

# A G E N D A

## Regulatory Committee

Date: **Tuesday, 17th June, 2008**

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Time: **2.00 p.m.**

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

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

*For any further information please contact:*

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## 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, R Mills, A Seldon and DC Taylor

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<p><b>1. APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
<p><b>2. NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p><b>3. DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p> <p><b>GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS</b></p> <p>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.</p> <p>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.</p> <p>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.</p>	
<p><b>4. MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 15/27 May and 20 May 2008.</p>	1 - 8

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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 Thursday, 15 May 2008 at 2.00 p.m. and on Tuesday 27 May at Town Hall St Owen St Hereford at 2.00 p.m.**

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

**Councillors:** CM Bartrum, DJ Benjamin, ME Cooper, PGH Cutter, SPA Daniels, JHR Goodwin, R Mills, A Seldon and DC Taylor

**In attendance:** Councillors H Bramer and TM James

**131. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**132. NAMED SUBSTITUTES (IF ANY)**

There were no named substitutes present at the meeting.

**133. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting.

**134. REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE BEEN MODIFIED: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847**

The Licensing Manager presented a report about a review of hackney carriage and private hire vehicle licence conditions for those converted for wheelchair access, to ensure their safety, and to bring the conditions into line with the current procedures being used. She said that at the meeting held in December 2007 the Committee had considered details about concerns which had been raised by the trade with Officers about the safety of converted panel vans and certain vehicles which had been converted for wheelchair access. The Committee had decided that for those converted panel vans that had no test certificate to show they had been converted safely, the licences would be suspended until such time as the Council was provided with evidence that the vehicles had complied with the requirements of the Department of Transport and the DVLA. In the case of vehicles converted for wheelchair access, the proprietors were asked either to produce evidence from the manufacturer to show that vehicle was safe and fit for use, or to obtain a VOSA single Vehicle (Standard) approval test certificate, by the end of February. The proprietors of vehicles that had been manufactured with wheelchair access subsequently submitted European type approval and low volume type approval certificates to demonstrate that the vehicles met the standards required for M1 status for passenger use. However advice sought from the Vehicle Certification Agency (VCA) revealed that the M1 status for such vehicles did not apply to any wheelchair access facilities installed because there was no European standards governing the safety of the installations. She said that some of the manufacturers had produced

certificates for tests which had been carried out on a prototype vehicle to demonstrate that it had been safely converted. The manufacturer was however unable to provide such evidence for all the vehicles which had been produced but the Licensing Manager was continuing to hold discussions with them about the issue.

The Council had been advised that the European Type approvals and Low Volume type approvals could not be relied upon to demonstrate that the wheelchair access facilities had been installed to a standard that was fit for purpose. Consequently powers under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 were used to require the proprietors to submit their vehicles for the VOSA Voluntary single vehicle Approval test (standard) to demonstrate fitness. Advice on the matter had been obtained from a leading solicitor in the field of taxi legislation and also the Department of Trade who had acknowledged that the VOSA test would provide the authority of assurances of fitness for use. A number of meetings had been held with the trade who were unhappy with the proposals and consequently the vehicle test deadline was extended to 30th June, 2008. Also it was arranged that the Council's testing centre through Amey at Rotherwas could test minor VOSA failures. The proprietors with wheelchair access facilities installed in their vehicles had all received a further notice to have their vehicles tested under Section 68 of the act and had been advised of their rights of appeal to a Magistrates Court. They had also been sent a summary of why the action was being taken by Herefordshire Council. In view of the fact that the M1 standard did not cover the safety of the installation of wheelchair access facilities, the committee was asked to consider amending the licence conditions as set out in the report. The Principal Lawyer commented that current legislation did not satisfactorily cover the issues of the safety of those using wheelchairs. There was also little guidance available so that it was left for the Committee to decide how best to address the matter.

The Committee asked questions of the Licensing Manager about the approach that had been taken, the procedures employed by other Local Authorities, public safety issues and the implications for the trade. The Committee then asked the trade if they wished to put forward their views and Mr John Jones, chairman of the local private hire and hackney carriage association, elected to make representations. Mr Jones had a number of concerns about the approach used by the Council and was of the view that the wrong sections of the Local Government (Miscellaneous Provisions) Act 1976 had been used following on from the December 2007 meeting. He said that the trade had no problems with the licenses of the converted panel vans being suspended until their operators could fulfil the requirements of the Department of Transport, VOSA and the DVLA and that the trade had drawn this to the attention of the Council in the first place. He did however have grave concerns about the requirements which had been imposed upon purpose built vehicles which had been adapted for wheelchair access. He said that these had been produced by specialist firms who had to meet stringent safety requirements and that it was unrealistic to insist on the VOSA inspection. He was also of the view that the meeting had been rushed and that insufficient time had been allowed for full consultation.

