

# AGENDA

## Regulatory Committee

Date: **Tuesday 9 February 2010**

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Time: **2.00 pm**

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

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

For any further information please contact:

**Pete Martens, Committee Manager Planning & Regulatory**

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Email: [pmartens@herefordshire.gov.uk](mailto:pmartens@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format or language, please call Pete Martens, Committee Manager Planning & Regulatory on 01432 260248 or e-mail [pmartens@herefordshire.gov.uk](mailto:pmartens@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Committee

## Membership

<b>Chairman</b>	<b>Councillor Brig P Jones CBE</b>
<b>Vice-Chairman</b>	<b>Councillor JW Hope MBE</b>
	<b>Councillor CM Bartrum</b>
	<b>Councillor DJ Benjamin</b>
	<b>Councillor PGH Cutter</b>
	<b>Councillor SPA Daniels</b>
	<b>Councillor JHR Goodwin</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor PJ McCaull</b>
	<b>Councillor A Seldon</b>
	<b>Councillor JD Woodward</b>

## Non Voting

### **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. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

**AGENDA**

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 8th December, 2009.</p>	1 - 4
5.	<p><b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH EH18 (PART) IN THE PARISH OF EWYAS HAROLD</b></p> <p>To consider an application under the Highways Act 1980, section 119, to make a Ppublic Path Diversion Order to divert part of footpath EH18, Ewyas Harold.</p> <p>Wards Affected <b>Golden Valley South</b></p>	5 - 10
6.	<p><b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER, FOOTPATH LW4 (PART) IN THE PARISH OF LLANWARNE</b></p> <p>To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath LW4, Llanwarne.</p> <p>Wards Affected <b>Pontrilas</b></p>	11 - 18
7.	<p><b>PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847</b></p> <p>To consider implementing revised licence conditions for private hire and hackney carriage vehicles.</p> <p>Wards Affected Countywide</p>	19 - 76

8.	<b>APPLICATION FOR APPROVAL FROM PONTING &amp; BETTY LTD TO BE ON HEREFORDSHIRE COUNCIL'S APPROVED LIST FOR WHEELCHAIR ACCESS FACILITIES &amp; N1 CONVERSION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES</b>	77 - 140
	<i>To consider approving Ponting &amp; Betty Ltd as an 'approved manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire' and as 'an approved manufacturer of N1 conversions'.</i>	
9.	<b>REVIEW OF THE LICENSING 'STATEMENT OF PRINCIPLES' (POLICY) UNDER THE GAMBLING ACT 2005. - GAMBLING ACT 2005</b>	141 - 162
	To consider a review of the Licensing 'Statement of Principles' (Policy).	
10.	<b>PROCEDURAL ARRANGEMENTS</b>	163 - 164
	To note the procedural arrangements for the meeting.	
<b>EXCLUSION OF THE PUBLIC AND PRESS</b>		
In the opinion of the Proper Officer, the following item will not be, or are likely not to be, open to the public and press at the time they are considered.		
<b>RECOMMENDATION:</b>	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 they involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below	
11.	<b>DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - INCIDENT REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	165 - 170
	To consider an incident regarding a licenced hackney carriage/private hire driver.	
12.	<b>DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - INCIDENT REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	171 - 176
	To consider an incident regarding a licenced hackney carriage/private hire driver.	
13.	<b>DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - INCIDENT REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	177 - 182
	To consider an incident regarding a licenced hackney carriage/private hire driver.	
14.	<b>DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>	183 - 186
	To consider a matter regarding a licenced hackney carriage/private hire driver.	

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| <p><b>15. DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b></p> <p>To consider an application for a hackney carriage/private hire driver's licence.</p> | <p>187 - 194</p> |
| <p><b>16. DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b></p> <p>To consider an application for a hackney carriage/private hire driver's licence.</p> | <p>195 - 202</p> |
| <p><b>17. DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b></p> <p>To consider an application for a hackney carriage/private hire driver's licence.</p> | <p>203 - 210</p> |
| <p><b>18. DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b></p> <p>To consider an application for a hackney carriage/private hire driver's licence.</p> | <p>211 - 218</p> |
| <p><b>19. DUAL (HACKNEY CARRIAGE &amp; PRIVATE HIRE) DRIVER'S LICENCE - APPLICATION FOR A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b></p> <p>To consider an application for a hackney carriage/private hire driver's licence.</p> | <p>219 - 226</p> |



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
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- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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## **HEREFORDSHIRE 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 8 December 2009 at 2.00 pm**

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

Councillors: CM Bartrum, PGH Cutter, SPA Daniels, RC Hunt, PJ McCaull, A Seldon and JD Woodward

**63. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors DJ Benjamin and JHR Goodwin.

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

There were no named substitutes present at the meeting.

**65. DECLARATIONS OF INTEREST**

Councillor CM Bartrum declared a prejudicial interest in Agenda item No 6 (Minute No.68) and left the meeting for the duration of this item.

**66. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 3rd November, 2009 be approved as a correct record and signed by the Chairman.

**67. PROCEDURAL ARRANGEMENTS**

The Committee noted the procedural arrangements for the following items to ensure that Officers and applicants received a fair hearing.

**68. APPLICATION TO RE-INSTATE AN EXPIRED PRIVATE HIRE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR LANE**

The Licensing Officer introduced a report about an application from Mr MC Lane to renew a hackney carriage vehicle licence outside the Council's standard condition 9.5, which stipulated that an application for the renewal of a vehicle licence after it had expired would be treated as a new application. She said that Mr Lane's licence had expired on 4th October, 2009 and that he had applied to renew it on 5th October. Mr Lane had been granted a temporary renewal until midnight on the day of the Regulatory Committee meeting. Mr Lane said that he had started the process for renewal in advance of the expiry date but that his vehicle had not passed the inspection at the Council's testing centre on the first occasion. He had submitted his application at the first opportunity thereafter.

Having considered the matter, the Committee decided that in view of the short time that had elapsed between expiry of the licence and the application made by Mr Lane, the

licence could be renewed. The Committee decided that a contrary decision would be unfair and disproportionate. He was however reminded to be more timely with his applications in future to allow sufficient time for the vehicle to be tested and the paperwork to be processed.

**RESOLVED THAT:**

**an application from Mr Davies to deviate from the standard condition number 9.5, for the renewal of Private Hire vehicle Licence No. P105 in respect of Ford Mondeo registration number NC05 PJJ, be approved.**

**69. APPLICATION TO RE-INSTATE AN EXPIRED HACKNEY CARRIAGE VEHICLE LICENCE OUTSIDE STANDARD CONDITION 9.5 BY MR HUFFER**

The Licensing Officer introduced a report about an application from Mr AB Huffer to renew a hackney carriage vehicle licence outside the Council's standard condition 9.5 which stipulated that an application for the renewal of a vehicle licence after it had expired would be treated as a new application. She said that Mr Huffer's licence had expired on 27th November, 2008 but that he had not applied to renew at the time because of the terminal illness of a family member. He was now in a position to operate the vehicle again and had asked if the application could be considered as a renewal rather than a fresh one. In view of the exceptional circumstances the Committee decided that an exception could be made to the Council's policies in respect of this particular application and that the application could be treated as a renewal. The Committee had considerable sympathy with Mr Huffer's circumstances and felt that any other decision would be unfair and unjustified.

**RESOLVED THAT:**

**an application from Mr AB Huffer to vary from standard condition no. 9.5 regarding the renewal of Hackney Carriage Licence No. H078 in respect of Ford Tourneo DU03 FZM, be granted.**

**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 it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.**

**70. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Acting Regulatory Services Manager referred to agenda item No. 8 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended. The applicant provided the Committee with a full and frank account of the incident which had led to allegations being made against him and investigated by the police. He also drew attention to the fact that following the investigation, all charges against him had been dropped. He therefore asked for his licence to be reinstated.

Having considered all of the facts put forward by the applicant and the officers about the matter, the Committee was still not satisfied that the applicant was a fit and proper

person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and decided that his licence should be revoked. The Committee carefully considered all the circumstances together with the advice of the Senior Litigator who referred them to the decision of Bingham, Lord Chief Justice, in the cases of McCool and Hussain, and in particular the test of fitness and propriety. The Committee also noted the issue of the licence holder's own possible future safety, though this did not affect their decision.

**71. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE AN INCIDENT REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Officer referred to agenda item No. 9 and provided the Committee with details of an incident involving a licensed hackney carriage/private hire driver. The matter had been to court and although the driver had been acquitted, he had not reported the incident to the licensing Section, and the Acting Regulatory Services Manager had some doubts about whether he continued to be a fit and proper person. The licence holder provided the Committee with an account of the incident from his perspective and the stress that the allegation had caused him since.

Having considered all of the facts put forward by the applicant and the officers about the matter and the fact that the licence holder had been licensed for many years with no previous complaints about his conduct, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that licence should remain in force. He was however warned to be more circumspect in the way he approached his passengers in the future.

**72. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE WHETHER A MATTER REGARDING A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Acting Regulatory Services Manager referred to agenda item No. 10 and provided the Committee with details of the circumstances which had given rise to the licence of a dual hackney carriage/private hire driver being suspended. A letter from the licence holder and an e-mail from the Chairman of the Hereford Taxi Association in support of the licence holder had been forwarded to Members of the Committee. The licence holder also submitted a further letter which was circulated at the meeting and the Secretary of the Association also attended and spoke in support of the licence holder. The Acting Regulatory Services Manager said that the licence had been suspended because of police investigation into a case of alleged assault and the licence holder allegedly using threatening words and behaviour to and about Council staff. The licence holder explained about both incidents from his perspective.

Having considered all of the facts put forward by the applicant and the officers about the incidents, the Committee was of the view that it was not in a position to decide if the licence holder was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 until information was received from the police about the results of their investigations. The Committee was mindful of the time that had elapsed since the alleged incidents but had to balance the public safety issues against any inconvenience or financial loss suffered by the licence holder. The Committee was however prepared to reconvene before Christmas if the required information was received from the police in time.

**73. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE AN APPLICATION FOR A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Officer referred to agenda item No. 11 and provided the Committee with details of an application for a dual hackney carriage/private hire driver's licence from an applicant who had received a police caution in 2005. The applicant provided the Committee with an account of the incident from his perspective.

Having considered all of the facts put forward by the applicant and the officers about the matter, 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 for a drivers licence should be granted. He had, however, previously received fixed penalty points using a mobile phone whilst driving and was warned about the dangers of doing this.

**74. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Officer referred to agenda item No. 12 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence holder appearing before Hereford Magistrates and being fined for a motoring offence. The licence holder explained the events which had led to the offence being committed from his perspective. A letter which had been received from the applicant's lawyer about the incident was read out at the meeting.

Having considered all of the facts put forward by licence holder and the officers about the matter, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that he could continue to hold his driver's licence.

**75. DUAL (HACKNEY CARRIAGE & PRIVATE HIRE) DRIVER'S LICENCE – TO DETERMINE A MATTER REGARDING THE HOLDER OF A DUAL DRIVER'S LICENCE. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Licensing Officer referred to agenda item No. 13 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended because he had a received a custodial sentence after being convicted of assault. The licence holder explained the events which had led to the offence being committed from his perspective and provided letters which gave character references. The person who was the subject of the assault was also present and gave support to the licence holder.

Having considered all of the facts put forward by licence holder and the officers about the matter, the Committee was satisfied that he was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his licence could be reinstated. The Committee noted the gravity of the offence but was satisfied that it was an isolated incident and was out of character for the licence holder who was of previously good character.

