

A G E N D A

Regulatory Committee

Date: **Tuesday, 4 November, 2008**

Time: **2.00 p.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

*Pete Martens, Committee Manager Planning &
Regulatory, Tel: 01432 260248, Fax: 01432
261809*

E-mail: pmartens@herefordshire.gov.uk

Herefordshire Council

AGENDA

for the Meeting of the Regulatory Committee

To: Councillor P Jones CBE (Chairman)
Councillor JW Hope MBE (Vice-Chairman)

Councillors CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter, SPA Daniels,
JHR Goodwin, PJ McCaull, A Seldon and DC Taylor

1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

2. NAMED SUBSTITUTES (IF ANY)

To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

4. MINUTES

To approve and sign the Minutes of the meeting held on 7 October 2008.

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EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered.

RECOMMENDATION: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.

12. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING AN EXISTING DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976	41 - 42
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| <p>To consider matters regarding an application for a hackney carriage/private hire driver's licence.</p> | |

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday, 7 October 2008 at 2.00 p.m.

Present: Councillor P Jones CBE (Chairman)
Councillor JW Hope MBE (Vice Chairman)

Councillors: CM Bartrum, DJ Benjamin, PGH Cutter, SPA Daniels, JHR Goodwin, A Seldon and DC Taylor

46. APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillors ME Cooper and R Mills.

47. NAMED SUBSTITUTES (IF ANY)

No named substitutes were appointed at the meeting.

48. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

49. MINUTES

RESOLVED: That the Minutes of the meeting held on 9th September, 2008 be approved as a correct record and signed by the Chairman.

50. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for hearing appeals to ensure that the laws of natural justice were followed to give a fair hearing to the applicants and to the officers.

51. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY NICHOLAS JAMES MADDY

A report was presented by the Licensing Officer about an application for the re-instatement of a hackney carriage vehicle licence outside the Councils policies. He said that Mr Maddy's licence had been suspended on 21st December 2007 in line with the blanket suspension of licences for vehicles which had been converted from vans into mini buses. At that time Mr Maddy had been advised that he would have to obtain a VOSA Single Vehicle Enhanced Approval Test for the vehicle. Mr Maddy had submitted his application for renewal but the matter had been deferred at the last meeting to enable the officers to resolve the outstanding issues with him and VOSA regarding the Test. The Licensing Officer updated the Committee about progress since the last meeting. He said that although Mr Maddy's vehicle had a VOSA approved test certificate, it did not have the Enhanced Test Certificate. He was satisfied however that the other certification that Mr Maddy had was the equivalent of the vehicle passing the Enhanced Test and recommend that the application should be granted. The Committee agreed with this view.

RESOLVED THAT:

An application from Mr NJ Maddy to deviate from the standard condition number 9.5, in respect of plate No.H0204 for a Nissan Cargo Vannette be accepted and granted as a renewal.

52. APPLICATION FOR APPROVAL BY SIX MANUFACTURERS / INSTALLERS OF WHEELCHAIR ACCESS FACILITIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE

The Acting Regulatory Services Manager presented a report about the possibility of accepting applications from six independent and separate companies as approved manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire. The six companies who had applied were:

- i. Allied Vehicles Ltd, Glasgow
- ii. GM Coachwork Ltd, Newton Abbot, Devon
- iii. LDV Group Ltd, Birmingham
- iv. Oughtred & Harrison (Facilities) Ltd, Goole, Humberside
- v. Ponting & Betty Ltd, Northampton
- vi. Stanford Coachworks Ltd, Essex

The Committee discussed the details of each of the applicants. The Acting Regulatory Services Manager described the relevance of the supporting documentation received from each of the applicants and advised that the benchmark for acceptability that he had used was Quality assurance ISO 90001. He had looked at the way in which each manufacturer had demonstrated that they could fulfil the requirements of the Council which had been established in May this year, that their vehicles were manufactured to relevant safety standards regarding wheelchair accessibility. Having considered the documentation put forward by each applicant, the Committee was satisfied that applicants (i) and (iv) fulfilled the Council's criteria. Further information was required from applicants (ii), (iii) & (v) but subject to the officers subsequently being satisfied, those manufacturers could be approved. The Committee was not satisfied that applicant (vi) could comply and was refused.

The Committee next considered what action it wished to take in respect of the following: -

- (i) vehicles licensed by the Council which had wheelchair accessibility equipment fitted but the manufacturer or installer which had applied for the approval of the Council had been refused; and
- (ii) vehicles licensed by the Council which had wheelchair equipment fitted and either the manufacturer or installer was not known to the Council or had not submitted an application to it for approval.

The Acting Regulatory Services Manager presented a report to the Committee and the options available were considered and the appropriate ones selected.

RESOLVED THAT:

- (I) that the following applicants be approved for the purpose of being manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire:-
 - (a) Allied Vehicles Ltd, Glasgow and
 - (b) Oughtred & Harrison (Facilities) Ltd, Goole, Humberside.
- (II) subject to the provision of further information to the satisfaction of the Acting Regulatory Services Manager, the following applicants be approved for the purpose of being manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire:-
 - (a) GM Coachwork Ltd, Newton Abbot, Devon
 - (b) LDV Group Ltd, Birmingham; and
 - (c) Ponting & Betty Ltd, Northampton
- (III) the application from Stanford Coachworks Ltd, Essex be refused for the purpose of being a manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.
- (IV) in the case of vehicles licensed by the Council which have wheelchair equipment fitted but the manufacturer or installer has applied for the approval of the Council and has been refused, the vehicles be allowed to continue to operate until such time as a voluntary standard VOSA Single Vehicle Approval Test is passed, provided that it is passed by no later than 31 December, 2008. After this date the licences of such vehicles still operating will be suspended until the Test has been passed.
- (V) in the case of vehicles licensed by the Council which have wheelchair equipment fitted and either the manufacturer or installer is not known or has not applied to the Council for approval, the vehicles be allowed to continue to operate until such time as a voluntary standard VOSA Single Vehicle Approval Test is passed, provided that it is passed by no later than 31 December, 2008. After this date the licences of such vehicles still operating will be suspended until the Test has been passed.

