

A G E N D A

Regulatory Committee

Date: **Tuesday, 15th July, 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:

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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

	Pages
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.	
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- | | | |
|-----|---|---------|
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| | To consider an application under the Highways Act 1980, section 119, to make a public path order to divert parts of bridlepath CO1 and footpaths CO1A and CO4 in the parish of Collington and parts of footpaths ER3 and ER26 in the parish of Edwyn Ralph. | |
| 6. | HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GW3 (PART) IN THE PARISH OF GARWAY | 9 - 10 |
| | To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath GW3 in the parish of Garway. | |
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| 9. | HOME BOARDING STABLISHMENTS - IMPLEMENTING CONDITIONS FOR DOG HOME BOARDING ESTABLISHMENTS - ANIMAL BOARDING ESTABLISHMENTS ACT 1963 | 23 - 38 |
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To consider an application made by Mr Maddy to deviate from standard licensing condition number 9.5.

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.

15. **DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** 49 - 52

To consider matters regarding an application for a hackney carriage/private hire driver's licence.

16. **DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** 53 - 56

To consider matters regarding an application for a hackney carriage/private hire driver's licence.

17. **DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976** 57 - 60

To consider matters regarding an application for a hackney carriage/private hire driver's licence.

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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, 17 June 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, R Mills, DC Taylor and JD Woodward

1. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors ME Cooper and A Seldon.

2. NAMED SUBSTITUTES (IF ANY)

Councillor J Woodward was appointed as named substitute for Councillor A Seldon.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

4. MINUTES

RESOLVED: That the Minutes of the meetings held on 15/27th May and on 20th May, 2008 be approved as a correct record and signed by the Chairman, subject to the following amendments to Minute 134 (15/27th May):-

Para 7 – replace ‘Motability’ with ‘Mobility’;

Para 8 - add ‘Mr Friar also said that he had previously offered a vehicle for testing and also the required paperwork’;

Resolution 17.6 and 17.8 - replace ‘and the SVA VOSA test’ with ‘or the SVA VOSA test.’

5. 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.

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

The Licensing Officer presented an application by Mr J Gudas for the re-instatement of an expired hackney carriage vehicle licence outside standard condition 1.1. Full details of the application appeared before the Committee in the agenda and the

background papers with which it was provided. It was noted that under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the Council had adopted conditions for the regulation of hackney carriages and private hire vehicles, drivers and operators. The standard vehicle licence conditions were approved by the Regulatory Committee on 18th December, 2007.

It was explained by the Licensing Officer that Mr Gudas had previously been granted a vehicle license for a Toyota Hiace Minibus (Licence Plate No. H239) and that the licence had expired on 30 May 2008. Mr Gudas had submitted an application to renew the licence on 3 June 2008. The vehicle had been submitted for the Council's licensing compliance test on 28 May and had failed. It was re-tested on 3 June and had passed. Mr Gudas said that he had intended to submit the vehicle for testing earlier but had been prevented from doing so because of a mechanical breakdown.

Having considered all the details about the application, the Committee was of the view that because of the short gap between the expiry of the licence and application for re-instatement, and the intentions of the applicant, there was no conflict with the standard conditions or licensing policy and that the application could be granted.

RESOLVED THAT:

the application from Mr Gudas to deviate from the standard condition number 1.1, for the renewal of a hackney carriage/private hire vehicle licence be granted

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

The Licensing Officer presented an application by Mr LR Knapman for the re-instatement of an expired hackney carriage vehicle licence outside standard condition 1.1. Full details of the application appeared before the Committee in the agenda and the background papers with which it was provided. It was noted that under the provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the Council had adopted conditions for the regulation of hackney carriages and private hire vehicles, drivers and operators. The standard vehicle licence conditions had been approved by the Regulatory Committee on 18th December, 2007.

At the meeting it was explained by the Licensing Officer that Mr Knapman had previously been granted a vehicle license for a Peugeot 406 (Licence Plate No. P009) and that the licence had expired on 22 February 2008. Mr Knapman had submitted an application to renew the licence on 2 June 2008. Mr Knapman admitted that he had failed to renew his licence and said that this was a complete oversight on his behalf, for which he apologised. He explained the recent personal problems which had put him under considerable stress. He was also at a new address and the licence renewal reminder had not reached him. He explained the procedures he had put in place to ensure that the situation did not arise again.

The Committee carefully considered those matters brought before them. The Committee accepted Mr Knapman's explanation and decided that due to the particular circumstances involved, an exception could be made to policy and the application could be granted.

RESOLVED THAT:

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

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.

8. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING A DUAL DRIVERS LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Licensing Officer referred to agenda item No. 8 and provided the Committee with details about an application for a Hackney Carriage/Private Hire driver's licence. The applicant had not disclosed previous convictions/cautions but on seeing the CRB form his spokesperson said that the details on it were incorrect and that she would need to write to the CRB about it. In view of this the Committee decided to defer consideration of the application until the matter had been clarified.

9. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER LICENCE - TO DETERMINE MATTERS REGARDING 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 the police caution he had received 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 3.20 p.m.

CHAIRMAN

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEPATH CO1 AND FOOTPATHS CO1A AND CO4 IN THE PARISH OF COLLINGTON; FOOTPATHS ER3 AND ER26 IN THE PARISH OF EDWYN RALPH

Report By: Public Rights of Way Manager

Wards Affected:

Bringsty

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path order to divert parts of bridlepath CO1 and footpaths CO1A and CO4 in the parish of Collington and parts of footpaths ER3 and ER26 in the parish of Edwyn Ralph.

Considerations

- 1 Thornbury Group Parish Council made the application on 31st January 1990. The original application included changes to ten paths in total and was made on behalf of a number of landowners, in the parishes of Thornbury, Edwyn Ralph and Collington. The reasons given for making the application were that the proposed reorganisation of the paths would improve the rights of way network in the area, in terms of user safety and convenience and of land management practices. Some landowners also felt that the proposals would benefit them by increasing their privacy and security.
- 2 The original application was made for one extinguishment Order under section 118 of the Highways Act 1980 and one creation Order under section 26 of the Highways Act 1980; each of the extinguishment and creation Orders would include a number of paths, thus reducing the advertising costs incurred. It was intended that the two Orders should be considered concurrently, in order for the proposals to result in the desired diversion of the paths. It was agreed that the costs incurred by the Parish Council would be for the advertising fees only. The Parish Council organised that these costs would be recharged to the landowners concerned, on a pro rata basis. Correspondence about the proposals was mainly with the late Miss Patience Mostyn, who had volunteered to act as a representative for all of the landowners in this matter.
- 3 It is possible to include a number of paths in any one creation or extinguishment Order, provided that the legal tests are met for each path. However, the risk of failure of individual proposals is increased, in that an objection to the proposal for one path may result in the whole Order not being confirmed. There is also a risk that as the two Orders must be considered on their own merits, the creation Order could be successful, whilst the extinguishment Order was not confirmed. This would not result in a diversion, as it would simply create new paths without removing any existing ones. Following the failure of a similar rationalisation scheme at Ombersley, for which

concurrent creation and extinguishment Orders had been made, Miss Mostyn was advised in October 1992 that individual diversion Orders for each of the proposals was more likely to result in success (see letter dated 27th October 1992-Annex A.) In effect, a diversion Order is a concurrent creation and extinguishment; the creation of a new path cannot come into operation without the existing route being extinguished. However, the extent to which a path can be diverted is limited by the legal tests as laid out in section 119 of the Highways Act 1980.

