

Eilis Fallon

From: Laura Byrne <lbyrne@rsa.ie>
Sent: 17 July 2019 12:23
To: Public Accounts Committee
Subject: RE: Correspondence from the Public Accounts Committee
Attachments: HRA_SEC_20190717_Reply to Eilis Fallon PAC re IRHA.pdf; HRA_SEC_20190717_Reponse to PAC re IRHA.pdf

Categories: Red Category

Good afternoon Éilis,

Please find attached letter and response from Moyagh Murdock, CEO Road Safety Authority.

Kind regards,
Laura

Laura Byrne | Secretariat | Road Safety Authority | Moy Valley Business Park, Primrose Hill, Ballina, Co. Mayo | Post

Code: F26 V6E4 | Tel (096) 25010 | Fax 096-25024 | www.rsa.ie | Follow us on:     



Údarás Um Shábháilteacht Ar Bhóithre
Road Safety Authority

From: Public Accounts Committee <PAC@oireachtas.ie>
Sent: 02 July 2019 10:44
To: Laura Byrne <lbyrne@rsa.ie>
Subject: RE: Correspondence from the Public Accounts Committee

Apologies Laura, I should have attached this with your letter.

Regards,

Éilis

From: Laura Byrne [<mailto:lbyrne@rsa.ie>]
Sent: 02 July 2019 10:39
To: Public Accounts Committee
Subject: RE: Correspondence from the Public Accounts Committee

Good morning Eilis.

Would it be possible to get a copy of the letter IRHA sent to PAC?

Kind regards,
Laura

From: Public Accounts Committee <PAC@oireachtas.ie>
Sent: 01 July 2019 14:22

To: Laura Byrne <lbyrne@rsa.ie>

Subject: Correspondence from the Public Accounts Committee

Dear Ms. Byrne

Please find attached correspondence from the Public Accounts Committee for the attention of the Chief Executive Officer.

Please confirm receipt of this mail.

Kind regards,

Éilis Fallon

Éilis Fallon | Committee of Public Accounts
Houses of the Oireachtas | Kildare House | Dublin 2 | D02 XR20
T: +353 1 618 3074
<https://www.oireachtas.ie/>

Oireachtas email policy and disclaimer.

<http://www.oireachtas.ie/parliament/about/oireachtasemailpolicyanddisclaimer/>

Beartas ríomhphoist an Oireachtais agus séanadh.

<http://www.oireachtas.ie/parliament/ga/eolas/beartasriomhphoistanoireachtaisagusseanadh/>

The information contained in this email and in any attachments is confidential and is designated solely for the attention and use of the intended recipient(s). This information may be subject to legal and professional privilege.

If you are not an intended recipient of this email, you must not use, disclose, copy, distribute or retain this message or any part of it. If you have received this email in error, please notify the sender immediately and delete all copies of this email from your computer system(s).



Working To Save Lives

[Road Safety Authority](http://www.oireachtas.ie/parliament/ga/eolas/beartasriomhphoistanoireachtaisagusseanadh/)

Oireachtas email policy and disclaimer.

<http://www.oireachtas.ie/parliament/about/oireachtasemailpolicyanddisclaimer/>

Beartas ríomhphoist an Oireachtais agus séanadh.

<http://www.oireachtas.ie/parliament/ga/eolas/beartasriomhphoistanoireachtaisagusseanadh/>

The information contained in this email and in any attachments is confidential and is designated solely for the attention and use of the intended recipient(s). This information may be subject to legal and professional privilege.

If you are not an intended recipient of this email, you must not use, disclose, copy, distribute or retain this message or any part of it. If you have received this email in error, please notify the sender immediately and delete all copies of this email from your computer system(s).



Working To Save Lives

[Road Safety Authority](#)

Working To Save Lives



17 July 2019

Ms Éilis Fallon,
Committee of Public Accounts,
Houses of the Oireachtas,
Kildare Street,
Dublin 2,
D02 XR20.

Dear Ms Fallon,

I refer to your email dated 1 July 2019 concerning correspondence received by the Chairman of the Public Accounts Committee (PAC) from the Irish Road Haulage Association about the performance of the RSA in respect of functions that impact on the licensed road haulage sector and sent to the RSA Chief Executive Officer for attention.

I attach a response prepared by the Road Safety Authority for the PAC in respect of the specific issues raised by the Irish Road Haulage Association.

The RSA will be liaising separately with the Association on the particular issues as soon as possible.

Yours sincerely,

Moyagh Murdock
CEO - RSA

RESPONSE BY THE ROAD SAFETY AUTHORITY TO CERTAIN ISSUES RAISED BY THE IRISH ROAD HAULAGE ASSOCIATION WITH THE PUBLIC ACCOUNTS COMMITTEE

Introduction:

The Irish Road Haulage Association wrote to the Public Accounts Committee on 4 June 2019 raising concerns about the performance of the Road Safety Authority in respect of functions that impact on the licensed road haulage sector. The Association alleges that the performance of the Authority in respect of *‘core functions are not carried out efficiently, do not demonstrate the proper levels of corporate governance and control..... and ultimately do not represent value for money for the public funds collected by the RSA each year’*. The Association submission quotes shortcomings in 6 specific areas in respect of the following:

- A. Lack of enforcement by the RSA against out of State operators;
- B. Operation of the Commercial Vehicle Operator Risk Indicator (CVORI);
- C. CVRT – Vehicle Testing;
- D. Licensing of non EU drivers;
- E. Lack of knowledge and awareness of legal powers and responsibilities; and
- F. Poor customer service and responsiveness.

The Association considers that the cumulative impact of the above represent *‘systemic operational deficiencies across the organisation’* in a range of areas and present serious issues to the effective enforcement of multiple aspects of road safety legislation in the State.

The submission made by the Association to the PAC was received by the Authority on 1 July 2019. The Authority welcomes the opportunity to respond to the specific issues raised by the Irish Road Haulage Association and also to address the general points about governance of the operations undertaken by the Authority.

The Authority is not able to comment on the assertion by the Irish Road Haulage Association that *‘There are some issues which raise parallels with some of the work that the PAC and the Comptroller and Audit General has done around enforcement*

activities by An Garda Síochána'. The Authority invites the Irish Road Haulage Association to furnish the CEO of the Road Safety Authority with specific information and evidence to back up this assertion.

Role of the Road Safety Authority

The RSA mission is to save lives and prevent injuries by reducing the number and severity of collisions on the road. This is reflected in our maxim 'Working to Save Lives'.

The Authority works to improve road safety in Ireland by:

- Developing and implementing information and education campaigns to increase awareness of road safety and promote safer driving
- Setting and improving vehicle standards
- Establishing and monitoring a standard for driver instruction
- Overseeing the system of driver licensing
- Undertaking certain enforcement activities
- Working with stakeholders to ensure a co-ordinated response and ensure our collective resources are used wisely and efficiently
- Undertaking collision and road safety research in order to develop measures and recommendations to improve road safety
- Advising the Minister for Transport, Tourism and Sport on road safety policy; and
- Producing road safety strategy documents and monitoring their implementation.

Following the Road Safety Act 2006, some functions previously undertaken by the then Department of Transport, the National Roads Authority and the National Safety Council were transferred to the RSA. This is the first time in Ireland that key activities related to road safety have been handed to a single statutory body. This means that road safety initiatives can be coordinated and implemented in a way that was not previously possible.

The Authority is organised into 6 Directorates

- Driver Testing and Licensing
- Road Safety, Research and Driver Education
- Finance and Commercial Services
- Vehicle Testing and Enforcement
- Vehicle Standards
- Strategy, Policy and Technology

While the focus of the Irish Road Haulage Association submission relates to certain operational matters, the Authority wishes to point out that the Authority's activities are well managed. All expenditure is independently audited and disclosed and meets all reporting requirements and standards. The Authority is subject to annual audits by the Comptroller and Auditor General's Office and there has not been qualification of the RSA annual accounts or statement. The highest standards of governance apply, overseen by the RSA Board and robust processes apply to spending incurred in the legitimate business of the Authority and in respect of procurement matters and in compliance with the Code of Practice for the Governance of State Bodies.

The RSA Corporate Plan 2016 - 2020 contains clear commitments to achieve our ambition that the RSA is recognised as the leading voice for road safety nationally and a leading voice internationally, driving change in attitudes and behaviours by road users, collaborating with key stakeholders to save lives. One of the central planks of the Corporate Strategy is continually improving our performance by challenging the way we do things, redesigning our processes, technology and developing our people to meet the changing needs of customers and also applying a data-led approach to drive change not only within the organisation but also amongst the public.