53. UPDATE TO COMMITTEE ON RECENT UNDERCOVER TEST PURCHASING SURVEY OF ALCOHOL FOR THE UNDER- AGED

The Acting Regulatory Services Manager presented a report about the findings of a recent undercover test-purchasing survey of alcohol carried out by the Council's Trading Standards Service in conjunction with the West Mercia Constabulary. He said that in May 2008 the Council's Regulatory Sub-Committee had imposed suspensions for various periods of time in relation to four shops that were found to be selling alcohol to under-age persons.

During a recent survey which had been undertaken, the four premises were revisited along with more than fifty other similar premises countywide, using 16 year-old

volunteers. Although the survey found that 19 out of 56 shops had sold alcohol to the test-purchasers, it was pleasing to note that the four premises previously restricted by the Regulatory Sub-Committee were complying with the regulations. This demonstrated that joint working between the Council's Trading Standard Service and the police could successfully interact with the functions of the Licensing Team and powers of the Regulatory Committee. The findings of the survey had given weight to the previous decision made by the Committee to restrict alcohol sales. It was likely that the Police would request reviews for at least four of the new premises found to be selling alcohol to the under-aged and the matter will be the subject of a future Sub-Committee hearing.

RESOLVED

That the contents of the report be noted together with the effectiveness of the previous action taken, should reviews for under-age sales be brought before it again.

The meeting ended at 2.50 p.m.

CHAIRMAN

REGULATORY COMMITTEE
LICENSING APPEAL PROCEDURE

1. Introduction by Legal Advisor to the Committee.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Committee or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Legal Adviser to the Committee, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant or the officer are needed to furnish additional information, they should all be invited back before the Committee. When the additional information has been furnished, they should all be asked to leave again.
8. The Committee can then reach a decision in the usual way, but in the absence of parties.
9. The applicant and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant will be informed of any right of appeal (if the decision is a refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second application the same way.

**LETTER TO CHIEF EXECUTIVES FROM GERRY
SUTCLIFFE MP, MINISTER OF SPORT, DEPARTMENT
FOR CULTURE, MEDIA AND SPORT**

REPORT BY:

Head of Environmental Health and Trading Standards

Purpose

1. The purpose of this report is to bring to the attention of the members of the Regulatory Committee the letter of 19 September 2008 addressed to Chief Executives from Gerry Sutcliffe MP, Ministry of Sport, Department of Culture Media and Sport.
2. The report deals with the Licensing Act 2003 and particularly focuses on the Reviewing of Licensed Premises, Under Age Sales and the introduction of a Red/Yellow card scheme for premises.

Matter for Committee

3. The committee are asked to note the content of these documents with a view that they may be used in relation to any reviews of premise called for in the future.

Recommendation

THAT the report be noted.

MINISTERIAL LETTER TO LOCAL AUTHORITIES

Department for Culture, Media and Sport
Gerry Sutcliffe MP
Minister for Sport

2-4 Cockspur Street Tel 020 7211 6200
London SW1Y 5DH Fax 020 7211 6249
www.culture.gov.uk

CMS 102866/mk

19 September 2008

Dear Chief Executive

LICENSING ACT 2003 ENFORCEMENT

As you may be aware, the Government's evaluation of the impact of the Licensing Act 2003 in March found that, while the Act was generally working well, the powers available under the Act were not being consistently well used across the country.

These findings were reinforced by the National Audit Office report *The Home Office: Reducing the risk of violent crime*, which looked at the effectiveness of violent crime reduction at a local level, including the approach taken in relation to alcohol related violence. It found that some areas were more effective than others at sharing good practice across partnerships and using the powers available under the Licensing Act alongside other interventions. It recommended that the government should raise awareness amongst partnerships and the police about how the Licensing Act can be used to reduce alcohol related violence and to ensure that all areas are using the Act to its maximum potential to reduce the risk of violent crime.

The Secretary of State for Culture, Media and Sport therefore announced a number of measures to help enforcement authorities, such as the police, trading standards and environmental health officers, take a proactive approach to identifying and seeking reviews of problem premises, and to encourage licensing authorities to consider where tougher conditions might be appropriate following a licence review. A copy of the Secretary of State's written statement to the

House of Commons is enclosed for information.

A key part of the approach outlined by the Secretary of State was for authorities to use local intelligence and



knowledge to identify problem premises and to seek licence reviews with the intention of applying tough conditions as a 'yellow card' with the threat of revocation at a further review (a 'red card') should they fail to improve. Further details are set out in the attached guidance.

Some authorities already adopt a similar approach and the Home Office are organising a series of regional, practitioner focused workshops in November (to be run through Government Offices) on tackling problem premises through effective use of tools and powers, including the Licensing Act. Inevitably, different areas will need to adopt different approaches to reflect their own particular combination of issues in their area. We would like the regional events to identify some practical responses, including better partnership approaches such as sharing data about problem premises, enforcement of existing powers, test purchase campaigns and also the yellow/red card approach that can be tailored to individual areas. Invitations to the events should be issued shortly.

Both the Police observations as part of the campaign to tackle sales to drunks (last December) and the recent KPMG review of industry social responsible retail standards identified a number of premises which were not only breaking the law, but also represented high risks in relation to several of the licensing objectives (not just the prevention of crime and disorder). Some of those would appear to be exactly the kinds of premises where a yellow card backed up by tough conditions might be appropriate. In these circumstances, it is important that all responsible authorities are playing their part in using the 2003 Act to help promote the licensing objectives and to work in partnership to identify and tackle poorly run premises.

