

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