

Vehicle and Operator Services Agency

A Hampton Implementation Review Report

December 2009

Vehicle and Operator Services Agency

This review is one of a series of reviews of regulatory bodies focusing on the assessment of regulatory performance against the Hampton principles and Macrory characteristics of effective inspection and enforcement. It was carried out by a review team drawn from the Better Regulation Executive, Natural England and Companies House, in July 2009.

Further information about the reviews can be found at:

<http://www.berr.gov.uk/whatwedo/bre/inspection-enforcement/implementingprinciples/reviewing-regulators/page44054.html>

EXECUTIVE SUMMARY AND CONCLUSIONS

Key findings from the review:

The Vehicle & Operator Services Agency (VOSA) demonstrates a significant level of compliance with the Hampton principles. It appears to know its customer base very well and considers likely impacts on them of changes to its policies and processes. The review team found no evidence that VOSA places any significant unnecessary or disproportionate burdens on business as a result of its inspection and enforcement activities (n.b. the review did not cover VOSA's licensing activities, where it undertakes administrative work on behalf of the Traffic Commissioners). Key findings from the review were:

- VOSA is valued by its customers for the independent and high quality services it provides, in order to ensure a high level of vehicle safety.
- VOSA consults and communicates with its customers – many of whom fall into the “difficult to reach” category - through a variety of media, often using imaginative and innovative methods. This approach ensures that advice and guidance is widely disseminated to those who need to know about it, including SMEs and overseas operators who are not members of the main trade associations.
- The Operator Compliance Risk Score (OCRS) system has enabled VOSA to focus its resources devoted to roadside checks of heavy goods vehicles (HGVs) and public service vehicles (PSVs) on those vehicles and operators which present the highest risks to road safety.
- Although only implemented recently, it appears that the fixed penalty and deposit scheme is delivering its intended results, including better compliance with the regulatory framework by operators.
- VOSA's plans for the implementation of its commercial vehicle testing service transformation programme are sensitive to the need to deliver reductions in the burden on businesses arising from annual vehicle

inspections.

Main issues for follow-up identified during the review:

The key follow-up issues identified are:

- VOSA should consider, as part of its wider communications strategy, taking steps to increase awareness among customers of HGV and PSV operators of the criteria used (and not used) to determine levels of risk within the OCRS. Additionally in this context, the Review Team believes there is a public interest argument that information on individual operators risk scores – including the reasons underpinning them – should be published to enable potential customers of HGV and PSV operators to make informed choices.
- While the OCRS allows VOSA to accurately identify high risk operators, adopting an approach whereby operators' risk scores (and therefore the likelihood of being stopped by a roadside check) are in part based upon compliance relative to other operators, VOSA risks carrying out inspections without a reason in the future, especially if the system contributes to increased compliance with the regulatory framework. In view of this, VOSA could improve the Hampton compliance of the OCRS by removing the relative comparison between operators and basing the system purely on whether operators are compliant with the actual regulations.
- As testing transformation progresses, VOSA will have to be vigilant to ensure that the detailed arrangements for implementation are carried out in such a way so as to safeguard its independence and the existing standards of service which customers expect of the organisation.
- A formal communication strategy agreed by the VOSA Board would allow the agency to communicate with stakeholders in a more structured manner, in particular to target resources more effectively at the most efficient media.
- VOSA is currently in the process of migrating its web-based advice and guidance to the

Business Link website. Further work with Business Link will be necessary to ensure that this material is as comprehensive, easily accessible and navigable for stakeholders as VOSA believes is necessary.

- VOSA's outcome measures are based mainly on its enforcement role, in particular the number of prohibitions it issues against unsafe vehicles. However, VOSA's key objective would appear to be about improving road safety. In view of this, VOSA should consider setting a measure which relates more directly to safety improvements, such as reductions in the number of accidents due to unsafe vehicles.
- Implementation of the fixed penalties scheme could be improved through the introduction of administrative changes to speed up the payment of fines. This would enable VOSA staff to focus more of their efforts on genuine enforcement activities.
- The Review Team believes that in order to make further progress towards Hampton compliance, VOSA would benefit from giving the Hampton principles a higher profile across the organisation. Appointing a Board member as a "champion" for Hampton would be a good first step towards achieving this.

INTRODUCTION

Introductory background information about the regulator such as the rationale for establishing it:

The Vehicle and Operator Services Agency (VOSA) is an Executive Agency of the Department for Transport. It provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles, ensuring the compliance of operators and drivers with road traffic legislation, and supporting the independent Traffic Commissioners.