Since the establishment of the Authority, the remit of the RSA has grown significantly from road safety strategy, standards and enforcement, driver testing and licensing, policy and business planning to now include commercial vehicle roadworthiness testing, technology and business support, initial basic training, essential driver training, national road safety education service and emergency services driving standards. It has grown exponentially with little increase in headcount: research and

education campaigns have more than doubled, commercial vehicle inspections between 2010 – 2018 grew by 80% while in the period since the introduction of the commercial reform programme, roadworthiness compliance at 44% at the roadside has shown a decrease which is believed to be attributable to the application of a risk based approach. This metric is not believed to be indicative of the national fleet. Apart from these headlines, there were a wide range of other smaller projects implemented which were designed to increase efficiency and, improve compliance and to enhance service offerings to the public.

The Authority is committed to managing all of our resources in an effective and efficient manner and continuing our commitment to keep our roads amongst the safest in the world by enforcing legislation, collaborating with An Garda Síochána and working with industry to provide guidance on vehicle and driver safety. The numbers of commercial vehicles continues to grow.

IRHA commentary: ‘We want to ensure that the current RSA functions in relation to Road Safety, Driver Testing and Licensing and Vehicle and Enforcement are carried out to the highest standards possible and applied rigorously without fear or favour. Regrettably our experience with the RSA in recent years has demonstrated an organisation that falls far short of these responsibilities and lacks the capacity to critically address clear shortcomings’

The Road Safety Authority is delivering on road safety and the specific areas referenced above. The Authority rejects the assertion by the Irish Road Haulage Association that it lacks any capacity or willingness to be self-critical in respect of any of its operational responsibilities and to make changes required to improve accountability or performance. The Authority manages its operations in accordance with standard public service values with honesty, integrity, quality, transparency and openness having regard to relevant legal provisions. Our 2016 – 2020 Corporate Plan sets out the roadmap for managing change and delivering further efficiencies and effectiveness in respect of all activities undertaken by the organisation.

Our day-to-day work is guided by the Government Road Safety Strategy 2013-2020 which sets out the actions the Authority needs to implement if Ireland is to become the safest country in the world for road safety. The Authority collaborates closely with partners, stakeholders, advocacy groups, organisations and individuals to make this challenging ambition a reality.

On the enforcement front, the Authority works closely with An Garda Síochána at a strategic and operational level in the delivery of effective and efficient enforcement with the aim of improving compliance by road haulage operators. The Road Safety Authority relies on the Garda Síochána, to stop vehicles at roadside checks for the purposes of inspections by RSA personnel.

IRHA concern – systemic operational deficiencies

‘The IRHA does accept that the RSA adequately performs a key function of creating public awareness around road safety, although is not in a position to comment on its efficiency or cost effectiveness in this regard’.

Action 1 of the Government’s Road Safety Strategy 2013 – 2020 mandates the RSA to “Implement public education/awareness campaigns which target the main causal factors for collisions, deaths and serious injuries for all road users but in particular the high-risk groups.”

The RSA employs an ‘always on’ annual programme of activity to raise awareness of the main causal factors and target those most at risk of death or injury. This is developed in conjunction with An Garda Síochána. It supports and mirrors their annual roads policing plan.

Our advertising is informed by evaluation of crash reports and road safety trends to identify the main causal factors, behaviours and at risk groups on our roads. Our awareness campaigns are research led, data led and psychology led. They are also underpinned by the work of Dr Rachel Carey’s study into the impact of threat-based persuasive communications on driver behaviour at the NUI, Galway. The effectiveness of the RSA’s campaigns are underpinned by this PhD study and is measured through

regular research conducted by independent research company Behaviours & Attitudes (B&A).

A National Survey in 2016 conducted on behalf of the RSA by B&A showed that 95% of Irish adults cited road safety advertising as the most influential factor in the continued reduction in road deaths.

An independent academic study conducted by the Health Intelligence Unit of the HSE in 2015 established a direct link between RSA campaigns and a drop in road deaths. It concluded that the RSA “Crashed Lives” campaign had ‘a statistically significant impact on RSA reported fatalities for all road users. These results indicate that road safety campaigns have a role to play in road traffic collision prevention’.

To ensure that our media spend is employed as efficiently as possible we engage an independent media auditor to review our activity twice a year. The results of our audits consistently show that we are continuing to drive greater and greater media efficiencies, and are achieving best-in-class results. In addition to this the advertising spend has been subject to annual auditing by the C&AG.

In recognition of our achievements, Ireland was named as the winner of this year’s prestigious European Transport Safety Council (ETSC) Road Safety Performance Index (PIN) award. The award was presented to Shane Ross, Minister for Transport, Tourism and Sport at an event in Brussels on 19 June 2019 to honour a European country that has demonstrated continued progress on road safety.

Ireland was the second safest European Union Member State in 2018, in terms of road mortality (road deaths per million inhabitants) and has moved up five places in the ranking of EU countries since 2010 when it held seventh place. Every fatality is a tragedy and every effort must be made to mitigate these tragedies.

In terms of numbers killed, Ireland has cut annual deaths by more than 30% since 2010. By comparison, deaths increased in other relatively safe countries over the same period including Sweden and the Netherlands.

This is a great achievement by all road safety stakeholders. The public should be very proud of their contribution to help us deliver on our mission to make Irish roads safer. The Authority is convinced that Ireland can aspire to having the safest roads in the world and we are all working towards that objective.

IRHA ISSUE: Lack of enforcement by the RSA against out of State operators

The IRHA has consistent evidence that the RSA, while correctly subjecting Irish registered HGVs to the full rigour of the law, is not enforcing legislation or cabotage rules against foreign registered operators in Ireland

RSA Response: The RSA has previously supplied data to the Irish Road Haulage Association about inspection and enforcement activity against non-State operators. The facts show that the RSA undertakes enforcement against non-resident operators and drivers. Details as follows

Tachograph and Licensing Roadside Inspections								
Year	No. of tachograph and licensing inspections	No. of operators checked	No. of drivers checked	No. of prosecutions against Irish operators	No. of prosecutions against Irish drivers	No. of tachograph and licensing inspections on foreign vehicles	No. of prosecutions against out of state operators	No. of prosecutions against out of state drivers
2016	3,532	1,733	2,627	110	65	206	35	9
2017	2,590	1,451	1,849	95	80	133	10	1
2018	2,631	1,609	2,218	115	75	219	17	3
2019 (1 st Jan – 30 th June)	1,330	1,019	1,329	69	48	163	13 ¹	3
Total	10,083	5,812	8,023	389	268	721	75	16

While the IRHA submission alleges that the Association has ‘consistent evidence’ that the RSA is not enforcing roadworthiness legislation or cabotage rules against foreign

¹ Two new cabotage cases initiated since 1st Jan 2019.

registered operators in Ireland, the Association's assertions have not been backed up with hard evidence of non-State operators infringing the rules in question.

The Irish Road Haulage Association has been invited to provide specific and detailed information concerning alleged illegal activities by non-resident operators for investigation by RSA and An Garda Síochána in respect of breaches of tachographs, driver's hours, roadworthiness, cabotage rules etc by such operators. The Association has not yet responded to this request other than making general assertions. The type of information required includes, names of operators, vehicle registration details, routes, dates alleged activity took place, consignors, prime contractor and other information that assists the following up of such operators.

It is reassuring that the Irish Road Haulage Association has restated their commitment and that of their membership to the highest standards of road safety in the conduct of licensed road haulage in the State. In delivering road safety the RSA focuses its enforcement resources on where it can have the most impact. The RSA believes that it is inspecting the right operators, making best use of our resources and contributing towards improving compliance and roadworthiness, taking a leadership role and all of our actions are driven by the agenda to improve road safety.

IRHA concern '....poor and selective enforcement of rules will result in a deterioration in road safety and a continued targeting of the compliant operator to the detriment of effective detection of those who flaunt the rules (Irish Road Haulage Association cover letter)

A key part of the RSA enforcement strategy is the application of a risk based enforcement approach both at the roadside and when conducting inspections at operator premises – this means targeting those operators thought to be most at risk of non-compliance based on previous encounters including the timing and outcomes of the annual test. The strategy also includes roadside checks across the country including key ports and border crossings.

By applying a risk based approach, compliant operators are inconvenienced to the least possible extent and thus scarce RSA enforcement resources are used where they are most needed, while also maintaining high levels of productivity and efficiency.