I should be grateful if you could share this letter and attachments with colleagues who are responsible for issues relating to the management of the night time economy and with local partnerships, such as your CDRP. I would, of course, be interested in hearing of any successful partnership approaches in your area and how the yellow/red card and tough conditions approaches might be implemented

GERRY SUTCLIFFE

Department for Culture, Media and Sport

2-4 Cockspur Street

London SW1Y 5DH

www.culture.gov.uk

MINISTERIAL WRITTEN STATEMENT

Tuesday 04 March 2008

EVALUATION OF THE IMPACT OF THE LICENSING ACT 2003

LICENSING ACT 2003 AND TACKLING ALCOHOL-RELATED HARM

The Secretary of State for Culture, Media and Sport (Andy Burnham): I am today publishing the evidence gathered so far on the operation of the licensing laws introduced in England and Wales in November 2005, and setting out how we intend to monitor the licensing regime over the next few weeks and months, and the immediate action the Government is taking to tackle alcohol-related problems. Copies of the evaluation report are being placed in the Library of both Houses.

This first review of the Licensing Act reveals a **mixed picture**.

Its introduction has not led to the widespread problems some feared. Overall, crime and alcohol consumption are down. But alcohol-related violence has increased in the early hours of the morning and some communities have seen a rise in disorder.

Our main conclusion is that **people are using the freedoms** but people are **not sufficiently using the considerable powers** granted by the Act to tackle problems, and that there is a need to **rebalance action towards enforcement** and crack down on irresponsible behaviour.

Some aspects of the Act have worked well.

Bringing together six previous licensing regimes into a single integrated scheme has resulted in a considerable reduction in red tape – estimated at £99m per annum – with benefits not just for business, but the third sector and non-profit making clubs too.

The Act has also delivered new powers and flexibilities enabling local authorities and police to work in partnership to significantly reduce crime and disorder in some areas.

At the same time, millions of people have been able to enjoy the convenience of shopping at a time that suits them and socialising in restaurants, bars and cafés beyond 11pm.

Furthermore, contrary to popular expectations:

- The average closing time across all on-licensed premises has increased by only 21 minutes since the Act came into effect;
- the overall volume of incidents of crime and disorder has remained stable and not risen; and
- alcohol consumption, rather than increasing, has instead fallen over this period.

In total, fewer than 4% of premises (some 5,100) have licences permitting them to open for up to 24 hours a day - many of which are hotels, stores and supermarkets. Only some 470 pubs, bars and nightclubs have 24 hour licences, but there is no evidence that more than a handful operate on that basis. The British Beer and Pub Association informed a Select Committee recently that there are only two traditional pubs in the entire country that operate for 24 hours.

But beneath these headline facts the picture is much more mixed.

Whilst crimes involving violence may have reduced over the evening and night time period, the evidence also points to increases in offences, including violent crimes, reported between 3am and 6am. This represents 4 per cent of night-time offences.

Similarly, whilst there is no clear picture of whether alcohol related demands on A&E services and alcohol-related admissions have risen, some hospitals have seen a fall in demand, others have reported an increase.

It is also clear that the overall reduction in alcohol-related disorder we wanted to see across the country has not materialised consistently in all areas.

The Government remains determined to address these issues, and the report published today has helped us identify a number of ways we can go further to protect the public, both in terms of using all the **flexibilities in the Act to crack down on irresponsible behaviour**, including more caution and conditions when issuing licenses and the withdrawal of licences in certain areas, but also introducing **new initiatives to tackle anti-social behaviour** associated with alcohol consumption.

The announcements today contain measures to target those businesses that continue to sell alcohol irresponsibly and cause harm within our communities.

To specifically address the small but unacceptable proportion of violent crimes occurring in the early hours of the morning, we will undertake further comprehensive **research into post-midnight drinking patterns and their impact on crime and order**, and will not hesitate to take the necessary action through new legislation and enforcement measures to tackle this.

But we will take immediate action now.

First, we will utilise existing **powers to identify problem premises**. We will make it **easier to review premises** where local intelligence suggests there is a problem.

Second, we will encourage the imposition of **tougher sanctions** on those found to be breaching their licensing conditions. This includes the stipulation that there be **far more instant closures** of pubs and clubs in an area where there has been a disorder and indefinite closure by the courts for any breach of licence conditions. We will develop a toolkit for local authorities and police, building on my Rt. Hon. Friend the Home Secretary's recently published Guide for Dealing with Alcohol Related Problems.

Third, we will change the offence of "**persistently selling alcohol to a person under 18**" from 'three strikes' to 'two strikes' in three months. This means that any seller who twice sells to under age drinkers and is caught doing so will immediately lose their licence.

Fourth, we will support the police and local authorities to **identify problem hotspots** by ranking geographical areas and concentrations of premises on the basis of the risks they present to crime and disorder, public nuisance and children. This will allow licensing authorities the ability to exercise **more caution and conditions when issuing licenses, and wholesale withdrawal of licences** in these areas, and permit local authorities and police to **target enforcement resources** more effectively at problem hotspots.

Finally, the message must be clear to all: breach your licensing conditions and you face severe and costly restrictions on your business – with a new “**yellow card and red card**” alert system. A yellow card will put the problem premises on immediate probation together with tough and uncompromising sanctions. And when the circumstances are right, it will be a straight red card leading to withdrawal of the licence.

To tackle wider anti-social behaviour associated with alcohol consumption my Rt Hon Friend, the Home Secretary, will bring forward legislation to:

- **Increase the maximum fine for anyone not obeying an instruction to stop drinking**, or to give up their drink in a designated public place from £500 to £2,500;
- Make it easier for the police to **disperse anti-social drinkers** – both adults and children – from any location – if necessary, we will change the law to make this happen;
- **Extend the use of Acceptable Behaviour Contracts** for young people caught drinking in public, to require them and their parents to attend a session with a trained worker; and
- In addition, we will be extending the **alcohol arrest referral pilots** that my Rt Hon Friend, the Home Secretary, announced last month so that under 18s may also benefit from a brief intervention from a trained worker. This will help deal with young people drinking in public who are already involved in criminal activities.

I, together with my Rt Hon Friend, the Home Secretary, will convene a **summit of police and local authorities** to explore how we can take these proposals forward.

The report published today is not the end of the story. The measures announced today are only part of the Government’s comprehensive strategy for combating the problems associated with alcohol.

A significant programme of work is underway over the next 6 months.

We are working with the industry on alcohol advertising, and welcome industry consideration to give much more prominence to **clear information about the dangers of alcohol**, and to actively support Government campaigns to promote sensible drinking. We will strongly encourage them to press on with trials to test their effectiveness. If we need to, we will consider more restrictions.

