Thank you for your letter dated 4 May 2016 following my appearance at your Committee. You requested further information on the Volkswagen emissions issue, the Emissions Testing Programme and our future plans for Vehicle Type Approval. Please see the attached annex, in which you can find a response to your questions.

I hope this provides you with all of the information you were seeking. Please do not hesitate to contact me for any further information.

Yours sincerely,

ROBERT GOODWILL
Annex

Why has VW Group not yet fixed any vehicle in the UK to date? Is this a Europe-wide delay? Has VW provided the Department with an up to date schedule for fixing the vehicles in the UK? If so, please provide the Committee with this information.

In a meeting between the Secretary of State and Paul Willis (Managing Director of Volkswagen in the UK) on Wednesday 4 May, the Government received an update from VW on the progress of fixes for vehicles in the UK.

The delays to the original programme were due to the KBA (German type approval authority) not being satisfied with the technical solution presented. We understand this was because their proposed tests had showed an increase in CO₂ readings from the affected vehicles. They asked VW to improve this, and it was signed off formally on 29th April for the Golf 2.0l engine. The remaining 2.0l products (e.g. VW Passat, Audi A4) have yet to be signed off but are expected to follow shortly. As of the meeting on the 4th May, VW had applied the technical measure to over 2,000 vehicles out of the 1.2m affected VW Group vehicles in the UK.

The Vehicle Certification Agency (VCA) assesses the fix for Skoda vehicles (as it issued the type approval). It is important we only approve a solution that does not negatively impact the car's performance in any other way to ensure consumers are protected. DfT officials are being robust with Skoda and a further meeting was held last week to agree the testing procedures and the assessment for the 2.0l products. This will take place shortly.

In terms of a Europe-wide delay, the fixes can only be implemented once the relevant type-approval authority has authorised the technical fix. As soon as the fixes are authorised for the vehicles, they can be rolled out across Europe.

In the Secretary of State's meeting on 4 May, Paul Willis explained that he did not expect early delays in the process to impact on the overall timescales for the technical measures to be carried out. The Department is continuing to monitor the process, and has requested monthly updates of VW's progress across all vehicles.

For which vehicles does the UK VCA have to approve VW Group's technical fix?
What is the timeframe for completing this work?

The VCA have issued the approvals for the following vehicles:
- 2.0l – Skoda Superb/Octavia/Yeti
- 1.6l – Skoda Fabia/Rapid/Octavia/Yeti/Superb – Seat Toledo
- 1.2l - Skoda Fabia/Roomster

The timeframe for delivering the upgrades to vehicles in the market depends on VW Group providing suitable technical solutions.

What testing has the Department or the VCA conducted on VW’s proposed technical fixes to ascertain whether there is any negative impact on any aspect of vehicle performance, including fuel consumption? If so, what are the results?
The VCA conducted a set of tests with the existing software in order to identify the presence of the cheat device. VCA will now undertake the tests used in the Department's Vehicle Emissions Testing Programme, after the vehicles have been updated, to confirm that the cheat device is no longer present.

The VCA will ensure that after the fix is applied the vehicles meet all the legal requirements, including emissions, and that other vehicle characteristics are unchanged or improved, including fuel consumption and engine noise.

Is the Department or the VCA conducting tests on the proposed technical fix to ensure that it does not have any negative impact on any aspect of vehicle performance, including fuel consumption, in real world conditions? If so, what are the results?

The tests will be conducted in the laboratory and on the test track. This will allow the VCA to check in controlled conditions that the defeat device has been removed and that vehicle performance is unaffected. We will use these results to determine whether a real world test is necessary to confirm the laboratory and track results.

Are the Secretary of State's powers to prosecute manufacturers who obtain type approval under false pretences under the Road Vehicles (Approval) Regulations 2009 applicable to this case? Please provide reasons for your answer.

What process would need to have been completed before the Secretary of State would exercise his powers to prosecute under the Road Vehicles (Approval) Regulations 2009?

Pursuant to Reg 33(4) of the Road Vehicles (Approval) Regulations 2009 it is an offence for a person to knowingly or recklessly make a false statement for the purpose of obtaining vehicle type approval. In the present case the UK (through the Vehicle Certification Agency (VCA)) has granted type approval to Skoda vehicles. In order to take action pursuant to Reg 33(4) of the Road Vehicles (Approval) Regulations 2009, the Secretary of State must establish that Skoda officials had knowledge of the use of a prohibited defeat device in VW diesel engines and made false statements in that regard when they presented the vehicles to VCA for type approval.

Prosecuting authorities from 16 Member States (plus Norway, Switzerland and OLAF(European Anti-Fraud Office)) are liaising and coordinating their investigations through Eurojust. DfT officials have been part of those coordinating efforts and continue to monitor the progress of those investigations and, where necessary, press for information.

Criminal Counsel was instructed in January 2016 and gave preliminary advice in February 2016. Counsel is currently reviewing that advice in light of more recent events, including the publication of Dft’s Emissions Testing Report, and it is envisaged that he will provide updated advice by the end of May 2016. That advice will include an assessment of (ii) the evidence currently held, (ii) further evidence required and how it can best be obtained, (iii)
prospects of a successful prosecution and (iv) the procedural steps required. It would be premature, and potentially damaging to any prospective prosecution, to discuss prosecution any further at this point.