The meeting ended at 5.17 pm

**CHAIRMAN**

<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2009</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH EH18 (PART) IN THE PARISH OF EWYAS HAROLD</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT and CULTURE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Golden Valley South

### **Purpose**

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath EH18 in the parish of Ewyas Harold.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

**That a public path diversion order is not made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D273/142-18 and that the application is rejected.**

### **Key Points Summary**

- Herefordshire Council have received an application to divert a public footpath which is currently open and useable to the public.
- User groups have indicated that they would object to the proposal if a stile instead of a gate were installed on the route It is Herefordshire Council policy to always insist on the installation of a gate as oppose to a stile when a route is diverted, unless there are exceptional circumstances. This is to ensure compliance with the Disability Discrimination Act.
- It has not been possible to reach an agreement to put in a gate.
- The applicants have indicated (by non-response) that they do not wish to proceed with this application.

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Further information on the subject of this report is available from  
**Rob Hemblade Interim Parks, Countryside and Leisure Development Manager on (01432) 261981**

## **Alternative Options**

- 1 The council could support the application. However this is likely to lead to objections which may result in a public inquiry.

## **Reasons for Recommendations**

- 2 The applicants have indicated, through their non-response that they do not wish to proceed any further with this application. Herefordshire Council have received only conditional acceptance of the route from user groups.

## **Introduction and Background**

- 3 Mr Rands, who was the landowner of Golden Grove, made an application to divert public footpath EH18 (part) on the 22<sup>nd</sup> April 1997. The reason given for making the application was, 'to avoid the unnecessary inconvenience and embarrassment which would be caused by walkers passing through the garden of Golden Grove'.
- 4 The proposals were sent to pre-order consultation in 1997 to user groups, the local member of the time, Cllr J B Williams and to the Parish Council.
- 5 The Parish Council agreed to the proposals. The Ramblers Association and the Open Spaces Society raised objections on the grounds that the diversion would remove the termination point of the path away from the termination point of the path on the other side of the road.
- 6 The house was sold to Mr and Mrs Seymore who completed a fresh application in May 2004.
- 7 The applicants agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order. They also secured the written agreement of the neighbouring landowner, Mr Addis (whose land the proposed route would cross).
- 8 The proposals were sent out again to pre-order consultation again, as such a length of time had elapsed since the first. Proposals were sent to user groups, statutory undertakers, the local member (Cllr. J Williams), parish council and affected landowners.
- 9 There were no objections from statutory undertakers. The parish Council supported the proposals. The Open Spaces Society stated that they were not minded to object to the proposals subject to a gate being installed at the junction with the road. The Ramblers Association objected on principle of moving the path away from the path continuing on the other side of the road. Cllr. J Williams did not hold any objections.
- 10 Herefordshire Council's Highways department raised concerns about the poor visibility at the point the proposal meets the county road but were not minded to object.
- 11 The landowner, Mr Addis of Upper Prill, although agreeing to the diversion, was resolute in his opinion to only have a stile at the roadside (point C), not a kissing gate despite further negotiation by the Area Rights of Way Officer at that time, Paul Ratcliffe. The applicant was advised that the application would be unable to proceed further without the landowners' consent to the installation of a gate.
- 12 In December 2007, Mr & Mrs Seymour discussed the situation with Assistant Rights of Way Officer, Mrs. Sian Barnes. They suggested that they might alter the route so that it exits from

their land rather than Mr Addis's land. They agreed that they would arrange a site visit with themselves, Mr Addis and Mrs. Barnes early in 2008. However, no further correspondence was received, despite a letter being sent in March 2008 requesting a reply within 6 weeks, or it would be assumed that the applicants did not wish to proceed with the diversion, and the application would be sent to Regulatory Committee for rejection.

## **Conclusion**

- 13 Under section 119 of the Highways Act, 1980, a council may make an order to divert a footpath if it is satisfied that it is expedient to do so in the interests of the landowner. However the proposed route should not be substantially less convenient to the public. In this particular case because the proposed route does not meet Herefordshire Council policy, and as there are likely to be sustained objections to the proposal, there is no public benefit to proceeding with an order to divert the footpath.

## **Community Impact**

- 14 There is no community impact

## **Financial Implications**

- 15 There are no financial implications in the rejection of this application.

## **Legal Implications**

- 16 There are no legal implications in rejecting this application, as under s 119 of the Highways Act Herefordshire Council has a power to make orders not a duty to do so. The existing route is already open and useable to members of the public.

## **Risk Management**

- 17 There is no risk in rejecting the order as 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.

## **Consultees**

- Prescribed organisations as per DEFRA Rights Of Way Circular 1/08.
- Local Member – Cllr. J Williams
- Ewyas Harold Group Parish Council.
- Statutory Undertakers

## **Appendices**

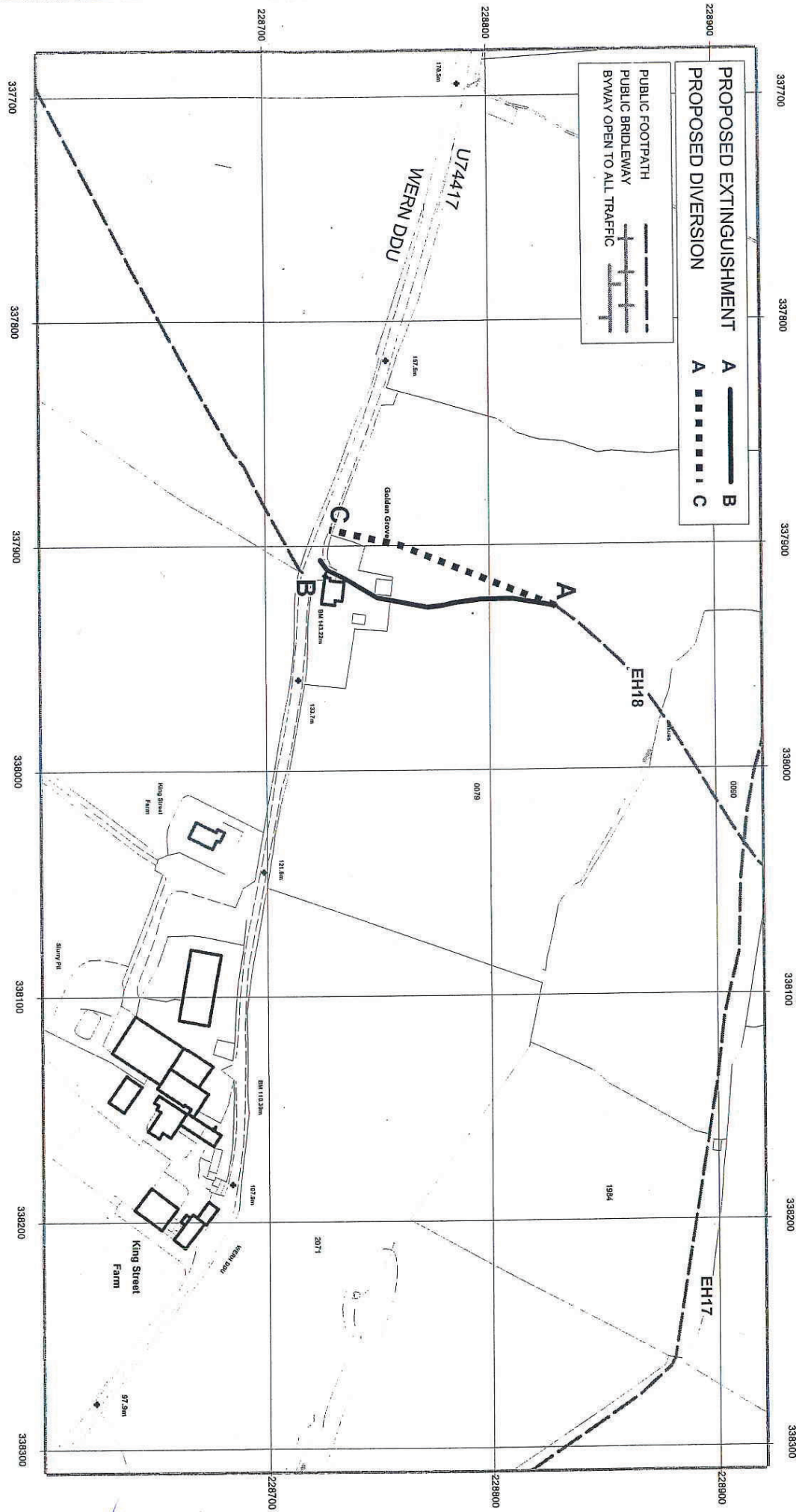
Order Plan, drawing number: D273/142-18

## **Background Papers**

- None identified.







**LOCATION PLAN - PARISH OF EWYAS HAROLD  
 PROPOSED DIVERSION OF PUBLIC FOOTPATH EH18 (PART)  
 DWG NO. D273/142-18  
 SCALE 1:2500**



Herefordshire Council  
 Directorate of Environment  
 Engineering Services  
 PO Box 234  
 Hereford  
 HR1 2ZD  
 Tel.: (01432) 260000  
 Fax.: (01432) 261983

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<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2009</b>
<b>TITLE OF REPORT:</b>	<b>HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER, FOOTPATH LW4 (PART) IN THE PARISH OF LLANWARNE</b>
<b>PORTFOLIO AREA:</b>	<b>ENVIRONMENT and Culture</b>

**CLASSIFICATION:** Open

### **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 LW4 in the parish of Llanwarne.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

**THAT a public path diversion order is not made under Section 119 of the Highways Act 1980, as illustrated on the attached plan D52/245-4 and that the application is rejected.**

### **Key Points Summary**

- The Regulatory Committee has considered this matter on two separate occasions.
- The applicants wish to divert the right of way out of their garden onto land which is not in their ownership.
- The owners of the land where the proposed route passes, have not provided their agreement to the proposals and would have a right to claim compensation if the diversion were to go ahead.
- The applicants will not sign a form indemnifying the Council against any possible compensation claim.
- 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.

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Further information on the subject of this report is available from  
Rob Hemblade, Interim Parks, Countryside and Leisure Development Manager on (01432) 261981

## Alternative Options

- 1 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 make a diversion Order without the affected landowners' consent and without the applicants being required to indemnify the Council against potential compensation claims. There is a risk that such an Order would be opposed, leading to additional demand on existing staff resources; if confirmed, the council could be required to pay compensation to the affected landowner.

## Reasons for Recommendations

- 2 The recommendation for this report is that the application to divert the path is rejected. This is because the applicants have repeatedly refused to sign a form indemnifying the Council against possible compensation claims as a result of the proposals. The owners of the land on which the proposed route would pass have not agreed to the proposals despite many attempts over many years. The proposals are in the applicants' interests and not necessarily in the wider interests of the public, or in the interests of the landowner of the proposed route.

## Introduction and Background

4. The Regulatory Committee has considered this application on two previous occasions, in January 2006 and then again in January 2007. On both occasions, the making of a decision has been deferred.
5. Mr and Mrs Sevenoaks, the landowners of the Old Coach House, Llanwarne made the application on 19<sup>th</sup> September 1987. The reason given for making the application was that they had recently bought a piece of land (encompassing the public footpath) to extend their garden; the proposed diversion would move the path to lie entirely outside their garden boundary.
6. In 1987, the legal line of the footpath LW4 (running through the gardens of the Old Coach House and The Old Rectory) was open for use. The proposed diversion route ran down the edge of what was at the time, an open field. Between September 1987 and March 1993, the proposed diversion route of the path seems to have become established as a permissive route. A site inspection in March 1993 showed that the legal line had become obstructed, whilst the proposed diversion route had become enclosed on both sides due to the building of Knowle House and was signed as a right of way with a Council signpost at the roadside.
7. The former Hereford and Worcester County Council carried out pre-order consultation (with statutory undertakers only) in 1988 and a diversion Order was made and sealed following this in 1989. However, there is no evidence that it was ever advertised, as is required under section 119 of the Highways Act 1980. Due to the time elapsed, a new Order would need to be made if the path were to be diverted.
8. It was identified in 1993 that the written permission to the diversion had never been provided by Mr Birchley, owner of the land over which the new route would run. The applicants and Mrs Darby, owner of The Old Rectory at the time, were informed that his consent would be needed before the application could be processed further, Repeated efforts were made to secure this consent between June 1993 and September 2004, but without success.
9. A diversion Order could be made without the consent of Mr Birchley; this would present a risk that the Order may be formally opposed and that if confirmed, it may result in a compensation claim being made under section 28 of the Highways Act 1980. Applicants for diversion orders that are felt to be primarily in their interests are normally expected to meet the costs of any such compensation claimed. In line with this, Major and Mrs Sevenoaks and Mrs Darby were

asked to sign forms indemnifying the Council against any such costs. The Council did not receive these forms from them.

