA and are complying with the DVA's processes.
47. The Investigating Officer asked the DVA to clarify why it chose not to send out TLM1 forms earlier. It was explained that the DVA's practice for taxi renewals is

to send out the TLM1 form when it receives the PV15. It was further explained that sending out TLM1 forms to all renewal applicants would necessarily include applicants who do not require a medical assessment. Therefore, sending out a TLM1 to everyone could cause applicants to spend ‘£60 - £80 for [a] medical’ that they do not need.

48. It was also explained that the PV15 contains information that allows the DVA to determine if the applicant is required to submit a TLM1. For this reason, the DVA’s practice is to wait until it receives the PV15 application. This allows the DVA to ‘ascertain whether [the applicant] needs a medical or not and that will be based on their age, or any health conditions that have been declared on the application form’. Further, it was confirmed that ‘not everyone [they] send a reminder to opts to renew their licence’.
49. The DVA initially stated that, in the complainant’s case, ‘the TLM1 was sent as soon as [the DVA] got the application... [the DVA] knew he was going to need a TLM1 based on the information on the form.’
50. However, it was later clarified that the complainant was sent a TLM1 on 27 March because “OHS had cleared the complainant for five years”. As the complainant was cleared for five years, the DVA ‘put a BF on the system and that allows [the DVA] to be aware that the complainant had required additional medical tests on a previous licence’. In response to the Draft Report, the complainant denied having any prior medical assessments as part his prior renewals, however a TLM1 would have been submitted as part of his prior application, which would also have triggered a BF reminder. The BF system therefore alerted the DVA that it was time for the complainant’s medical review. The DVA explained that the TLM1 ‘actually went out separately because [the DVA] knew from the previous licence that the complainant had undergone some medical assessment so [the DVA] had a BF ... in the calendar, so that actually allowed the TLM1 to go out more quickly than it normally would be, because we knew the complainant was going to need some medical assessment done.’

51. The Investigating Officer sought clarification on why the DVA's system does not forward TLM1 forms earlier, allowing more time to have the forms processed. The DVA stated that *'a medical has to be dated within 3 months from the date of the application... that's set in legislation'*.
52. Once the TLM1 forms are received, the DVA has a ten day target to process those forms to OHS. However, it was confirmed that these *'are usually sent to OHS within a couple of days'*. It was explained that the DVA *'prioritise [TLM1s] as soon as they come in because [the DVA] know some of them can take a long time'*.
53. The DVA explained that having forwarded the TLM1 forms to OHS, they do not routinely request that OHS prioritise taxi applications over other types of licences.
54. At the time of the complainant's application, the DVA procedure was to instruct OHS to prioritise applications only where an applicant had contacted DVA to request priority status. The DVA confirmed that no general information was made available to applicants informing them to make contact with DVA if they needed their application to be prioritised.
55. Where a taxi renewal applicant has been extremely diligent, the DVA explained that they would expect to receive completed TLM1 application forms *'approximately ten weeks'* before expiry. The DVA also stated that applicants can call the DVA to request a TLM1 form in advance.
56. At interview, the Director of Investigations asked why the complainant's licence was not prioritised by OHS prior to 22 June 2017. The DVA explained that it was only when the complainant contacted them on 22 June 2017 that *'the brakes were lifted and everything was as expedited as quickly as [they] possibly could.'*
57. The DVA also confirmed that the DVA were not aware what had been happening with the complainant's application before the complainant contacted

the DVA on 22 June 2017. It was indicated that *'OHS did not action [the application] for those first few weeks'* and that the DVA were not aware of that.