Applying a risk based approach is in line with European and international best practice. In tandem with implementation of the risk based approach, the RSA has implemented operational policies and practices to guide RSA enforcement personnel in undertaking enforcement at roadside and premises checks, monitoring of offenders and follow up as appropriate. All officers are equipped with appropriate technology to facilitate swift inspections and availability of information at roadside and premises checks.

Enforcement activity at roadside checks is organised based on historic points of the roads network of higher HGV traffic density sites while also having regard to minimising predictability, maximising visibility and covering a broad geographic spread. All of the roadside inspections undertaken by RSA are organised with the Garda Síochána who are best placed to select the optimum roadside location for inspections having regard to health and safety considerations, HGV traffic movements, local knowledge and other operational considerations. However if the Irish Road Haulage Association has views on other potential sites that might be worth considering for the purposes of HGV roadside inspections, this information should be shared with the RSA through the usual channels.

IRHA Concern: The IRHA estimates that at least 30% of HGVs on the road in Ireland are foreign operated and registered vehicles.

The RSA can find no published or scientific basis that would tend to support this assertion. There would appear to be an absence of official data on such movements. The RSA has consulted a range of official agencies including the Revenue Commissioners, TII, Department of Transport, Tourism and Sport, Central Statistics Office and An Garda Síochána to establish if they have any data on the number of foreign commercial vehicles operating in the State through the ports or on a cross border basis. Each has advised that they are not able to supply information in this regard.

The RSA does not believe that it would be reliable to deduce that the number of foreign vehicles disembarking from a ship at a port or crossing the border at a particular time of day is indicative of the number of foreign vehicles operating in the State without a

detailed and professional statistical assessment. Such a simplistic assertion fails to take account of the different types of operations that the users of such vehicles are entitled to undertake while operating in the State.

IRHA concern: The low level of enforcement against out of State operators is leading to an increasing number of Irish operators registering abroad and operating out of State plates on Irish roads, confident in the expectation that they will be subject to low levels of enforcement and inspection.

RSA response: While the RSA welcomes the acknowledgement that there is enforcement against non-State operators, the RSA has no data on the numbers of Irish operators ‘flagging out’ their operations or opening up new haulage businesses in other jurisdictions but it is believed that some may have flagged out some of their operations to other Member States. Neither has the RSA any information concerning the reasons that Irish operators establish operations in other jurisdictions. Engaging in speculation on the reasons concerned is irrelevant from an enforcement perspective.

Tracking alleged offenders and breaches of the cabotage requirements is challenging for a number of reasons not least the capacity of operators to evade roadside checkpoints, limited enforcement resources and legislation deficits to apply a swift response where there are concerns about alleged breaches of the cabotage rules.

It is simply unrealistic to expect either the RSA or An Garda Síochána, to pursue each and every instance of alleged illegal cabotage activity.

All checks of non-State operators by the RSA at the roadside include a cabotage check and this will continue to be the case.

IRHA concern: This absence of enforcement is allowing a large portion of non-Irish registered HGVs to flaunt important road safety requirements. It is also facilitating a cohort of operators to apply to operate under a different standard of compliance that Irish registered HGVs who are subject to full rigours of inspection and enforcement.

RSA Response: The RSA CEO has formally responded to the Irish Road Haulage Association's claims that RSA enforcement personnel adopt a light touch enforcement approach to non-resident operators and are selective or discriminate in favour of out of State operators. In the communications with the Irish Road Haulage Association, it has been pointed out that it would be contrary to EU law to treat operators differently on the basis of their nationality or indeed in respect of any other criterion. The standards of roadworthiness required of Irish registered vehicles as well as operator and driver compliance are based on EU legislation and is no different than what would be applicable to a non-State operator. The same rules apply in terms of enforcement.

The Irish Road Haulage Association assertion is, they believe borne out by RSA prosecution statistics published on the RSA website showing relatively few prosecutions against non-resident drivers and operators. The Association has contrasted the relative ease by other jurisdictions to sanction non-compliances by Irish operators detected when operating abroad against the perceived failure by the RSA to enforce rules against non-State operators and drivers.

As regards cabotage, the legal rules concerned are contained in EU Regulation 1072/2009 which has been in force since 14 May 2010. It requires that any national journeys undertaken on a temporary basis by non-State operators, i.e. cabotage, must take place after all the goods carried on an incoming international journey have been delivered. Hauliers from other Member States who hold an EU Community licence and whose driver holds a driver attestation, where necessary, are allowed to undertake up to three cabotage operations following that international carriage within seven days of the last unloading of the goods carried on the international journey. Such hauliers must carry a certified copy of their Community licence, which must be produced when requested by an enforcement officer which would include an RSA Transport Officer or a member of An Garda Síochána.

Article 8.3 of the EU Regulation 1072/2009 requires, as a condition of lawful cabotage, that the haulier must be able to produce "clear evidence" of the incoming international carriage and of each consecutive cabotage operation carried out thereafter. If clear evidence cannot be produced, then the journey is not lawful cabotage. The operator concerned may be prosecuted for alleged illegal cabotage and is liable

- (a) on summary conviction to a maximum fine €5,000 or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a maximum fine of €500,000 or to imprisonment for a term not exceeding 3 years or to both.

The clear evidence required must comprise the following details for each operation.

- The name, address and signature of the sender, the haulier and the consignee.
- The date of delivery once the goods have been delivered.
- The place and date of taking over of the goods by the haulier and the designated place of delivery.
- The description of the goods and the method of packing (in the case of dangerous goods, their generally recognised description as well as the number of packages and any special marks).
- The gross mass of the goods or their quantity otherwise expressed.
- The registration plates of the motor vehicle and the trailer.

Cabotage must be undertaken by the tractor unit responsible for the international carriage. While cabotage can be carried out with a different trailer from that which carried the goods on the incoming international journey, there can be no substitution of another tractor unit to replace the incoming international tractor unit.

The onus on producing the clear evidence is put upon the haulier by Regulation 1072/2009. Once a vehicle has completed its third cabotage operation, it must then leave the State unless it can be operated within the terms of any other exemption, such as combined transport.

In terms of prosecutions initiated by RSA Transport Officers against out of State operators, 75 were initiated against such operators and 16 against drivers during the 2016-2019 (30th June) period. 9 cabotage related infringements were detected during this period, resulting in 8 being sent for prosecution based on there being sufficient evidence available to support their prosecution. 2 cases resulted in a successful prosecution, 2 were withdrawn by the RSA as there were other offences involved which the operators were subsequently convicted of and fined for, 3 are currently in progress

and 1 was withdrawn based on the operator providing sufficient evidence to warrant the case being dropped. A prosecution is only initiated where the evidence is strong enough to prosecute the case and there is a reasonable chance of a conviction. The RSA prosecutes offences where there is evidence of serious offending. Neither the RSA or An Garda Síochána have any evidence to suggest that illegal cabotage is as prevalent as that believed by the Irish Road Haulage Association.

As regards roadworthiness inspections, RSA Vehicle Inspectors act in an advisory capacity to An Garda Síochána in that regard. Details of roadworthiness inspections of commercial vehicles follow.

RSA Roadworthiness Roadside Inspections						
Year	Total number of vehicles / operators inspected		Number of out of state vehicles / operators inspected		Number of out of state vehicles / operators inspected as a % of total	
	Vehicles	Operators	Vehicles	Operators	Vehicles	Operators
2016	17,502	11,613	1,203	709	6.9%	6.1%
2017	16,419	11,058	1,268	753	7.7%	6.8%
2018	11,119	7,695	932	543	8.4%	7.1%
2019 (1st Jan – 30th June)	5,901	4,167	588	362	10.0%	8.7%
TOTAL	50,941	34,533	3,991	2,367	8.3%	7.2%

The data above shows that the proportion of roadworthiness inspections in respect of non-State operators and drivers is increasing year on year from 2016.

RSA Vehicle Inspectors do not currently initiate prosecutions for roadworthiness related infringements, and instead these are dealt with by An Garda Síochána for the time-being. The RSA does not have data on the number of prosecutions initiated by An Garda Síochána in respect of their roadworthiness enforcement activities.