Later in the year, my Rt. Hon. Friend, the Secretary of State for Children, Schools and Families will publish the Government’s action plan on young people and alcohol containing further proposals for reducing drinking by young people specifically.

Later in the spring, my Rt. Hon. Friend, the Secretary of State for Transport, will also set out measures for dealing with the relatively small number of people who continue to think it is acceptable behaviour to **drink and drive**.

The Department of Health will publish the results of the independent study commissioned from the University of Sheffield to look at the evidence on the relation between **alcohol price, promotion and harm** and in response will bring forward necessary action. The real cost of alcohol has fallen to historically low levels, and there is already an emerging consensus that more needs to be done to tackle **irresponsible promotions and deep discounting** that can lead to anti social behaviour. The Government will begin immediate work with the licensing authorities and retailers, including the

development of new codes on **responsible sales and promotions** which might be considered as a condition of an alcohol licence.

In conclusion, we are prepared to take action wherever the evidence suggests that it is necessary to tackle the problems associated with alcohol.



“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

The problem

1. In many cases, revocation of a premises licences effectively kills any business which is focused on retailing alcohol. This means that the not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises - such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the Act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.

2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.

3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.

4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase” failure often masks multiple offences that have gone undetected.

Supporting enforcement agencies

5. The Government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving informal warnings. It will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.

6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.

7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by an interested party like a local resident or another local business.

First intervention

8. Responsible authorities will be encouraged to propose a package of tough new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:

- Removal of the designated premises supervisor and his/her replacement (the manager is removed);
- Suspension of the licence for between 1 day and 3 months according to the circumstances.
- Restriction on trading hours – cutting hours of trading in alcohol.
- Clear warning that a further appearance will give rise to a presumption of revocation.

9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.

10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.

11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.

12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

Second intervention

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.

14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

Implementation

15. Requires:

- Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
- Initial letters to Leaders of local authorities and Chief Executives;
- Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.

16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central Government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES

GREATER CONTROL OVER SALE

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks

TRAINING

7. All staff to read and sign a declaration that they understand the law every time they start a shift.
8. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

ALCOHOL SALE BANNED AT CERTAIN HOURS

9. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.
10. No alcohol sales --- Friday to Sunday. Impact on all four licensing objectives.

ALCOHOL DISPLAYS

11. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.
12. No alcohol stocks promoted alongside goods likely to appeal to children (eg. confectionary, toys).

CUTTING DOWN ON SHOPLIFTING

13. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.
14. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.
15. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

NAMING AND SHAMING

16. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

OTHERS

17. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.
18. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.
19. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.
20. Designated single items --- beer, alcopops and cider ---- not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.
21. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.

ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD

Report By: HEAD OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS

1. **Wards Affected**

Kington Town

2. **Purpose**

To review 'The Herefordshire (Alcohol Consumption in Designated Places) Order (No.6) 2007 in respect of Kington. The designated streets, roads and other areas are shown within the order at Appendix 1 – Background papers.

3. **Background**

The Regulatory Committee agreed the following resolution at the meeting on 31 July 2007: -

THAT

(i) an Order be made designating those areas detailed in the report of the Head of Environmental Health and Trading Standards in Kington as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001; and

(ii) the matter be reviewed after 12 months from the date of the Order being made.

4. The Order came into force on 14 September 2007.

5. The Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001 gives powers to local authorities to place restrictions on public drinking within so-called designated places where it is associated with nuisance or annoyance to members of the public, or with disorder.

6. An Order gives the Police (including Community Support Officers) the power to require a person not to drink alcohol in a designated place where the officer believes that the person is, has or intends to do so, and to surrender any alcohol or alcohol containers in the person's possession. Failure to comply with an officer's requirements in respect of drinking or surrendering alcohol is an arrestable offence.

7. The designation of a place under an Order therefore provides potentially effective tools to those wishing to tackle nuisance, annoyance or disorder.

8. **Consultation**

The Criminal Justice and Police Act 2001 Regulation 3 states: -

(1) Before making an order, a local authority shall consult –

- (a) the chief officer of police for the police area in which the public place proposed to be identified in the order is situated;
- (b) the parish or community council in whose area the public place is situated;
- (c) the chief officer of police, the local authority and the parish or community council for any area near to the public place which they consider may be

affected by the designation; and

- (d) the licensee of any licensed premises in that place or which they consider may be affected by the designation.

9. **Review Process**

Kington Town Council and the West Mercia Constabulary were contacted by letter (Appendix 2 & 3 – Background papers) as well all Licensed Premises who may be affected by the order. (The letter is shown at Appendix 4 & the list of the premises at Appendix 5 – Background papers).

Kington Town Council has responded (Appendix 6 – Background papers) and supports the order and asks it to be made permanent.

West Mercia Constabulary have also responded (Appendix 7 – Background papers) and request that the order remains in force and state that there is no need to extend the area.

No other comments have been received.

10. **Recommendation**

THAT The Committee makes the order permanent and that it should remain in the same form as previously agreed.

REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE, DRIVER AND OPERATOR PENALTY POINT SCHEME.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

REPORT BY:

Head of Environmental Health and Trading Standards

Purpose

1. To review the penalty points system in respect of Hackney Carriages, Hackney Carriage & Private Hire Driver Licences and Operators Licences.

Background

2. This scheme originally appeared before the Regulatory Committee on 20 March 2007 and the Committee approved it for a six-month trial period.
3. The matter was taken back to the Regulatory Committee on 9 April 2008 for review. Although it had, in effect, been under review for longer than 6 months, the Committee was of the opinion that the system should continue for a further six-month trial period whereupon it would be reviewed again.
4. The purpose of the system is to deal with minor breaches of the conditions or byelaws in a more cost effective way, avoiding the need to involve formal prosecution procedures, but whilst still giving the Licensing Authority the right to take formal action if the circumstances dictate.
5. The current system enables penalty points to be awarded to the following for the breach of any conditions: -
 - i. Proprietor - vehicle conditions
 - ii. Driver - driver's conditions
 - iii. Operator – operator conditions
 - iv. As appropriate - Byelaws
6. The current scheme is regulated under the "Draft Penalty Points Scheme" which is attached as Appendix 1.
7. The scheme operates in a similar fashion to road traffic speed cameras, i.e. when a breach is seen, penalty points are automatically issued.
8. Any person aggrieved by the penalty point system has a right to challenge the decision making process of the Local Authority by Judicial Review.