10. Given the lack of progress, a letter was written to the applicants and Mrs Darby in June 2004, to inform them that the Rights of Way department would be recommending to the Regulatory Committee that the application be rejected. The local member at the time, former Councillor Davies, was consulted. He discussed the application with Llanwarne Parsh Council, who were unaware that the proposed diversion was not, in fact, the legal line of the path. He requested more time to allow him opportunity to contact Mr Birchley. Owing to this and reorganisation within the Council, the report was not submitted to the Regulatory Committee until January 2006. A decision was then deferred for 6 months to allow time for either Mr Birchley to provide consent or for compensation indemnities to be signed by the applicants.
11. In the interim, it was discovered that the ownership of The Rectory had changed in 2002, when Mr Burton purchased it. Although a property search was carried out prior to his purchase and did include querying the location of any rights of way, Mr Burton was of the impression at the time of the sale that the permissive (proposed diversion) route was the legal line of the path. The presence of a fingerpost pointing along the permissive route is one factor that is likely to have contributed to this; in addition, the Public Rights of Way information provided at the time would have been an extract from the Definitive Map at a scale of 1:10,000. The scale of the plan, combined with the new land boundaries and properties (which would not have been shown on it) could lend some ambiguity in defining the exact location of the right of way, given that the proposed diversion route runs parallel with and within approximately 5 metres of the legal line. When he realised the situation, Mr Burton made attempts to resolve it; unfortunately this did not result in the required consent from Mr Birchley or in compensation indemnities being submitted to the Council.
12. A second report was submitted to the Regulatory Committee in January 2007; again it was recommended that the application be rejected. A decision was deferred on that occasion because the Regulatory Committee requested additional information. In accordance with this, the Council's County Land Agent was asked to provide a valuation for the land crossed by the proposed diversion route, for the purposes of a possible compensation claim. The valuation given in 2007 was in the region of £3000.
13. At their January 2007 meeting, the Regulatory Committee also considered the suggestion that a Definitive Map Modification (DMMO) application may be made to record the proposed diversion route as a public right of way on the basis of uninterrupted useage. The Council's Legal Services department were asked to provide an opinion as to whether such a claim was likely to be successful. There is likely to be a delay of some years in processing a DMMO application, if made in respect of this route, owing to the current backlog. However, even if successful, such a claim would not extinguish the part of footpath LW4 that is subject to this diversion application. To do so would require an additional Public Path Extinguishment Order (under section 118 of the Highways Act 1980) to be made and confirmed. Despite the presence of a second route in close proximity, it cannot be guaranteed that an extinguishment application would be successful. In the interim the Council would continue to have legal responsibilities in respect of both this section of footpath LW4 and any new route added via DMMO.
14. Following a telephone conversation with Mr Burton in October 2008, a letter outlining the options was sent out to Mr Burton and to Major Sevenoaks. These are as follows:
  - To continue with the diversion application for which Mr Burton and Major and Mrs Sevenoaks would be required to meet the administration and advertising fees and the cost of any compensation claimed. A successful diversion would result in the

simultaneous extinguishment of the existing right of way and creation of the proposed new route of the right of way.

- For the diversion application to be rejected by the Regulatory Committee or withdrawn. If this were to happen, it would be necessary to reopen the legal line to protect the public right of access, given that the landowner of the permissive route would have the right to close access to it if they so wished. Given that the circumstances surrounding Mr Burtons' property search and the incorrect position of the signpost, it has been agreed that the PROW section would pay for the provision and installation of two new gates to replace the old stiles on the garden boundaries (2 x wooden KGs @ £234 each = £468 plus £550 for the gang for a day to install them = £1,018).

15. It was requested that if the Sevenoaks or Mr Burton wished to continue with the diversion that they respond and submit signed compensation indemnity forms by 4<sup>th</sup> December 2008. No response has been received. Mr and Mrs Sevenoaks were then sent the forms again by recorded delivery in June and asked to reply by return of post, but have again not replied to the correspondence. It should also be noted that if the landowner's written permission were received, the landowner could still claim compensation.
16. When asked to express his views on the proposals, the local member, Cllr. R H Smith, responded that he confirmed his support for the recommendation that the application be rejected. Cllr. Smith also expressed his view that the applicants had been given every opportunity to facilitate their approval and that there should not be any further local enquiries or consultation.

## Key Considerations

18. Under section 119 of the Highways Act, 1980, a council may make an order to divert a footpath if it is satisfied that it is expedient to do so in the interests of the landowner. Herefordshire Council received an application to divert this section of footpath LW4 in 1987.

## Community Impact

19. The Parish Council responded to a pre-order consultation (2004) stating that they thought that the diversion order had already been made as the proposed route is the route which is largely used.

## Financial Implications

20. If the order is rejected there will be a cost in enforcing the opening up of the existing route, however, this would be payable by Amey Herefordshire, as they currently hold the PROW maintenance budget. Costs are likely to include the installation of two gates on the landowners' garden boundaries (£1018). Any obstructions to the existing path would be removed at the landowners' expense. If the Committee were to decide to make an order to divert the path, compensation could be claimed as a consequence of the order. A separate compensation budget does not exist, therefore any compensation claimed would be made from the existing PROW maintenance budget. A valuation estimated in 2007, by the County Land Agent, for a possible compensation claim, was approximately £3000.

## Legal Implications

21. If the application is rejected as proposed the existing legal route of the public right of way will

require enforcement action to open it up to public access.

## **Risk Management**

- 22 There is a risk that if the path is not diverted as proposed at this stage, a DMMO claim could be made at a later date in respect of the permissive route that is currently in use. If this were successful, it could result in there being two parallel rights of way in very close proximity; either the Council or an affected landowner may then seek to extinguish one of the paths via a Public Path Extinguishment Order.

## **Consultees**

- Statutory Undertakers
- Local Member – Cllr. R H Smith

## **Appendices**

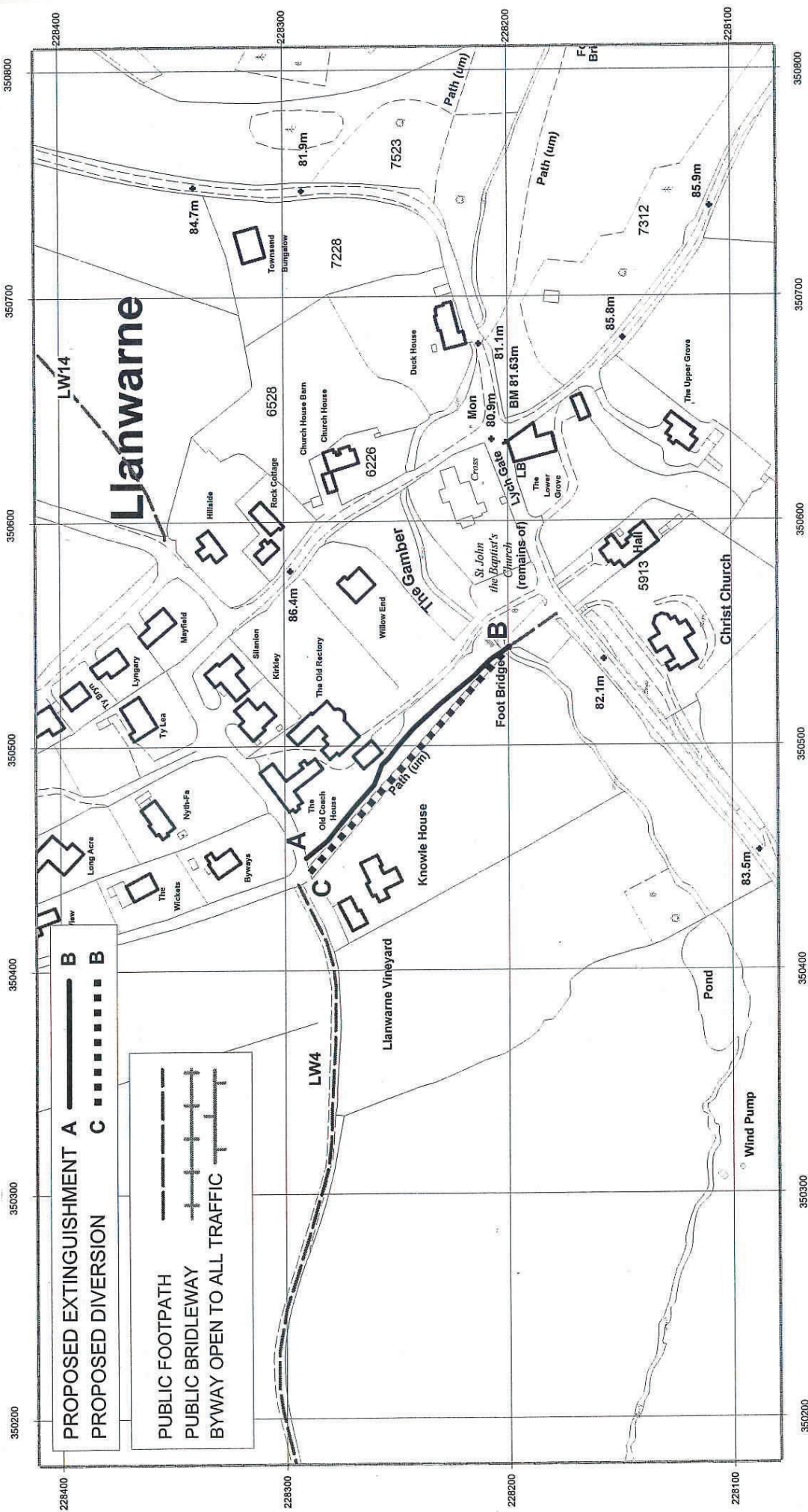
Order Plan, drawing number: D52/245-4

## **Background Papers**

- None identified.







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**LOCATION PLAN - PARISH OF LLANWARNE**  
**PROPOSED DIVERSION OF PUBLIC FOOTPATH LW4 (PART)**

DWG No. D52/245-4  
 SCALE 1:2500



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<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2010</b>
<b>TITLE OF REPORT:</b>	<b>PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847.</b>
<b>PORTFOLIO AREA:</b>	<b>HEAD OF ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS ENVIRONMENT &amp; CULTURE</b>

**CLASSIFICATION:** Open

## **Wards Affected**

Countywide

## **Purpose**

To consider implementing revised licence conditions for private hire and hackney carriage vehicles.

## **Key Decision**

This is not a key decision

## **Recommendation**

**THAT Committee:**

**Adopt the proposed conditions as they are presented in this report, in accordance with the Council's powers under the legislative provisions mentioned in this report.**

## **Reasons for Recommendations**

The licensing authority believes it has considered amendments to the vehicle licence conditions carefully and in accordance with the relevant legislation and previous committee hearings and that this fulfils the Council's main aim of protecting public safety.

## Legal Implications

### Licensing of Private Hire Vehicles

Licensing of private hire vehicles is covered under the Local Government (Miscellaneous Provisions) Act 1976, as follows:

#### Section 48

- (1) Subject to the provisions of this Part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence: Provided that a district council shall not grant such a licence unless they are satisfied –
  - (a) that the vehicle is -
    - (i) suitable in type, size and design for use as a private hire vehicle;
    - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
    - (iii) in a suitable mechanical condition;
    - (iv) safe; and
    - (v) comfortable;
  - (b) that there is in force in relation to the use of the vehicle, a policy of insurance or such security as complies with the requirements of (Part VI of the Road Traffic Act 1988), and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.
- (3) In every vehicle licence granted under this section there shall be specified -
  - (a) the name and address of -
    - (i) the applicant; and
    - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
  - (b) the number of the licence which shall correspond with the number to be painted or marked on the place or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
  - (c) the conditions attached to the grant of the licence; and
  - (d) such other particulars as the district council consider reasonably necessary.