- 4 This was a significant amount of correspondence following this, about the procedure to be used and the costs involved; individual diversion proposals attracted greater costs to the landowners concerned. By 2004, a Definitive Map Modification Order application had been made in respect of one path and separate diversion applications had been made for a number of the other proposals. As a result of this, the proposals now outstanding for consideration are as follows:
 - The proposed diversion of bridlepath CO1 and footpaths CO1A and CO4 at The Bank, Collington; it was proposed that an additional new section of bridleway be created in conjunction with this diversion, to link to county road B4212 (see Order Plan dwg no D121/94-1/1A/4)
 - The proposed diversion of footpaths ER3 and ER26 at Upper House Farm, Edwyn Ralph (see Order Plan dwg no D121/133-26/3)
- 5 The landowner of Upper House Farm contacted the Council in 2004 via solicitors; at that stage, they wished to continue with a diversion application. Correspondence with the Ramblers' Association suggested that there might be issues with processing this proposal as part of a package; they indicated that they had concerns about reorganisation of groups of rights of way via applications such as this (see letter dated 28th January 2004-Annex B.) No further correspondence about the proposed diversions has been received from the landowners of either Upper House Farm or The Bank since 2004.
- 6 It is not felt that either of these proposals would meet the legal tests for a diversion under section 119 of the Highways Act 1980 in their current form, for the reasons that are given in section 9 below. If this application were rejected or withdrawn, the landowners would be able to make new applications for a diversion in their own right, if they so wished. These would be processed under the current policy and procedures and at current costs.
- 7 Thornbury Group Parish Council were contacted in June 2004, to ask that they consider withdrawing the application as made in January 1990 (see letter dated 2nd June 2004-Annex C.) The application was not withdrawn at the time; letters sent to the Parish Council between 2004 and 2006 did not result in any further progress in determining the application. The Parish Council was sent a copy of this report on 16th June 2008 for comment. Following a meeting of Thornbury Group Parish Council on 26th June 2008, the current Parish Clerk advised us that the Parish Council have considered the report. They have agreed that the application should be rejected, given that the proposals are not felt to meet the legal tests and that the landowners would be able to make a new application in their own right, if they so wished (see email from the Clerk to Thornbury Parish Council-Annex D.)
- 8 The local member, Councillor T Hunt, has also been sent a copy of this report. He supports the recommendation that the application be rejected, given the risk of failure of both proposals in the event that a single, combined Order were to be made. It is recognised that if this application were rejected, the affected landowners could

reapply for diversions in their own right, which may have a greater chance of success.

- 9 The proposed diversion does not meet the specified criteria as set out in section 119 of the Highways Act 1980 in that:
- The proposals are considered to be substantially less convenient to the public, as they would result in paths that are a significantly longer and less direct route between the start and end points of the proposed diversions.

Alternative Options

Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. If this application were not rejected, it would be necessary to carry out pre-Order consultation on the remaining proposals, with a view to processing them further. There is a significant risk that a formal objection will be submitted, if one Order were to be made that included two separate diversion proposals; this could lead to additional demand on existing staff resources.

Risk Management

There is a risk that the landowners of The Bank and Upper House Farm may still wish to divert the paths and may be unhappy if this application were rejected. However, they would be able to reapply for a diversion in their own right; although this would result in further delays, the likelihood of success of the individual proposals may be increased.

Consultees

- Local Member – Councillor T Hunt
- Thornbury Group Parish Council.
- The Ramblers' Association-were consulted on original proposals in 1990 and on proposed diversion of footpaths ER3 and ER26 in 2004
- Statutory Undertakers- were consulted on original proposals in 1990

Recommendation

That a public path diversion order is not made under Section 119 of the Highways Act 1980, as illustrated on the attached plans Dwg no D121/94-1/1A/4 and Dwg no D121/133-26/3 and that the application is rejected.

Appendices

- Order Plan 1: Drawing number: D121/94-1/1A/4-Proposed diversion of bridlepath CO1 and footpaths CO1A and CO4 and creation of new bridleway at The Bank, Collington
- Order Plan 2: Drawing number: D121/133-26/3-Proposed diversion of footpaths ER3 and ER26 at Upper House Farm, Edwyn Ralph
- Annex A: Letter to Miss Patience Mostyn, dated 27th October 1992
- Annex B: Letter from the Ramblers' Association about the proposed diversion of footpaths ER3 and ER26 at Upper House Farm, dated 28th January 2004
- Annex C: Letter sent to Thornbury Group Parish Council dated 2nd June 2004
- Annex D: Email response dated 26th June 2008 from Clerk to Thornbury Group Parish Council

HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH GW3 (PART) IN THE PARISH OF GARWAY

Report By: Public Rights of Way Manager

Wards Affected:

Pontrilas

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath GW3 in the parish of Garway.

Considerations

- 1 Mrs J Williams, who was the landowner at the time, made the original application on 12th November 1996. The reason given for making the application was to remove the path from the garden at Nantewain, thus increasing the privacy and security of its residents. The original proposal is shown on the attached plan (see Annex A-Dwg no 153-3)
- 2 Hereford and Worcester County Council carried out pre-Order consultation on behalf of Mrs Williams in 1997. The proposal had the general agreement of the Ramblers Association, The Open Spaces Society and the Byways and Bridleways Trust. No objections were received from statutory undertakers. The proposal also had the support of Councillor Hart, who was the local member at the time.
- 3 Some years elapsed and although an Order was drafted, it was never sealed or advertised. This may be due to the presence of a building, which aerial photographs suggested might have been built on the proposed diversion route. By 2003, Nantewain had been sold to Mr M Sparey and Mrs R Sparey; they decided to take over the application and alter the proposed route, to move it away from the farm buildings completely. Their proposed route is shown on the attached plan (see Annex B-Dwg no D237/153-3.)
- 4 Following this, there was some correspondence with Mr and Mrs Sparey about the costs to be met. As a result, no pre-Order consultation was carried out until 2006, when the current policy for processing diversion applications had come into operation. Under this policy, existing applicants can be offered the opportunity to carry out their own pre-Order consultation, in return for reduced administration fees. Mr and Mrs Sparey accepted this offer and carried out pre-Order consultation. The proposal has general agreement of the Ramblers' Association, Open Spaces Society, Byways and Bridleways Trust, Cyclists Touring Club Offroad section, the Council's Highways Area Manager and Garway Parish Council. No objections were received from statutory undertakers. The proposal also has the agreement of the current tenant of Nantewain, who is affected by the application.

- 5 Following pre-Order consultation, one minor amendment was made to the route in respect of point C; this is shown on the finalised Order Plan (Dwg no D237/153(i).) Point C has been moved a few metres further east, to make the path slightly more convenient by positioning it on a more level surface. As this change is minor and does not affect road safety considerations at this access point, it has not been felt necessary to carry out further pre-Order consultation.
- 6 The applicants have agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. They have also given their written agreement to meet the costs of any compensation that may be claimed if a diversion were to come into operation (see Annex C-Signed compensation indemnity form.)
- 7 The local member, Councillor R Smith, supports the application.
- 5 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in that:
 - The proposal benefits the owner of the land crossed by the existing path.
 - The proposal does alter the point of termination of the path, but the proposed new route terminates on the same highway as the existing path.
 - The proposal is not substantially less convenient to the public.