VOSA was formed on 1 April 2003 following the merger of the Vehicle Inspectorate and the Traffic Area Network division of the Department for Transport.

The legislation establishing the regulator:

VOSA's statutory powers derive from a mixture of domestic and European Union law. The most important UK Acts are:

- The Road Traffic Act 1988 as amended by the Road Traffic Act 1991 which covers, among other things, statutory annual tests on HGVs and PSVs; monitoring and enforcing the condition of goods vehicles through roadside and other checks; supporting the Traffic Commissioners in enforcing the requirements of the HGV Operator Licensing Scheme; and
- The Public Passenger Vehicles Act 1981, which covers similar ground for PSVs.

The regulatory framework is also underpinned by EU regulatory requirements, e.g. Directives 96/96 and 2000/30 which set out rules on roadworthiness tests and for carrying out technical roadside checks to ensure that affected vehicles are safe. There is also EU legislation governing the carriage of dangerous goods and the Working Time Directive contains provisions on the minimum rest periods required of HGV drivers.

The regulator's statutory remit or objectives:

VOSA's key functions covered by this review are:

- **Testing and Inspections** – Conducting statutory annual testing for HGVs and PSVs at a nationwide network of VOSA test stations and at private sector-owned approved testing premises. It also undertakes specialist inspection of vehicles, e.g. certification of PSVs before they enter service.

- **Enforcement and Compliance:**
 - Identifying operators against whom it may be appropriate to take disciplinary action by gathering and evaluating a range of data;
 - Conducting routine and targeted checks of operators' premises and systems designed to check compliance with other road traffic legislation, e.g. drivers' hours, at roadside and at operators' premises;

- **MOT** – supervising the MOT scheme to ensure that the garages authorised to carry out MOTs do so to the correct standards. This is done by approving and training Authorised Examiners (AEs) and Nominated Testers (NTs) to carry out MOT tests; monitoring standards of garages and tests; providing seminars and other advisory services and where necessary, taking disciplinary action to improve testing standards and to raise levels of compliance.

The regulator's budget:

According to VOSA's 2009-10 Business Plan, its total forecast income for 2008-09 was £183.3 million and planned income for 2009-10 is £196.4 million. The majority of its income (c. £150 - £160 million) derives from statutory fees, e.g. for statutory testing, licensing and supervision of the MOT scheme. Most of the rest (c. £20 million) is central Government funding for enforcement activities.

Total forecast expenditure for 2008-09 was £194 million and planned expenditure for 2009-10 is £202.4 million. Around half of these figures are made up of staff costs (£92-93 million). The rest is distributed between expenditure on MOT IT charges, other IT charges, accommodation, travel and subsistence and various other types of running costs.

Number of staff (including breakdown of policy and frontline staff):

During 2007-08, VOSA employed on average 2,436 staff.

The sectors and number of businesses regulated either directly or indirectly:

Road Haulage - At the end of 2007, there were 446,000 goods vehicles over 3.5 tonnes registered in Great Britain and around 100,000 HGV operator licences. Around 45% of operators had one vehicle only and 0.3% had fleets of 100 vehicles or more, although the large operators account for 14% of the

overall fleet.

Public Service Vehicles - As of 31 March 2008, there were 80,400 PSVs in Great Britain. Of these, 45,300 were full size buses, 11,900 were minibuses and 23,200 were coaches. In 2007-08, bus and coach operators employed 173,800 people, of whom 131,900 were drivers and conductors and the remainder maintenance or administration staff.

MOT Test Centres - There are around 19,000 test centres authorised to carry out MOTs, most of which are SMEs, 16,500 authorised examiners (i.e. an individual, partnership or company authorised to carry out MOTs) and around 50,000 nominated testers (i.e. those who carry out the tests).

THE HAMPTON VISION

Both the Hampton and Macrory reports are concerned with effective regulation – achieving regulatory outcomes in a way that minimises the burdens imposed on business. Key to this is the notion that regulators should be risk-based and proportionate in their decision-making, transparent and accountable for their actions and should recognise their role in encouraging economic progress.

Any findings relevant to whether the regulator is risk-based:

The Operator Compliance Risk Score (OCRS) system has been designed by VOSA in order to ensure that roadside vehicle checks are able to target higher risk operators, rather than those which are compliant. Following its implementation, statistics show that prohibition rates for green rated HGV and PSV operators are around half those for red rated operators (e.g. between April 2009 and September 2009, the prohibition rate for green rated HGV operators was 16.1% and for red rated operators 38.1%). Following the implementation of the OCRS, the average score for operators in each band (red, amber and green) has decreased, demonstrating improved levels of compliance.