58. The DVA explained that there is an ongoing discussion with OHS about how to get the best from their working together. In particular, there are ongoing discussions between OHS and DVA regarding outstanding referrals and which referrals to prioritise. It was also explained that since the complainant's application was processed, the DVA have a new procedure requiring OHS to prioritise medical application forms where the licence is approaching expiry.
59. The DVA explained that although there are *'broad terms'* in the SLA, *'[I]t's the day to day business where the monitoring and checking if we've got outstanding cases, or if there's cases that have been with [OHS] for a long time, or don't appear to be moving, that's kind of up to the Operations Managers to keep that in train to set a BF to be going back to OHS and saying this one has been here with you for a while, where are you with it, and then there's an escalation process within that as well.'*
60. With regards to the amount of referrals that proceed to OHS, it was noted that *'in the last three years we have, on the driver licensing side, experienced an increase in the number of referrals that go to [OHS] and that's a cyclical thing that comes around every ten years.'* I note the explanation for this was that in 1985 *'in line with EU Requirements, EU Directives, licences moved from a three year to a 10 year licence. So '85, '86, and '87, everybody that had a three year licence, they were transitioned to a 10 year licence, so we experience this peak renewal period for a period of three years. It tends to last a wee bit longer than three years now, it's almost tailing out and it's really just lag'*.
61. Due to the cyclical nature of renewal applications, the DVA experiences an increase in applications for three years, every ten years. Before this increase, the DVA issued 220,000 driver licences per annum. When the renewal cycle occurred, the number of applications increased to approximately 300,000 for three years. The complainant's renewal application was received during this upturn in applications.

62. The DVA acknowledged that although not all of these licence applications would be forwarded to OHS, *'OHS [had] been dealing with that increase in volumes of referrals'*. In relation to OHS referrals, it was indicated that *'it's probably more 8,000 or 9,000 in a non-peak renewal year and then up to around 12 [thousand in a renewal year]'*.
63. A new IT system was implemented in November 2016 and because of that, *'around about February/March '17 [the DVA] started to suffer with turnaround times and we got into a backlog position and there was probably a reduction in the number of cases that went to OHS'*. As a result of the change in system, a backlog formed and *'all of a sudden [the DVA] surged and got the applications through to them, so they probably struggled to deal with that as well.'*
64. The DVA also confirmed that the timeframe of April to August 2017 was a particularly busy time for referrals to OHS for two reasons. Firstly, the DVA were in a *'peak renewal'* period, caused by the cyclical increase in licence renewals that occurs for three years, within every ten years. Further, the DVA had recently introduced a new IT system. The DVA confirmed that it had not discussed with OHS the need to prioritise taxi licence applications at this time, despite the increased volume of medical applications.
65. The DVA also stated that there are ongoing developments designed to improve its service to the public that may impact on the medical referral service. This includes updating the DVA's Driver Licensing IT system. These changes include enabling medical officers to access the medical referrals through electronic workflows and work queues, including the associated medical reports. The DVA anticipate that this will enable a more efficient referral process.
66. I note also that the DVA has obtained the code for an existing web based online service offered by DVLA in England. It is expected that *'this service will reduce the number of citizens who need to be investigated by DVA staff as the online toolkit will triage and filter out those conditions that do not need to be declared or the driver can be cleared to drive'*.

67. Both OHS and the DVA had noted an increased number of referrals to OHS. In light of this, the Investigating Officer obtained statistics from OHS regarding the number of referrals received from OHS, which are noted below:

	2014/15	2015/16	2016/17	2017/18
Total DVA medical applications	10,125	11,422	12,457	15,202
Total TLM1 (taxi) applications	1269	1125	1112	1046
Additional testing needed for TLM1		109	119	97
Average days to complete referral		8	16	22

Timeline received from 3FiveTwo

68. Further, 3FiveTwo provided a timeline of its role in processing the complainant’s application. I note that 3FiveTwo received his referral from OHS on 28 June 2017 and sent a booking letter to the complainant that day. I note that OHS emailed to request that 3FiveTwo treat the application as ‘urgent’.

69. I note that 3FiveTwo attempted to call the complainant without success on 28 June 2017 and 4 July 2017. The timeline provided by 3FiveTwo evidences that the complainant spoke with its representatives on 5 July and told them he was on holiday until 23 July 2017. The complainant confirmed that he was on holiday from approximately 10 July 2017 to 23 July 2017. His appointment was arranged for the day after his return.

70. The complainant attended the medical appointment scheduled on 24 July 2017. As part of the testing, the complainant was fitted with a heart monitor that he had to wear overnight and return to 3FiveTwo. This was returned on 27 July 2017. Unfortunately, the 3FiveTwo timeline confirms that recording from the monitor was not immediately uploaded to the patient’s electronic record. As the record was not properly loaded to his file, 3FiveTwo representatives were unaware that the complainant had returned his heart monitor. For this reason, 3FiveTwo representatives contacted the complainant on several occasions

between 27 July 2017 and 15 August 2017 to schedule a time for him to have his monitor fitted.