Alternative Options

Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council.

Risk Management

There is a risk that the Order will be opposed, leading to additional demand on existing staff resources.

Consultees

- Prescribed organisations as per Defra Rights of Way Circular 1/08
- Local Member – Councillor R Smith
- Garway Parish Council.
- Statutory Undertakers

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number:

Appendices

Order Plan, drawing number: Dwg no D237/153(i)

Annex A: Mrs Williams' first route proposal. Order Plan, drawing number 153-3.

Annex B: Mr and Mrs Sparey's original route proposal. Order Plan, drawing number D237/153-3

Annex C: Signed compensation indemnity form from Mr and Mrs Sparey

TO SET THE STANDARD OF TEST FOR MANUFACTURERS OR INSTALLERS AS REQUIRED BY HEREFORDSHIRE COUNCIL TO ENSURE VEHICLES WITH WHEELCHAIR ACCESS INSTALLED ARE FIT FOR USE AS A LICENSED VEHICLE: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

REPORT BY: Head of Environmental Health and Trading Standards

Purpose

1. To set the standard of test for manufacturers or installers as required by Herefordshire Council to ensure vehicles with wheelchair access installed are fit for use as a licensed vehicle.

Legal Background

2. Under the terms of the Local Government (Miscellaneous Provisions) Act 1976 s 47 (Private Hire Vehicle), Town Police Clauses Act 1847 s42 (Hackney Carriage), local authorities may make reasonable conditions for the regulation of both hackney carriages and private hire vehicles.
3. Any person aggrieved by any conditions, which have been imposed, has a right of appeal to the Magistrates Court.

Background

4. On 15 May 2008 the Regulatory Committee updated the conditions for licensed vehicles in respect of the required test to ensure vehicles that had wheelchair access facilities and converted vehicles were fit for use as a licensed vehicle. However the standard of test was not decided for those vehicles fitted with wheelchair access facilities by a manufacturer, consequently the committee wanted further information about the suitability of the Status mobility test as opposed to the Single vehicle approval test in order for them to determine the most appropriate test.
5. The element of the condition under consideration is as follows:-
6. conditions 17.6 & 17.7 (Appendix 1 - Minutes of meeting 15 May 2008):-

‘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 ‘

- a) complying with the appropriate available safety standards; and
- b) To the VOSA single vehicle (standard) approval test.

7. The representations from the manufacturers 'Allied', during the meeting, stated that the standard of test their vehicle is tested to (STATUS mobility standard) is more rigorous than the VOSA test which is a Visual inspection only, therefore they would want the requirement to test a vehicle under the VOSA test to be removed from the condition.

Tests

8. **Status (Mobility Test) –**
The tests carried out by status on wheelchair access vehicles are detailed below the details of the test procedures are found in appendix 2:-

Summary of Status testing

Test Procedure – Wheelchair restraints and wheelchair user restraints.

Test Procedure – Vehicle Fitted Wheelchair Ramps & Tail Lifts

Test Procedure – Re located Spare Wheels in Wheelchair Accessible

Test Procedure – Adapted Torsional Stiffness Assessment Vehicles

9. **Mira (Motor Industry Research Association)**
Seat belt Anchorage Testing
Validation of rear seat belt anchorages with additional load applies to the wheelchair restraint anchorages.
10. **VOSA Test – Appendix 3:-** Extracts from test manual (test manual will be available for further inspection):-

Forward –holds the description of the test

Annex - Standard SVA – Non European & Other Acceptable Standards

Part 4 –0 seats and anchorages. – note: column 1 page 1 b refers to exemptions– 'disabled Persons vehicles in any seating position that is fitted with a seat designed for a person with a disability' this exemption excludes the disabled persons wheelchair from being tested however the anchorages provided in the vehicle to secure the wheelchair to the vehicle will apply to this section and are tested.

Part 5 Seat Belts and Anchorages – again the exemption only applies to seat belts that are not fixed to the vehicle, if the seat belt is fixed to the vehicle it will be tested.

Issues

11. Road Traffic Act 1988 – S.54 provides the secretary of state with powers to prescribe type approval requirement as to type approvals. (in this case The Motor Vehicles (approval) Regulations 2001 as amended 2004).
12. Road traffic act 1988 – S63 makes it an offence if regulations made by the secretary of state prescribe a class of type approval and any person
- i) uses on a road or
 - ii) causes or permits to be so used
- a vehicle of that class has parts fitted that are not part of that class (in this case Regulation 14(7) of the Motor Vehicles (Approval) Regulations 2001 requires all vehicles to apply with the approval requirements).

13. DVLA have produced a document explaining when they should be notified of an alteration to the vehicle (Appendix 4).
14. The status test is not recognised by law as is the Single vehicle approval test, and the status test does not test the performance of the entire vehicle only the wheelchair facilities modification, where as the SVA test considers the whole status of the vehicles including its modification.
15. The wheelchair access facilities are not part of the type approval certificates therefore technically would fall within the provisions of S63 of the Road Traffic Act 1988 S 63 detailed above.

Options

- A) Approve manufacturers who have a vehicle prototype that has passed the VOSA - SVA Single vehicle approval standard test (including class D – Disabled and class P for import) or relevant safety standards and are able to demonstrate consistent manufacture to that standard
- B) Approve manufacturers who have a vehicle prototype that has passed the VOSA - SVA Single vehicle approval standard test (including class D – Disabled and class P for import) and relevant safety standards and are able to demonstrate consistent manufacture to that standard
- C) To come to some other conclusion.

RECOMMENDATION

To go with option B which would provide the authority and public with assurances that the wheelchair facilities have been tested to the industry standards and that the vehicle design would comply with the government approved test for the whole vehicle approval with the wheelchair access facilities installed. This would require the manufacturer/installer to carry out only one SVA test on a prototype which Herefordshire council would offer to the manufacturers to pay for the first test (if the vehicle fails the manufacturers would have to pay for any subsequent tests).

Notes:**Appeal**

Section 77. -

(1) Sections 300 to 302 of the Act of 1936, which relate to appeals, shall have effect as if this part of this Act were part of that act.

(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act –

(a) involves the execution of any work or the taking of any action; or

(b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;

then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution-

(i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and

(ii) that person may carry on that business.

Sections 300 to 302 of the Public Health Act 1936 see Notes below.

Appeals and applications to court of summary jurisdiction

300. - (1) Where any enactment in this Act provides –

(a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a council; or

(b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,

the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Act shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from which the date on which notice of the council's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In the case where such appeal lies, the document notifying to the person concerned the decision of the council in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

APPEALS TO [CROWN COURT] AGAINST DECISIONS OF JUSTICES

301. Subject as hereinafter provided, where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to [Crown Court], he may appeal to such a court:

Provided that nothing in this section shall be construed as conferring a right of appeal from the decision of a court of summary jurisdiction in any case if each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by such a court.

[Substituted by the courts Act 1971.]