Similarly, the level of fines payable under the fixed penalties scheme have been fixed according to the severity of the offences in question.

VOSA staff who conduct annual inspections and roadside checks have a clear understanding of the risks to road safety which could arise due to the different types of vehicle defects.

Any findings relevant to whether the regulator is transparent and accountable:

VOSA appears to be an open organisation which communicates with its stakeholders in a number of formal and informal fora. As a result of this, it is clear that, through one medium or another, operators and drivers are aware of the regulatory framework, including recent changes such as the introduction of the fixed penalty scheme.

The Agency has recently published its enforcement policy, which sets out in great detail the specific offences which will attract sanctions and the level of these penalties.

The OCRS is reasonably transparent. The framework is published and individual operators can access their

own assessments and risk scores, in order that they can identify the areas where they need to improve their compliance.

Any findings relevant to whether the regulator encourages economic progress:

VOSA demonstrates in a number of its work streams that it is concerned with minimising or reducing the costs of regulatory compliance on operators. In particular:

- VOSA has successfully reduced the time taken to conduct annual vehicle inspections from 90 minutes to 72 minutes by changing its administrative procedures.
- The testing transformation programme is being used as an opportunity to reduce the burden involved in annual inspections further, for example, through longer opening hours for testing centres and locating testing centres nearer to garages where repairs can be carried out in order to bring vehicles up to the level of compliance.

The fixed penalties and deposit scheme was introduced by VOSA in order to ensure a level playing field between GB-registered and foreign operators. Under the previous arrangements whereby VOSA could only prosecute offences, GB operators were at a competitive disadvantage as it was not practical to prosecute foreign operators.

DESIGN OF REGULATIONS

Hampton principles

All regulations should be written so that they are easily understood, easily implemented, and easily enforced, and all parties should be consulted when they are being drafted.

When new policies are being developed, explicit consideration should be given to how they can be enforced using existing systems and data to minimise the administrative burden imposed.

Key findings on
Design of
Regulations:

- VOSA consults effectively – through both formal and informal channels – with its stakeholders and is responsive to their concerns. Stakeholder organisations with whom the Review Team spoke were content with the extent of their engagement with VOSA. They also agreed that VOSA subsequently provides feedback on consultation responses and why particular decisions are taken.
- The testing transformation programme is a good example of where VOSA is implementing change with the intention of simplifying regulatory processes for businesses. For instance, it hopes that the programme will lead to Authorised Testing Facilities (ATFs) being nearer or adjacent to garages, so that vehicles which fail the annual test can be repaired and be re-presented more quickly than is often the case at present, whereby there may be some distance between the test centre and the nearest garage.
- However, in managing the detailed implementation, the Agency will have to be mindful of the inherent risks. For example:
 - Ensuring a level playing field for SMEs - in drawing up contracts with private sector providers to run ATFs, VOSA will have to ensure that where the provider is also a vehicle operator (or operating on a site owned by an operator) there is equal access to the test centre for other operators, particularly those which are SMEs and, therefore, not resourced to adapt their premises to include an ATF.

- Ensuring that VOSA inspectors – who will continue to carry out tests – remain completely independent of operators and that the standard of testing remains at a high level. In this context, the Review Team welcomes VOSA’s intention to rotate staff between different test centres.
- Ensuring that flexible elements of the existing framework which are designed to be business friendly are maintained in the new arrangements, especially in relation to business hours of test centres, handling of vehicles late for tests and processes for booking tests.
- VOSA has a risk management strategy in place to safeguard the independence and quality of its vehicle testing and the Review Team welcomes this approach.

Background information such as the regulator’s role in developing regulations:

Responsibility for the design of the overall regulatory framework – e.g. participating in EU negotiations - rests with the Department for Transport. However, DfT works collaboratively with VOSA, by consulting them on implementation issues and adopting the Agency’s suggestions for improvements – the testing transformation programme and fixed penalties scheme were originally proposed by VOSA.

VOSA has more autonomy in the areas where it has direct responsibility for the management of its business (e.g. annual setting of operators’ fees) and implementation of policy decisions (testing transformation and fixed penalties).