Mr Jones was then asked whether he would benefit from the meeting being adjourned in order for him to instruct a lawyer to present his points in the most concise way. On reflection Mr Jones agreed.

The meeting reconvened on 27th May at 2:00 pm at the Town Hall, Hereford when all Members of the Committee were present. Mr P Saville, Counsel of 12 College Place Southampton who specialised in the field of hackney carriage and private hire legislation, attended the meeting as the Council's legal representative.

The Licensing Manager briefly outlined the issues in that M1 type approvals did not test the safety of wheelchair access facilities. In order to try and resolve the matter a visit had been made with the Directorate Quality Manager to LTI, one of the leading manufacturers of specialist vehicles. The systems had been looked at and it was felt that if a prototype vehicle could be provided for testing by VOSA and was found to be satisfactory, then this could help to set the standard for all new vehicles manufactured by them. Similar evidence would need to be provided for vehicles previously manufactured by them. This approach would be taken with other manufacturers. It was proposed that in order to provide time to carry out these checks the deadline for the trade to comply with the requirements should be extended to the end of September.

Mr J Jones again raised doubts about the approach taken by the Council. He asked Mr T Friar of Allied Vehicles who had also attended the meeting to explain the stringent safety requirements which were followed by his company in converting vehicles for wheelchair access post-manufacture. Mr Friar contended that it was unreasonable for all vehicles to be tested by VOSA because a visual inspection only was undertaken and that the wheelchair anchor points could not be 'crash-tested'. The nearest VOSA centres were in adjoining Counties which meant that the trade would suffer considerable costs and loss of earnings in having to take their vehicles long distances for inspection. He said that his company used the standards set by Motability when manufacturing their wheelchair accessible vehicles and he explained what was involved. Mr Friar was happy that the SVA - VOSA test was being used for converted panel vans

Mr Saville asked if Mr Friar would be willing to submit a new vehicle for VOSA testing and provide the Council with written evidence of the standards to which it was manufactured and he confirmed that he would.

Mr Saville also answered a number of questions raised by Mr Jones and gave the Committee appropriate guidance about the issues that had been raised.

Discussions around the Mobility test compared to the SVA VOSA test led to the Committee deciding in principle to agree to the following conditions but they were of the view that more information was needed about the suitability of the Mobility test compared to the suitability of the SVA VOSA Test.

## **RESOLVED**

**That the Council's hackney Carriage and Private Hire vehicle licence conditions which were adopted on 18th December, 2007 be modified as follows, however this decision would be dependant upon the results of further research into the mobility standard and the SVA VOSA test:-**

**17.6 Passenger vehicles that are fitted with wheelchair access at the time of initial registration may apply for a new vehicle licence if the vehicle has a VOSA single vehicle (standard) test certificate; or for vehicles manufactured by a manufacturer approved by the Regulatory Committee for being able to demonstrate to their satisfaction that all their vehicles are consistently manufactured to a standard complying with the appropriate available safety standards and to the VOSA single vehicle (standard) approval test. The Committee may review any such approval at any time when considered necessary to fulfil their statutory duties.**

**17.7 Modified passenger vehicles**

Modified passenger vehicles that are fitted with wheelchair access after registration may apply for a new vehicle licence if the vehicle has a VOSA single vehicle (enhanced) test certificate; or for vehicles modified after registration where the modifier has been approved by the Regulatory Committee for being able to demonstrate to their satisfaction that all their vehicles are consistently modified to a standard complying with the appropriate available safety standards or to the VOSA single vehicle (enhanced) approval test. The committee may review any such approval at any time when considered necessary to fulfil their statutory duties.

- 17.8 All vehicles licensed for the first time before 18 December 2007 that are wheelchair accessible or converted will be reviewed by the regulatory committee at the end of September 2008. Those passenger vehicles where the manufacturer or modifier have had approval from the regulatory committee as being able to demonstrate the vehicles are consistently modified to a standard complying with the appropriate available safety standards and to the VOSA single vehicle approval test and can show those standards apply to the vehicle at the time of manufacture or modification would not require an individual single vehicle approval test.

The meeting ended at 4.05 p.m.

CHAIRMAN

**MINUTES of the meeting of Regulatory Committee held at  
The Council Chamber, Brockington, 35 Hafod Road,  
Hereford on Tuesday, 20 May 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,  
R Mills, A Seldon and DC Taylor

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors ME Cooper and JHR Goodwin.

**2. NAMED SUBSTITUTES (IF ANY)**

There were no named substitutes present at the meeting.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting.