In the case of commercial vehicle roadworthiness defects found during the course of roadside inspections, RSA vehicle inspectors in conjunction with the Garda Síochána may take a number of steps taking account the severity and nature of the defect. These steps may include taking the vehicle off the road, requiring the operator to present the vehicle for a CVR or an enforcement test at a CVR testing centre, requesting evidence of repairs or potentially requiring repairs to be completed at the roadside before the vehicle is allowed to proceed on its journey. These measures apply irrespective of the

country of registration or origin of the vehicle. RSA vehicle inspectors highlight any major or dangerous defects detected to the Garda member attending at the inspection so that consideration can be given to issuing a fixed charge or taking a prosecution against the vehicle operator concerned. Issuing of fixed charges is a matter for the Garda Síochána.

The RSA is aware that some jurisdictions have significantly greater capacity from an enforcement perspective than RSA both in terms of manpower and powers to deal with non-compliant operators including addressing breaches of cabotage rules and roadworthiness matters. The RSA headcount is subject to restrictions similar to those that apply to other public service agencies and this is the reality within which the RSA operates. Increased resources for enforcement coupled with additional legal powers and other legal changes would increase deterrence and strengthen the capacity of the RSA to enhance operator compliance. Addressing the legal shortcomings is a priority for the Road Safety Authority and we will continue to liaise with the Department of Transport, Tourism and Transport on these matters. There is work underway in this regard but progress is dependent on the legislative calendar and the availability of resources.

IRHA issue: When challenged by the IRHA about an absence of enforcement, the RSA respond that they will allocate their resources to best effect and that this is what is being done. They also contend that they lack the legal powers to secure convictions against foreign operators although they have never vented this deficiency publicly in any Annual Report.

RSA response: The application of RSA resources are operational matters for the Road Safety Authority having regard to priorities taking into account the risk based approach towards enforcement, staff availability, road safety considerations and other matters. There will always be differences as to which priorities should be addressed. The resources available to the RSA for enforcement activities since 2013 are set out in the following table.

	2013	2014	2015	2016	2017	2018	2019
Transport Officers (TO) and Senior TO (STO)	12	12 + 2 STO	11+2 STO	10+ 2 STO	9 + 2 STO	15 + 2 STO	17 + 2 STO
Vehicle Inspectors (VI) & Senior VI (SVI)	14 + 2 SVI	13 + 1 SVI	12+ 2 SVI				

Some of the Enforcement Officers are assigned to duties other than enforcement activities.

The Road Safety Authority has acknowledged that while enforcement checks are being undertaken against non-State offenders, there are difficulties with bringing prosecutions of non-resident residents for vehicle-related offences including those relating to tachograph, drivers hours, Driver CPC, cabotage, Community Licensing offences or roadworthiness related offences. The stumbling blocks are twofold: (i) in serving summonses abroad and (ii) even if a summons is served and a fine is imposed by a Court, there are difficulties in securing payment of the fine. Notwithstanding these difficulties, the RSA has secured convictions against non-State operators where summonses have been served. The RSA has not '*sat on its hands*' in terms of taking enforcement action against non-State operators. The RSA has repeatedly advised the Irish Road Haulage Association, that it has liaised with the Department of Transport, Tourism and Sport about new legal powers and provisions to address the current deficits in the enforcement toolkit.

The principal areas where shortcomings in respect of roadside enforcement that have been identified relate to:

- Absence of fixed charges for certain road transport related offences

- Absence of the financial deposit scheme provided for in Section 50 of the Road Traffic Act 2010
- Insufficient powers for RSA Transport Officers and the Garda Síochána to deal with certain breaches of road transport law specifically as regards alleged unlicensed haulage, cabotage, use of tachograph manipulation devices and other matters

Other areas where RSA is liaising with the Department include amendments to the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 and also the Road Safety Authority Act 2006.

The RSA has long advocated for additional legislation when shortcomings are identified and the Irish Road Haulage Association has been advised of this on many occasions.

As regards, the adoption of fixed charges, this is a key priority for the RSA. Action Point 92 of the Road Safety Strategy provides for the extension of fixed charges to driver's hours offences. Progress on delivery of the project has been much slower than the RSA would wish to date. Work is underway on advancing the adoption of the necessary legal provisions in this regard. It can be anticipated, but it remains to be decided, that there will be a public consultation on the proposed measures in that regard subject to agreement with the Department. A review of the provisions relating to the fixed deposit scheme provided for in Section 50 of the Road Traffic Act 2010 is also under consideration.

Should any legislative amendments be deemed necessary arising from this review, this will be a matter for consideration by the Department of Transport, Tourism and Sport.

Enhanced powers for RSA Transport Officers and An Garda Síochána has been a topic on the RSA agenda for a number of years. The RSA prepared and sent outline proposals to the Department of Transport, Tourism and Sport and we are continuing to liaise with the Department in this regard. This remains a priority for the RSA which will continue to put forward the case for additional legal provisions with the Department of Transport, Tourism and Sport.

IRHA issues: Operation of the Commercial Vehicle Operator Risk Indicator (CVORI)

The CVORI is a risk rating system used by the RSA to help target operators with a poor safety and compliance record and so to assist in streamlining their enforcement. This is an objective that the IRHA supports and welcomes. However for the system to be effective and have integrity must operate efficiently and effectively. It is only applied to Irish registered licenced hauliers.

Regrettably our members consistent experience over the operation of the Risk Rating System is that it all too often contains significant inaccuracies which have a material impact on the individual register hauliers Risk Rating, including;

- An inaccurate recording of the Risk Rating against a licensed haulier – for instance, a risk rating being in the 70 percentile region in circumstances where no infringements have been registered.
- Cases where prosecutions were successfully defended or struck out still being registered as serious infringements on the risk rating of a licensed haulier.
- Faults which have been remedied still being recorded as non-compliant and negatively impacting on a licensed hauliers risk rating.
- Most bizarrely, test results and details of inspections of trucks and trailers appearing on the risk assessment of an operator in circumstances where the operator either never owned the vehicle or where the vehicle had been sold and all appropriate change of ownership registrations have been processed.
- Roadside inspections registering as non-compliant encounters, but no details being recorded.
- The extent and scale of the inaccuracies associated with risk rating, indicate a system that is seriously deficient and lacks integrity.

Confidentiality

Risk rating data is important, not just in allowing the RSA target specific inspections but the information is also being used by insurance companies seeking an operator's risk rating when quoting for insurance. The risk rating data is confidential to the RSA

and is not on a public register. The IRHA has made a submission to the Department of Finance requesting that the Consumer Information Contracts Bill 2017 should preclude the use of Risk rating data by insurers given its specialist focus. The fact that the CVORI system for recording risk rating is not accurate adds to the need to ensure that it is not used for purposes other than that intended by the RSA. This issue has been raised with the RSA but again to no avail.

RSA response

The RSA has implemented a risk rating system for heavy commercial vehicle operators.

The risk rating system, which is called CVORI (Commercial Vehicle Operator Risk Indicator) aims to improve the safety of heavy commercial vehicles on our roads, making journeys safer for all. The implementation of the system is a requirement of the EU Directive 22/2006/EU.

While the Irish Road Haulage Association supports and welcomes the concept of risk rating, it is apparent that they do not believe that the operational and technical parameters of the CVORI are either effective or efficient and therefore this undermines the integrity of the system.

It is not correct to say that the Commercial Vehicle Operator Risk Indicator (CVORI) only applies to Irish registered licenced hauliers. The CVORI is one of the targeting tools used by the Road Safety Authority (RSA) to select heavy commercial vehicle operators and vehicles for inspection. A CVORI is assigned to all heavy commercial vehicle operators who have been encountered by the RSA. This includes operators who use heavy goods vehicles (trucks and trailers) and those who carry passengers as well as ambulance operators. The CVORI is also assigned to heavy commercial vehicle operators regardless of whether they hold a Road Haulage Operators Licence (Licensed Haulier) or operate on an own account basis. Furthermore, operators who are not registered in Ireland are included in the CVORI system, the difference here is that as those operators are not registered in Ireland they do not have access to view their rating nor are they subject to Ireland's commercial vehicle roadworthiness testing system or inspections by RSA at their premises.

The CVORI is a tool used by RSA enforcement to target limited resources at operators who are perceived to be the highest risk. It is important to note that the CVORI currently uses percentile ranking rather than percentage so each operator is allotted a rating relative to all other operators. The RSA has a dedicated email address cvori@rsa.ie and helpdesk personnel and are happy to respond to and engage with any operator who has a query with regard to understanding their CVORI.