Testing Transformation - In the past, annual vehicle tests have been undertaken by VOSA staff at 87 sites either owned or leased by VOSA and 205 designated premises. However, following consultation on whether the process should be moved into the private sector, DfT Ministers agreed that testing should be transferred to privately owned Authorised Testing Facilities (ATFs), but that the tests themselves should continue to be done by VOSA staff. VOSA is currently implementing this strategy (there is a target for 85% of tests to be carried out in ATFs by 2013). The main intended benefits of this initiative are to:

- reduce some of the direct costs of testing, particularly by eliminating the overheads and

investment involved in maintaining specialised testing facilities and estate;

- contribute to eliminating VOSA's financial deficit not only by reducing running costs and the need for capital investment but also through additional income from sales of existing stations and redundant sites;
- provide a service which better meets the industry's needs by encouraging the greatest possible spread of testing facilities within the private vehicle maintenance sector which offer to both test and maintain vehicles in the same location at the same time.

Review findings:

The extent to which the review team believes the regulator is acting in line with the Hampton principles:

In general, DfT is responsible for the design of the regulatory framework. In the areas where VOSA is concerned with the design of regulations, the Review Team believes it is broadly compliant with Hampton principles. However, the testing transformation programme presents challenges to the organisation, which will need to be successfully addressed if VOSA is to maintain its present level of compliance.

ADVICE AND GUIDANCE

Hampton principle

Regulators should provide authoritative, accessible advice easily and cheaply.

Key findings on
Advice and
Guidance:

- VOSA devotes a significant amount of energy towards communicating advice and guidance to stakeholders. It uses a wide range of media and channels to ensure customers are aware of the demands of the regulatory frameworks. As a result of this activity, it would appear that even “hard to reach” groups, such as SMEs in remote geographic areas and overseas operators are aware of the rules and any changes which are made to them. For example, the implementation of the fixed penalties scheme appears to have been comprehensively communicated to overseas drivers and operators.
- While the Review Team commends VOSA’s approach as energetic and in some ways innovative – and it would seem to ensure a high level of regulatory awareness among customers - we feel that VOSA would benefit from adopting a formalised Communication Strategy at Board level. This would enable the Agency to rationalise its approach by using the most effective methods for getting messages across to its target audience(s) and allow it to use its resources more efficiently.
- VOSA’s hard copy guidance and manuals are well presented and written in plain English.
- VOSA is currently in the process of re-ordering its on-line material, so that advice and guidance is transferred to the Business Link website and “corporate” material is moved to the DfT website.
- The Review Team believes that there is room for improvement in the positioning and content of VOSA’s presence on Business Link. Some of the content – such as the guidance on drivers’ working hours regulation – is comprehensive and clear. However, in general, information can be difficult to find as, starting from the VOSA website, several links have to be gone through to reach the required information on the Business Link website (via the

apparently superfluous Transport Office website). Furthermore, some of the information contained in free text on the web pages provides insufficient information on compliance, particularly in view of the technical sophistication of the tests carried out by VOSA to ensure roadworthiness. VOSA is aware that there are outstanding issues with Business Link and is working with them to address these.

- VOSA uses information from the Operator Compliance Risk Score (OCRS – see Inspections section for full details) to target particular operators for advice and guidance on compliance. In particular, it targets “amber” rated operators to advise them on how to improve their compliance in the areas where they are perceived to be weak.

Background information such as the means by which the regulator provides advice and guidance:

VOSA’s advice and guidance is primarily aimed at communicating to HGV and PSV operators the technical standards which vehicles must achieve to pass the annual test, and to MOT testers the standards against which they should examine vehicles.

VOSA communicates with its customers in a variety of ways:

- Manuals and Guides – containing the detailed technical guidance on compliance respectively for MOT testing, HGV inspections and PSV inspections. These must be purchased and are not available to browse electronically free of charge. Updates, however, are available online for free. These are in the form of replacement pages.
- Newsletters – VOSA produces quarterly publications, “Moving On” for HGV and PSV operators and “Matters of Testing” for MOT examiners. Each includes updates on regulatory requirements and good practice examples. They also alert stakeholders to VOSA public consultations.
- DVDs – VOSA produces DVDs (available either for free with the quarterly newsletters or for a nominal sum - £3) which give advice to operators on how inspections will be conducted and to MOT testers on the standards which should be observed on vehicles. It has also produced multilingual DVDs which explain the rules relating to drivers’ working

hours in the EU member states.

