

## Guidance for Occupational Therapists regarding Fitness to Drive and Driving Cessation

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Country relevance – UK wide

### Introduction

This briefing aims to provide occupational therapists with information on communicating concerns about a person's ability to drive safely, directly to the Driver and Vehicle Licensing Agency (DVLA) in England, Scotland or Wales or to the Driver and Vehicle Agency (DVA) in N. Ireland.

Evidence from an occupational therapy functional assessment may either support a person's fitness to drive or raise concerns about their ability to drive safely. The appendix that accompanies this briefing has been devised to assist occupational therapists to provide relevant data to the DVLA / DVA to enable the Authority to make the decision on the individual's capacity to hold a driving licence.

In December 2021, RCOT responded to the DVLA consultation on changing the Road Traffic Act 1988 to widen the pool of healthcare professionals who can complete DVLA medical questionnaires. RCOT was in favour of the DVLA proposals.

### Background

Being able to drive has a substantial effect on a person's quality of life. Driving is an integral part of life for the majority of the adult population with 41 million licence holders in the UK (DVLA 2022). It is a key activity of daily living which is often taken for granted but which is highly important in relation to independence and social status.

Driving is also one of the most dangerous activities most of us undertake daily, along with crossing the road. The ability of people to drive safely affects us all every day and a person's ability to continue to drive safely can change as a result of a medical condition or an acquired disability. The impact on their driving can be either permanent or temporary.

### Main body of information

#### Notifying the DVLA / DVA

Although occupational therapists along with other health professionals may provide evidence about a person's fitness to drive, only the DVLA / DVA have the authority, on behalf of the Secretary of State, to make the decision on a person's fitness or eligibility to hold a driving licence.

All drivers are legally responsible for informing the DVLA / DVA about a medical condition which affects their ability to drive. The DVLA / DVA has information on which medical conditions the DVLA / DVA need to know about. Information for people living in Scotland, Wales and England is available via: <https://www.gov.uk/driving-medical-conditions>. Information for people living in Northern Ireland is available via: <https://www.nidirect.gov.uk/articles/how-tell-dva-about-medical-condition>

Not all drivers notify the DVLA / DVA when there is cause for concern. This may be due to reduced insight into the effects of their medical condition, for others there is a fear of losing their licence and their independence, and not realising that they need to.

Previously it was the responsibility of medical practitioners to tell their patient that they needed to notify the DVLA / DVA. Medical Practitioners were also required to notify the DVLA / DVA of any medical concerns if the individual did not do so. In 2022, the DVLA announced a change in the law to enable more healthcare professionals (including occupational therapists) to complete medical questionnaires. For more information, please see: <https://www.gov.uk/government/news/dvla-announces-change-in-the-law-to-enable-more-healthcare-professionals-to-complete-medical-questionnaires>

*Assessing fitness to drive – a guide for medical professionals* (DVLA 2024 pages 11 and 12) <https://assets.publishing.service.gov.uk/media/65a51345867cd800135ae844/assessing-fitness-to-drive-january-2024.pdf> states:

5. 'When diagnosing a patient's condition, or providing or arranging treatment, you should consider whether the condition or treatment may affect their ability to drive safely. You should:
  - refer to the DVLA's guidance *Assessing fitness to drive – a guide for medical professionals*, which includes information about disorders and conditions that can impair a patient's fitness to drive
  - seek the advice of an experienced colleague or the DVLA's or DVA's medical adviser if you are not sure whether a condition or treatment might affect a patient's fitness to drive.
6. If a patient has a condition or is undergoing treatment that could impair their fitness to drive, you should:
  - a. Explain this to the patient and tell them that they have a legal duty to inform the DVLA or DVA.
  - b. Tell the patient that you may be obliged to disclose relevant medical information about them, in confidence, to the DVLA or DVA if they continue to drive when they are not fit to do so.
  - c. Make a note of any advice you have given to a patient about their fitness to drive in their medical record.
7. If a patient is incapable of understanding this advice – for example, because of dementia – you should inform the DVLA or DVA as soon as practicable.
8. If a patient refuses to accept the diagnosis, or the effect of the condition or treatment on their ability to drive, you can suggest that they seek a second opinion, and help arrange for them to do so. You should advise the patient not to drive in the meantime. As long as the patient agrees, you may discuss your concerns with their relatives, friends or carers.
9. If you become aware that a patient is continuing to drive when they may not be fit to do so, you should make every reasonable effort to persuade them to stop. If you do not manage to persuade the patient to stop driving, or you discover that they are continuing to drive against your advice, you should consider whether the patient's refusal to stop driving leaves others exposed to a risk of death or serious harm. If you believe that it does, you should contact the DVLA or DVA promptly and disclose any relevant medical information, in confidence, to the medical adviser.
10. Before contacting the DVLA or DVA, you should try to inform the patient of your intention to disclose personal information. If the patient objects to the disclosure, you should consider any reasons they give for objecting. If you decide to contact the DVLA or DVA, you should tell your patient in writing once you have done so, and make a note on the patient's record.' (DVLA 2024 p11-12).

## Confidentiality and consent

Sharing confidential information with an outside agency needs to be considered carefully as occupational therapists must protect the person's right to confidentiality. There is, however, a duty to protect the general public. This duty is recognised in the *Professional standards for occupational therapy practice, conduct and ethics* (2021) and by the HCPC, *Guidance on confidentiality* (HCPC 2020).