With regard to prosecutions having an impact on an operators CVORI, upheld prosecutions do have an impact on an operators rating and is used as a method of distinguishing operators with infringements significant enough to warrant prosecution and those with infringements where, based on the operators overall compliance, are not pursued for a prosecution. Furthermore, it is the case that cases resulting in a ‘donation to poor box’ without a conviction for example are included in the CVORI system. Cases which are ‘Struck Out’ by a Court have no impact on CVORI.

The CVORI is calculated based on the condition of the vehicle on the day of inspection and where defects or infringements of the tachograph, drivers hours etc are detected these will have a negative impact on that operators CVORI. Operators who are found to not have any defects or infringements on inspection receive a positive impact to their CVORI. Currently, fixing a defect that was present at the time of inspection does not impact CVORI.

The system is based on data collected by the RSA over a 3 year rolling period. There are two separate operator risk areas

Roadworthiness	Based on items that relate to the safety condition of a vehicle(s) and the operator compliance with legal obligations regarding vehicle roadworthiness.
Driver Hours	Based on items that relate to compliance in relation to drivers hours and tachograph rules, the working time directive and applicable requirements to hold a Road Transport Operator Licence and Drivers CPC.

The CVORI is founded on a vehicle owner / operator as per their fleet self-declared with the RSA. Where an operator adjusts their fleet then they are advised to update their self-declaration as appropriate so that the information the RSA maintains is accurate and relevant. There can be occasions where an operator uses a vehicle belonging to a different operator on a day and is inspected at a roadside check, in this instance that inspection goes towards the 'operator on the day' in respect of the risk rating system. Where operators have any issues or note any discrepancies with regard to their vehicle fleet the RSA encourage that they contact the helpdesk so that issues can be clarified or rectified without delay.

All encounters that impact CVORI are visible to the operator via their operator portal.

Operators with a Red CVORI rating (high risk) can expect to have a higher number of inspections from the RSA than those having a lower rating (lower risk). Having a CVORI Green rating does not mean that a bus or truck operator will never be inspected by the RSA. Random inspections will continue to be carried out so every operator can still expect some level of RSA inspection.

Most of the non-compliances detected by the RSA at roadside inspections and failures at the annual test should have been detected by the operator. Similarly the majority of issues detected during the course of premises inspections should be known to the operator and are avoidable. The apparent indifference by some operators to comply with key road safety rules undermines the road safety not just of the driver but also other road users.

The RSA has advised the Irish Road Haulage Association on numerous occasions that the CVORI is a targeting tool for enforcement and while it can be used by operators to enable them see their compliance record with the RSA it is not intended as a one stop shop for managing the safety or their operations. The RSA recommends that the appropriate method for managing compliance is to ensure that there are robust processes, schedules and monitoring in place and efficient and effective action taken to address issues.

The CVORI is made available to operators as a transparency measure. The RSA do not share an operators' CVORI with external parties such as insurance companies or

consignors. The RSA has chosen to allow operators to view their own risk status via their on-line CVRT account. This is to assist operators in managing their own compliance and to be transparent in terms of our enforcement approach and interactions with operators. To date many operators have welcomed the transparency and feel the risk rating system is another step in supporting compliant operators and which we believe is also supported by the Irish Road Haulage Association.

The RSA material on the website concerning the CVORI system states that ‘An operators risk rating information is personal to them as an operator and is only used by the RSA for the purposes set out in the current legal framework which relates to targeting enforcement and frequency of inspections. Any information contained or displayed on an operators risk rating is not evidence of or relevant to any other purpose’. The RSA agrees with the Irish Road Haulage Association that the CVORI system is confidential to the RSA and should not be used for any other purposes as is made clear by the RSA on the website.

As part of the continuing efforts of the RSA to ensure that the CVORI works as a fair and effective tool for targeting enforcement and so ultimately improves the safety of heavy commercial vehicles and drivers on our roads, the RSA commissioned PricewaterhouseCoopers (PwC) to conduct an external review of the current CVORI system in 2018. This review is near completion and the report will be communicated to key stakeholders and available on our website once it is available. In brief the review found that the current CVORI system is fit for its intended purpose as a tool to assist the RSA in directing its enforcement activities. The review also found a number of strengths within the current system which includes the following:

- Accuracy in classifying compliant operators as ‘green’
- Highly flexible and adaptable from a system development point of view
- Works in the field and is used on a daily basis by enforcement officers.

The report outlines a number of improvements that could be made to the current system by way of enhancement. These can be grouped into the following areas:

- Improvements to communications to ensure all have a clear understanding of the intended purpose of the CVORI
- Changes to the percentile methodology, to move from a percentile (relative ranking) system to a threshold (absolute score) system and some options with regard to enforcement usage.
- Some changes to how the CVORI is calculated in terms of points allocations and algorithmic changes
- Introduction of new data sources into the calculation of the CVORI
- Optimisation of the CVRT online account for HCV operators to facilitate mobile use.

The RSA will review the recommendations in detail giving each due consideration over the coming months. The RSA will communicate with operators and stakeholders in due course should any changes be considered for implementation.

Issue 3: Commercial Vehicle Testing

Concerns have been raised about perceived inadequacies in vehicle testing due to:

- **A lack of proper testing equipment**
- **Inadequate training of testers**
- **Poor competence of testers**
- **Absence of use of proper equipment to carry out vehicle testing**
- **An absence of consistency across testing centres**
- **An absence of an appeals process to have a finding independently assessed.**

Again the dysfunctional manner in which the CVRT system is carried out is penalising legitimate licensed hauliers.

The CVRT is only applied to Irish registered licensed hauliers.

RSA response.

The Commercial Vehicle Roadworthiness Testing (CVRT) system is applied to all Irish registered commercial vehicles and not just those vehicles owned by licensed hauliers.

In accordance with Directive 2014/45/EU, it is the State of registration that determines where a commercial vehicle is subject to a vehicle roadworthiness test. Where a vehicle registered outside the State over one year old is being used in the State does not hold a Certificate of Roadworthiness or proof of a roadworthiness test, the operator concerned is committing an offence under Irish law. It is possible that an out of State vehicle may be subject to an enforcement test where there are concerns about its roadworthiness condition identified at a roadside inspection.

IRHA issues– ‘A lack of proper testing equipment’

The RSA Premises and Equipment Guidelines 2013 for CVR test operators specify the test equipment to be used to undertake equipment tests at the CVRT and the requirements in relation to ongoing maintenance and calibration which has been updated on a frequent basis and are publicly available on the RSA website. Regular test centre inspections are conducted across the CVR testing system throughout the year which includes checks that test equipment is being used correctly and being maintained. In addition equipment consistency checks are undertaken across the CVR testing network annually to ensure that equipment is performing consistently. Where issues are identified during the course of consistency checks or at routine inspections, measures are taken in consultation with the CVR test operator to address the particular issue which may include cessation of testing using the equipment concerned. The test centre equipment used in Irish CVR test centres is the same specification as that applied in other jurisdictions and in some cases exceeds those requirements set out in the EU Legislation.

The CVR test is essentially a maintenance and condition check at a point in time and carried out using techniques and required equipment currently available without the use of tools to dismantle any part of the vehicle. A detailed assessment of the vehicle's design and construction is not part of the test.

IRHA issues : ‘Inadequate training of testers’

The RSA is responsible for granting authorisation to become a new CVR Tester and for amending authorisations to add extra test categories. A CVR tester is the person who carries out vehicle inspection at an approved CVR testing centre. A CVR tester can be authorised to undertake more than one category of testing.

To become a CVR tester, a person must apply to, and be approved by the Road Safety Authority. To gain approval the person must hold qualifications and experience appropriate to the class of vehicle to be inspected, and successfully demonstrate that they meet the specified requirements and undertake training.

For applicants for Authorisation as new CVR Testers the following qualifications/experience requirements apply.