- Telephone helpline - customers can call with queries about regulatory requirements. This operates during normal business hours and on Saturday mornings.
- Events & Seminars - VOSA organises a large number of training events and seminars across the country aimed at raising awareness of legal requirements and sharing best practice for its customers. For example, it has a programme of seminars for those involved with undertaking MOTs. These take place in evenings and cost a small fee, £24.50. It also runs dedicated training courses, including on inspection standards for the HGV and PSV annual tests. These take place over 3-5 days and charges range from around £3,000 - £5,000. Some, such as the course for MOT managers, are compulsory in order to meet licensing requirements.

Any examples of significant good regulatory practice:

VOSA encloses DVDs with its quarterly newsletter, "Matters of Testing", which is sent to all 19,600 MOT garages in Great Britain. Each DVD provides guidance on an important regulatory issue, for example how to comply with regulations on headlamps. Running times are quite short – around 20 minutes – which ensures that viewing a DVD is not an onerous burden on operators. This approach has proved popular and feedback received by VOSA suggests that around 50% of operators view the DVDs.

VOSA undertook an effective communication strategy to ensure that foreign operators were aware of the fixed penalties and deposit scheme before it came into effect. This included posters being displayed and leaflets handed out at ports and at roadside checks. As a result, initial feedback following the introduction of the scheme is that fixed penalties have not come as a surprise either to drivers or operators.

Review findings:

The extent to which the review team believes the regulator is acting in line with the Hampton principle:

The Review Team believes that VOSA has a good story to tell on advice and guidance. It is conscientious about ensuring that operators and drivers are aware of the regulations which it enforces and, based on the evidence seen, it would seem that the organisation achieves this objective. Once the remaining problems with the Business Link migration are ironed out, VOSA will be fully compliant with Hampton in this area.

DATA REQUESTS

Hampton principle

Businesses should not have to give unnecessary information or give the same piece of information twice.

Key findings on Data Requests:

- Based on the evidence seen by the review team, VOSA does not make burdensome data requests on stakeholders.
- Much of its on-line good practice is in relation to its licensing activities, where forms can be completed and returned electronically. Annual inspections can also be arranged electronically. However, in general, forms which relate to the aspects of VOSA's business covered by this review are in PDF format and must be printed out and completed manually.
- There does not appear to be any guidance on the circumstances when a form needs to be submitted (e.g. guidance on the sorts of changes to HGVs and PSVs which are legally notifiable). VOSA's forms are on a separate part of its website to its advice and guidance, and there is no link from one to the other (e.g. on Business Link there is nothing alongside the regulatory guidance drawing attention to the appropriate form).

Background information such as the data required by the regulator; the means by which business can return data, etc:

VOSA appears to have around 30 forms relating to HGV/PSV annual tests and MOTs. These cover activities such as:

- Applications to become an MOT authorised examiner
- MOT certificates and refusal of an MOT certificate
- To notify technical changes to HGVs (e.g. tyres or chassis)

- Applications for annual tests

Most of the information requested is of a technical nature to assist VOSA in enabling testing to take place efficiently in line with legal requirements. Forms are accompanied by guidance on completion. Generally they need to be completed manually and submitted in hard copy. Online VOSA services tend to be in relation to vehicle licensing.

Review findings:

The extent to which the review team believes the regulator is acting in line with the Hampton principle:

Data requests do not seem to constitute a significant part of the regulatory burden which VOSA's activities place on business in the areas of inspection and enforcement; this was not an issue of concern for external stakeholders with whom the Review Team spoke. However, in order to be Hampton compliant in this area, VOSA would need to consider introducing the possibility of completing and submitting the relevant forms electronically. The Review Team understands that this is under consideration by VOSA. Furthermore, it is arguable that VOSA could provide clearer and more accessible information on when and why the provision of particular information is necessary.

INSPECTIONS

Hampton principle

No inspection should take place without a reason.