71. The timeline provided by 3FiveTwo evidences that the complainant spoke with representatives from 3FiveTwo on 15 August 2017 and clarified that he had, in fact, already had a heart monitor fitted and had returned it on 27 July 2017. The cardiac team did not upload the report until 15 August 2017.
72. After the cardiac monitor recording was uploaded on 15 August 2017, the 3FiveTwo cardiologist completed his review. A report was forwarded to OHS on 23 August 2017. The complainant was considered medically fit to drive by OHS and his licence was issued the next day (24 August 2017).
73. As part of the investigation enquiries, the complainant provided the investigation with documentation relating to his earnings for the financial years 2016-2017 and 2017-2018. I note that the documentation indicates that the complainant did not make a profit in either year from driving taxis.

Analysis and Findings

74. I will consider this issue of complaint under the following headings:

(i) DVA's processing of the complainant's application; and

(ii) DVA's management of its relationship with OHS.

(i) DVA's processing of the complainant's application

75. The complainant stated that his application was not processed in a timely manner by the DVA. As a result, he was unable to earn a living from 6 June 2017 to 24 August 2017. The DVA claimed that it is constrained by statutory limitations that prevent it from allowing renewal applications more than three months before expiry. I have also noted the DVA's response that the complainant's application was processed within its target times and the scheduling of medical appointments is outside of its control.

76. I note that taxi licence applicants are unable to continue to drive if their licence expires while their renewal application is being processed. I note that this is unique to taxi applicants. All other licences remain valid so long as the renewal application has been submitted before expiry and the applicant complies with the DVA's processes. For this reason, I consider that taxi renewal applicants face a unique risk of temporarily losing their ability to earn a living, even if they apply to renew their licence in accordance with the guidance provided by DVA. I further note that pursuant to the timeline outlined at paragraph 18, the DVA has complied with its internal practices for processing taxi renewal applications. However, as the primary responsibility for processing taxi driver licence renewal applications (including associated medical testing) rests with the DVA, my investigation of this issue is not limited to whether the DVA complied with its own targets. DVA are also responsible for the actions of OHS and 3FiveTwo as these organisations act on behalf of DVA. My investigation will therefore consider how the taxi licence renewal process is managed in its entirety by the DVA and those acting on its behalf.
77. The First Principle of Good Administration 'Getting it right' requires public service providers to act in accordance with the law. In order to assess whether DVA's practices were appropriate, I have reviewed the relevant legislative requirements under which the DVA operate in relation to accepting medical assessments. In particular, I have considered regulation 10 of the 1996 Regulations. I note that although regulation 10(1) limits the DVA's time to accept taxi renewal applications to three months, regulation 10(5) states that medical reports must be *'signed by a qualified medical practitioner, prepared and dated not more than four months prior to the date on which the licence is to take effect'*.
78. There are two separate timeframes provided for by the 1996 Regulations; a three month timeframe for applications generally (the PV15 form); and a four month timeframe for medical forms (the TLM1 form). I note that pursuant to the 1996 Regulations, TLM1 forms can be signed and dated by medical providers up to four months before a taxi licence is due for renewal. Although in response to investigation enquiries the DVA have stated that medical reports must be

signed within three months, the legislation provides for a four month timeframe. In response to my draft report, the DVA commented that because of GDPR restrictions, it would '*have no entitlement to seek medical information*' before a valid PV15 has been submitted. During this investigation, the DVA did not evidence why the four month timeframe provided for by the 1996 Regulations did not apply to the complainant's application. During a meeting with the Director of Investigations and the Investigating Officer, the DVA further explained that it typically does not send out medical application renewal (TLM1) forms to applicants before carrying out the other necessary licensing checks because the medical assessments are paid for by the applicants. The DVA explained that it does not want to subject applicants to this cost if their application will be denied on medical grounds.

79. An applicant is precluded from driving when their licence expires. Therefore, I consider taxi renewal applicants should be afforded sufficient time as is provided for in the 1996 Regulations to submit a TLM1 application before the licence expiry date. The Second Principle of Good Administration is 'Customer Focus'. Public service providers must consider the customer's needs. In my view, DVA is obliged to ensure that taxi renewal medical forms are processed as efficiently as possible and in a way that maximises the available time to ensure applicants' licences will not expire before being renewed.