The *NHS Code of Practice on Confidentiality* (2003) requires practitioners to inform people, wherever possible, about the need to disclose information to other agencies and to seek the person's consent to do so.

The *DVLA, Assessing fitness to drive* (2024) states 'Disclosing information with consent. Where you are not sharing information with other healthcare professionals for the purpose of providing (or supporting the provision of) direct care to a patient, you should always try to get your patient's explicit consent to disclose sensitive information about them, unless any of the following apply:

- a. obtaining consent would defeat the purpose of the disclosure (for example, where there would be a risk of harm to others; where detection of a serious crime would be obstructed); or
- b. you have already made the decision to disclose information in the public interest and obtaining consent would be meaningless or tokenistic; or
- c. the patient is not able to give consent as a result of disability, illness or injury. A patient's ability to give consent is referred to as their 'capacity' to consent. For more information on capacity, including what to do if a patient lacks capacity, see our consent guidance.

Where your patient provides you with explicit consent to disclose confidential information about them, you must ensure that they know what they are consenting to (see Standards 2 and 3 of the Standards of Practice, and our consent guidance) and that they are clear what information is going to be disclosed, why it is being disclosed and to which person or authority. Where you are relying on implied consent (see bullet point 10 above), patients should not be surprised to learn how their information is used; if the information would be used in ways that patients would not reasonably expect, you should seek explicit consent for this from the patient.

It is important to remember that patients with the capacity to consent have the right to make their own decisions and to refuse consent, even where you or others may consider the decision to be ill-advised. If a patient makes a decision contrary to clinical advice, you should document this in the patient records so that it is clear to all involved in that patient's care,' (DVLA 2024 p 12-13).

Occupational therapists that identify that someone may be unsafe to drive have a duty of care to society to notify the DVLA / DVA. Individuals need to be able to make informed decisions about their ability to drive and it is essential that explanations are given about how their condition affects their ability to drive safely. Occupational therapists also have a duty of care to the person they are working with to ensure that the person understands that it is their (the driver's) legal obligation to inform the DVLA / DVA, and that if they choose to ignore medical advice to stop driving this may affect their insurance cover.

The DVLA also states, 'If a patient does not provide you with explicit consent to disclose confidential information about them, and if you cannot rely on implied consent, there may still be circumstances in which you may pass the information on to an appropriate authority, such as where it is in the public interest, or where there is a legal requirement for you to do so.' (DVLA 2024 p13).

## **The role of the DVLA / DVA**

The appendix that accompanies this document has been devised to enable practising occupational therapists to help people notify the DVLA / DVA and to share findings from their functional assessment. It is vital to ensure that the DVLA / DVA has enough relevant information to make an informed decision about someone's fitness to drive. Once the DVLA / DVA has been notified, they will undertake an investigation and may request further information from other health or social care professionals. The driver may also be required to have a driving assessment at a mobility centre or they may be invited for a medical appraisal.

If the person gives permission, a copy of the assessment report or referral to DVLA / DVA should be sent to the GP to be included in their medical records. If the DVLA / DVA decide to revoke the person's driving license, the person is likely to need support coming to terms with the decision and help in exploring other transport options.

## **Mobility Centres**

Mobility Centres across the country offer advice on Fitness to Drive. They can offer practical driving assessments which can assist a driver to gain insight into their driving ability (generally the person will need to have a valid driving licence for an in-car assessment to be completed).

As driving is probably the most complex skill attempted on a day-to-day basis, it can be very difficult to assess a person's ability to compensate for any physical or cognitive problem without being in the driving situation. People can refer themselves for an assessment (except in Scotland where this is through a GP referral). Many of the people whose ability to drive is affected by their condition can compensate for the condition and drive safely, but they may need specialist advice and training, and/or vehicle adaptations to do so.

Even people who do not have a medical condition for which they are required to notify DVLA / DVA, but who may experience difficulty in driving safely may find it useful to address their own concerns: occupational therapists can signpost people to the mobility centres for further advice.

More information can be found at <https://www.drivingmobility.org.uk/> or through the Driving Mobility advice and enquiry line on 0800 5993636.

## **What information does the DVLA / DVA need?**

The appendix which accompanies this document includes sections for occupational therapists to give information on the physical, cognitive and psychological effects of any medical condition, as well as space to record their own findings and any standardised assessment findings of a person's ability. There is also a section to document consent, which the person they are working with is asked to complete. This document provides a guide for occupational therapists to record and pass information to the DVLA / DVA which is of good standard and which enables therapists to seek the consent and co-operation of affected people.

## **Acknowledgement**

The Royal College of Occupational Therapists would like to thank Driving Mobility for their contribution in producing this briefing.

## **Resources**

Please visit <https://www.rcot.co.uk/> to view the most current versions of RCOT publications.

Carter T (2006) *Fitness to drive: a guide for health professionals*. Oxford: RSM Books.

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Stack AH et al (2018) Assessing fitness to drive after stroke: A survey investigating current practice among occupational therapists in Ireland. *Irish Journal of Occupational Therapy*, 46(2), 106-129.

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UK Government, NI Direct *How to tell DVA about a medical condition*. Available at: <https://www.nidirect.gov.uk/articles/how-tell-dva-about-medical-condition>

All web links accessed on 12.03.24