Key findings on
Inspections:

- VOSA's inspectors carry out their duties to a high standard of professionalism. Staff are highly regarded by customers for their objective approach and the high standards to which tests are conducted.
- Annual testing for HGVs and PSVs is a legal requirement and therefore not risk based, for over-riding road safety policy reasons. However, as outlined in the Design of Regulation section, VOSA has taken steps to reduce the burden which tests place on operators.
- VOSA has taken encouraging steps towards ensuring that roadside checks are risk based, using the OCRS.
- VOSA has designed the OCRS to enable its staff to identify the highest risk operators on the road and to ensure that resources devoted to roadside checks can focus mostly on these operators.
- The OCRS appears to be a generally well-thought out risk framework, based on scientific and statistical analysis of where the greatest risks lie in relation to road safety regulation. However, the Review Team has concerns that red, amber and green risk scores are in part based on the performance of operators relative to each other, as well as against the legal requirements. This could lead to red-rated operators investing to improve their level of compliance with the legislation, but remaining with a high score if there is a relative improvement in compliance across the board. On the one hand, this reduces the incentive of operators to up their game, and, on the other, in the long term, it could lead to inspections happening without a reason, if broadly compliant operators remain in the red zone.
- The OCRS framework is transparent as far as operators are concerned; they are clear as to the

framework and have access to their own scores and the reports containing the factors which determine the scores. This enables them to identify areas for improvement.

- However, there is increasing awareness of the existence of the OCRS among potential customers of vehicle operators. This has led to many businesses requiring that operators with whom they do business have a low risk score, despite the fact that they may lack a full understanding of what is counted in the system (e.g. a misperception that punctuality is assessed as part of the score). The Review Team believes that, in view of this, VOSA could usefully undertake some work to publicise the content of the OCRS to end users of HGV and PSV services. It also considers that there is a public interest argument for making public the risk score for individual operators so that potential customers are aware of the roadworthiness of potential contractors (e.g. when choosing a PSV to carry schoolchildren). This would have the knock-on effect of encouraging operators to improve their levels of compliance.

Any relevant background information such as the number of inspections and the number of businesses inspected; the regulator's risk model etc

VOSA conducts annual tests on GB-registered HGVs and PSVs to ensure they meet legal requirements on roadworthiness. Additionally, it undertakes roadside inspections based its OCRS risk model. Annual inspections are carried out by Vehicle Examiners and roadside checks by Traffic Examiners (though individual VOSA staff can perform both roles).

In 2007-08 VOSA carried out 462,820 annual HGV tests and 97,632 re-tests and 81,823 PSV annual tests and 11,961 re-tests.

Inspection Framework

VOSA undertakes testing and inspection activities on behalf of the Secretary of State. To fulfil this regulatory requirement, owners of HGV, PSV and other relevant vehicles are required to present their vehicles to be tested annually. Tests must only be carried out at VOSA Goods Vehicle Testing Stations (GVTS) or at authorised Designated Premises (DP).

VOSA also undertakes roadside checks to ensure operators and drivers are following the rules. VOSA has the power to stop and examine any HGV or PSV, including foreign-registered vehicles, in England and

Wales (legislation is currently being drafted to extend these powers to Scotland). VOSA conducts spot checks in order to:

- prevent the use of dangerous, or potentially dangerous, lorries and buses on the roads
- deter drivers and operators from using defective vehicles on the road by issuing penalties
- advise operators on the condition of lorries and buses in use, for licensing and other purposes
- promote public awareness of the need to maintain vehicles in a roadworthy condition in the interests of road safety and environmental protection
- ensure that drivers are complying with regulations on drivers' hours, loading, speed and licensing

These checks are held all over the country, at the roadside and at specialist, dedicated sites which are permanently equipped with weighbridges and other testing equipment.

Risk Framework

VOSA has introduced the OCRS system in order to identify the operators whom it considers to pose the greatest risks of non-compliance. Under the OCRS, operators are allocated points based on positive and negative factors, such as the numbers of:

- vehicles passing or failing annual tests
- prohibition notices issued
- vehicles achieving defect-free spot checks

To calculate OCRS values for a particular operator, VOSA uses data captured on agencies' databases from activities such as roadside checks and annual test history. The score is displayed to examiners using the Mobile Compliance system on handheld mobile compliance devices (MCDs) and laptop computers.

Operators are divided into ten bands, each containing roughly 10% of operators. Within this, bands – and therefore operators - are designated as either red, amber or green, with red being the highest risk operators and green the lowest risk, covering

operators with encounters, but no defects/offences over the two year calculation period. Decisions to stop vehicles for roadside checks are based on this risk assessment.

At present, the OCRS only covers UK operators, but there are plans to extend it to overseas operators

Any examples of significant good regulatory practice:

VOSA used an intelligence-led approach in order to design the OCRS. This involved identifying the areas of non-compliance which presented the greatest risk, in order to develop an appropriate scoring system, and using existing data on the compliance of operators to analyse where they fell in terms of overall risk.