Officers Observations

9. The 4 November 2008 date has allowed a full 6-month period to elapse since the review was requested on 9 April.
10. Over the past 6-month review period the penalty points system has been used to good effect.
11. Over this time it has been noted that the standard of the vehicles has further improved to the point whereby it is now unusual to see a vehicle that does not comply with the conditions.
12. The system continues to result in a substantial resource savings for Herefordshire Council and is the most effective system of dealing with minor breaches, whilst still retaining the option to take more formal action. It therefore reduces the need to refer matters to the magistrate's court, but remains a very effective and speedy alternative.
13. The accumulation of points over a period of time ensures that any licensed person who exceeds the tolerated number of points is bought back before the Regulatory Committee to be dealt with fairly, i.e. 12 points in 12 months for Dual Drivers, Hackney Carriage vehicles and Private Hire Vehicles and 24 points in 12 months for Private Hire operators.
14. No complaints have been received in respect of the system other than from drivers/operators/proprietors that have been issued with penalty points.
15. The Herefordshire Taxi Association was consulted in October 2008 and is not, in principle, against the scheme.

Options

16. The options available to the Regulatory Committee are: -
 - that the penalty point scheme should remain
 - that the penalty point scheme should remain but again be brought back to the committee at an agreed later date for further review
 - that the penalty point scheme should be dispensed with
 - or to reach some other decision.

RECOMMENDATION

That the penalty points system before the Regulatory Committee be adopted on a permanent basis and the "Draft Penalty Points Scheme" guidance document be ratified so that it is no longer a 'draft'.

Appendix 1 – Copy of "Draft Penalty Points Scheme" guidance document



HEREFORDSHIRE
COUNCIL

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

DRAFT PENALTY POINTS SCHEME

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1. Penalty Points Scheme

- 1.1 This scheme will be used where breaches of conditions are detected. The penalty points will be run in accordance with the Council's enforcement policy and follow the voluntary enforcement concordat. Copies are available at the Taxi Licensing Office. The penalty points scheme does not fetter the Licensing Authorities duty to consider other forms of enforcement and formal prosecutions should it be deemed proportionate to the offence(s).
- 1.2 The penalty points system outlined below identifies a number of breaches of Herefordshire Council conditions and byelaws. It then indicates the number of points to be invoked should the breach be proven. The implementation of points would take place as a matter of course whenever offences are noted.
- 1.3 The details of how the scheme will be operated are as follows:
- a) Penalty points will be applied by authorised officers of the Council whenever an offence is detected which breaches any of the Council's hackney carriage and private hire conditions.
 - b) Penalty points will be issued to the vehicle proprietor where the breach relates to the vehicle licence conditions and to the driver where the breach relates to the driver conditions.
 - c) Any penalty points issued will be confirmed in writing to the relevant Licence holder.
 - d) The number of penalty points issued will be in accordance with the attached tariff. (Appendix 1).
 - e) The Council retains the discretion to issue penalty points to driver, driver/proprietors and operators for a single contravention if the circumstances warrant it, i.e. the breach is one against all these licences and it is considered joint responsibility is held.
 - f) The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator.
 - g) Penalty points issued under this scheme will have a "life" of twelve months, and then will be deemed spent. The system is based upon a rolling twelve-month period.
 - h) There is no financial penalty associated with the system, and the licensee may continue to work. However, the licensee will be asked to attend a Licensing

Committee hearing if more than a certain number of points are imposed on an individual licence in any one 12 month period. The thresholds are as follows:

Dual Driver	12 Points
Hackney Carriage Vehicle	12 Points
Private Hire Vehicle	12 Points
Private Hire Operator	24 Points

- i) If there are three repeat identical contraventions within a 6-month period the offender will automatically be referred to the Regulatory Committee.
- 1.4 For persons holding **more** than one vehicle licence the threshold for commencement of formal action will be increased by **1 point** per vehicle licence held

e.g. Person holding 6 Vehicle Licences = 6 Additional points are added to the single vehicle threshold of **12 points**

This will give an **18 points** threshold before formal action is considered by the Council.

2. Recommendations

- 2.1 On appearing before the Licensing Committee the following recommendations will generally be made by Officers.
- a) On the accumulation of 12 or more penalty points in a 12 month period a driver or a vehicle proprietor will be subject to a recommendation to suspend his/her licence for a period of 1 month and the requirement to sit and pass the Councils knowledge test.
 - b) On the accumulations of 24 or more penalty points in a 12 month period an Operator will be subject to a recommendation to suspend his/her licence for a period of 1 month.
 - c) Drivers, proprietors, or Operators who accumulate the necessary total of points in a rolling year on a second or subsequent occasion, will be asked to reappear before the Licensing Committee. The Committee will take into account previous cautions, suspensions or prosecutions when considering Officers recommendation for a longer period of suspension, or revocation of the relevant licence.
- 2.2 The above recommendations would not fetter the discretion of the Regulatory Committee who may always decide to take no further action, to suspend the licence for any period, or to revoke a licence.
- 2.3 Any driver or vehicle proprietor or Operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.