80. Having considered the impact of the legislative framework; I will now consider the operational timeframes imposed by the DVA for accepting taxi renewal applications generally. I note that the DVA asks all applicants to apply '*between ten and 12 weeks*' before their licence expires. I also note that the DVA advises applicants not to submit an application for a taxi licence renewal any earlier than 14 weeks. It would appear that the DVA has set these timeframes based on the understanding that applications must be submitted within three months of the date of expiry. I note DVA's practice prevents taxi drivers, including the complainant, from submitting an application to renew their licence any earlier than 14 weeks before their existing licence expired. Although applicants are advised to apply between 10 and 12 weeks before their licence expires, this timeframe applies to the taxi PV15 application form. I note that the PV15 form

indicates that a TLM1 will be sent to applicants who need to have a medical completed once the DVA receives a valid PV15 form.

81. I refer to the chronology outlined at paragraph 18 of this draft report. The 17 weeks required to process the complainant's TLM1 medical form was the main reason why the complainant's licence renewal was not be approved before 24 August 2017. Therefore, the investigation has focussed on the DVA's practices for distributing and processing TLM1 forms.

82. There are two DVA practices for disseminating TLM1 forms. A TLM1 is sent to an applicant either upon receipt of a completed PV15 form, or pursuant to a separate medical BF reminder system. The purpose of the medical BF reminder system is to send TLM1 forms to applicants based on the date when the applicant was last considered medically fit by OHS. In the majority of instances, the BF reminder system is used to alert applicants that they require a new medical assessment during the currency of their licence. As the complainant was considered medically fit for the full five year duration of his licence in 2012, he was sent a reminder on 27 March 2017. The DVA explained at interview that *'[t]he 27 March date was the date that OHS had cleared the complainant for 5 years the last time, so we just put a BF on the system and that allows [the DVA] to be aware that the complainant had required additional medical tests on a previous licence'*. The complainant was sent a TLM1 *'because [the DVA] knew from the previous licence, that the complainant had undergone some medical assessment so [the DVA] had a BF...in the calendar'*. It is important to note that the BF system is not triggered from the date that an applicant's licence will expire, but from the date the applicant was last 'cleared' medically by OHS. As the BF system is calculated from the date the complainant was last medically 'cleared' and not from the date his licence was due to expire, a reminder was not sent until 10 weeks before his licence expired.

83. In addition to the BF reminder system, I have also considered DVA practice in relation to sending TLM1 forms upon receipt of a completed PV15 form. The DVA reminds applicants to submit the general taxi application PV15 forms 14

weeks before their licence expires. The instructions contained in the PV15 form state that *'[w]hen a medical review is required the Department will send out another GP medical form.'* The medical form referred to is the TLM1.

84. Pursuant to this instruction, the DVA anticipate that an applicant will submit a completed PV15 approximately 10-12 weeks before their licence expires. Once the PV15 is received by the DVA, the DVA will review the PV15 and determine whether the applicant requires a TLM1 form. If the applicant requires a TLM1, this will be forwarded upon completion of the PV15 review.
85. The complainant's 14 week (PV15) reminder was sent out on 27 February 2017. The complainant has stated that he had the shingles around the time the PV15 was sent to him. I note the DVA's assertion that the complainant *'delayed the application process considerably'* because his valid *'completed application'* was not received by the DVA until 26 April 2017. The complainant's completed application consisted of both a PV15 form and a TLM1 form. I accept that there was a delay in the complainant submitting his PV15. He has explained that this was due to the fact he had the shingles. However, the impact of this delay was not the only factor leading to the delay in renewal of the complainant's taxi driving licence. I consider the main reason for the delay in processing the complainant's licence was the time to assess his medical fitness to drive. Assuming the complainant had submitted his PV15 form within the DVA's suggested 10-12 week timeframe, the complainant would still have had to wait for the DVA to send him a TLM1, in accordance with DVA practice. He therefore would still not have been in a position to submit his *'completed application'* until his GP completed the TLM1.
86. The complainant was forwarded a TLM1 form on 27 March 2017 pursuant to the medical form BF reminder system. Assuming the complainant had submitted a PV15 10-12 weeks before his licence expired, according to the DVA's practice it would have immediately sent out a TLM1. However, the complainant would still not have received the TLM1 from the DVA until late March. Having carefully considered the DVA's practices for disseminating TLM1 application forms, in my

view the complainant could not have submitted a *'completed application'* significantly earlier.