Review findings:
The extent to which the review team believes the regulator is acting in line with the Hampton principle:

VOSA's direction of travel on inspections is good. Inspections generally take place for a reason, are increasingly risk based (in the case of roadside checks at least) and the risk scoring system is transparent to the vehicle operators. In order to be fully Hampton compliant, however, the OCRS would need to be adapted to remove the element of assessment relative to other operators. This will reduce the number of inspections (i.e. roadside checks) if vehicle operators' compliance continues to increase in the medium-long term. VOSA could also usefully consider whether there is either a public interest or road safety policy case for extending the transparency of its risk scores so that customers of vehicle operators can access these and make choices informed by them.

SANCTIONS

Hampton & Macrory principles

The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions.

Regulators should be transparent in the way in which they apply and determine administrative penalties.

Regulators should avoid perverse incentives that might influence the choice of sanctioning response.

Regulators should follow up enforcement actions where appropriate.

Key findings on
Sanctions:

VOSA has a wide range of sanctions at its disposal. These are generally invoked by the Agency in a proportionate manner.

The OCRS has enabled VOSA to successfully focus its enforcement work on high risk and persistent offenders. This has contributed to an increase in the number of penalties imposed following roadside checks.

The fixed penalties and deposit scheme has been introduced effectively. It is proving to be a useful mechanism to enable VOSA to impose sanctions on overseas operators, thereby creating a level playing field for GB licensed operators; to improve road safety; and increase compliance with road safety and traffic regulations.

However, there appear to be teething problems with collecting money directly from overseas operators. This can take some time to arrange, as drivers regularly need to contact their company at home to enable the payment to be made either through wired cash or credit card. Procedures to register the payment and provide a receipt also appear to be complex, particularly in view of the fact that the VOSA staff concerned have never previously been responsible for handling cash. The knock-on effect of this is that it slows down the throughput of vehicles at

roadside check sites and ties up staff resources, with the result that fewer vehicles are checked than might have been the case previously. VOSA is aware of this problem and, as part of its post-implementation review of the scheme, will aim to streamline and provide more flexible methods of payment.

Background information such as a summary of sanctions available to the regulator and any data on sanctions imposed by the regulator:

VOSA's Powers

By law, enforcement officers from the Vehicle and Operator Services Agency (VOSA) have:

- the power to inspect vehicles
- the power to prohibit and direct vehicles
- powers enabling them to look into possible breaches of the law
- the power to launch, carry out and appear in cases at a magistrates' court

Sanctions

VOSA's enforcement policy is available on its website. It is around 240 pages long and sets out in some detail the sanctions which should be applied for specific offences. Sanctions include:

- **Verbal warnings** - minor infringements that appear to enforcement staff to have been either accidental or due to the inexperience of the driver or operator and which are one-off cases. A verbal warning includes a clarification of the infringement, guidance on how to avoid a repetition, and an explanation of what might happen if it continues.
- **Offence Rectification Notice** - operators may get this for several infringements that are not related to safety. They then have 21 days to deal with the breach(es), otherwise they may be prosecuted.
- **Prohibition** – an operator will receive a prohibition notice banning the movement of a vehicle for a serious breach, e.g. where defects identified would involve a risk of personal injury. Typically, drivers' hours and tachograph rules infringements will also lead to a prohibition.
- **Inspection Notice** – these are used where the

examiners find roadworthiness defects not serious enough to warrant prohibition. The driver is advised of the problem through the issuing of the notice. This does not prevent further use of the vehicle.

- **Fixed Penalties** – they are for minor offences only (serious offences relating to using a vehicle in a dangerous condition, falsified records, fraud or where there is more than one endorsable offence are still liable for prosecution through the courts). There are 4 levels depending on the seriousness of the offence:
 - Level 1 - £30
 - Level 2 - £60
 - Level 3 - £120
 - Level 4 - £200

Fixed penalties were introduced in May 2009, in response to the weakness in the previous arrangements whereby drivers who breach the regulations on roadworthiness, overloading and hours had to be prosecuted through the courts. In effect this meant that overseas drivers were able to avoid sanctions as it was neither practical nor cost effective to pursue them through legal channels in their home country. The new arrangements also mean that operators and drivers no longer need to take time off to attend court appearances.

- **Prosecution** - if it is considered to be in the public interest, more serious infringements may lead to prosecution. The driver, the operator or other associated parties, or all parties may be prosecuted.
- **Referral to the Traffic Commissioner** - enforcement staff may report infringements by either a driver who holds a vocational licence and/or an operator who holds an operator's licence to the Traffic Commissioner. This may be instead of or as well as prosecution.