“person aggrieved”; see 22.009 and *Cook v. Southend Borough Council* [1990] 2 W.L.R. 61. In that case, the Court of Appeal held that a licensing authority, ordered by magistrates to pay the costs of a taxi-driver's successful appeal against his licence revocation, was a “person aggrieved” within the meaning of this section. The effect of this was that the authority was entitled to appeal to the Crown Court, not merely against the order for costs, but also on the merits of the magistrates' decision. The Court of Appeal further clarified the

position of confirming that the Council had been entitled to appeal to the Crown Court irrespective of the order of costs made against it by the justices.

EFFECT OF DECISION OF COURT UPON AN APPEAL

302. Where upon an appeal under this Act a court varies or reverses any decision of a council, it shall be the duty of the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

For appeal to magistrates' courts and Crown Courts generally, see 2.001.

Subsection (2) of section 77 enables an unsuccessful applicant or a licensee who has had his licence suspended, revoked or not renewed to carry on his business until such a time as an appeal is disposed of or withdrawn or fails for want of prosecution.

Appendix 2

Summary of Status testing

Test Procedure – Wheelchair restraints and wheelchair user restraints.

Test Procedure – Vehicle Fitted Wheelchair Ramps & Tail Lifts

Test Procedure – Re located Spare Wheels in Wheelchair Accessible

Test Procedure – Adapted Torsional Stiffness Assessment Vehicles

TEST RESULTS SHEET



TITLE: Seat Belt Anchorage Testing on LTI Taxi

MIRA-00-456429-02

Page 1 of 10

Project No: 456429

Client: LTI

Test Date(s): 18-19 May 2000

Client Liaison Engineer: David Godfrey

Authority: P00010400

Witnesses: D Godfrey, T Skelhon, D Brazier - LTI
N Skellern, D Brooks, A Hunt - MIRA

Test Objective/Specification No:

Seat Belt Anchorage Testing to ECE 14.05.

Validation of rear seat belt anchorages to ECE 14.05 with additional load applied to the wheelchair restraint anchorages.

Specimen Description/Part No(s):

- LTI TX1 (FX4 1998 model year).
- **Test 2** M1 Rearward test on two occasional fold down seats.
Lap / diagonal loads of 4.5 kN and a load of 5.56 kN (6.6g x 85kg wheelchair mass) applied to the wheelchair restraint anchorages.
- **Test 3** Carried out for customer confidence in the ultimate strength of the seat belt anchorages.
Rearward facing seat anchorages loaded to the equivalent of M1 forward facing seat.
Lap / diagonal loads of 13.5 kN and a load of 16.68 kN (20g x 85kg wheelchair mass) applied to the wheelchair restraint anchorages.

Test Equipment:

MIRA seat belt anchorage rig and equipment as listed in Appendix 1.

Results:

Test 2 Achieved the M1 rearward facing load requirements with minimal distortion. See post test photographs.

Test 3 Achieved the M1 forward facing load requirements. See post test photographs.

Attachments/Notes:

Graphs 1 - 2 Load Versus Time For Tests 2 And 3.

Photographs 1 - 6 Pre And Post Test

Appendix 1 Quality Assurance Of Measurements

Video recording of test

	Name	Position	Signature	Date
Prepared By	N K Skellern	Senior Engineer	<i>Nigel Skellern</i>	1 st June 2000
Concurred By	R J M Whiting	Senior Engineer	<i>R J M Whiting</i>	01 06 2000

APPLICATION FORM LTI – LONDON CABS FOR APPROVAL AS A WHEELCHAIR ACCESS VEHICLES MANUFACTURER - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847

REPORT BY: Head of Environmental Health and Trading Standards

Purpose

1. To consider approving LTI – London Cabs as an approved manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.

Background

2. To ensure vehicles are fit for the purposes to be used as licensed vehicles in the County of Herefordshire

Manufacturers Tests and Quality Procedures

3. Details of the quality systems in place relating to the installation for wheelchair access facilities. Appendix 1.
4. Examples of previous quality check records demonstrating systems have been in place to ensure consistent manufacturer of the wheelchair access vehicles. Appendix 2.
5. Type approval certificate from Vehicle certification Agency (for vehicle excluding the wheelchair access facilities), Appendix 3

Options

- A. To approve manufacturer
- B. To approve manufacturer on the proviso that a prototype vehicle passes the VOSA single vehicle approval Standard test (including class P and class D).
- C. To require further information
- D. To refuse to approve the manufacturer.

RECOMMENDATION

To go with option B to approve LTI – London Cabs on the proviso that a prototype vehicle passes the VOSA SVA test. Which Herefordshire Council will pay for the first test (if the vehicle fails the manufacturers would have to pay for any subsequent tests).

Notes:**Appeal**

Section 77. -

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(2) If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act –

- (a) involves the execution of any work or the taking of any action; or
- (b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;

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the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Act shall apply to the proceedings.

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“person aggrieved” within the meaning of this section. The effect of this was that the authority was entitled to appeal to the Crown Court, not merely against the order for costs, but also on the merits of the magistrates’ decision. The Court of Appeal further clarified the position of confirming that the Council had been entitled to appeal to the Crown Court irrespective of the order of costs made against it by the justices.

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HOME BOARDING STABLISHMENTS - IMPLEMENTING CONDITIONS FOR DOG HOME BOARDING ESTABLISHMENTS - ANIMAL BOARDING ESTABLISHMENTS ACT 1963

**Report By: Licensing Officer for Head of Environment and
Culture**

Wards Affected

All

Purpose

1. To consider implementing licence conditions for Home Boarding Establishments.

2. **Background**

Under the act the running of a boarding establishment is *"the carrying on by him at premises of any nature (including a private dwelling) of a business of providing accommodation for others people's animals"*.

In 2005 LACORS issued guidance and Model Conditions to local authorities on home boarding and whether host families and/or agencies required a Boarding Establishment Licence.

The Model conditions are attached for dogs at (Appendix 1). In relation to cats the situation is a little different. It is the view of both DEFRA and the Feline Advisory Bureau that the homeboarding of cats is not to be encouraged. Indeed DEFRA have publicly stated that they will look, under new secondary legislation following the Animal Welfare Act, to outlaw this activity.

In relation to the host family LACORS is of the view that they are providing accommodation as defined by the Act so if they are doing it as a business then they require a licence.

LACORS suggest that local authorities give consideration to offering a discounted licence fee for such host families where it is a small scale activity. The actual agreement to or level of any discount is a matter for each individual authority.

In relation to any agent, LACORS is of the view that they are not "providing" accommodation as defined under the Act and do not therefore themselves need a license. However if local authorities are advising such agents then they should be advised that they should be ensuring that all their host families are properly licensed where necessary.

The conditions are set out in Appendix 1. To date we have received one application to carry out homeboarding.

Further information on the subject of this report is available from Claire Berrow, Licensing Officer on (01432) 353324 or e-mail cberrow@herefordshire.gov.uk

Duty on Local Authority

- (a) that animals will at all times be kept in accommodation suitable as respects construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;
- (b) that animals will be adequately supplied with suitable food, drink and bedding material, adequately exercised, and (so far as necessary) visited at suitable intervals;
- (c) that all reasonable precautions will be taken to prevent and control the spread among animals of infectious or contagious diseases, including the provision of adequate isolation facilities;
- (d) that appropriate steps will be taken for the protection of the animals in case of fire or other emergency;
- (e) that a register be kept containing a description of any animals received into the establishment, date of arrival and departure, and the name and address of the owner, such register to be available for inspection at all times by an officer of the local authority, veterinary surgeon or veterinary practitioner.