### Licensing of Hackney Carriages

Licensing of hackney carriage vehicles is covered under the Local Government

Further information on the subject of this report is available from  
Marc Willimont, Acting Regulatory Manager on (01432) 261986

(Miscellaneous Provisions) Act 1976, as follows:

### Section 47

- (1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.
- (2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- (3) Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates court.

## Introduction and Background

1. A full review of the licence conditions took place in December 2004. As part of a rolling programme for licence condition reviews and following a request by the taxi trade, the licensing section have carried out a further review of the conditions.
2. In early September 2008, the Taxi Association contacted the Acting Regulatory Services Manager and requested that the conditions be reviewed. Following this, the Association submitted their recommendations at a meeting on the 16<sup>th</sup> September 2008. A summary of these comments can be viewed at (Appendix 1). Of the 22 comments made, 15 were accepted and included in the Council's **first draft** version of the conditions.
3. The first draft was then compiled and internally consulted upon. A further meeting was then arranged for the 9<sup>th</sup> April 2009 by the Acting Regulatory Services Manager. The purpose of this was to discuss the first draft of the conditions with the Taxi Association and listen to their comments. Comments and criticisms arising from this second pre consultation exercise were submitted by the Association on the 9<sup>th</sup> April 2009 and were taken into account in this **second draft** version of the conditions. A summary of the comments arising from the 9<sup>th</sup> April 2009 can be viewed at Appendix 2. Of the 10 comments made, 4 were agreed and adopted in a **third draft**.
4. Following these two pre consultation exercises, all persons or companies holding a licence issued by the Council in relation to Hackney Carriage and Private Hire Vehicles were formally consulted on this third draft. A letter was sent to all the trade (see Appendix 3) and it was advertised on the Council's web site from 16<sup>th</sup> July to 11<sup>th</sup> September 2009. Advice was taken from the independent Herefordshire Partnership Support Team to ensure that consultation was fair and appropriate. The Team confirmed that consultation followed best practice and noted that there had already been two informal pre-consultation exercises with the Association to scope and formulate a meaningful draft. They considered that this was better than normal practice. To ensure fair play, and as a precautionary measure, the proposed formal consultation period was even extended beyond that suggested by the Herefordshire Partnership Support Team. Some responses to the formal consultation were received and all comments were considered.
5. The consultation comments received following this formal consultation period from members of the trade can be seen at Appendix 5 together with the Licensing Team's responses. Where appropriate, amendments were made. Of the 15 comments made, 8 were agreed and adopted.

6. Other consultees included the Council's Legal Team, the Diversity and Equality Team and West Mercia Constabulary.
7. A report summarising the above together with now a **fourth draft** version of the conditions was originally taken to the Regulatory Committee on 6<sup>th</sup> October but was deferred, as members felt that even further consultation could be achieved with the Taxi Association, following complaint from the Chairman of the Association, to the effect that proper consultation had not taken place. Therefore, on 22<sup>nd</sup> October 2009, another meeting was held between the Taxi Association and Licensing Staff, which this time also included the Council's legal officer and two Councillors from the Regulatory Committee. This concluded the face-to face consultation process and allowed further comments to be passed on to the Licensing Team for consideration. Following the 22<sup>nd</sup> October meeting, several versions of the draft passed back and forth between the Chairman of the Association and the Licensing Team until it had reached a point whereby it was believed that all matters had either been agreed or there was an agreement to differ.
8. A **fifth draft** of the conditions was therefore sent to the Taxi Association on 15<sup>th</sup> December 2009. No response was received before the deadline for publishing the January 2010 Regulatory Committee report had passed, so this version was published. On the 4<sup>th</sup> January (the day before committee), as a precautionary measure, the Acting Regulatory Services Manager telephoned the Chairman of the Association to ensure that he was happy with this latest draft that had been put into the committee report, only to find out that he was very concerned with some of the cross referencing. It was left that these inaccuracies could be put to the Regulatory Committee and resolved at that time, to prevent further delay of their release.
9. As it happens, the January Regulatory Committee hearing was then cancelled due to heavy snowfall, which allowed this matter to be resolved before today's hearing.
10. On examination of the fifth draft it was found that the cross referencing issues had occurred due to the deletion of some conditions as well as the entire corruption of the file, which had possibly occurred when the file had been passed outside of the Council's network for comment by the trade. Since this last contact, the Chairman of the Association has made further comments and the cross references have now been put right. The corruption problems have also been resolved by our ICT department. A **sixth draft** and hopefully a final version is therefore presented to the committee today.
11. The proposed conditions with amendments made following consultation with the Taxi Association and the entire trade can therefore be viewed in Appendix 4. These proposed conditions are a combination of the previous conditions which have:
  - (i). been benchmarked against other local authorities' conditions,
  - (ii). taken into account the latest "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" document,
  - (iii). taken into account the numerous comments from the Taxi Association from September 2008 to January 2010, and
  - (iv). taken into account the comments from the entire trade during the formal consultation period of July to September 2009.
12. Following the discussions and meeting with the Association from October 2009 to January 2010, it is acknowledged that further amendments have been made since the third draft which was formally consulted upon to the entire trade. However, the Council take the view that re-

Further information on the subject of this report is available from  
Marc Willimont, Acting Regulatory Manager on (01432) 261986

consultation with the entire trade is not necessary, as the amendments are considered to be in the favour of the trade as a whole and in the main considered detail only.

13. The original conditions from December 2007 can be seen at Appendix 6, should members wish to compare.

## Key Considerations

14. Whether or not to accept all or only some of the amendments to the draft standard private hire and hackney carriage licence conditions or consider the inclusion of other conditions not currently within the proposed new conditions.

## Key Points Summary

- Last full review of conditions took place 5 years ago.
- Some alterations to the conditions have been made in the interim.
- At a meeting with the Licensing Team in September 2008, the Taxi Association submitted to the Council several sheets of proposed changes and criticisms of the December 2007 version of the conditions. These papers are summarised in Appendix 1.
- In April 2009 a further meeting was held between the Licensing Team and the Taxi Association. Comments from the Association were received and can again be taken as a second pre-consultation exercise. (Summarised in Appendix 2).
- A letter was sent out in July 2009 with a draft of the conditions for formal consultation with all licence holders. (See item 2 of letter presented in Appendix 3). This was also emailed to the Chairman of the Herefordshire Taxi Association. This included a personal request for a (third) consultation response on the then final draft version, although no formal response was ever received.
- At the Regulatory Committee Hearing on the 6<sup>th</sup> October 2009 a complaint was received from the Taxi Association about the consultation process and therefore the committee instructed the Council to facilitate an additional meeting to be held between the Taxi Association, the Licensing Team, the Council's legal officer and two Councillors. This was undertaken on the request of the Taxi Association in order to facilitate further consultation.
- The conditions were intended to be put before the Regulatory Committee on 5<sup>th</sup> January, but this was cancelled due to snow. The period of time between this date and the 9<sup>th</sup> February has allowed several cross-referencing issues and the corruption of the document file to be resolved.
- Proposed conditions descending from several draft versions are given at Appendix 4.
- Summary of trade comments following the formal consultation are presented in Appendix 5.
- For comparison, the existing conditions (December 2007) are given at Appendix 6.

## Alternative Options

- a) **The conditions not to be adopted by the Regulatory Committee as presented in this report.**

**Advantages:** It allows the views of the trade to be taken into an even fuller account, if considered appropriate and legal.

Further information on the subject of this report is available from  
Marc Willimont, Acting Regulatory Manager on (01432) 261986

**Disadvantages:** Not all the proposals put forward by the Association and some independent trade members can be legally accepted or are fair to all. The current draft follows a substantive consultation exercise. This alternative will delay the release of the new conditions even further.

**b) To defer the decision in order to get more information**

The Committee could make a decision to defer the decision. This will allow further information to be considered and enable additional advice to be received, whether legal or technical.

**Advantages:** Gives the opportunity for further information to be sought.

**Disadvantages:** This would delay the decision process and will incur further costs. This alternative will also delay the conditions even further.

**c) To reach some other decision**

**Advantages:** This leaves other options open to the Committee to resolve the matter.

**Disadvantages:** There are no clear directions from the Head of Environmental Health & Trading Standards in respect to alternatives.

## Community Impact

It is felt that any decision will have only a minor impact on the community as a whole, as it relates specifically to the taxi trade.

## Financial Implications

Not applicable

## Appendices

Appendix 1 – Taxi Association comments and request to review existing conditions - 16/9/08

Appendix 2 – Summary of consultation meeting with Taxi Association regarding review of conditions – 9/4/09

Appendix 3 – Letter to trade regarding consultation – 16/7/09

Appendix 4 – Proposed conditions with amendments

Appendix 5 - Summary of individual responses from members of the trade

Appendix 6 - Existing conditions ratified Dec 2007.

## Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.



<b>Summary of Taxi Association request for review of conditions</b>				
Topic	Comment	From whom	Ref no Appendix1	Response
Re-using vehicle to get a new licence	No need for this condition and 1.1 will remain on the licence for each subsequent renewal or transfer	John Jones Chairman High Town Taxis and Taxi Association	1.2 & 2.3	Agreed - this has been removed
Written authorisation needed before new vehicle is purchased	Remove this condition because the compliance test should approve any vehicle that complies and refuse any that doesn't	As above	3.2	Agreed – this has been removed
Wheelchair access	a) A licence issued initially for a wheelchair accessible vehicle cannot at any time be transferred to a non wheelchair accessible vehicle.  b) A spare vehicle can be any vehicle that complies with condition 22 including a saloon car	As above	3.3 a	a) agreed now in as 4.2  b) The spare vehicle condition has been removed as no legislative power exists to licence a spare vehicle
Replacement vehicle	Remove this condition to take out the first sentence and then the second sentence is already covered by previous conditions	As above	3.3 b	This is now 4.3c. The age restriction has been removed from 8 years and 15 years.

## APPENDIX 1

Vehicle testing	Would like to see this removed for various reasons	As above	3.4	This is now 4.3 and follows advice in government best practice guidance
Vehicle signage	Remove the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the vehicle is for hire	As above	8 a	Agreed. The wording is now 11.1 a to sign shall be so operated that at night it indicates clearly whether or not the vehicle is for hire
Size of sign	Size of sign is wrong and check size of lettering	As above	8 c & d	The corrected size is now at 11.1 c & f
Licence plate	Possibly take out obligation to fix to bumper or under the number plate but keep securely fixed to the rear of the vehicle	As above	9.1	Amended. Now at 12.1
Late applications	Add: if any application and payment is received before the renewal date it will be accepted that the application is in process. In such cases the vehicle can only be used if it has a current plate that is in date.	As above	9.5	Amended. Now at 12.5 -12.6 and 12.7
Stated fees	Does this mean that firms that are advertising cuts should have a tariff sheet that tallies	As above	11.5	Now at 14.5. Yes if discounts are being offered we would expect to be notified if prices differ.