87. I note that the DVA stated that its practice is not to send out TLM1 forms to applicants *'in advance of the PV15 forms ... as customers would potentially... incur the cost of a medical when it is not required'*. The DVA reasoned that if TLM1 forms were sent *'out to everybody'*, some applicants who do not require medical evaluations would pay for medicals that they do not need. By waiting until it receives the PV15 form, the DVA ensures TLM1 forms are only sent applicants who require a medical as part of their application. I accept this explanation.
88. I agree that it may not be prudent for the DVA to send TLM1 forms to all taxi renewal applicants. The DVA application forms state that applicants who are *'applying to renew their licence on or after age 45'* and *'applicants who have a declared medical condition'* must have a TLM1 medical form completed. There is no risk of these applicants incurring an unnecessary medical cost, as a medical will always be required if they decide to renew their taxi driving licence. I acknowledge that an applicant must also satisfy the other prerequisites for holding a taxi driving licence.
89. I refer to the Fourth Principle of Good Administration which states that public service providers must act fairly and proportionately. This includes ensuring actions and decisions are appropriate, proportionate and fair. A proportion of applicants, including the complainant, may fall into the category of the age of 45, and/or have a declared medical condition. I accept that the DVA have a number of issues to consider. There are legislative considerations to be addressed in determining the procedure for processing taxi driver licence applications. However, I find that the DVA's current system for providing TLM1 forms to applicants poses an unnecessary risk on applicants that their medical assessments will not be processed before their license expires.
90. Having considered the relevant legislative framework and DVA practices, I will now consider the length of time taken to process TLM1 forms generally and how

these have been applied in the complainant's case. The DVA have acknowledged that because *'[t]he timescales will vary substantially from case to case, depending on the nature of the medical condition and the type of specialised tests required'*, it is difficult to predict the timeframe for completion of TLM1 processing. The DVA also stated that *'[d]ue to the nature and complexity of additional medical tests, it is not possible to set specific targets. Each referral is dealt with on a case by case basis, taking into account the specialist nature of the test required.'* The DVA also note that its application forms warn applicants that requiring additional medical information can delay a decision on the applicant's licence.

91. It is apparent from the DVA's responses to investigation enquiries that the DVA are unable to predict how long the medical assessment of an applicant will take to process in a particular case. The Second Principle of Good Administration requires public service providers to respond to customer needs flexibly. Given that the DVA are unable to accurately predict how long it will take to process a TLM1 form, I recommend that it should review its practices in relation to its management of medical assessment applications. This review should take account of the statutory provisions within the 1996 Regulations and other appropriate legislative provisions, to ensure that applications are processed in a timely manner. This review of practice would, in my view, comply with the Second Principle of Good Administration and demonstrate a customer focus. In particular, I note that the complainant's application required 17 weeks to process from the date it was received by the DVA. The DVA have acknowledged that even the most diligent of applicants return a completed TLM1 *'approximately ten weeks'* before expiry.
92. I consider that the DVA's current practices lacks proportionality and customer focus and places taxi renewal applicants (like the complainant) at an increased risk that their licence will expire while their renewal applications are pending. The First and Second Principles of Good Administration, *'getting it right'* and *'being customer focused'* require a public service provider to act *'in accordance with the law and with regard for the rights of those concerned'*, *'ensure people can access services easily'*, respond *'to customers' needs flexibly'* and *'deal*

with people helpfully'. The complainant was provided with a TLM1 form 10 weeks before his licence expired. The DVA then took a total of 17 weeks to process his medical application. The practices of DVA failed to ensure that the complainant's application would be processed before his licence expired. This failed to meet the requirements of the First, Second and Fourth Principles of Good Administration. I consider that this constitutes maladministration.

(ii) The DVA's management of its relationship with OHS.