RECOMMENDATIONS

- (a) that the proposed licence conditions as set out in Appendix 1 be approved;
- (b) such conditions shall come into force on 1 August 2008;
- (c) that any application to homeboard cats will be refused on the grounds of consideration for Animal Welfare, based on the advice from Defra and the Feline Advisory Board.
- (d) that the fee for Homeboarding shall be £80.00.

BACKGROUND PAPERS

Herefordshire Council draft licence conditions Appendix 1 Lacors Model Licence Conditions Appendix 2 and Guidance for Home Boarding Establishments Appendix 3.

Licence conditions for:

Eden District Council
Wigan Council
Ryedale Council
Charnwood Council
Rotherham Council
Hull City Council
Telford Council
Cotswold Council

Appendix 1



HEREFORDSHIRE COUNCIL LICENCE CONDITIONS FOR HOME BOARDING (DOGS)
ANIMAL BOARDING ESTABLISHMENTS ACT 1963.

1. INTRODUCTION

- 1.1 Unless otherwise stated, these conditions shall apply to all buildings and areas to which dogs have access and/or which are used in association with the boarding of dogs.
- 1.2 Normally planning permission will not be required for the home boarding of animals on the scale proposed, however should complaints be received because of particular noise or odour problems, then the Council reserves the right to consider whether there has been a change of use which requires a planning application to be submitted.
- 1.3 The Licensee must ensure that the establishment is covered by adequate and suitable public liability insurance and, where necessary, adequate and suitable employers liability insurance.
- 1.4 No dog registered under the Dangerous Dogs Act 1991 must be accepted for home boarding.
- 1.5 Dog hybrids registered under the Dangerous Wild Animal Act 1976 (e.g. Wolf Hybrids) are not to be accepted for home boarding.
- 1.6 Entire males and bitches in season or bitches due to be in season during the boarding, must not be boarded together or boarded with resident dogs. Puppies under 6 months of age must not be boarded with other dogs including resident dogs.

2. LICENCE DISPLAY

- 2.1 A copy of the licence and its associated conditions must be suitably displayed to the public in a prominent position in, on or about the premises or made available to each boarder.

3. NUMBERS OF ANIMALS

- 3.1 The maximum number of dogs to be kept at any one time is (enter number).
- 3.2 Only dogs from the same household may be boarded at any one time. Dogs must not be boarded with any cat, unless they normally live together in the same household.
- 3.3 Where there is a resident dog or cat kept at the household, written consent from the owners of the boarded dog must be gained following a trial familiarisation session.

Further information on the subject of this report is available from Claire Berrow, Licensing Officer on (01432) 353324 or e-mail cberrow@herefordshire.gov.uk

3.4 The Licensee will be required to make an assessment of the risks of home boarding to include the risk to or caused by children who are likely to be at the property.

4. CONSTRUCTION

- 4.1 Dogs must live in the home as family pets. There must be no external construction of buildings, cages or runs.
- 4.2 The premises shall have its own entrance and must not have shared access e.g. communal stairs.
- 4.3 There must be adequate space, light, heat and ventilation for the dogs.
- 4.4 As far as reasonably practicable all areas/rooms within the home to which boarded dogs have access, must have no physical or chemical hazards that may cause injury to the dogs.
- 4.5 There must be sufficient space available to be able to keep the dogs separately if required.
- 4.6 If a collection and delivery service is provided, a suitable vehicle with a dog guard or cage in the rear must be provided.

5. MANAGEMENT

5.1 TRAINING

- 5.1.1 A written training policy for staff must be provided. Systematic training of staff must be demonstrated to have been carried out.

5.2 CLEANLINESS

- 5.2.1 All areas where the dogs have access to, including the kitchen etc must be kept clean and free from accumulations of dirt and dust and must be kept in such a manner as to be conducive to maintenance of disease control and dog comfort.
- 5.2.2 All excreta and soiled material must be removed from all areas used by dogs at least daily and more often if necessary. Disposal facilities for animal waste must be agreed with the Licensing Authority.
- 5.2.3 All bedding areas must be kept clean and dry.
- 5.2.4 Facilities must be provided for the proper reception, storage and disposal of all waste. Particular care should be taken to segregate clinical waste arising from the treatment and handling of dogs with infectious diseases. The final route for all such waste shall comply with current waste regulations.
- 5.2.5 Measures must be taken to minimise the risks from rodents, insects and other pests within the premises.

5.3 FOOD AND WATER SUPPLIES

- 5.3.1 All dogs shall have an adequate supply of suitable food as directed by the client.

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- 5.3.2 Fresh drinking water must be available at all times (unless advised otherwise by a veterinary surgeon) and the drinking vessel cleaned daily. The water must be changed at least twice a day.
- 5.3.3 Clients must be encouraged to provide each dog with its own bedding, bowls, grooming materials etc. These items must be cleaned regularly to prevent cross-infection. The Licensee however should also be able to provide extra bedding material.
- 5.3.4 Where necessary, eating and drinking vessels must be provided, and where so, they must be capable of being easily cleansed and disinfected to prevent cross-contamination. They must also be maintained in a clean condition. Feeding bowls must be cleaned or disposed of after each meal and each dog must be provided with its own bowl.

5.4 KITCHEN FACILITIES

- 5.4.1 Airtight containers must be provided for the storage of dry foods. Uncooked food and the remains of opened tins must be stored in covered, non-metal, leak proof containers in the fridge.
- 5.4.2 All bulk supplies of food shall be kept in vermin proof containers.

5.5 DISEASE CONTROL AND VACCINATION

- 5.5.1 Adequate precautions must be taken to prevent and control the spread of infectious and contagious disease and parasites amongst the dogs, staff and visitors.
- 5.5.2 Proof must be provided that boarded and resident dogs have current vaccinations against Canine Distemper, Infectious Canine Hepatitis (Canine adenovirus), Leptospirosis (*L. canicola* and *L. icterohaemorrhagicae*) and Canine Parvovirus and other relevant diseases. The course of vaccination must have been completed at least four weeks before the first date of boarding or in accordance with manufacturer instructions. A record that this proof has been supplied must be kept on-site throughout the period that the dog is boarded.
- 5.5.3 Advice from a veterinary surgeon must be sought in case of signs of disease, injury or illness. Where any dog is sick or injured, any instructions for its treatment, which have been given by a veterinary surgeon, must be strictly followed.
- 5.5.4 A well-stocked first-aid kit suitable for use on dogs must be available and accessible on site.
- 5.5.5 The Licensee must be registered with a veterinary practice that can provide 24-hour help and advice. The clients own veterinary practice must be known and consulted if necessary.
- 5.5.6 Precautions must be taken to prevent the spread of fleas, ticks, intestinal parasites and other parasites in both boarded and resident dogs. Proof must be maintained of all routine and emergency treatment for parasites.
- 5.5.7 The premises shall be regularly treated for fleas and parasites with a veterinary recommended product.

Further information on the subject of this report is available from Claire Berrow, Licensing Officer on (01432) 353324 or e-mail cberrow@herefordshire.gov.uk

5.5.8 Veterinary advice must be sought in relation to cleaning substances so that they or their fumes cannot be harmful to an animal.