## APPENDIX 1

Vehicle testing	Would like to discuss the practical need for two tests if required would like to see it linked to mileage and include disabled access vehicles from age 5.	As above		Agreed. Now at 21.2. Two tests advised by government
Failure of test	Discuss the practicality of suspension for minor faults obviously if a stop notice is given that would be a different matter.	As above	17.3	Now at 21.3.
Ramps	Ramps are not carried by vehicles with tail lifts and many vehicles don't load wheelchairs from the nearside passenger door. This condition could be done away with because it is covered by condition 20.11.	As above	20.9	Agreed. Now at 7.7
Wheelchair access	Remove this condition because it is covered by condition 20.11	As above	20.12	Agreed. Now at 7.10
Spare Vehicle	The spare vehicle must comply with all standard conditions for licensed vehicles other than magnetic door signs will be allowed. A wheelchair accessible licensed vehicle will be allowed a saloon car as a spare vehicle	As above	22.0	There is no legislative power to licence spare vehicles
Notification	Replication of 22.3	As above	22.6	As above spare vehicle removed
Vehicle	Replication of 12.1	As above	23.1	Agreed. Now at 15.1

## APPENDIX 1

damage				
CCTV	Take out the last sentence because that is only necessary for the evidence to be admissible in court	As above	24.1	This has now been changed and is re-worded at 24.1
First aid kit	Too big and wasteful	As above		Public Service vehicle standard is deemed appropriate for a licensed vehicle
Internal plate sticker	Possibly remove these internal stickers altogether because they do not serve any practical purpose	As above	7.0	This is for the passengers to look at if required whilst within the vehicle
Testing	Take out mileage restriction or at least reduce waiting time for re-tests	As above	7.0	Testing is arranged with Amey, out of licensing control.

## APPENDIX 2

Topic	Comment	From whom	Ref no Appendix1	Response
Charge for Committee	We would like to see this charge removed as it is seen as a deliberate obstacle to prevent genuine queries plus the cost is prohibitive. It must be taken into account that we already pay for council services through other means such as tax and rates etc	John Jones Chairman High Town Taxis and Taxi Association		Licensing incur costs associated with Committee, it would be unfair for compliant members of the trade to bear this additional cost
Wording of conditions regarding manufacturers	Contradiction of 1.5 & 2.3	As above	1.3	Agreed – this has been re-worded
N1 category	Need clarification on the purpose and use of N1	As above	3.1	This was discussed during the meeting and Matthew Lane provided clarification for the group
Colour of vehicle	Objects to single colour	As above	4 b	Ensures when vehicle repaired all panels are one colour
Wheelchair seat	Needs further discussion regarding wheelchair access being counted as a seat	As above	6.11	There is no discretion regarding this. We can only licence vehicle up to 8 passenger seats
Vehicle signage	This constitutes a policy change that we would object to plus the wording stipulates two signs on each front door which we don't believe was intended	As above	10 e	Signs on private hire vehicles would help clarify to the public that they were not for hailing and can only be pre-booked

## APPENDIX 2

Smoking	Wants only two signs	As above	10.2	The new condition is 11.2 and says two or more signs
Inspection of vehicle	Objects to more than one test	As above		21.2 this is felt necessary due to the removal of the age restriction for safety reasons and in line with best practice guidance
Limousines	Wants an age restriction on limos	As above	24.1	25.1 This was removed due to the cost of the specialist vehicle

**Environment & Culture Directorate**

Director: Michael Hainge

Your Ref:

Our Ref:

Please ask for: Marc Willimont

Telephone: 01432 260105

Fax: 01432 383142

E-mail: [taxi-licensing@herefordshire.gov.uk](mailto:taxi-licensing@herefordshire.gov.uk)

16<sup>th</sup> July, 2009

Dear ,

**UPDATE FROM LICENSING TEAM AT THE COUNCIL**

Since our last letter to the taxi trade I would like to update you all on the following:

**1. New Email Address**

We have a new email address for correspondence. It is now [taxi-licensing@herefordshire.gov.uk](mailto:taxi-licensing@herefordshire.gov.uk). This is a specific email address for taxi licensing queries which will allow all correspondence to be addressed by members of the taxi licensing team in a more efficient manner.

**2. Draft Taxi Licence Conditions**

A new draft version of the "Private Hire / Hackney Carriage Vehicle Licence Conditions" has been drafted for your comment. Copies can be downloaded from the internet at [www.herefordshire.gov](http://www.herefordshire.gov) or can be emailed to you if you email us at [taxi-licensing@herefordshire.gov.uk](mailto:taxi-licensing@herefordshire.gov.uk). Alternatively, we can post out a paper copy with a self addressed envelope if you so wish. We welcome your comments on this document within eight weeks from the date of this letter, i.e. by 11<sup>th</sup> September 2009. It is my intention to take your comments to the October Regulatory Committee for their consideration.

**3. Taxi Ranks**

Commercial Road in Hereford: Further to our last letter to you, I am informed by our Highways Department that improvements to the Commercial Road taxi ranks are well underway, with the road traffic order currently awaiting approval by our cabinet Member for Highways & Transportation, Councillor Wilcox. Once approval has been given I have been told that the work is earmarked for the end of August. It is hoped that the relining and designation of new ranks will significantly increase rank space at night time, yet also allow the public to park for short periods of time near to some of the takeaways. When these ranks are designated I will also be requesting the Police and our Civilian Parking Enforcement Officers to check on the situation at night time to ensure that the public do not park on taxi ranks in the evening and at night.



Certificate No. 4392

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Working in partnership for the people of Herefordshire

Bath Street Offices, Bath Street, Hereford. HR1 2ZF

Herefordshire Council

Main Switchboard (01432) 260000, [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk)

NHS Herefordshire

Main Switchboard (01432) 344344, [www.herefordshire.nhs.uk](http://www.herefordshire.nhs.uk)

Bewell Street in Hereford / Tesco's: Tesco's have been approached by the Council to release part of a redundant wide pavement at the junction of Bewell Street / Victoria Street to allow for a new feeder rank to relieve pressure on the congested Bewell Street. To date we have been unable to gain Tesco's agreement to do this, although we are still pursuing the matter. In the meantime I understand that the police and the Council's Civilian Parking Enforcement Officers have been jointly patrolling the road and have reminded both private and licensed vehicles of the parking and waiting restrictions that exist along this road. I understand that both the Police and Council's Parking Team have been generally pleased with the co-operation shown by taxi drivers who appear to be complying with the parking regulation orders here. As such there has so far been no need to issue any penalty charge notices and I am informed that the general feedback from the Police is that the situation has improved. I acknowledge only too well the difficulties historically associated with Bewell Street and hope that these can eventually be resolved if the Council are permitted by Tesco to improve the rank space here.

#### **4. Wheelchair Access Training**

If you read the draft conditions you will see that condition 7.11 proposes that all drivers of wheelchair accessible vehicles must obtain approved training by a set date. This is to ensure the correct handling and safety of wheelchair bound and disabled passengers which I am sure you will agree is of great importance to our community. All drivers who participate in this course will be issued with a new dual driver's badge that will have a wheelchair logo to allow members of the public to be sure that that the driver is competent to do so, thus instilling confidence.

The Licensing Team are therefore liaising with Social Services and, presuming this requirement remains in the final version of the conditions, we hope in the future to offer a Council run and approved half day training course in Hereford at cost price. This is likely to be a two hour course at the Castle Green Training centre falling in the region of £10, to be run by Nick O'Sullivan who is the Health and Safety officer for social transport. Some of you may already know Nick as he provides the training for the employees who drive the Council vehicles.

Please could you let us know if you would like to participate as soon as possible either in writing, via the telephone or by email to our new email address, [taxi-licensing@herefordshire.gov.uk](mailto:taxi-licensing@herefordshire.gov.uk) In the meantime we will keep you posted on any further development of this course.

#### **5. Renewals**

Within the current and draft conditions it states that all applications received by the Council after their expiry date must be treated as though they are new applications. In many cases an existing vehicle will not meet the high standards required for new licences and therefore the Licensing Team will need to refer late renewals to the Council's Regulatory Committee for consideration. It currently costs a driver £150 to go to committee. To overcome this burden and avoid additional expense you should therefore submit your application form *prior* to expiry, even if you are still awaiting other documentation, e.g. a test certificate, CRB or medical. In such a case however, I should remind you that the licence cannot of course be issued until all documentation has been seen and approved by Licensing staff.

#### **6. Access to Licensing Staff**

I am also aware that a number of drivers are booking surgery time at Garrick House to simply collect or submit taxi forms. Can I remind you that the staff at the Council's various 'Info Centres' are trained to assist the public in the majority of cases, in particular for taxi applications and renewals. It will save you time to use these info centre staff, as you do not have to arrange an appointment and you do not have to drive to the surgeries held at Garrick House.




Herefordshire's Info Centres are based at:

- The Hereford Centre in Garrick House in Hereford,
- Corn Square in Leominster,
- Swan House in Ross on Wye,
- St Katherines in Ledbury,
- The Bromyard Centre in Bromyard and
- The Kington Centre in Kington.

Finally, some of you might be aware that I am currently reviewing the accessibility of the Licensing staff to the taxi trade, following complaints from the trade. I am hopeful that there be improvements in this area and I should be able to report back to you on the outcome of this review in the near future.

I hope that the above letter keeps you informed and ask that any comments on the draft conditions are received before 11<sup>th</sup> September.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M.A. Willimont', is written over a light-colored rectangular background.

**M. A. WILLIMONT  
ACTING REGULATORY SERVICES MANAGER  
ENVIRONMENTAL HEALTH & TRADING STANDARDS**





**THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**PROPOSED REVISED CONDITIONS ATTACHED TO  
PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE LICENCE 2010**

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**Appendix 1: TESTING STANDARD – MECHANICAL AND STRUCTURAL**

**Appendix 2: TESTING STANDARD – APPEARANCE / SAFETY / COMFORT / COMPLIANCE WITH LICENCE CONDITIONS**



## **CONDITIONS ATTACHED TO PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE LICENCE**

Herefordshire Council licenses both Hackney Carriage and Private Hire Vehicles under the provisions of Part 11 of the Local Government Miscellaneous Provisions Act 1976 and the Town and Police Clauses Act 1847.

These conditions were approved by Herefordshire Council's Regulatory Committee on **9<sup>th</sup> February 2010**. They replace all previous conditions and will remain in place until such time as the Council approve any amendments or review the conditions.

**All applications received which fall outside the Licensing Authority's Conditions or Policy (including late renewal applications) will be referred to Regulatory Committee (or an equivalent panel) for determination and this will incur additional costs to be paid by the applicant.**

*(Herefordshire Council will use government guidance and Herefordshire Council's Hackney Carriage and Private Hire Licensing Policy to base its decisions upon)*

### **Section 1: LICENSING OF VEHICLES - GENERAL**

- 1.1 The conditions shown below apply to all applications for new hackney/private hire plates and for all renewal applications.
- 1.2 Any vehicle to be licensed must have Category M1 shown on the registration document unless meeting Condition 1.3 or 1.4.
- 1.3 A vehicle of Category M2 (as shown on the registration document) may be licensed providing that the vehicle has passed an enhanced VOSA Single Vehicle Approval (SVA) test and the applicant has provided a written self-declaration that no changes have taken place to that vehicle since the SVA test was passed.
- 1.4 A vehicle of Category N1 will be considered if it complies with 1.5 below.
- 1.5 Vehicles which have been manufactured or adapted by an approved Herefordshire Council manufacturer or installer will be licensed, provided that supporting documentation has been supplied to prove this, as well as a written self-declaration declaring that the vehicle has not been altered since its initial manufacture or adaptation.
- 1.6 Where a vehicle is not manufactured by an approved manufacturer, an enhanced VOSA Single Vehicle Approval Pass Certificate must be provided which includes category P for non-wheelchair access vehicles and categories P and D if the vehicle is wheelchair accessible. A written self-declaration shall also be provided,

declaring that the vehicle has not been altered since initial manufacture / conversion.

- 1.7 All vehicles must meet the criteria as laid out in Section 4.
- 1.8 New/replacement vehicles shall not be permitted if they were registered prior to the year 2000.
- 1.9 The licence shall not be transferred until the plate reaches five years of age.
- 1.10 All vehicles over six and twelve years of age shall be subjected to additional tests in accordance with the provisions set out in section 20.
- 1.11 A wheelchair access vehicle cannot at any time be replaced for a non-wheelchair access vehicle, unless the first licence for that plate was issued for a non-wheelchair access vehicle before 2002.
- 1.12 A non-wheelchair access vehicle may be replaced with any vehicle which complies with the requirements contained in Section 4.