93. The DVA contracts with OHS to process the TLM1 forms. OHS is responsible for processing all vehicle licences that require additional medical assessment on behalf of the DVA. OHS processing includes that relating to regular vehicle licences, lorries, buses and taxis. As part of my investigation, I have considered the DVA's procedures for referring TLM1 forms to OHS generally and specifically as it relates to the complainant's case.
94. The evidence I have considered indicates that OHS processed applications on a first-come-first-served basis in line with the SLA. As a result of its agreement with OHS, the DVA can instruct it to treat certain applications as a priority/urgent. Once instructed by the DVA, OHS has five days to process an 'urgent' application. Unless otherwise instructed by the DVA to treat certain applications as a priority, or urgent, all applications are processed by OHS in the order they are received by it.
95. In 2017, the DVA assigned priority status to an application with OHS only in circumstances where an applicant contacted the agency and explained why their particular application required immediate processing. If an applicant did not make contact, the application would not be treated as priority/urgent. The nature of the vehicle licence being applied for (for work or other purposes) and the expiry date of the licence were not considered by DVA, unless the applicant brought these issues to its attention.
96. In relation to this complaint, I have considered the time taken to process the complainant's TLM1 from OHS to 3FiveTwo. I note that the DVA forwarded the

complainant's TLM1 application to OHS on 2 May 2017. I note that the complainant first called to enquire about the status of his licence application on 22 June 2017. As a result of this call, the DVA instructed OHS to treat his application as a priority. This timeframe was two-and-a-half weeks after his licence expired and eight-and-a-half weeks after his application was received by the DVA. The DVA did not proactively discuss the complainant's application with OHS between 2 May 2017 when the application was referred to OHS and 22 June 2017 when he called to check on the status of his application.

97. The DVA's failure to communicate with OHS about the complainant's application meant the DVA taxi licensing team were unaware that OHS had not completed the internal review when he called on 22 June 2017.

98. I have considered the statements from OHS and DVA relating to additional workload pressures on OHS at the time of the complainant's application. I have also considered the statistics provided by OHS and the DVA relating to the volume of referrals that were being passed to OHS. Having considered this information, I am satisfied that OHS was under additional pressure at this time as a result of the new DVA IT system, reduced medical staff, and the cyclical increase in applications that occur for three years every ten years.

99. Due to the additional pressures outlined above, OHS was processing a higher volume of applications than usual. I consider that as the DVA had contracted with OHS to assess TLM1 forms, along with other medical forms, the DVA was responsible for ensuring the effective delivery of the medical assessment of fitness to drive to the public. The Second Principle of Good Administration 'Being Customer Focussed' requires public service providers to keep to published commitments, including any published service standards and to respond to customer needs flexibly. This may require, where appropriate, co-ordinating a response from other service providers.

100. In light of the pressures being placed on OHS at this time and to maintain its service to the public, the DVA ought to have been proactive in communicating with OHS regarding processing priorities. As noted earlier in my report,

applicants for taxi driving licences are at risk of their livelihood being affected by a prolonged licence application process. I appreciate that there may be other circumstances which can arise where processing applications can be a priority. For instance, an individual may require a physical copy of their licence, for example, to hire a car or due to employers requiring a physical copy of an in date driver's licence. Regular communication between the DVA and OHS would have allowed the DVA to ensure that OHS were processing applications in order to respond to the particular needs of each individual's particular circumstances.

101. There is evidence of regular contact between the DVA and OHS. Therefore, DVA ought to have been aware that the complainant's TLM1 was not being progressed appropriately. DVA was aware of the complainant's licence expiry date when it forwarded his TLM1 to OHS and that he required additional medical testing previously. I also note that as the complainant's application was to renew a taxi driving licence, the DVA would have been aware that if his medical assessment was not prioritised by OHS, he would be out of work if his licence was not renewed in time. I note that the SLA between OHS and the DVA does not provide for specific performance targets in relation to the processing of taxi driving licence renewal applications that required additional medical testing, such as the complainant's. This omission, in my view, impedes DVA from meeting its service obligations to the public overall, and in particular where priority cases arise.