Qualifications/Experience	Requirements
New CVR Tester applicants must have an Advanced Certificate Craft, National Craft Certificate or an equivalent qualification from another country to at least level 6 on the National Framework of Qualifications (NFQ) or a Senior Trade Certificate or Record of Attainment from the Further Education and Training Authority (SOLAS) demonstrating competencies equivalent to the standards for a National Craft Certificate in the skill area of Light Vehicle, HGV, Agricultural or Construction Mechanic.	<ol style="list-style-type: none">1. Evidence from their employer that the applicant has at least 12 month’s work (18 months if they are applying to test HCV’s and your qualification is in Light Commercial Vehicles) experience repairing and maintaining a HCV or an LCV2. Be nominated by a CVR Test Operator to become a CVR Tester.3. The Road Safety Authority must be satisfied that applicants are ‘fit and proper persons’

<p>New ADR/Tractor (category T vehicles) Tester applicants applying for an amendment to their authorisation to conduct ADR/Tractor (category T) tests must have been authorised to test HCV vehicles for at least one year immediately preceding their commencement of the relevant training course with the nominated training provider.</p>	<ol style="list-style-type: none"> 1. Be nominated by a CVR Test Operator to become an ADR/Tractor tester. 2. The Road Safety Authority must be satisfied that applicants are 'fit and proper persons'
---	--

The legal requirements to become a CVR tester are specified in the Authorisation of Commercial Vehicle Roadworthiness Test Operator and Testers Regulations 2013 as amended. Many applicants seeking to become CVR testers on the basis of qualifications issued in other jurisdictions are not able to meet the national standards.

Apart from meeting the qualification and experience requirements, each applicant must also satisfactorily complete a specific training course and attend at annual Continuous Professional Development courses to maintain their skills levels and keep abreast of new developments. The **Athlone Institute of Technology (AIT)** has been awarded the training concession contract by the RSA to deliver this training following a public tender competition.

The RSA monitors the delivery of training by the AIT as well as approval of the training content for all CVR testing courses including the CPD training. This involves unannounced visits at courses and also seeking feedback from course attendees on a confidential basis.

The RSA is satisfied that the eligibility requirements including the theoretical and practical content of the CVR tester course conforms and exceeds the requirements of Directive 2014/45/EU. In addition, the RSA governance arrangements put in place for the AIT contract are relevant and changes introduced as and when required on the basis of experience and new emerging issues.

IRHA Issues – ‘Poor competence of CVR testers’

The Road Safety Authority, mindful of its objective of saving lives on the roads and improving the standards of roadworthiness of commercial vehicles and its mission to reduce fatalities has developed a detailed competency framework for CVR testers. The purpose of the authorisation process for CVR testers is to ensure that each CVR tester is equipped with the knowledge and skills necessary to undertake their duties in accordance with the required standards set out in the CVR tester manuals and to do so honestly, with integrity and fulfils the duty of care in the course of testing.

The conduct of tests requires CVR testers to apply their professional judgement and experience in making an assessment of the condition of testable items. The CVR tester manuals provide clear instructions on the criteria to be applied in making such assessments. On a daily basis, CVR testers make many decisions in respect of their work using their judgement and experience. This judgement allows them to use their understanding of the tester manuals, vehicle manufacturer guidance and RSA instructions and their training in order to undertake testing in accordance with the requirements.

CVR testers are ready to explain the reasons for failure at a CVR test, if asked. This has always been the case and is a part of the normal service offering at the CVR test.

The RSA competency assessment for CVRT testers involves on-going assessment of CVR testers through unannounced inspections at CVR testing centres and specifically through the application of independent and observed tests of the performance of testers.

An “Independent” test inspection means an inspection carried out by the Technical Inspection Services Contractor or an RSA Vehicle Inspector on a vehicle which has been tested by a CVR tester in order to assess the quality and consistency of work done by the CVR Tester. This can also involve a partial test usually involving visual test items where the Technical Inspection Service Provider (TISP) contractor assesses the quality of work done. An independent test is essentially a re-examination of a tested vehicle.

An “Observed” test inspection means an inspection carried out by the Technical Inspection Services Contractor or an RSA Vehicle Inspector to observe the carrying out of a CVR Test by a CVR Tester in order to assess the quality and consistency of work done by the CVR Tester.

Inspections are generally carried out on an unannounced basis and are planned based on the levels of testing and test categories in each testing centre. Details of total number of independent and observed test inspections for each of the past 3 years follows.

	2016	2017	2018
Independent Tests	1357	1377	1910
Observed Tests	3302	2352	3413

A number of additional test centre inspections are conducted where specific risks have been identified. These additional independent and observed inspections are not included in the above table. There are approximately 360 of these inspections carried out each year with specific instructions provided by the RSA Authorisations team to the TISP contractor.

Such an evidence based approach assists the RSA to determine whether or not a particular CVR tester requires additional training in respect of carrying out CVR tests or guidance in respect of the application of their professional judgement and expertise. The use of such an evidence based approach allows the RSA to ensure consistency in approach in dealing with risks arising in an open, fair and transparent manner.

Other elements of the measures implemented to maintain and enhance the competency of CVR testers involves:

- annual continuous professional development delivered through the Athlone Institute of Technology
- RSA circulars and guidance including updates to the tester’s manuals

- CVR test operator supervision as well as peer to peer assessments facilitating sharing of best practice and establishing a learning environment for CVR testers
- RSA inspections using a risk based approach at testing centres and follow up of issues as appropriate
- CCTV monitoring of tests being conducted
- Monitoring of roadside inspections findings and specifically defects detected after the vehicle concerned was recently tested.
- Follow up on investigations where complaints received about CVR tests.
- Data analysis.

The measures being implemented ensure that CVR testers are appropriately equipped and supervised to perform their duties to the required standards and in the vast majority of cases, the CVR testers are performing the required job skills to the required performance standards.

IRHA issue: absence of use of proper test equipment to carry out vehicle testing

There may be exceptional occurrences where test equipment is malfunctioning, inoperative or missing a mandatory upgrade. There are procedures in place to deal with such eventualities. Exceptionally equipment may not be available and this will stop testing until resolved which inevitably will impact on the CVR test operators ability to meet test appointments. It is not in a CVR test operator's interest that test equipment is not available for use.

The majority of the CVR test equipment is connected centrally to the CVR test centre ICT system (named CoVIS) and a test cannot be completed without this ICT system being used.

IRHA issue: An absence of consistency across testing centres

Since taking over responsibility for the CVRT testing system from the Local Authorities, the RSA in fulfilling the mandate to implement reforms to the commercial

vehicle testing system, has put in place proactive monitoring arrangements and other measures to provide assurance regarding the consistency of testing. RSA data shows that test accuracy in 2018 was 98% in respect of independent test inspections as defined earlier.

Testing is a human endeavour – humans make errors. Our priority is to eliminate errors as much as possible. While we want to achieve certainty in every test right across the CVR testing network, this is not possible. The measures and oversight arrangements in place are intended to improve testing standards and consistency across the testing system. In a system where there are over 0.7 million tests, there are going to be issues to be addressed and risks to be managed.

IRHA Issue – An absence of an appeals process to have a finding independently assessed.

RSA Response: There are appeals processes available. In the first instance, the issue of concern is raised locally with the CVR Test Operator concerned and if this is not resolved to the satisfaction of the complainant this can be escalated to the RSA technical outsource service provider – the AA who will then adjudicate on the matter. For an appeal to be effectively considered the vehicle must be presented in the same condition as it was at the time of testing with no remedial work conducted.

IRHA issue: ‘... the dysfunctional manner in which the CVRT system is working is penalising legitimate licensed hauliers’

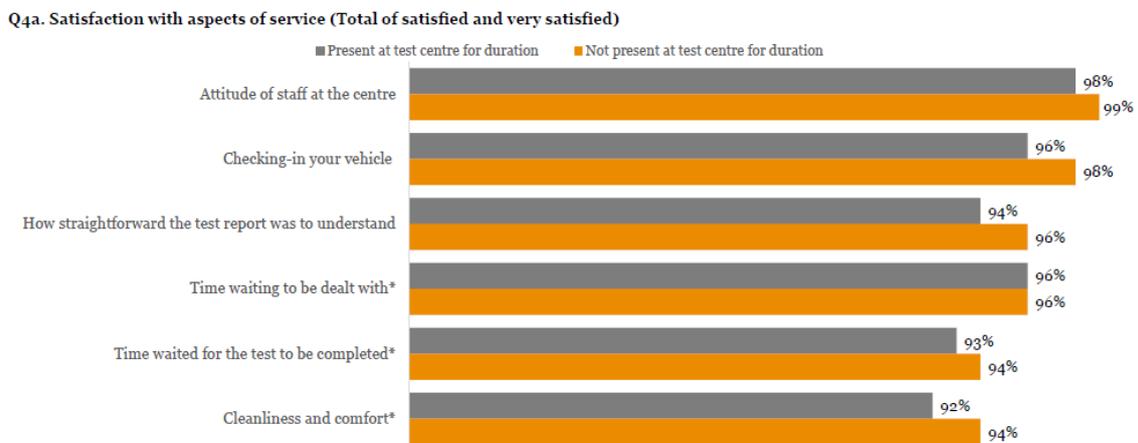
The Road Safety Authority rejects any assertion that the CVRT system as it is established penalises licensed hauliers and no evidence has been produced to show that the current system favours any particular segment of the road transport industry in the State.