## **Section 2 - NEW HACKNEY VEHICLE LICENCE**

- 2.1 The vehicle to be licensed shall be a wheelchair accessible vehicle and shall be so constructed or adapted to carry disabled persons whilst remaining in their wheelchair.
- 2.2 The vehicle, when initially submitted for licensing, shall not be more than five years old. The age of the vehicle shall be determined by the date of its first registration, as shown on the registration document. The condition at section 2.1 shall remain attached to the licence for each subsequent renewal or transfer.
- 2.3 The licence shall not be transferred to another vehicle until the plate reaches five years of age and then only to another wheelchair accessible vehicle.
- 2.4 The vehicle can be transferred if the vehicle is written off or it is on a temporary transfer basis following breakdown or damage, in which case it shall be replaced in accordance with section 15.

## **Section 3 - NEW PRIVATE HIRE VEHICLE LICENCE**

- 3.1 For a new Private Hire Licence application, the vehicle to be licensed shall not be more than:
  - i. 5 years old for a wheelchair accessible vehicle that conforms to section 6 or
  - ii. Two years old for any other type of vehicle.

The age of the vehicle shall be determined by the date of first registration on the registration document. The vehicle must comply with the vehicle specifications contained in section 4.

- 3.2 If the vehicle is wheelchair accessible it shall be so constructed or adapted so that it can carry disabled persons whilst remaining in their wheelchair and comply with section 6.
- 3.3 If the vehicle is a wheelchair accessible vehicle then it shall not be more than five years old when first licensed. The age of the vehicle shall be determined by the date of its first registration, as shown on the registration document.
- 3.4 The licence cannot be transferred to another vehicle until the plate reaches five years of age. It can, however, be transferred if the vehicle is written off or it is on a temporary transfer basis following breakdown or damage, in which case it shall be replaced in accordance with section 15.

#### **Section 4 - VEHICLE SPECIFICATION**

- 4.1 The vehicle to be licensed shall, according to the manufacture's specification, have or be:
  - a) Right hand drive.
  - b) All body panels to be of the same colour.
  - c) A capacity for a minimum of four seated passengers and a maximum of eight.
  - d) A minimum of four doors
  - e) Either a separate luggage compartment or have a fixed screen (of sufficiently sturdy construction to protect passengers from injury from items in the luggage compartment) between the rear seat and the luggage compartment, which shall be kept in position at all times. People carriers and multi purpose vehicles (MPVs) shall have a means of securing luggage whilst transported on the vehicle.
  - f) A serviceable spare tyre, or run flat type tyre, jacking equipment and wheel brace.
  - g) Road wheels with tyre load ratings set at the manufacturer's recommendations. The use of remoulds will not be permitted.
  - h) A permanent roof which is watertight. Sunroofs are only allowed if fitted as new by the vehicle manufacturer.
  - i) Equipped with fully functional nearside and offside exterior rear view mirrors.
  - j) All windows/doors opening in accordance with the original vehicle specification or for legal conversions in accordance with a suitable compliance test.
  - k) A rear seat with at least 41 cm seating space per passenger.
  - l) A suitable boot able to carry passenger luggage in all saloons and estate vehicles. This must be capable of carrying three suitcases of size 70 x 46 x 32 cm.
  - m) No bull bars or similar attached.
  - n) The clear height for the top of the doorway not less than 1.2 metres.
  - o) Unobstructed access to all emergency doors or exits. (Seats must be located to facilitate this).

#### **Section 5 - MINI BUSES & MPVs**

- 5.1 These are in addition to all other conditions and apply to mini buses and MPVs that are licensed as private hire vehicles and taxis.
- 5.2 All doors must be capable of being opened from the inside.

- i. The vehicle must have at least two doors to the rear of the driver for the exclusive unobstructed use of passengers.
- ii. All doors must show the method of operation of door lock operating levers, i.e. they shall depict "Pull" or "Push" with directional arrows in 5cm letters.
- iii. All emergency doors must be clearly identifiable to passengers and shall be clearly marked "Emergency Exit" in 5cm letters.

5.3 All steps at entrances and exits shall be illuminated or have clearly visible markings at floor level.

## **Section 6 - WHEELCHAIR ACCESSIBLE VEHICLES**

- 6.1 These are in addition to all other conditions and apply to wheelchair accessible vehicles.
- 6.2 Restraints for the wheel chair and occupant must be independent of each other. Anchorages must also be provided for the safe stowage of a wheelchair (whether folded or otherwise) when not in use if carried within the passenger compartment. All anchorages and restraints shall be so designed that they do not cause any danger to other passengers.
- 6.3 The door used for disabled access shall be so constructed as to permit an unrestricted opening across the width of the doorway of at least 75cm. If the door is not of the sliding type the minimum angle of the door for wheelchair access when opened must be 90 degrees (i.e. perpendicular to the vehicle).
- 6.4 Grab handles shall be placed at door entrances to assist the elderly and disabled.
- 6.5 The top of the tread for any disabled person entrance shall be at floor level of the passenger compartment and shall not exceed 38cm above ground level when the vehicle is unladen. The outer edge of the floor at each entrance shall be fitted with non-slip treads.
- 6.6 The vertical distance between the highest part of the floor and roof in the passenger compartment shall not be less than 1.3m.
- 6.7 A ramp or ramps for the loading of a wheelchair and occupant shall be available at all times (other than where there is a mechanical tail lift fitted). An adequate locking device shall be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision shall be made for the ramps to be stowed safely when not in use.
- 6.8 All vehicles fitted with a mechanical tail lift shall supply a tail lift safety certificate to the Council annually. This shall be supplied to the Licensing Section upon renewal of the vehicle licence.
- 6.9 Wheelchair accessible hackney carriages shall be capable of being used as such immediately and without modification.
- 6.10 When tested, any wheelchair provision shall be counted as a permanent passenger seat and this shall be marked on the licence plate.



- 6.11 By 31<sup>st</sup> December 2010 no wheelchair accessible vehicle shall be operated for hire unless that driver has passed a Herefordshire Council approved training scheme covering disability awareness and the competent use of wheelchair facilities in licensed vehicles.

Note: Herefordshire Council is looking to deliver training for this at cost price and will advertise to the trade accordingly.

- 6.12 In the case of a Private Hire Vehicle fitted with wheelchair facilities, the vehicle can be adapted and the wheelchair provision not counted as a permanent seat. However, the wheelchair facilities shall be maintained for use when required through a pre-booking.

### **Section 7 - LPG SAFETY CHECK**

- 7.1 LPG installations shall comply with the LPG Gas Association's code of practice 2. A valid certificate confirming its compliance shall be given to the Licensing Section for photocopying when the installation is new.

- 7.2 No licence shall be renewed until a valid certificate is produced to the Council confirming that a safety check has taken place and that the vehicle is safe. This shall be provided annually.

### **Section 8 - SEAT BELTS**

- 8.1 Seat belts shall be fitted to all seats in all licensed vehicles. They shall be readily accessible for use by all passengers and shall be maintained in a good condition and kept in a useable and safe state of repair at all times.

### **Section 9 - ALTERATIONS**

- 9.1 No alterations to any equipment, dimensions or other specifications shall be undertaken without the prior consent of an Authorised Officer of the Licensing Section.

- 9.2 For the avoidance of doubt, alterations include both additions to and the removal of any existing equipment in, or on, the Licensed Vehicles.

### **Section 10 - SIGNS**

- 10.1 The Licensed Vehicle shall be of such a design or appearance or bare such distinguishing marks as the Council may require, clearly identifying it as a Licensed Vehicle. The under-mentioned signs shall be applicable in respect of this condition.

- a) All licensed vehicles (except purpose built Hackney Carriages with a built in sign and Private Hire Vehicles) are to have roof signs with "Herefordshire Council" above and "Licensed Hackney Carriage" below the word "Taxi" on both the front and rear. The sign shall be green in colour as specified by the Council and shall be a minimum of 60cm in width. The rear of the sign shall be red in colour and may show a fleet number, not more than 7.5cm in diameter, in the top right hand of the sign. No other markings shall be permitted on the roof signs. The licence holder and driver of the taxi shall

maintain the sign in efficient working order at all times. The sign shall be capable of being so operated that at night it indicates clearly and conveniently to persons outside the carriage whether or not the vehicle is available for hire.

- b) The roof sign shall be displayed on the front part of the roof.
- c) Both front doors of all Licensed Hackney Carriages shall display a sign incorporating Herefordshire Council's corporate logo together with the vehicle licence number, in the following dimensions: the sign shall be a minimum of 60cm x 19cm wide with lettering measuring at least 6cm in height. The sign shall be the adhesive type and shall not be magnetic. However, magnetic signs may be permitted on a short term temporary basis and then only with the written authority of the Licensing Section. The sign shall be located on the top half of the door where it is clearly visible to the public.
- d) No other sign shall be permitted on either front door, unless it is part of a whole vehicle body wrap advert, which leaves space for the door signs.
- e) Private hire vehicles that wish to advertise their operator details on the vehicle shall also display two adhesive signs one on each front door of the vehicle which states "Advanced Booking Only". The lettering must measure at least 6cm in height. Magnetic signs may be used for temporary use vehicles.
- f) In addition to the Council's official plate, private hire vehicles may fix on any rear door of the vehicle a non-illuminated sign of a size not exceeding 60cm x 19cm, the lettering to be not more than 7.5 cm in height, and can be reflective. The sign may contain the following information advertising the company:-
  - i. Name of operator
  - ii. Telephone number of operator

10.2 Two or more notices shall be displayed within the vehicle, in a conspicuous location, indicating "NO SMOKING". Such notices shall be clearly visible to passengers and the lettering must be white on a red background. Alternatively the international "NO SMOKING" symbolic sign may be used.

10.3 Private hire vehicles may not use the words 'taxi' or 'cab' anywhere on the vehicle.

## **Section 11 - LICENCE PLATES AND BADGES**

11.1 For all licensed vehicles, the council licence plate shall be securely fixed to the rear of the vehicle by directly fixing it to the bodywork or bumper. It shall be clearly visible when looking at the rear of the vehicle. The council licence plate must not obscure the number plate or any obligatory lights on the vehicle. No council licence plate shall be fitted on any other area, including the rear window.

11.2 The licence plate shall remain the property of the Council and shall be returned to Herefordshire Council upon expiry, suspension or revocation. All licence plates shall be returned within 5 working days of the issue of the new plate and can be returned to any of the Info Centres within Herefordshire.

- 11.3 The loss of, damage to or illegibility of a plate or badge shall be reported to the Council as soon as the loss, damage, or illegibility becomes known and a duplicate shall be issued at the expense of the Licence Holder. The vehicle shall not be used for hire until the Plate or Badge has been replaced.
- 11.4 The holder of the licence is strictly prohibited from transferring or purporting to transfer any interest in the licensed vehicle (hiring or leasing the vehicle). If at any time during the period of the vehicle licence the proprietor for any reason does not wish to retain the vehicle licence, the person must immediately surrender and return the vehicle licence and the licence plates to the Council. This condition shall not preclude the transfer of any interest in the licensed vehicle as part of the transfer/sale of the business to a new owner.
- 11.5 All renewal applications received after the date of expiry shall be treated as grants and not renewals and the appropriate conditions and fees shall apply.
- 11.6 However, the Licensing Officer has the authority to renew the plate in the 7 day period following expiry. The plate shall only be renewed until the sitting of the next Regulatory Committee (or equivalent panel) who will consider whether to continue to allow the plate renewal. At the time of drafting these conditions, the fee for the referral is £150 and is payable before the committee hearing. This fee may be revised by the Council from time to time.
- 11.7 Any application received prior to the expiry date of the existing licence shall be treated as a renewal. However no plate or badge shall be issued until such time as all the required documents have been received and accepted by Herefordshire Council's Licensing Section.