3. List Of Offences/Breach Of Licence Conditions/Byelaws

<u>Condition number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
1.1	Failure to replace licensed purpose built or adapted vehicle on reaching 15 years of age. Without consent from Regulatory Committee.	V1	2
2.1	Failure to replace licensed vehicle on reaching 8 years of age. Without consent from Regulatory Committee.	V2	2
3.1	Failure to replace licensed vehicle on reaching 8 years of age or fifteen years for disabled access vehicle. Without consent from Regulatory Committee.	V3	2
3.2	Failure to obtain written consent from LA to purchase or test new/replacement vehicle	V4	2
4.0	Changing specification of licensed vehicle without notify and obtaining the consent of the Licensing Authority in writing	V5	4
4.1.e)	Fail to carry a serviceable spare tyre when run flat type of tyres not fitted or fail to carry jack or wheelbrace.	V6	2
4.1.f)	Using a vehicle with remoulded tyres fitted	V7	2
4.1.h)	Fail to have functional nearside and offside mirrors	V8	2
5.2	Failure to produce LPG safety certificate	V9	2
7.1	Failure to obtain consent from LA to alter equipment, dimensions or other specifications in/on the vehicle	V10	2
8.1(a)	Failure to display approved roof sign	V11	2
8.1(a)	Failure to maintain roof sign in working order	V12	2
8.1(b)	Failure to display front door signs	V13	2
8.1(b)	Failure to display correct front door signs	V149	2
8.2	Failure to display one or more "no smoking" signs in the vehicle	V15	2
9.1	Fail to display vehicle licence plate	V16	2
9.1	Fail to display plate in accordance with conditions	V17	2
9.2	Fail to return vehicle licence plate	V18	2
9.3	Failure to report loss or damage of a vehicle plate.	V19	2
9.4	Failure to surrender vehicle licence and plate if proprietor does not wish to retain vehicle licence	V20	2
10.1	Advertising on vehicle without written authorisation from the LA	V21	2
11.1	Failure to submit taximeter for testing when requested to do so by LA	V22	2
11.3	Failure to display a statement of fares inside the HC	V23	2
11.4	Wilfully or neglectfully causing letters or figures in the statement to be obscured	V24	2
11.5	Fail to supply LA with a copy of statement of fares if price differs.	V25	2

12.1	Failure to notify Licensing within 72 hours of any accident causing damage affecting the safety, performance, comfort, or appearance of the vehicle	V26	3
13.1	Failure to produce Insurance certificate for the vehicle	V27	2
13.2	Failure to produce renewal cover for insurance	V28	2
13.3	Failure to keep copy of insurance in the vehicle	V29	2
13.4	Failure to notify Council of change of insurer or particulars within 2 working days.	V30	2
14.1	Failure to produce details to the Council of drivers permitted to drive	V31	2
14.2	Failure to notify Council of any changes to the list of drivers.	V32	2
15.1	Failure to carry a suitably approved fire extinguisher within the vehicle	V33	2
15.1	Failure to mark fire extinguisher with vehicle plate number	V34	2
15.2	Failure to carry first aid equipment as specified in conditions	V35	2
16.1	Failure to obtain written permission to use trailers on PH vehicles	V36	2
17.1	Failure to present trailer for inspection	V37	2

17.4	Failure to present vehicle for inspection	V38	4
18.1	Failure to maintain radio equipment in sound condition	V38	2
19.4	Failure to display method of opening doors on mini-bus	V39	2
19.5	Failure to clearly identify emergency exit on mini-bus.	V40	2
19.7	Failure to restrict sliding windows open to more than 6" on mini-bus	V41	2
19.8	Failure to illuminate steps or have clearly visible makings on mini-bus	V42	2
20.6	Failure to have grab handles at door entrances on wheelchair accessible vehicle	V43	2
20.11	Failure to maintain disabled facility vehicle with wheelchair access whilst it is being used to ply for hire	V44	4
21.1	Proprietor of vehicle allowing a greater number of persons to be conveyed than is specified on the licence	V45	4
21.2	Failure to maintain a reasonable standard of behaviour	V46	2
21.3	Failure to supply information in relation to driver or vehicle requested by an authorised officer	V47	4
21.4	Failure to assist authorised officer or person accompanying authorised officer to carry out their function	V48	4
22.3	Failure to notify LA of use of spare vehicle	V49	4
22.6	Failure to notify LA of reason for use of spare vehicle	V50	2
23.1	Failure to notify LA within 72 hours of accident involving damage to vehicle	V51	4
23.1	Using damaged vehicle without written consent of LA	V52	4
23.2	Failure to notify council within 48 hours of an accident involving personal injury	V53	4
24.1	Using recorded CCTV without written consent of LA	V54	2
24.1	Fail to display sign in vehicle stating CCTV in use.	V55	2

4. Driver Licence Conditions - Private Hire/Hackney Carriage

<u>Condition number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
1.2	Driver not clean and respectable in their dress	<u>D1</u>	2
1.2	Driver not behaving in a civil and orderly manner	<u>D2</u>	3
1.3	Driver allowing noise from radio or other similar equipment to be a source of nuisance or annoyance to any person inside or outside the vehicle	<u>D3</u>	2
1.4	Driver smoking whilst in the vehicle	<u>D4</u>	4
1.5b	Not moving vehicle forward on a Rank to fill the space which has been vacated	<u>D5</u>	2
1.6	PH drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre-booking	<u>D6</u>	3
1.7	PH driver plying for hire	<u>D7</u>	4