5.6 ISOLATION AND CONTAGIOUS DISEASE OUTBREAK.

5.6.1 Dogs showing signs of any disease or illness shall be isolated from any other dogs until veterinary advice is obtained. There must be sufficient facilities within the licensed premises to ensure effective separation of any sick animal.

5.6.2 The Licensee must inform the Licensing Authority on the next working day if a dog develops an infectious disease.

5.6.3 Following an episode of infectious disease during any stay, the premises must undergo a reasonable quarantine period before new boarders are admitted. This period will be specified by the Licensing Authority as agreed with their authorised veterinary surgeon.

5.6.4 The Licensing Authority must be informed of any animal death on the premises. The Licensee must make arrangements for the body to be stored at a veterinary surgeons premises until the owners return.

5.7 REGISTER

5.7.1 A register must be kept of all dogs boarded. The information kept must include the following:

- Date of arrival
- Name of dog, any identification system such as microchip number, tattoo
- Description, breed, age and gender of dog
- Name, address and telephone number of owner or keeper
- Name, address and telephone number of contact person whilst boarded
- Name, address and telephone number of dog's veterinary surgeon
- Anticipated and actual date of departure
- Proof of current vaccinations, medical history and requirements
- Health, welfare nutrition and exercise requirements

5.7.2 Such a register is to be available for inspection at all times by an officer of Licensing Authority, veterinary surgeon.

5.7.3 The register must be kept readily available for a minimum of 2 years and kept in such a manner as to allow an authorised officer easy access to such information.

5.7.4 If medication is to be administered, this must be recorded.

5.7.4 Where records are computerised, a back-up copy must be kept. The register must also be available to key members of staff of the establishment at all times.

5.8 SUPERVISION

- 5.8.1 A fit and proper person with relevant experience must always be present to exercise supervision and deal with emergencies whenever dogs are boarded at the premises. This person must not have any conviction or formal Cautions for any animal welfare related offence.
- 5.8.2 Dogs must be visited at regular intervals, as necessary for their health, safety and welfare, and must not be left unattended for longer than 3 hours at a time and then not on a regular basis.
- 5.8.3 No home where there are children under 5 years of age will be licensed.
- 5.8.4 Only people over 16 years of age are allowed to walk the dogs in public places.

5.9 EXERCISE

- 5.9.1 Dogs must be exercised in accordance with their owner's wishes. If dogs are taken off the premises, they must be kept on leads unless with the owners written permission.
- 5.9.2 There must be direct access to a suitable outside area. The area / garden must only be for use by the homeowner (not shared with other residents). The area must be kept clean.
- 5.9.3 The exercise/garden area of the premises and any other area to which the boarded dogs may have access, must be totally secure and safe. Fencing must be adequate to offer security to prevent escape and be safe, with no dangerous sharp objects or protrusions. Gates must be able to be locked.
- 5.9.4 If there is a pond, it must be covered to avoid drowning.
- 5.9.5 Dogs must wear a collar and identity tag during their time in boarding. The tag must display the name, address and telephone number of the boarding premises.
- 5.9.6 The Licensing Authority must be informed on the next working day if a dog is lost.

5.10 FIRE / EMERGENCY PRECAUTIONS

- 5.10.1 Appropriate steps must be taken for the protection of the dogs in case of fire or other emergencies.
- 5.10.2 The occupier of the property must be aware of the location of the dogs in the property at all times.
- 5.10.3 Careful consideration needs to be given to the sleeping area for dogs to ensure that they can be easily evacuated in the event of a fire, without putting the occupiers of the property at risk.
- 5.10.4 A fire warning procedure and emergency evacuation plan – including details of where dogs are to be evacuated to in the event of a fire or other emergency - must be drawn up, brought to the attention of those involved in the home boarding

Further information on the subject of this report is available from Claire Berrow, Licensing Officer on (01432) 353324 or e-mail cberrow@herefordshire.gov.uk

arrangements and/or displayed in a prominent place on the premises. The Licensee must have suitable arrangements for the temporary boarding of dogs in the event that the licensed premises is rendered uninhabitable.

- 5.10.5 Fire detection equipment must be provided in accordance with general advice given by the Fire Safety Officer. The home must have at least 2 working smoke detectors located at the top & bottom of the staircase, or other appropriate location.
- 5.10.6 All doors to rooms must be kept shut at night.
- 5.10.7 All electrical installations and appliances must be maintained in a safe condition. No dog must be left in a room with loose or trailing cables or wires.
- 5.10.8 All heating appliances must be free of risk of fire as is reasonably practicable. There must be no use of freestanding gas or oil appliances.
- 5.10.9 A relative, friend or neighbour within 5 minutes travelling time must have a spare set of keys and access to the premises in case of an emergency. These details must be made available to the Licensing Authority.

LACORS MODEL LICENCE CONDITIONS FOR HOME BOARDING (DOGS)
ANIMAL BOARDING ESTABLISHMENTS ACT 1963.

1. INTRODUCTION

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- 2.1 A copy of the licence and its associated conditions must be suitably displayed to the public in a prominent position in, on or about the premises or made available to each boarder.

3. NUMBERS OF ANIMALS

- 3.1 The maximum number of dogs to be kept at any one time is (enter number).
- 3.2 Only dogs from the same household may be boarded at any one time. Dogs must not be boarded with any cat, unless they normally live together in the same household.
- 3.3 Where there is a resident dog or cat kept at the household, written consent from the owners of the boarded dog must be gained following a trial familiarisation session.

Further information on the subject of this report is available from Claire Berrow, Licensing Officer on (01432) 353324 or e-mail cberrow@herefordshire.gov.uk

- 3.4 The Licensee will be required to make an assessment of the risks of home boarding to include the risk to or caused by children who are likely to be at the property.

4. CONSTRUCTION

- 4.1 Dogs must live in the home as family pets. There must be no external construction of buildings, cages or runs.
- 4.2 The premises shall have its own entrance and must not have shared access e.g. communal stairs.
- 4.3 There must be adequate space, light, heat and ventilation for the dogs.
- 4.4 As far as reasonably practicable all areas/rooms within the home to which boarded dogs have access, must have no physical or chemical hazards that may cause injury to the dogs.
- 4.5 There must be sufficient space available to be able to keep the dogs separately if required.
- 4.6 If a collection and delivery service is provided, a suitable vehicle with a dog guard or cage in the rear must be provided.

5. MANAGEMENT

5.1 TRAINING

- 5.1.1 A written training policy for staff must be provided. Systematic training of staff must be demonstrated to have been carried out.

5.2 CLEANLINESS

- 5.2.1 All areas where the dogs have access to, including the kitchen etc must be kept clean and free from accumulations of dirt and dust and must be kept in such a manner as to be conducive to maintenance of disease control and dog comfort.
- 5.2.2 All excreta and soiled material must be removed from all areas used by dogs at least daily and more often if necessary. Disposal facilities for animal waste must be agreed with the Licensing Authority.
- 5.2.3 All bedding areas must be kept clean and dry.
- 5.2.4 Facilities must be provided for the proper reception, storage and disposal of all waste. Particular care should be taken to segregate clinical waste arising from the treatment and handling of dogs with infectious diseases. The final route for all such waste shall comply with current waste regulations.
- 5.2.5 Measures must be taken to minimise the risks from rodents, insects and other pests within the premises.