## **Section 12 - ADVERTISING**

- 12.1 No advertisement shall be placed on any vehicle unless the content of the advertisement and the proposed location on the vehicle has been agreed by the Licensing Section and written authorisation given by them.
- 12.2 The advertisements will be assessed against the following criteria:  
Non sexual  
Non discriminatory  
Not to cause public offence  
Not misleading  
Location does not distract from council vehicle signs  
Not to obscure vision of the driver

## **Section 13 - TAXIMETER/FARES**

- 13.1 Licensed vehicles equipped with a taximeter of approved design (compulsory for a hackney carriage but optional for private hire vehicle) must be submitted for testing before operating within Herefordshire Council's area and shall be subject to further tests as and when required by the Licensing Section.
- 13.2 A proprietor of a licensed vehicle shall not tamper with or permit any person, other than a properly authorised person or approved technician, to alter or adjust any

taximeter with which the vehicle is provided, its fittings or with the seals affixed to the equipment.

- 13.3 The proprietor of a Hackney Carriage shall cause a statement of fares (as set by the Council) to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- 13.4 The proprietor of a Hackney Carriage shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.
- 13.5 The proprietor of a licensed vehicle shall deposit with the Licensing Section a copy of the statement of fares referred to above if the prices differ in any way from those that are in force at the time for Hackney Carriage vehicles licensed by the Authority.

#### **Section 14 - VEHICLE DAMAGE**

- 14.1 Any damage affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein shall be reported to the Licensing Section within 24 hours or, when the office is closed, within 24 hours of it re-opening. Where considered necessary, arrangements shall be made for the Licensing Section to inspect the vehicle. Until the damage is repaired to the satisfaction of the Licensing Section or inspected by them, and written consent is received from the Council to continue to use the vehicle, the vehicle must not be used other than for the purpose of taking it for repair or inspection.

#### **Section 15 - ACCIDENTS AND TEMPORARY VEHICLE TRANSFER CONDITIONS**

- 15.1 Accidents involving personal injury to passengers shall be notified to the Police. The Licensing Section shall also be notified as soon as possible but in any case within 24 hours or, when the office is closed, within 24 hours of it re-opening.
- 15.2 Vehicles that have sustained major accident damage will be required to provide a satisfactory steering geometry and alignment report. This shall be in the form of a written or printed document from an approved VBRA vehicle repairer. In addition the vehicle shall be required to undergo a further compliance test.
- 15.3 Vehicles which replace a licensed vehicle on a temporary basis shall meet the requirements contained within the standard vehicle licence conditions
- 15.4 Wheelchair accessible vehicles are allowed to be temporarily substituted by a standard vehicle for use as a replacement, but only for a limited period to be agreed with the Licensing section. This replacement shall comply with section 1 and 4 of these conditions.
- 15.5 A temporary transfer will be valid for a 2 week maximum period unless authorised by the Licensing Section due to extenuating circumstances.

- 15.6 If the transfer takes place during normal office working hours, the licensing Section shall be notified before the transfer takes place. Transfers outside of normal office working hours shall be notified to the Licensing Section immediately after the office re-opens. In either case, no temporary transfer vehicle can be used without it having a licence plate attached to it.
- 15.7 Vehicles used as a temporary transfer vehicle must have a "Certificate of Readiness" which incorporates a certificate of compliance, inspection sheet and insurance, which must be valid prior to the vehicle being used. Such vehicles shall comply with Section 4 of the standard licence conditions.

### **Section 16 - INSURANCE**

- 16.1 Before the licensed vehicle is used, such insurance or securities as are required under Part V1 of the Road Traffic Act 1972 shall be obtained in respect of the vehicle. The certificate for the policy of insurance shall also be produced to the Licensing Section for inspection. The policy must show that the vehicles are suitably insured for 'hire and reward' purposes.
- 16.2 On the expiry of the insurance, a cover note or 'Certificate of Insurance' renewing cover must be produced to the Licensing Section prior to or on the day of expiry of the previous certificate. Photocopies of the original can only be made by Council staff and faxed copies shall only be accepted if received from the Insurance Company/Broker direct.
- 16.3 The proprietor shall ensure that a copy of the Certificate of Insurance is kept in the vehicle at all times, and this shall include details of drivers authorised under the policy to drive the vehicle.
- 16.4 The licence holder shall notify the Council of any change of insurer or any change to the insurance particulars and shall provide full details to the Council of these alterations within two working days of such a change.

### **Section 17 - NOTIFICATIONS**

- 17.1 The proprietor of a licence shall produce details of the drivers permitted to drive by him/her to the Licensing Section.
- 17.2 The proprietor shall notify the Council of any change in the list of drivers within seven days of the change.
- 17.3 The licence holder shall, within seven days, notify the Council in writing of any change of address and produce the vehicle licence to the Licensing Section so that the new address may be endorsed there.

### **Section 18 - SAFETY EQUIPMENT**

- 18.1 The vehicle shall be equipped with and carry at all times a British Safety Approved fire extinguisher, which is serviceable. It shall be suitable for use on vehicle fires and shall be located in a position for use by the driver. This must be permanently marked with the vehicle's Hackney Carriage or Private Hire licence number.

- 18.2 The vehicle shall be fitted with first aid equipment. The first aid kit must be carried in the vehicle in such a position as to be readily available for use and bear the plate number of the vehicle indelibly marked. It shall contain as a minimum the following items in Table 18.3 below as prescribed in the Public Service Vehicles (Condition of Fitness, Equipment, Use and Certification) (Amendment No.2) Regulations 1986. This equipment shall be permanently marked with the vehicle's Hackney Carriage or Private Hire licence number.

<b>Table 18.3</b>	<b>Item</b>	<b>Quantity</b>
	Suitable container in which to carry first aid items. Permanently marked with the vehicle plate number	1
	Basic instruction card covering expired air respiration, external cardiac compression, treatment of shock, recovery position and treatment for bleeding control	1
	Triangular bandages	2
	Large sterile unmedicated dressing (not less than 15.0 cm x 20.0 cm)	3
	Individually wrapped sterile adhesive dressings	24
	Safety pins	12
	Disposable gloves	1 pair
	Antiseptic wipes	10
	Disposable bandage (not less than 7.5 cm)	1
	Sterile eye pads with attachments	2
	Tuff-Kut scissors	1 pair

## **Section 19 - TRAILERS**

- 19.1 Written permission shall be obtained from the Licensing Section to use trailers.
- 19.2 Trailers shall only be used in connection with private hire bookings and shall not be used for plying for hire on the rank. Trailers shall comply with the following standards:
- i. Unbraked trailers shall be less than 750 KGs gross weight.
  - ii. Trailers over 750kgs gross weight shall be braked, acting on at least two road wheels.

- iii. The towing vehicle must have a kerb weight of at least twice the gross weight of the trailer.
- iv. A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer whenever in use.
- v. The maximum permissible length of the trailer shall be 7 metres, including the drawbar and coupling.
- vi. The width of the trailer shall not be greater than the towing vehicle, subject to no trailer being wider than 2.3m.
- vii. The maximum length for braked twin axle trailers is 5.54m.
- viii. The trailer shall at all times comply with all Road Traffic legislation requirements, and in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986.
- ix. The vehicle insurance shall reflect cover for towing a trailer.
- x. Trailers shall not be left unattended anywhere on the highway.
- xi. The speed restrictions applicable to trailers shall be observed at all times.
- xii. The registration number plate and the vehicle plate of the Private Hire Vehicle shall be attached to the rear of the trailer.
- xiii. The trailer shall be inspected annually and shall be considered to be satisfactory by the Council.

**Section 20 - VEHICLE INSPECTION (see appendices 1 & 2)**

- 20.1 Prior to the issue or renewal of a licence, all vehicles and trailers shall be mechanically inspected at the Council's Testing Depot, as per appendices 1 and 2 attached. Frequency of testing will generally be dependent on the age of the vehicle (see table in condition 21.2 below). However, when the VOSA tester identifies that additional testing may be required due to the condition of the vehicle, then following consultation with the Licensing Officer, the frequency of these tests can be increased to three per year.
- 20.2 All vehicles shall pass the Council's compliance test before each renewal.

AGE OF VEHICLE	TYPE OF VEHICLE	FREQUENCY OF TEST PER YEAR
1-6	Car, minibus, people carriers (MPV), disabled access, stretched limousines	x 1
6-12	Car, minibus, people carriers (MPV), disabled access, stretched limousines	x 2
Over 12	Car, minibus, people carriers (MPV), disabled access, stretched limousines	x 3

- 20.3 The second test may be an MOT test and these tests shall be carried out 6 months apart. In the case where 3 tests are required per year, these must be carried out 4 months apart and the 2<sup>nd</sup> and 3<sup>rd</sup> test may be an MOT.
- 20.4 Should a vehicle fail to pass an inspection on a major failure, the vehicle inspector or authorised officer of the Council will notify the licensee that the licence has been suspended, if this is deemed necessary. The vehicle shall then be required to be resubmitted to the depot within seven calendar days and a re-test fee shall be applicable. This seven-day limit shall also apply to any instruction issued for a vehicle to be presented for inspection. When the vehicle tester identifies to the

driver that the vehicle has failed the required test for public or road safety reasons, then it shall not be used for hire or reward until the suspension is lifted.

- 20.5 An authorised officer, an officer nominated by the Council or any police constable shall have the power at all reasonable times to inspect and test any vehicle licensed by the Council for the purpose of ascertaining its fitness. All persons named above will have identification which can be produced at the time of inspection.

### **Section 21 - RADIOS**

- 21.1 All telephone facilities and radio equipment provided shall be maintained in a safe condition and any defects shall be repaired promptly. The licensed operator shall ensure that the licence issued by the Department of Trade and Industry for all radio equipment used is current and valid. All equipment shall only be used on the frequencies stipulated in the D.T.I licence and the licensed operator shall allow the Council access to inspect all equipment and D.T.I licenses.
- 21.2 All telephone facilities and radio equipment provided shall not interfere with any other radio or telecommunication equipment.
- 21.3 Where apparatus for the operation of a two-way radio system is fitted, no part of the apparatus shall be situated in a way which could cause accident or injury to a passenger, nor shall it be placed in the rear boot compartment if LPG tanks are situated in them.

### **Section 22 - GENERAL CONDITIONS**

- 22.1 The proprietor of a licensed vehicle shall not convey or permit to be conveyed in such a vehicle any greater number of persons than the number specified in the licence issued to that particular vehicle.
- 22.2 All vehicle proprietors shall maintain a reasonable standard of behaviour in their dealings with the general public, other licensed operators, proprietors, and drivers of licensed vehicles, as well as authorised officers of the Council.
- 22.3 The proprietor or driver of a licensed vehicle licensed by the Council shall furnish the authorised officers with such information relating to either the drivers or vehicles as is necessary to enable them to undertake their duties.
- 22.4 The proprietor or driver of a licensed vehicle licensed by the Council shall provide any reasonable assistance necessary for carrying out the functions of the appropriate legislation to an authorised officer and any person accompanying the authorised officer.
- 22.5 The authorised officer shall show their authorisation if required.

### **Section 23 - CCTV**

- 23.1 No recording CCTV equipment shall be fitted without the written consent of the Council. Where CCTV equipment is fitted, an approved sign shall be displayed in the vehicle warning customers that camera surveillance equipment may be in



operation. Any image captured by the camera shall only be viewed by an authorised officer of the Council, by the Police, or by the dedicated System Operator (as approved by the Council).