The Irish Road Haulage Association has expressed dissatisfaction with the calculation of Certificates of Roadworthiness (CRW) expiry dates and in particular that the arrangements for commercial vehicles that have been off the road are not reflective of the risk to road safety. The date for CVR tests are due by reference to the anniversary date of first registration of the vehicle or the expiry date of the current certificate. The Road Safety Authority proposes no change to the current arrangements for test due

dates. Indeed to so would undermine the much improved test compliance rates achieved over the past 6 years and reverting to the previous arrangements of CRW expiry could be expected to reverse this trend. Such an approach would ‘reward’ delays in testing with the consequent adverse effect of achieving a level playing field between operators who comply on time and those who don’t. The RSA is amenable to considering an off the road system for roadworthiness subject to the availability of resources to conduct such a study and to implement its findings.

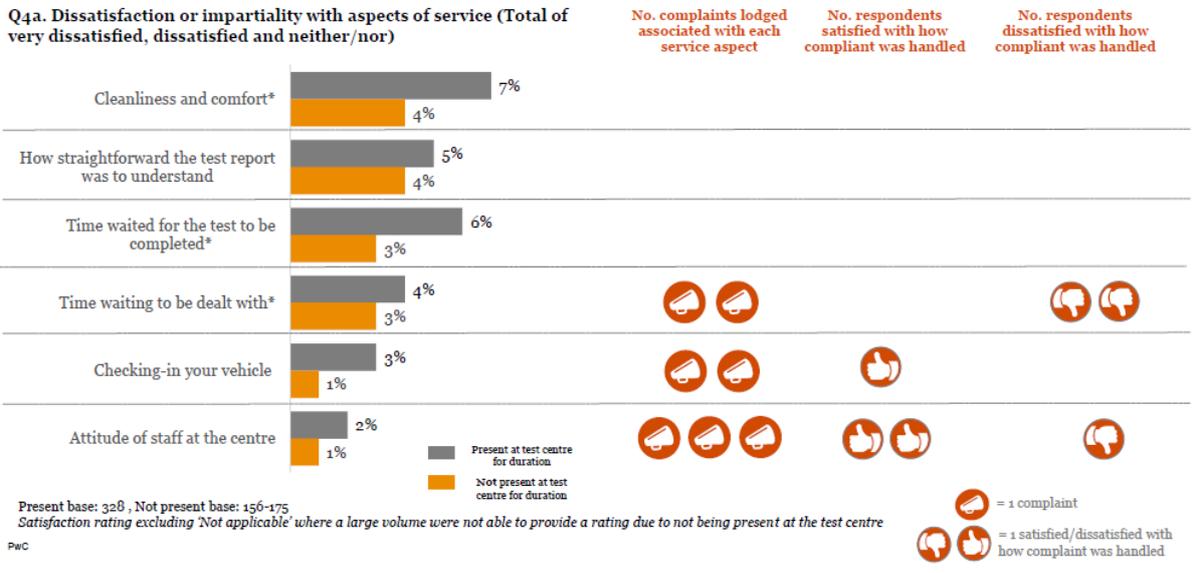
The Irish Road Haulage Association has also expressed dissatisfaction with arrangements for the central issue of certificates of roadworthiness. These arrangements were introduced for reasons relating to integrity and security in respect of the issue of CVRT test certificates. The measure that has been implemented has improved the accuracy of the National Vehicle Driver File. The Road Safety Authority has no plans to alter these arrangements. They have also objected to increased fees for tests introduced in 2013.

As a general point in respect of the CVR testing system, the RSA has engaged the services of PWC to conduct independent annual surveys on satisfaction levels with the service provided by the CVR Testing network. These surveys are conducted across a wide sample of commercial vehicle operators including licensed and unlicensed HGV Operators and LCV Operators. The 2018 survey indicated a very high satisfaction rate with the service provided by the CVR Testing network as outlined below.



*results are shown by those present at the test centre vs those who were not.

A minority are dissatisfied with elements of the service at the test centre



Public Consultation on the future of CVR Testing

The RSA is currently engaging in a strategic review of the Commercial Vehicle Roadworthiness Testing (CVRT) System. Independent consultants have been appointed for this purpose. The Irish Road Haulage Association is one of the key stakeholders being consulted on the CVRT system. The review will consider a number aspects of CVRT including:

- Assessing the strengths and weaknesses of the current testing arrangements in relation to road safety, quality and consistency of testing, service quality, and the accessibility of the existing network for customers.
- Identifying improvements needed in the system to deliver on the RSA's road safety strategy.
- Consideration of enhancements required in the future, due to EU regulations, technological advancements etc.
- Options for future delivery of CVRT services.

The consultants will be hosting public consultations at three regional venues at Limerick, Naas and Sligo. Views can also be provided via an on-line survey hosted on the RSA website.

IRHA Issue: Licensing of Non EU Drivers

In order to address an acute shortage in HGV drivers in Ireland (a problem which exists right across the EU), the Department of Business, Enterprise & Innovation initiated a driver permit scheme to grant 120 employment permits to non-EU drivers with recognised HGV licenses. This scheme was introduced in 2017. The manner in which the RSA has administered its responsibilities under this Scheme has been disgraceful and has created significant hardships and impositions on licensed hauliers in Ireland trying to man their operations. Since the permits were introduced, the RSA have introduced rolling and changing regulatory requirements and placed evolving regulatory obligations on operators seeking to employ a driver under the permit scheme, meaning drivers are waiting in Ireland up to 6 months into a 2 year permit before they can work. This has caused hardship, additional costs, inconvenience and real personal difficulties for drivers, licensed hauliers, their respective families and customers.

As a consequence of the RSA incompetence in managing the applications supporting this Scheme, only 68 permits have been allocated. The performance by the RSA of its functions in this matter represents a poor use of public resources and has imposed additional costs on operators within a key sector of the economy as well as frustrating the Government's measures to tackle a labour resource issue constraining the economy.

RSA response:

By way of background, contacts between the Department of Business, Enterprise and Innovation concerning employment permits relates only to South African drivers seeking an employment permit from the State. Where a South African driver applies for an employment permit, the Department of Business, Enterprise & Innovation contacts the RSA to validate their South African (SA) licence in order to issue a work permit. The RSA will then validate the SA licence with the SA licensing authorities. The RSA has received 23 such cases for validation to date in 2019 and the turnaround time for validation to be returned from the SA licensing authority is normally 2 to 3 days with very few exceptions. There are currently no outstanding cases to be validated for the issue of a work permit with the RSA.

The National Driver Licence Service (NDLS) has received 577 applications for exchange of a SA driving licence to date in 2019. The average turnaround time for such licence exchanges is approx. 30 days. However, if it is a complex application this could take up to 3 months.

South Africa is what is known as a third country when it comes to licence exchange. This means Ireland and South Africa have agreed a mutual licence exchange mechanism for drivers of both countries.

Under the exchange agreement where a SA licence is being exchanged for an Irish driving licence the NDLS has to check that a driver does not have any endorsements and is entitled to the vehicle categories on their licence. This is especially important for higher categories like trucks and buses. This means that when an application for a licence exchange is received the NDLS has to contact the SA licensing authorities to validate the licence. The speed in which the SA driver licensing authorities respond can be a significant influencing factor in RSA processing of applications for licence exchanges.

This verification process must be completed to ensure that a driver is legally entitled to drive in Ireland and the EU on the vehicle categories on that licence.

The RSA does not receive or issue the applications for work permits – this comes within the responsibility of the Department of Business, Enterprise and Innovation. The RSA have only been asked by that Department to verify 23 SA licences to date in 2019, in order to issue a work permit.

The RSA has made no change to the conditions regarding the processing of requests from the Department of Business, Enterprise and Innovation or relating to exchange of a SA licence for an Irish licence. Therefore the assertion that '*...the RSA have introduced rolling and changing regulatory requirements and placed evolving obligations on operators seeking to employ a driver under the permit scheme...*', is without any foundation.

Setting the conditions for the permit scheme are matters entirely for the Department of Business, Enterprise and Innovation. The RSA role is limited to verifying the status of the SA licence and arranging for their subsequent exchange where an application is received from the holder.