5.3 FOOD AND WATER SUPPLIES

- 5.3.1 All dogs shall have an adequate supply of suitable food as directed by the client.
- 5.3.2 Fresh drinking water must be available at all times (unless advised otherwise by a veterinary surgeon) and the drinking vessel cleaned daily. The water must be changed at least twice a day.
- 5.3.3 Clients must be encouraged to provide each dog with its own bedding, bowls, grooming materials etc. These items must be cleaned regularly to prevent cross-infection. The Licensee however should also be able to provide extra bedding material.
- 5.3.4 Where necessary, eating and drinking vessels must be provided, and where so, they must be capable of being easily cleansed and disinfected to prevent cross-contamination. They must also be maintained in a clean condition. Feeding bowls must be cleaned or disposed of after each meal and each dog must be provided with its own bowl.

5.4 KITCHEN FACILITIES

- 5.4.3 Airtight containers must be provided for the storage of dry foods. Uncooked food and the remains of opened tins must be stored in covered, non-metal, leak proof containers in the fridge.
- 5.4.4 All bulk supplies of food shall be kept in vermin proof containers.

5.5 DISEASE CONTROL AND VACCINATION

- 5.5.1 Adequate precautions must be taken to prevent and control the spread of infectious and contagious disease and parasites amongst the dogs, staff and visitors.
- 5.5.2 Proof must be provided that boarded and resident dogs have current vaccinations against Canine Distemper, Infectious Canine Hepatitis (Canine adenovirus), Leptospirosis (*L. canicola* and *L. icterohaemorrhagicae*) and Canine Parvovirus and other relevant diseases. The course of vaccination must have been completed at least four weeks before the first date of boarding or in accordance with manufacturer instructions. A record that this proof has been supplied must be kept on-site throughout the period that the dog is boarded.
- 5.5.3 Advice from a veterinary surgeon must be sought in case of signs of disease, injury or illness. Where any dog is sick or injured, any instructions for its treatment, which have been given by a veterinary surgeon, must be strictly followed.
- 5.5.4 A well-stocked first-aid kit suitable for use on dogs must be available and accessible on site.
- 5.5.5 The Licensee must be registered with a veterinary practice that can provide 24-hour help and advice. The clients own veterinary practice must be known and consulted if necessary.

- 5.5.6 Precautions must be taken to prevent the spread of fleas, ticks, intestinal parasites and other parasites in both boarded and resident dogs. Proof must be maintained of all routine and emergency treatment for parasites.
- 5.5.7 The premises shall be regularly treated for fleas and parasites with a veterinary recommended product.
- 5.5.8 Veterinary advice must be sought in relation to cleaning substances so that they or their fumes cannot be harmful to an animal.

5.6 ISOLATION AND CONTAGIOUS DISEASE OUTBREAK.

- 5.6.1 Dogs showing signs of any disease or illness shall be isolated from any other dogs until veterinary advice is obtained. There must be sufficient facilities within the licensed premises to ensure effective separation of any sick animal.
- 5.6.2 The Licensee must inform the Licensing Authority on the next working day if a dog develops an infectious disease.
- 5.6.3 Following an episode of infectious disease during any stay, the premises must undergo a reasonable quarantine period before new boarders are admitted. This period will be specified by the Licensing Authority as agreed with their authorised veterinary surgeon.
- 5.6.4 The Licensing Authority must be informed of any animal death on the premises. The Licensee must make arrangements for the body to be stored at a veterinary surgeons premises until the owners return.

5.7 REGISTER

- 5.7.1 A register must be kept of all dogs boarded. The information kept must include the following:
- Date of arrival
 - Name of dog, any identification system such as microchip number, tattoo
 - Description, breed, age and gender of dog
 - Name, address and telephone number of owner or keeper
 - Name, address and telephone number of contact person whilst boarded
 - Name, address and telephone number of dog's veterinary surgeon
 - Anticipated and actual date of departure
 - Proof of current vaccinations, medical history and requirements
 - Health, welfare nutrition and exercise requirements
- 5.7.2 Such a register is to be available for inspection at all times by an officer of Licensing Authority, veterinary surgeon.
- 5.7.3 The register must be kept readily available for a minimum of 2 years and kept in such a manner as to allow an authorised officer easy access to such information.

5.7.4 If medication is to be administered, this must be recorded.

5.7.4 Where records are computerised, a back-up copy must be kept. The register must also be available to key members of staff of the establishment at all times.

5.8 SUPERVISION

5.8.1 A fit and proper person with relevant experience must always be present to exercise supervision and deal with emergencies whenever dogs are boarded at the premises. This person must not have any conviction or formal Cautions for any animal welfare related offence.

5.8.2 Dogs must be visited at regular intervals, as necessary for their health, safety and welfare, and must not be left unattended for longer than 3 hours at a time and then not on a regular basis.

5.8.3 No home where there are children under 5 years of age will be licensed.

5.8.4 Only people over 16 years of age are allowed to walk the dogs in public places.

5.9 EXERCISE

5.9.1 Dogs must be exercised in accordance with their owner's wishes. If dogs are taken off the premises, they must be kept on leads unless with the owners written permission.

5.9.2 There must be direct access to a suitable outside area. The area / garden must only be for use by the homeowner (not shared with other residents). The area must be kept clean.

5.9.3 The exercise/garden area of the premises and any other area to which the boarded dogs may have access, must be totally secure and safe. Fencing must be adequate to offer security to prevent escape and be safe, with no dangerous sharp objects or protrusions. Gates must be able to be locked.

5.9.4 If there is a pond, it must be covered to avoid drowning.

5.9.5 Dogs must wear a collar and identity tag during their time in boarding. The tag must display the name, address and telephone number of the boarding premises.

5.9.6 The Licensing Authority must be informed on the next working day if a dog is lost.

5.10 FIRE / EMERGENCY PRECAUTIONS

5.10.1 Appropriate steps must be taken for the protection of the dogs in case of fire or other emergencies.

5.10.10 The occupier of the property must be aware of the location of the dogs in the property at all times.

5.10.11 Careful consideration needs to be given to the sleeping area for dogs to ensure that they can be easily evacuated in the event of a fire, without putting the occupiers of the property at risk.

- 5.10.12 A fire warning procedure and emergency evacuation plan – including details of where dogs are to be evacuated to in the event of a fire or other emergency - must be drawn up, brought to the attention of those involved in the home boarding arrangements and/or displayed in a prominent place on the premises. The Licensee must have suitable arrangements for the temporary boarding of dogs in the event that the licensed premises is rendered uninhabitable.
- 5.10.13 Fire detection equipment must be provided in accordance with general advice given by the Fire Safety Officer. The home must have at least 2 working smoke detectors located at the top & bottom of the staircase, or other appropriate location.
- 5.10.14 All doors to rooms must be kept shut at night.
- 5.10.15 All electrical installations and appliances must be maintained in a safe condition. No dog must be left in a room with loose or trailing cables or wires.
- 5.10.16 All heating appliances must be free of risk of fire as is reasonably practicable. There must be no use of freestanding gas or oil appliances.
- 5.10.17 A relative, friend or neighbour within 5 minutes travelling time must have a spare set of keys and access to the premises in case of an emergency. These details must be made available to the Licensing Authority.