102. I have considered the content of the interview with the Head of Passenger Transport. In particular, I note her statement that *'[t]he difficulty is once [the DVA] send [the TLM1] off to OHS, then OHS deal directly with the GP, or with the Consultant, or with 3FiveTwo, so they do not advise [the DVA] when that is happening, or what is happening, because that is between them and the customer. So it was only whenever the complainant contacted [the DVA] on 22 June and said 'I haven't heard anything, what is happening?' that we asked OHS for the position, and OHS prioritised it from then on.'* I note that despite the increased pressure on OHS and the fact that the complainant's licence was expiring, the DVA had no procedure in place to ensure that the complainant's

TLM1 was being monitored and prioritised by OHS before the complainant contact on 22 June 2017.

103. DVA failed to regularly communicate with OHS regarding the status of the complainant's application prior to 22 June 2017. Further, I consider the DVA's failure to have an adequate system in place for prioritising taxi applications where priority is needed is a failing. The First Principle of Good Administration, '*Getting it Right*' and the Second Principle of Good Administration '*Being Customer Focused*' requires a public service provider to provide '*effective services*' to its customers and to deal with people '*helpfully, promptly and sensitively, bearing in mind their individual circumstances*'. I conclude that by failing to have a system in place for prioritising taxi licences that are approaching expiry and by failing to communicate with OHS regarding the complainant's TLM1 referral, the requirements of the First and Second Principles of Good Administration were not met. This constitutes maladministration in this case.

CONCLUSION

104. This complaint was about the actions of the DVA in relation to its processing of a taxi licence renewal. The complainant stated that the DVA failed to process his taxi licence renewal in a timely manner, and that this caused him stress, anxiety and financial loss. That is because he was unable to earn a living as a taxi driver between 6 June 2017 when his licence expired and 24 August 2017 when his renewal application was granted.
105. I have investigated the complaint and have found maladministration in relation to the following matters:
- (i) Failure to manage the complainant's medical renewal process form in a timely and appropriate manner, thereby increasing the risk that his licence would expire while his renewal was being processed.

- (ii) Failure to properly communicate with OHS regarding the processing of the complainant's taxi licence renewal application to ensure it was treated as a priority; and

106. I am satisfied that the maladministration I have identified caused the complainant to experience the injustice of distress, frustration, uncertainty, and the loss of benefit of a taxi licence. The complainant also sustained the time and trouble of pursuing his complaint.

Recommendations

107. I recommend that the DVA:

- (i) Issues the complainant with an apology in accordance with the NIPSO guidance on apology. This is for the failings identified, and should be issued within **one month** of the date of my final report.
- (ii) Provides the complainant with a payment of £350 by way of solatium for redress in respect of the injustice of distress, frustration, loss of opportunity and time and trouble within **one month** of the date of my final report.

108. I welcome the fact that the DVA is exploring changes to its IT system that will hopefully facilitate a smoother evaluation process for taxi licence application. In response to the Draft Report, the DVA have explained how its new Commercial Licensing System (CLS) will provide additional benefits for Taxi Drivers. In particular, I note that the new system will eliminate physical forms and will allow for flexibility in the system to message an applicant at any stage, reducing time lag from the current postal system. I also welcome the response from the DVA indicating the complexities associated with processing Taxi Applications. Although my investigation has focussed on one particular aspect of one particular application, I recognise that every application – and every applicant -- is different. For the purposes of the complainant's complaint, I have focused on the DVA's

processing of his medical application form. I consider there were a number of lessons to be learned which provide DVA with an opportunity to improve its services to the public. I recommend that the DVA:

- (i) Review its practices in relation to its management of medical assessment applications taking account of the statutory provisions within the 1996 Regulations and other appropriate legislative provisions, to ensure that applications are processed in a timely manner;
- (ii) Carryout a review or audit of complaints similar to the complainant's to ascertain whether there have been service failings leading to injustice.
- (iii) Review its SLA with OHS with a view to having an operational protocol allowing for efficient processing of Group 2 applications with agreed performance targets.

109. I recommend that the DVA develop an action plan to address these recommendations identified in my report and provide me with an update within **six** months of the date of my final report. That action plan should be supported by evidence to confirm that appropriate action has been taken (including, where appropriate, records of any relevant meetings, and an audit/review report where necessary amended policies/procedures should be evidenced and training plans for relevant staff established.

Marie Anderson

MARIE ANDERSON
Ombudsman

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.