1.7	PH driver calling out or influencing person to travel in the vehicle for gain without a prior appointment	<u>D8</u>	3
1.8	HC driver calling out or influencing a person to travel in the vehicle for gain	<u>D9</u>	3
2.1	Failure to wear badge or failure to wear correctly	<u>D10</u>	3
2.2	Not displaying second badge or not visible to passengers being conveyed in the vehicle	<u>D11</u>	2
2.3	Failure to surrender drivers badge to the Licensing Authority upon expiry, revocation or suspension of their licence	<u>D12</u>	2
2.3	Failure to surrender drivers badge to the Licensing Authority upon revocation or suspension of their licence	<u>D13</u>	4
2.4	Failure to return expired badge to Licensing Authority	<u>D14</u>	2
3.1	Failure to carry evidence of insurance cover in the vehicle whilst on duty	<u>D15</u>	2
4.1	Carrying greater number of persons than the number specified on the licence	<u>D16</u>	4
4.2	Carrying other persons in the vehicle without the consent of the hirer	<u>D17</u>	2
4.3	Drivers refusal to carry luggage or to ensure security	<u>D18</u>	2
4.3	Drivers refusal to offer reasonable assistance with luggage	<u>D19</u>	2
4.3	Failing to take steps to ensure passenger safety	<u>D20</u>	4
5.1	Fail to search vehicle after journey	<u>D21</u>	2
6.2	Tampering with or permitting tamper with taxi meter other by authorised person	<u>D22</u>	4
6.3	Cancelling the fare or concealing the fare on meter before the hirer has agreed the fare	<u>D23</u>	2
6.4	Demanding more than the previously agreed fare	<u>D24</u>	2
6.4	Demanding more than the fare shown on the taxi meter	<u>D25</u>	2
6.5	Demanding more than fare shown on taxi meter where journey concludes outside county without agreement prior to hire	<u>D26</u>	2
6.6	Starting the fare before the hirer enters the vehicle without prior agreement	<u>D27</u>	2
7.1	Failure to notify proprietor of complaints made by the passengers	<u>D28</u>	2
7.2	Failure to notify passengers of their right to refer their complaint to the council	<u>D29</u>	2
8.1	Failure to attend at appointed time or place without sufficient cause	<u>D30</u>	2
8.2	Unnecessarily prolonging journey in distance or time	<u>D31</u>	4
9.1	Failure to provide copy of dual drivers licence to operator	<u>D32</u>	2
9.2	Failure to ensure insurance cover for them to drive vehicle	<u>D33</u>	2
9.3	Failure to ensure vehicle is licensed by council for the purpose used	<u>D34</u>	2
10.1	Failure to notify Council of change of address/telephone number within 7 days	<u>D35</u>	2
10.2	Failure to notify council of motoring or criminal convictions during the period of licence	<u>D36</u>	4

10.3	Failure to notify LA of involvement with police which made lead to caution or conviction	<u>D37</u>	4
10.4	Failure to notify council in writing within 7 days of serious injury or illness affecting fitness to drive	<u>D38</u>	4
11.2a	Failure to carry assistance dog without exemption	<u>D39</u>	2
11.2b	Making additional charge for carrying assistance dog	<u>D40</u>	2
12.1	Not using mobile phone in accordance with The Road Vehicle (construction and use) (Amendment) (No.4) Regulation 2003	<u>D41</u>	2
13.1	Causing licence plate to be concealed or defaced to be illegible	<u>D42</u>	2
14.2	Failure to ensure vehicle is clean inside and out	<u>D43</u>	2
14.3	Failure to notify council within 72 hours of any accident or damage to the vehicle	<u>D44</u>	4
14.3	Failure to present vehicle for inspection when requested by the Council to do so	<u>D45</u>	2
14.4	Failure to provide receipt when requested by hirer to do so	<u>D46</u>	2
14.5	Failure to co-operate with any Authorised Officer, Constable or any other clearly identifiable person nominated by the Council	<u>D47</u>	4
15.1	Failure to keep a record sheet in the Private Hire Vehicle	<u>D48</u>	2
16.1	Failure to comply the regulations governing the wearing of seat belts	<u>D49</u>	2

5. Operator Licence Conditions - Private Hire

<u>Condition number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
1.3	Operating more vehicles than stated on licence	O1	2
2.1	Failure to obtain and maintain insurance on vehicle	O2	4
2.2	Failure to produce evidence of insurance cover to the Council	O3	3
2.3	Failure to notify Council of change of insurer within 2 days	O4	2
3.1	Failure to operate the business in a manner which does not cause nuisance to the public or to persons in nearby premises	O5	2
3.2	Failure to provide a prompt, efficient or reliable service	O6	2
3.3	Failure to attend a booking at appointed time or place without sufficient cause	O7	2
3.4	Knowingly allowing a greater number of persons in the licensed vehicle than is prescribed on the licence	O8	4
4.1	Operating the business from a premises outside the County of Herefordshire	O9	2
4.2	Failure to keep booking or waiting areas which the public have access, clean, adequately heated, ventilated and lit	O10	2
4.3	Failure to provide seating facilities in waiting areas	O11	2
6.1	Failure to supply written confirmation within seven days of changes to the particulars shown on the application form relating to the licence	O14	2
7.1	Failure to notify the Council within seven days of any convictions imposed on him/her, during the period of the licence	O15	2
8.1	Failure to keep proper records for a period of not less than six months	O16	3
8.2	Failure to keep proper records	O17	3
8.3	Failure to number consecutively record of bookings	O18	3
8.4	Failure to obtain authority from Council to operate computer booking system	O19	3
8.5	Failure to supply details of computer system to LA.	O20	3
8.6	Failure to keep record of vehicles operated	O21	3
8.7	Using the words taxi or cab without having at least 70% of the fleet licensed as hackney carriages. Displaying the words taxi or cab on a private hire vehicle.	O22	2
8.7	Displaying the word Taxi or Cab on a Private Hire Vehicle	O23	2

8.8	Failure to keep records of all drivers employed or failure to produce details of the drivers	O24	2
8.9	Failure to notify council within seven days of the particulars of any driver who is no longer employed by the Operator	O25	2
9.1	Failure to maintain telephone or radio equipment in sound condition or failure to repair defects promptly	O26	2
9.2	Failure to have or produce evidence of a Licence issued by the Department of Trade and Industry licence for all radio equipment	O27	2
10.1	Using unlicensed drivers to drive a Herefordshire Council licensed vehicle	O28	4
11.1	Failure to keep a written record of all complaints or failure to make available to the council	O29	2