APPENDIX 3**BACKGROUND**

LACORS HAS RECEIVED AN ENQUIRY AS TO WHETHER EITHER THE HOST FAMILIES AND/OR THE AGENTS WHO ARRANGE HOMEBOARDING OF CATS AND DOGS WHILST OWNERS ARE ON HOLIDAY REQUIRE A LICENSE UNDER THE ANIMAL BOARDING ESTABLISHMENTS ACT.

THE EXISTING LEGISLATION WAS OBVIOUSLY DRAFTED WITHOUT SUCH ACTIVITIES IN MIND. LACORS WILL BE LOBBYING TO ENSURE ABSOLUTE CLARITY UNDER ANY NEW LEGISLATION THAT WILL FOLLOW THE ANIMAL WELFARE ACT. HOWEVER IN THE MEANTIME, IN ORDER TO ASSIST LOCAL AUTHORITIES, AND PROMOTE CONSISTENCY OF APPROACH, WE HAVE BEEN ASKED TO ISSUE GUIDANCE ON THE APPROACH THAT SHOULD BE TAKEN UNDER THE CURRENT LEGISLATION.

GUIDANCE

UNDER THE ACT THAT THE RUNNING OF A BOARDING ESTABLISHMENT IS *"THE CARRYING ON BY HIM AT PREMISES OF ANY NATURE (INCLUDING A PRIVATE DWELLING) OF A BUSINESS OF PROVIDING ACCOMMODATION FOR OTHERS PEOPLE'S ANIMALS"*.

IN RELATION TO THE HOST FAMILY LACORS IS OF THE VIEW THAT THEY ARE PROVIDING ACCOMMODATION AS DEFINED BY THE ACT SO IF THEY ARE DOING IT AS A BUSINESS THEN THEY REQUIRE A LICENCE. WHETHER A HOST FAMILY CAN BE DEFINED AS RUNNING A BUSINESS WILL DEPEND ON THE INDIVIDUAL CIRCUMSTANCES OF THE CASE. THIS WOULD DEPEND ON VOLUME, REGULARITY, WHETHER OR NOT THEY ARE DOING IT FOR REWARD. IT IS ALSO LICENSABLE WHETHER THEY DO IT DIRECTLY OR VIA AN AGENT BUT LACORS WOULD SUGGEST THAT SIGNING UP TO AN AGENCY WOULD BE INDICATIVE THAT IT WAS A BUSINESS ACTIVITY FOR THE HOST FAMILY.

LACORS WOULD SUGGEST THAT LOCAL AUTHORITIES GIVE CONSIDERATION TO OFFERING A DISCOUNTED LICENCE FEE FOR SUCH HOST FAMILIES WHERE IT IS A SMALL SCALE ACTIVITY. THE ACTUAL AGREEMENT TO OR LEVEL OF ANY DISCOUNT IS A MATTER FOR EACH INDIVIDUAL AUTHORITY.

IN RELATION TO ANY AGENT, LACORS IS OF THE VIEW THAT THEY ARE NOT "PROVIDING" ACCOMMODATION AS DEFINED UNDER THE ACT AND DO NOT THEREFORE THEMSELVES NEED A LICENSE. HOWEVER IF LOCAL AUTHORITIES ARE ADVISING SUCH AGENTS THEN THEY SHOULD BE ADVISED THAT THEY SHOULD BE ENSURING THAT ALL THEIR HOST FAMILIES ARE PROPERLY LICENSED WHERE NECESSARY.

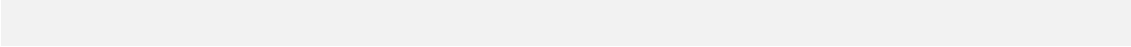
LACORS IS AWARE THAT SEVERAL REGIONAL GROUPS HAVE DEVELOPED MODEL LICENCE CONDITIONS FOR SUCH HOMEBOARDERS. TO AVOID FURTHER DUPLICATION OF EFFORT LACORS PLANS TO ISSUE A SET OF MODEL LICENCE CONDITIONS FOR HOMEBOARDERS IN NOVEMBER 2005.

LACORS HOPES THIS ADVICE WILL ASSIST AUTHORITIES IN DEALING WITH BUSINESSES ASKING FOR ADVICE ON THIS ISSUE AND WE HOPE IT WILL ALSO ASSIST LOCAL AUTHORITIES IN DEALING WITH COMPLAINTS ABOUT SUCH BUSINESSES AND/OR THOSE THAT COME TO THE AUTHORITY'S ATTENTION VIA OTHER MEANS.

IN OFFERING THIS ADVICE LACORS WISHES TO MAKE IT CLEAR THAT:

- Legislation may change over time and the advice given is based on the information available at the time the guidance was produced. It is not necessarily comprehensive or complete and is subject to revision in the light of further information
- Only the courts can interpret statutory legislation with any authority.

20 October 2005



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.

**APPLICATIONS TO GRANT OF PRIVATE HIRE
VEHICLE LICENCE OUTSIDE STANDARD CONDITION
4.1c BY VICTOR TIMOTIN**

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

Purpose

1. The report introduces an applications made by Mr Victor Timotin to deviate from the standard condition number 4.1c. This condition states: -
 - 4.0 Vehicle Specification
 - 4.1 The Vehicle to be licensed shall be a right hand saloon motor car, hatchback or an estate car or a purpose built licensed vehicle, of any colour, which according to the manufacturers specifications has: -
 - c) An engine rating of not less than 1600cc unless written authorisation is received from the Licensing Authority.

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 application by Mr Timotin is to licence new Toyota Prius vehicle on a private hire vehicle plate.
5. The vehicle is a Hybrid and runs up to a certain speed on the electric engine before the petrol engine takes over.
6. The vehicle is fitted with a 1500 cc petrol engine and also a 1000 cc Electric Engine.
7. As the vehicle only has a 1500 cc engine it falls outside the standard conditions.
8. It complies in respect of all other conditions.

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 MR MOHAMMED
SAYYAB**

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

Purpose

1. The report introduces an applications made by Mr Sayyab 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 18th December 2007.

Issues

4. This Authority previously licensed a Volkswagen Passat on Plate No. H403.
5. This licence expired on 28th May 2008.
6. The application for transfer of the plate was made 5th 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

**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. The report introduces an applications 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 standard licence conditions were approved at Regulatory Committee on the 18th December 2007.

Issues

4. This Authority previously licensed a Skoda Octavia on Plate No. H332.
5. This licence expired on 9th April 2008.
6. The application for transfer of the plate was made 5th June 2008.
7. The application requests to re-licence this vehicle.

Matter for Committee

8. 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 licence: -

- **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

**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. The report introduces an applications 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 standard licence conditions were approved at Regulatory Committee on 18th December 2007.

Issues

4. This Authority previously licensed a Nissan Cargo Vanette on Plate No. H024.
5. The vehicle is a converted van and was suspended on 21st December 2008 following the Regulatory Committee considering the issues surrounding converted vans.
6. At that time Mr Maddy was advised that he would have to obtain a VOSA Single Vehicle Approval Test for the vehicle.
7. This licence expired on 8th January 2008.
8. The VOSA certificate was not obtained 4th April 2008.
9. The application for transfer of the plate was made 5th June 2008.
10. The application requests to re-licence this vehicle.

Matter for Committee

11. 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

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