Any examples of significant good regulatory practice:

Although still at an early stage, the Fixed Penalties and Deposits scheme appears to be achieving its objectives of ensuring a level playing field for GB and overseas operators and of setting penalties at an appropriate level to encourage future improvements in

compliance by those who breach the regulations.

Review findings:

The extent to which the review team believes the regulator is acting in line with the Hampton principles and Macrory characteristics:

VOSA is broadly compliant in this area, in that the sanctions at its disposal are proportionate and, with the introduction of fixed penalties, helping to improve levels of regulatory compliance. However, as noted above, fixed penalties have had one unintended consequence, which would seem to be having an impact on VOSA's capacity to apprehend non-compliant vehicles. VOSA therefore needs to resolve this issue, for example by additional staff training or simplifying the process, to be fully Hampton compliant.

FOCUS ON OUTCOMES

Hampton principle

Regulators should measure outcomes and not just outputs.

- Key findings on Focus on Outcomes:
- VOSA staff are clear that the role of the organisation is to contribute towards the achievement of a high level of road safety. Operational staff whom the review team met were focused on the safety implications of vehicle defects, rather than just taking a legalistic approach.
 - VOSA communicates its objectives, targets and forthcoming challenges to staff in sometimes imaginative ways. The Review Team was particularly struck by the “VOSA Journey” which sets out VOSA’s direction of travel in a diagrammatic format (see below).
 - VOSA’s key targets take account of better regulation principles and the burdens the Agency places on business, for example through measures likely to contribute to DfT’s annual simplification plan to reduce administrative burdens and to improve consistency of vehicle testing by MOT garages. It also has reasonable measures in relation to enforcement, through targets to increase the numbers of dangerous vehicles and drivers taken off the road. However, the Review Team was slightly surprised that the Agency does not appear to have a performance measure which relates directly to its contribution towards improving road safety, e.g. through reductions in the number of accidents due to defective vehicles.
 - In a similar vein, VOSA’s stakeholders to whom the Review Team spoke perceived the Agency’s role in terms of being an “enforcer”. However, VOSA’s role is considerably wider, in terms of raising levels of compliance and increasing road safety standards. While it is important that VOSA is clear

that it will enforce regulations robustly, equally, there may be merit in communicating to stakeholders the full extent of the outcomes it is seeking to deliver.

Background information such as the regulator's key objectives:

VOSA's strategic plans and key objectives are focused firmly on ensuring a high level of road safety, while measures seem to a large extent based on customer satisfaction. Performance against previous years' targets is set out in VOSA's Annual Report. Forward objectives and performance measures are set out in VOSA's 2009-10 Business Plan.

The Business Plan embeds VOSA's targets and performance measures within the overall strategic objectives of DfT.

Any examples of significant good regulatory practice:

The VOSA Journey (see Appendix 2) sets out in diagrammatic form the direction of travel of VOSA's business, including progress made to date and future objectives and challenges, as well as external factors influencing these such as the economic downturn and the 2012 Olympic Games. The Journey is updated annually to reflect progress and is displayed on posters throughout VOSA's buildings.

The Review Team accepts that, at a first glance, this approach might not be to everyone's taste. Nonetheless, it is an innovative and creative way of setting out to staff the overall vision of the organisation, the environment it is operating within and the challenges it faces.

The extent to which the review team believes the regulator is acting in line with the Hampton principle:

VOSA's staff seem to have a good understanding of the outcomes which the organisation is responsible for delivering. In order to be fully Hampton compliant, there may be a need for better external communication of VOSA's role so that its customers have a comprehensive understanding of it. Additionally, while the Review Team acknowledges the difficulty of framing performance measures to the outcomes sought, VOSA could consider whether it is possible to focus some of its performance measures more directly on its impact on road safety – annual statistics of the reasons for road accidents are drawn up by DfT and may provide a useful starting point.

**Appendix 1:
Review Team
membership**

Dr Edel McGurk is Delivery Manager of Natural England's Wildlife Management and Licensing Service, overseeing delivery of advice, statutory licensing, compliance and enforcement responsibilities.

Val Jasinski is Head of Customer Services and Compliance at Companies House. Val has worked for Companies House for over five years and has a background in private industry specialising in customer delivery and marketing.

Steven Murdoch is an Assistant Director in the Better Regulation Executive within the Department for Business, Innovation and Skills.

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