The Competition and Markets Authority and the Serious Fraud Office are considering the case for action but neither have opened a formal investigation. I discussed this issue with the CMA following my appearance at your Committee and would like to clarify that the CMA are not able to seek compensation for consumers in this case. It has recently acquired the power to seek civil redress for consumers, but this only exists in relation to conduct that occurred after 1 October 2015.

**Please provide information on the nature and objectives of the in-service surveillance programme described during the evidence session. Please include answers to the following questions:**

a. Which organisation will be conducting this work?

b. How long do you intend in-service surveillance work to be continued?

c. What budget has been allocated?

d. How will the Department publish the results of its in service surveillance work?

The market surveillance programme will be a new programme, initiated as a result of the VW emissions scandal. It builds upon existing enforcement activity, but will have a much stronger focus on emissions in the near term. A new unit is being established, involving two of the Department’s agencies, VCA and DVSA (Driver and Vehicle Standards Agency), who will combine their skills to deliver this programme effectively.

Our plan is to commence the programme before the summer and we will quickly increase activity to capture modern vehicles entering the market and those already on the road. We want to be confident that new cars are meeting the Real Driving Emissions rules from next year. The testing is going to be independent of manufacturers, and we will publish the results to ensure there is transparency.

The programme will also check a wider selection of vehicle components (e.g. catalytic convertors and tyres) on sale in UK meet the required standards.

In total, funding this year will be increased by approximately £1million to allow the successful implementation and running of this programme.

**When will the Department publish the additional data underpinning the high level results of the Emissions Testing Programme?**

As mentioned at the TSC evidence session on 25 April, the Department is committed to making the data from its testing programme available on GOV.uk, in a clear format and in plain English for the public and for consumers. As said in the Committee hearing, we are planning to publish this as soon as possible, ideally by the end of May. We will take into consideration your suggestions while we compile and prepare this data for publication.
Alongside this data set of the results, we have a further data set, showing the second-by-second emissions readings for all of the vehicles during the testing. These files are extremely large and it would not be practical to put them on GOV.uk. Furthermore, the values in this form are likely to only be of interest to a limited group, for example specialists from universities or NGOs. We are, therefore, in the process of formatting this data so that it can be shared on request. I expect this to be placing the data on an external drive, such as a memory stick, or CD, for this purpose.

Is the EU’s definition of a defeat device too narrow? Is the Department seeking any improvement to the current prohibition on defeat devices or to their legal definition?

What improvements the DfT has requested to the regulations on EGR systems and what improvements the DfT has requested to the responsibilities of manufacturers to disclose their emissions strategies. In the interests of openness, please provide a copy of the letter you sent to the Commissioner.

The Department does not believe the EU’s definition of a defeat device is too narrow. However the Department supported the recent introduction of additional EU requirements regarding the disclosure of defeat devices. These have been introduced as part of the new Real Driving Emissions legislation and vehicle manufacturers must now declare, at Type Approval, the presence of any ‘alternative emissions strategy’.

Our vehicle retesting programme made it clear that further improvements to European regulations are needed to help avoid any uncertainty in how EGR systems are allowed to operate in the future. The changes recently introduced to the European legislation aligns it more closely with the USA obligations for these systems. This means that, when a manufacturer presents a vehicle for type approval, they will have to declare the presence of any aspect of the emissions control system (for example the EGR control strategy) which might reduce its effectiveness during real world use. The Government has written to the European Commission seeking further improvements to provide the clarity needed for regulators and manufacturers, while also ensuring the highest levels of environmental performance from vehicles. Please find a copy of this letter attached.

The UK has been at the forefront of calls in Europe for the introduction of Real Driving Emissions (RDE) testing. RDE will require manufacturers to design vehicles to control NOx emissions across a wide range of ambient air temperatures (-7°C to +35°C). As a result it is expected that some manufacturers will have to improve their EGR system designs to substantially widen their "thermal-window" of operation.

What assessment has the Department made of the impact of introducing WLTP on the vehicle registration process, VED, company car tax and any other aspect of vehicle taxation based on CO2?

The DVLA is currently in discussion with DfT regarding any changes on the vehicle registration process resulting from the introduction of WLTP. The Treasury has responsibility for VED and company car tax which are both based on type approval information provided in the Certificates of Conformity. Once WLTP is implemented, decisions will be taken about VED bands.
What steps are being taken to ensure consumers are able to compare vehicles tested under different procedures?

The introduction of the new WLTP laboratory test, expected in 2017, will ensure consumers can compare vehicle CO₂ emissions and fuel consumption using figures that will be more representative of those achieved under normal driving than those measured using the current test procedure (NEDC). For air quality emissions, the introduction of RDE testing will mean consumers can be confident that a new vehicle will comply with emissions limits within a specified 'conformity factor' during typical normal use. The conformity factors will be published allowing consumers to choose a cleaner option.

Our priority is to get the WLTP in place as soon as possible to give consumers the best possible information. However we understand the risk that during the introduction of the new test there may be confusion about the comparability of figures obtained under the old and the new test. We are working with industry, through the Low Carbon Vehicle Partnership, to consider this area.