**4. 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 Licensing Officers.

**5. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 1.1 BY MYKHAILO TVERDOKHLIB**

The Licensing Officer presented details of an application by Mr Tverdokhlib for the re-instatement of an expired hackney carriage vehicle licence outside standard condition 1.1. for the regulation of hackney carriages and private hire vehicles, drivers and operators which were approved by the Committee on 18th December, 2007. He said that Mr Tverdokhlib had previously been granted a vehicle license for a Vauxhall Zafira (Plate No. 296) and that the licence had expired on 18th December 2007. Mr Tverdokhlib had submitted an application to transfer of the plate on 9th May, 2008 but had not provided any details about the vehicle the licence was to be transferred to. Mr Tverdokhlib was not present at the meeting and had not provided any further information.

Having carefully considered all the facts regarding the application, the Committee was of the view that because of the lengthy gap between the expiry of the licence and application for re-instatement, the matter did not comply with the standard conditions or licensing policy and that the application should be refused.

**RESOLVED THAT:**

**an application from Mr Tverdokhlib to deviate from the standard condition number 1.1, for the renewal of a hackney carriage/private hire vehicle licence be refused**

**6. APPLICATION FOR NEW HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 1.1 & 20.1 & BY MAZHUR HUSSAIN**

A report was presented by the Licensing Manager about an application for a hackney carriage vehicle licence by Mrs M Hussain. She said that Mr Hussain had applied to licence a Toyota Hiace Minibus which was first registered on 13th September, 2002. He had produced the registration document which indicated that the vehicle category was N1 and not M/M1. It therefore did not comply with the Council's licensing conditions and she had therefore referred the matter to the Committee for determination. Mr Hussain explained that he had acquired the vehicle in good faith on the understanding that it did comply with the Council's licensing conditions. Mr Lane also spoke on behalf of Mr Hussain and gave full details to the Committee about the specification of the vehicle and the recognised vehicle manufacturers who had converted the vehicle for wheelchair access. The Licensing Manager said that if Mr Hussain could provide the necessary certification that the vehicle had an M/M1 classification, then the application could be approved.

Having considered all the circumstances regarding the application, the Committee felt that consideration should be deferred to enable the applicant to obtain the necessary certification.

**RESOLVED THAT:**

**an application from Mr M Hussain for a new hackney carriage vehicle licence outside standard condition 1.1 & 20.1 be deferred for the applicant to obtain the necessary certification to the satisfaction of the Licensing Manager.**

**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.**

**RESOLVED:** that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below.

**These items disclose information relating to any particular applicant for or recipient of or former recipient of, any service provided by the authority.**

**7. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE AN APPLICATION FOR A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

With reference to Agenda item No. 8 it was noted that the applicant was unable to attend the meeting and agreed that consideration of the application be deferred to a future meeting.

**8. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE AN APPLICATION FOR A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Officer referred to agenda item No. 9 and provided the Committee with details about an application for a Hackney Carriage/Private Hire driver's licence. The applicant provided the Committee with details of his personal circumstances and his conviction and explained why he felt that he should be granted a licence.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee was satisfied that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application could be granted.

The meeting ended at 3.35 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.



**APPLICATION TO RE-INSTATE AN EXPIRED  
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE  
STANDARD CONDITION 1.1 BY JULIUS GUDAS**

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

### **Purpose**

1. The report introduces an applications made by Mr Gudas 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 standard licence conditions were approved at Regulatory Committee on the 18<sup>th</sup> December 2007.

### **Issues**

4. This Authority previously licensed a Toyota Hiace Minibus on Plate No. H239.
5. This licence expired on 30th May 2008.
6. The application for transfer of the plate was made 3<sup>rd</sup> June 2008.
7. The application requests to re-licence this vehicle.
8. The vehicle was compliance tested on 28<sup>th</sup> May when it failed. The vehicle was re-tested on 3.6.08 when it past.

### **Matter for Committee**

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

### **Options**

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

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

Appendix 1 – standard vehicle licence conditions

Appendix 2 – copy of application forms

**APPLICATIONS TO RE-INSTATE AN EXPIRED  
HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE  
STANDARD CONDITION 1.1 BY LESLIE RAYMOND  
KNAPMAN**

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

### **Purpose**

1. The report introduces an applications made by Mr Knapman 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 standard licence conditions were approved at Regulatory Committee on the 18<sup>th</sup> December 2007.

### **Issues**

4. This Authority previously licensed a Peugeot 406 on Plate No. P009.
5. This licence expired on 22<sup>nd</sup> February 2008.
6. The application for transfer of the plate was made 2<sup>nd</sup> June 2008.
7. The application requests to re-licence this vehicle.

### **Matter for Committee**

8. In light of this the application and the above condition the licence has not been granted but instead referred to this Regulatory Committee for consideration and determination whether the plate should be issued.

### **Options**

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

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

Appendix 1 – standard vehicle licence conditions

Appendix 2 – copy of application forms

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