The RSA has noted that the Department of Business, Enterprise and Innovation has placed a notice on their website about processing delays in respect of employment permit applications. The content of the notice dated 8 July 2019 follows:

‘The Department of Business, Enterprise and Innovation would like to apologise to customers experiencing difficulties as a result of delays they may be encountering in the processing of employment permit applications.

We’ve experienced a high volume of applications in recent weeks and, unfortunately, this has led to some delays. We are working to reduce the current waiting times of:

- 3 weeks for Trusted Partner applications
- 14 weeks for Standard applications

Further information about current processing dates are available at [Employment Permit Processing Dates](#).

The RSA rejects any assertion by the Irish Road Haulage Industry that it has frustrated the Government’s measures to tackle a labour resource issue constraining the economy. The reality is that the RSA is fully discharging its legal responsibilities as quickly and efficiently as possible. The Irish Road Haulage Association submission to the PAC has failed to acknowledge an initiative adopted by the RSA concerning compliance with the Driver CPC requirement for SA drivers. The RSA is facilitating the completion of Driver CPC training with RSA approved CPC training organisations in advance of the requirement to exchange a South African licence for an Irish driving licence in order to expedite the holders of South African truck and bus driver licences entering into the Irish transport industry. This initiative positively supports the SA drivers entering the industry.

The Irish Road Haulage Association may be unhappy with the administration of the employment permit scheme but persistent and unwarranted criticism of the RSA in that regard is unjustified.

IRHA issue – Lack of knowledge and awareness of legal powers and responsibilities

There have been countless instances where the RSA has demonstrated a lack of awareness of their legal obligations and responsibilities which has led to either inordinate delays in the implementation of regulatory measures (such as with the Licensing on Non EU Drivers) or has led to non-enforcement in relation to specific categories of vehicles (such as concerning certain types of commercial vehicles in Ports).

In other instances the RSA will claim that their powers are lacking and they are not in a position to undertake effective enforcement – however there is no evidence that they are advocating for an extension of their powers when these shortcomings are identified.

The absence of awareness and certainty as to their legal powers and responsibilities frustrates the effective performance of their regulatory functions and involves a misapplication of public funds.

RSA response

The RSA rejects any assertion that the RSA has demonstrated a lack of awareness of legal obligations.

The RSA is aware of a recent instance which has been acknowledged by the RSA that there was an incorrect reference and reliance on a particular legal provision for the purpose of notifying an operator of a pending inspection. This is the subject of ongoing and further correspondence. As regards enforcement at ports, the RSA needs to be fully satisfied that it has an entitlement to enforce in particular areas and that the vehicles being used come with the scope of the national provisions. The RSA must act in a lawful manner. These matters requires careful consideration.

The RSA rejects any suggestion that there was any misapplication of public funds in respect of the activities being undertaken by the RSA. The RSA invites the Irish Road Haulage Association to supply the RSA or the Garda Síochána with any evidence of corporate or personal malfeasance so that a detailed investigation can be undertaken. If this information is not forthcoming this claim should be withdrawn.

From the enforcement perspective, all inspections including those at the roadside are approved in advance. Expenditure incurred on travel and subsistence is undertaken and approved in accordance with Civil Service mileage and subsistence rates.

IRHA issue: Poor customer service and responsiveness.

The RSA endeavours to respond to issues raised as quickly as possible – some of the topics raised often require interaction with other parties.

The RSA would also welcome a constructive working relationship with the Irish Road Haulage Association going forward which in the past has been strong and mutually beneficial. We seek restoration and adherence to having the practice of quarterly meetings to discuss issues and matters of concern and affording each party to understand each other's perspective, fostering mutual respect and trust, clear understanding of roles and responsibilities and realistic expectations. This process must not be a 'once off' activity and needs to be cultivated to enhance working relationships going forward. The Road Safety Authority is committed to a constructive engagement with the Irish Road Haulage Association and other relevant stakeholders.

In seeking to cement a strong and constructive working relationship, the RSA has notified the Irish Road Haulage Association about arrangements for dealing with issues. In cases where there are concerns about enforcement matters by a member including issues pertaining to an inspection undertaken by RSA personnel or our contractors or evidence of illegal haulage activities that the Association wish to bring to the attention of the RSA, these should be channelled through the RSA complaints system using the online form on the RSA website. Where the Association seeks to address or influence the development of legislation, policies and practices, issues arising in this regard are to be directed to the Chief Executive Officer. The RSA has sought to dissuade senior members of the management committee of the Irish Road Haulage Association from making direct contact with RSA Enforcement personnel during the course of inspections. The job of the officers concerned in respect of enforcement is difficult enough without having to deal with such contacts during inspections.

Concluding remarks:

The Road Safety Authority is delivering its obligations and responsibilities effectively and efficiently. There are appropriate oversight arrangements in respect of the activities of the RSA and full compliance with the Code of Practice for the Governance of State Bodies. The RSA is fully aware of its responsibilities and getting on with the

job which it is mandated to deliver under the Road Safety Authority Act 2006. The Irish Road Haulage Association advocacy on behalf of their members for increased enforcement against non-State operators is a reasonable one but should not require us turning off our critical faculties in respect of the application of enforcement. The RSA is applying a pragmatic approach by planning and synchronising inspections using a data led and risk based approach towards enforcement against all heavy commercial vehicle operators and not just licensed hauliers. The RSA focus at inspections covers all aspects of the legislation enforceable by RSA.

The RSA has limited resources available for enforcement and there are particular deficits in law which if addressed would increase deterrence and the capacity of the RSA and Garda Síochána to deal with illegal operations by all operators. There will always be differences as to where priorities for enforcement should exist.

The RSA has acknowledged that many aspects of enforcement are not as strong as we would wish particularly in comparison with other countries. Despite popular belief and assertions by the Irish Road Haulage Association, the Road Safety Authority undertakes inspections against non-State operators and notwithstanding particular legal difficulties, has prosecuted non-resident offenders. The Authority has advocated for additional legislation to address shortcomings and this includes additional powers for RSA Transport Officers and adoption of fixed charges for certain offences detected at the roadside and will continue to do so.

The RSA refutes any assertion by the Irish Road Haulage Association that the RSA lacks any capacity or willingness to be self-critical in respect of any of its operational responsibilities and to make changes required to improve accountability or performance. Our 2016 – 2020 Corporate Plan agreed with the RSA Board is the roadmap being implemented to, inter alia, further increase our effectiveness and efficiency and to prepare for the future.

The RSA has concerns that the Irish Road Haulage Association submission refers to unspecified issues which they believe raise parallels with some of the work that the PAC and Comptroller and Auditor General has done around enforcement activities by

An Garda Síochána. The Authority requires that any evidence of wrongdoing should be immediately furnished to the RSA CEO for investigation.

The effectiveness of RSA enforcement checks is constrained for a number of reasons which include limited resources, absence of fixed charges, deficits in powers, lack of access to ship manifest and other information held by Government agencies, and because RSA cannot always inspect every incoming vehicle at the ports or at Border crossings. Work is underway on resolving these issues but this will take some time to implement taking account of the necessary legal drafting and system work to be implemented.

The RSA gives proportionate attention to enforcement across the country and maximises availability of our current resources available for enforcement. Targets for roadside inspections are agreed each year with the Garda Síochána on a regional basis

The Authority is not aware of any official or scientific publication by a State agency supporting the contention that at least 30% of HGVs on the roads in the State are foreign operated and registered vehicles.

The Authority rejects any assertion that it has been culpable in any way for delays relating to the employment permit scheme being managed by the Department of Business, Enterprise and Innovation for South African drivers.

The Authority does not accept the assertion that the CVR testing system is 'dysfunctional' and penalising licensed hauliers. The system as constructed is delivering on road safety objectives and does not discriminate against licensed hauliers.

The RSA risk system has been independently reviewed and found to be an effective and fair tool for targeting enforcement. The RSA intends to publish the independent review in due course.

The RSA seeks to have a professional working stakeholder engagement with the Irish Road Haulage Association notwithstanding unsubstantiated claims concerning the misapplication of public funds. The RSA seeks a rejuvenated working relationship with

the Irish Road Haulage Association to discuss issues and matters of concern and affording each party to understand each other's perspective, fostering mutual respect and trust, clear understanding of roles and responsibilities and realistic expectations.

The RSA rejects any assertion that there has been a misuse or misapplication of public funds and calls on the Irish Road Haulage Association to furnish the RSA CEO with specific evidence to corroborate the claim. If this is not forthcoming, the claim must be withdrawn.

July 2019