6. County Of Herefordshire District Council Byelaws Relating To Hackney Carriage

<u>Byelaw number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
2 (a)	Display hackney plate number other than on council plate	B1	2
2 (b) (i)	Wilfully or negligently causing licence number to be concealed from public view while the carriage is standing or plying for hire	B2	2
2 (b) (ii)	Causing or permitting the carriage to stand or ply for hire with an illegible plate	B3	2
3	Failure to furnish the Hackney Carriage in accordance with requirements of the Byelaw	B4	2
4.	Failure to provide a taximeter in accordance with the requirements of the Byelaw	B5	2
5.	Failure to operate taximeter in accordance with requirements of the Byelaw.	B6	2
6.	Driver or proprietor tampering with meter or permitting any unauthorised person to tamper with meter	B7	4
7. (b)	Failure to proceed to another rank when at the time of arrival rank is full	B8	2
7. (c) (d)	Failure to station or move the carriage immediately behind the carriage or carriages in front on the rank	B9	2
8.	A proprietor or driver using the services of a person to importune a person to hire the vehicle	B10	2
10.	Failure by driver to take reasonable precautions to ensure the safety of passengers	B11	4
11.	Driver or proprietor allowing more persons to be conveyed than the licence allows	B12	4
12.	Failure by driver to wear the badge provided by the council when plying for hire	B13	2
13.	Failure to conform to byelaw in relation to luggage	B14	2
15.	Failure to display statement of fares inside the carriage in a legible state	B15	2
17.	Failure to deposit lost property to the offices of the Council within 48 hours of discovery	B16	2

**APPLICATION TO RE-INSTATE AN EXPIRED
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE
STANDARD CONDITION 9.5 BY NICHOLAS JAMES
MADDY**

REPORT BY:

Head of Environmental Health and Trading Standards

Purpose

1. This report reintroduces an application made by Mr Maddy to deviate from the standard condition number 9.5. This condition states: -

‘All applications received after the date of expiry will be treated as grants and not renewals and the appropriate conditions and fees will apply’.

Legal Background

2. Under the terms of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles, drivers and operators.
3. The current standard licence conditions were approved at Regulatory Committee on the 18 December 2007.

Issues

4. This Authority previously licensed a Skoda Octavia motor car on Plate No. H332.
5. On 6 March 2008 the Licensing Team wrote to Mr Maddy (Appendix 1 – Background Papers) advising him that this vehicle plate would expire on 9 April 2008. There is no mandatory requirement for the Licensing Team to do this.
6. No application was received from Mr Maddy and accordingly the plate expired on 9th April 2008.
7. On 5 June 2008 an application was received from Mr Maddy to licence the vehicle (Appendix 2 – Background Papers). However this had to be a new application to comply with the condition but as the vehicle did not meet the requirements for a new vehicle licence application the licence could not be granted under devolved powers.
8. The applicant requests to re-licence this vehicle.

Matter for Committee

9. In light of the above account the licence has still not been granted, but instead referred to this Regulatory Committee for consideration and determination as to whether the plate should be issued.

Options

It is for the Regulatory Committee to decide whether the vehicle licence: -

- can be granted outside of the standard conditions and or policy.
- cannot be granted and the licence be refused.
- can be further deferred in order to get more information before a fully informed decision can be made.
- or reach some other decision.

Background Papers

Appendix 1 – Renewal Letter to applicant

Appendix 2 – copy of application form

**APPLICATION TO RE-INSTATE AN EXPIRED
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE
STANDARD CONDITION 9.5 BY ROBERTO PAVI**

**REPORT BY:
Head of Environmental Health and Trading Standards**

Purpose

1. This report reintroduces an application made by Mr Pavi to deviate from the standard condition number 9.5. This condition states: -

‘All applications received after the date of expiry will be treated as grants and not renewals and the appropriate conditions and fees will apply’.

Legal Background

2. Under the terms of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles, drivers and operators.
3. The current standard licence conditions were approved at Regulatory Committee on the 18 December 2007.

Issues

4. This Authority previously licensed a Skoda Octavia motor car on Plate No. H065.
5. On 21st August 2008 the Licensing Team wrote to Mr Pavi (Appendix 1 – Background Papers) advising him that this vehicle plate would expire on 6 October 2008. There is no mandatory requirement for the Licensing Team to do this.
6. No application was received from Mr Pavi and accordingly the plate expired on 6 October 2008.
7. On 9 October 2008 an application was received from Mr Pavi to licence the vehicle (Appendix 2 – Background Papers).
8. Mr Pavi was granted a licence until the date of this hearing to allow the Committee to make a decision regarding this matter. Accordingly the plate granted expires at midnight tonight.

Matter for Committee

9. In light of the above account the licence has still not been granted, but instead referred to this Regulatory Committee for consideration and determination as to whether the plate should be issued.

Options

It is for the Regulatory Committee to decide whether the vehicle licence: -

- can be granted outside of the standard conditions and or policy.
- cannot be granted and the licence be refused.
- can be further deferred in order to get more information before a fully informed decision can be made.
- or reach some other decision.

Background Papers

Appendix 1 – Renewal Letter to applicant

Appendix 2 – Copy of application form

HACKNEY CARRIAGE VEHICLE LICENSING DEVIATION BY JULIUS GUDAS FROM VEHICLE LICENCE CONDITION NUMBER 3.3.

**REPORT BY: Head of Environmental Health and
Trading Standards**

Purpose

1. The report introduces an application made by Mr Gudas to deviate from the standard condition number 3.3. This condition states: -

The proposed new vehicle must comply with the following:-

- a) A wheel chair access vehicle cannot at any time be replaced with a non wheel chair access vehicle. A saloon may be replaced with a saloon or upgraded to a wheel chair access vehicle.

Legal Background

2. Under the terms of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles, drivers and operators.
3. The standard licence conditions were approved at Regulatory Committee on the 18th December 2007.

Issues

4. The Licensing Authority currently licence a Toyota Hi-Ace on plate number H239. This vehicle is a wheelchair accessible vehicle.
5. Mr Gudas has made an application to change this vehicle from a wheelchair accessible vehicle to a non-wheelchair accessible vehicle.
6. Mr Gudas has not decided yet what type of vehicle this will be transferred to.
7. The Committee may re-call that Mr Gudas appeared before their meeting on 17 June 2008 when he applied for this vehicle to be licensed outside the standard condition as the plate had expired by 4 days. On that occasion the Committee granted the licence.
8. In light of this application the licence has not been issued, but instead referred to this Regulatory Committee for consideration and determination.

Options

It is for the Regulatory Committee to decide whether the application: -

- Can be granted outside of the standard conditions and or policy.
- Cannot be granted
- Deferred decision in order to get more information.
- or reach some other decision.

Appendix 1 (Background Papers) – standard vehicle licence conditions

Appendix 2 (Background Papers) – copy of application form

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