#### **Section 24 - STRETCHED LIMOUSINES**

- 24.1 For stretched Limousines, conditions 24.2 to 24.8 below are inclusive and override conditions 2.1, 3.1, 4.1(a) and 4.1(c).
- 24.2 On being presented for licensing for the first time the vehicle shall have at least one of the following:
- (i) A UK Single Vehicle Approval Certificate
  - (ii) A European Whole Vehicle Approval Certificate
  - (iii) A UK Low Volume Type Approval Certificate
  - (iv) Limousine Declaration of Condition of Use
- 24.3 Stretched limousines are permitted to be left hand drive.
- 24.4 All operators shall be required to sign a declaration that the vehicle shall not carry more than 8 passengers (even if there are more than 8 passenger seats within) and that at the time of booking the vehicle, the restriction of carrying no more than 8 passengers shall be explained to the hirer.
- 24.5 Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence relating to the sale or supply of alcohol.
- 24.6 Stretched limousine vehicles shall comply with the existing Conditions of Licence applicable to all licensed private hire vehicles, with the exception of those listed at paragraph 24.1 above.
- 24.7 The fee shall be the same as for private hire.
- 24.8 No licence issued to a stretched limousine shall be issued to any other type of vehicle.

## APPENDIX 1 HEREFORDSHIRE COUNCIL

### LICENSED VEHICLE TESTING STANDARD – MECHANICAL AND STRUCTURAL

Items for test in addition to MOT test.

The item numbers refer to the item codes on the test sheet.

29	Spare Tyre	Correct size for vehicle and conforms to legal requirements.
32	Seat Belts	All seat belts must conform to legal requirements and be operational
33	Wiring	Ensure that correct load fuses are being used. Ensure that visible wiring is not so corroded or chaffed that in the opinion of the tester a short circuit is likely to occur. That all junctions and installations are electrically sound.
34	Battery	Ensure that the battery mounting is not so corroded that the battery may break loose. Ensure that the battery is anchored securely. Ensure that the casing of the battery is sound and is not likely to allow acid to escape.
35	Starter Motor	Ensure starter motor is mounted securely
36	Engine Mountings	Mountings must be secure and not so corroded that they may be likely to fail.
37	Oil Leaks	Oil leaks must not create any type of hazard for the vehicle, pedestrians or other road users.
39	Drive Shaft	Universal joints must be serviceable and mountings secure. There must not be any undue 'play'.
40	Gearbox	Mountings must be secure and not so corroded as to be likely to fail. Gear selection must not be noisy.
41	Rear Axle	No oil leaks
43	Clutch Operation	Must operate satisfactorily and not 'judder', 'grab' or 'slip' outside normal limits.
44	Clutch Linkage	No signs of undue wear and are not likely to fail.
45	Clutch Hydraulics	System, if fitted, must not be leaking or the pipes and fittings so corroded that they may fail.
46	Fuel System	Inspected for security, corrosion and leaks.
50	Windscreen	Screen must be clear and there are no scratches, damage or obstructions, which will impede the view of the driver.
51	Windows	All windows must be clear of any obstructions or damage, which will in any way impede the view of the driver. No curtains must be placed over the windows and any blinds if installed must not be of a type, which will restrict all round vision. All windows must be capable of being operated in a satisfactory manner. All windows must be fitted with glass, which complies with the British Standard.
54	Vehicle Structure	The structure must be in a sound condition with no signs of corrosion or damage.
55	Speedometer	The speedometer shall work in a normal manner.
56	Odometer	The odometer shall work in a normal manner
57	Mirrors	All mirrors must be securely mounted and not cracked, broken or corroded so as to distort any view to the rear. Where a mirror is intended to be adjustable it must be capable of being adjusted.
58 59	Doors / Handles / Locks	All doors, including boot, must open and close easily from both inside and outside. Any door locking mechanism shall be easily operated by passengers. All doors and boots shall be secure when shut. All lock fittings shall be secure and complete. Grab handles where fitted must be secure and fit for the purpose.
60	Fascia / Interior Lights	The speedometer shall be correctly illuminated. All interior and passengers lights where fitted shall be secure and operate. All switches and fittings shall be secure and operate correctly. There shall be no exposed wires or large holes in the fascia.

61	Bumper	Front and rear bumpers must be fitted and securely mounted. They must not be damaged or corroded.
62	Road Test	The vehicle must be capable of manoeuvring safely and must handle correctly without any undue drift or pull etc
63	Registration Plates	Checked for condition, correct location and that they conform to legal requirements.
65	Other	Any item, defect or fault which in the opinion of the Licensing Officer or the mechanical tester which renders the vehicle in their opinion, to be unfit for use as a hackney carriage or private hire vehicle will be noted as a fail.
66	First Aid Kit	The kit must comply with conditions 19.2 & 19.3
67	Fire extinguisher	Must comply with condition 19.1

## APPENDIX 2

### **HACKNEY CARRIAGES** **TESTING STANDARD – APPEARANCE / SAFETY / COMFORT / COMPLIANCE WITH** **LICENCE CONDITIONS**

Items considered in test: -

#### **1.0 External Bodywork**

The body work shall have no damage which materially affects the safety or appearance of the vehicle, shall not have signs of corrosion or have any sharp edges which may cause injury to passengers. The paintwork shall be clean, consistent and uniform over the whole vehicle. The paintwork shall be of a professional standard. All fitments shall be intact and free from any damage, stains or corrosion of any kind.

#### **2.0 Seats and Upholstery**

All seats, upholstery, trim and carpets must be clean and free from stains, holes, tears and damage of any form. There must be no sharp edges which would be likely to cause injury or damage. Seat coverings must be sound, intact, fitted snugly to seats and be clean. The interior seat springs shall be sound and not penetrating the fabric of the seat. There shall be no loose rugs, blankets, cushions or other articles on the passenger seats.

#### **3.0 Floor**

The floor must be sound and covered by fitted vehicle carpets. If furnished with rubber mats they must be in a clean and undamaged condition. Carpet off cuts are not acceptable as mats in the vehicle. Only one mat per seat is acceptable. The floor coverings must not be so worn as to cause danger to passengers.

#### **4.0 Doors**

All fittings shall be secure, undamaged and capable of being operated at all times by the passenger. The door linings shall be intact, clean and free from holes, tears, stains or any other damage.

#### **5.0 Head Lining**

The head lining shall be intact, clean and free from holes, tears, stains or any other damage.

#### **6.0 Boot**

The boot shall be kept clean and free of any stains, spills etc. Matting if fitted must be in one piece and be capable of being cleaned. The boot must be kept clear for the use of passenger's luggage apart from the spare wheel and jack (and excepting specialised fitments for first aid or other equipment etc).

#### **7.0 Fire Extinguishers**

A fire extinguisher (of the specified type) must be located in an accessible position and a notice displayed in the vehicle to identify its location. The fire extinguisher must be so secured and unobstructed that it will not create any danger or hazard for the driver or passengers. The extinguisher shall be clearly marked with the number of the licence when granted, in a manner acceptable to Officers of the Licensing Unit.

## **8.0 First Aid Kits**

First Aid kits shall be available to PSV standard. The kit shall be marked with the number of the licence when granted, in a manner acceptable to Officers of the Licensing Unit.

## **9.0 Taximeter**

The taximeter shall be checked and tested to ensure that the current tariffs set by Herefordshire Council are not exceeded. The taximeter may be sealed by the Inspecting Officer, as he/she considers necessary.

## **10.0 Fare Card**

The fare card must be clearly displayed in such a position as to be easily seen by passengers.

## **11.0 Internal Plate Sticker**

The internal plate sticker shall be displayed in such a position as to be easily seen by the passengers.

## **12.0 Exterior Plate**

The external identification plate issued by the Council shall be securely fixed to the vehicle in such a position as to be clearly visible from the rear of the vehicle, or, centrally on the rear of the vehicle, where a bracket behind the registration number plate is used.

## **13.0 Top Light**

The top light where fitted must be capable of being illuminated. The light must be securely mounted and installed so as not to cause any danger or hazard to the driver, passengers, the public or other road users.

## **14.0 Vehicle failure**

Where in the opinion of the Inspecting Officer the vehicle fails to reach the standard required by the Council for the issue of a hackney carriage licence, the applicant(s) or nominee will be informed of the defects or grounds on which the vehicle has failed to reach that standard. The applicant(s) or nominee will then be given the choice of: -

Removing the vehicle from the test garage for the defects to be rectified and returning the vehicle within 7 days and/or 200 miles (where the vehicle is normally kept within 10 miles of the testing station), or within 7 days and/or 300 miles (where the vehicle is normally kept more than 10 miles from the testing station). The applicant or nominee shall also pay the appropriate re-test fee if required.

If the vehicle is not returned for re-test within 7 days the applicant or his/her nominee shall inform the Licensing Unit of the reasons why and any proposed further actions to be taken in respect of the vehicle. Re-tests after 7 days may incur full application fees.

**Please note: - This list is not exhaustive and additional items may be included as deemed appropriate by Officers of the Licensing Unit.**

**Data Protection Act 1998**

This policy covers the treatment of personal data that Herefordshire Council may collect when you e-mail us, complete an application form, or when you complete and submit an online form on our web site.

When completing forms you may be asked for personal information such as name, address, postcode etc. It is only when you supply this type of information that you can be personally identified.

Herefordshire Council is registered with the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the Council will be processed in compliance with the principles set out in the Act.

Further information relating to the Data Protection Act 1998 can be sent to you on request.

If you have concerns about the processing of your personal data by the Council you may contact the Council's Data Protection Officer:

Data Protection Officer,  
County Secretary and Solicitor  
Herefordshire Council  
Brockington  
35 Hafod Road  
Hereford HR1 1SH

<b>Individual Trade Member response to consultation 2009</b>				
Topic	Comment	From whom	Ref no Appendix1	Response
Confusion over approved manufacturer	Makes no sense as wheelchair accessible vehicle are only permitted by approved manufactures	Richard Corfield – Taxi proprietor	1.5	Agreed - this has been re-worded as is found in 1.1 – 1.5
Wording	Why is a change from minibus to saloon an upgrade	As above	4.2 ii	Agreed – this has been re-worded
Spelling error	bare	As above	11.1	Agreed – spelling corrected
Metallic roof	Why metallic roof? Not all taxis have metal roofs	As above	11.1 b	Agreed – the word metallic has been removed
No smoking signs	This overlaps with other legislation. Taxis can comply with this requirement but still fail the statutory standard, if you are including it why not be consistant and specify the size of the sign (70mm) many taxi do have signs that are too small	As above	11.1 b	Agreed – size put in
Language	Use of word him is sexist language	As above	19.1	Agreed. The wording is now him/her
Fire extinguisher	British Safety Approved this is not defined, would it be more appropriate to use the European	As above	19.1	Agreed. Wording changed

## APPENDIX 5

	wide standard BS EN3			
Spare vehicle	Concerned about the removal of the spare vehicle	Roger Jones – Taxi proprietor		There is no provision within the legislation to licence a spare vehicle
Spare vehicle	Concerned about the removal of the spare vehicle	Andrew Smith		As above
CCTV	Wants to be able to have un-encrypted systems	John Jones and Harry Went – Taxi association	24.0	Agreed - Following research conditions amended to allow this
Fee for late application	This should be free	Mr and Mrs D Hufton – Taxi proprietors	Para 3	Licensing staff have delegated powers which do  Include late applications. Licensing have to pay for this service and it would be unfair to the rest of the trade to bear this cost.
Objection to wheelchair access vehicles	Does not feel there are enough wheelchair users to justify the need for more access vehicles	As above	1.2 – 1.5	We are following government guidance.
N1 vehicles	Should allow N1 vehicles if they have been converted correctly	As above	2.2	Extensive research and advice has been sought and discussed previously.
Age of vehicle	Wants to be able to have new private hire vehicle as under five and not two	As above	3.1	This condition ensures that the fleet of vehicles remains of a high standard
Age of vehicle	Both licences should have the same age restriction	As above	3.2	Wheelchair access vehicle have a longer life span than cars, and are more costly, therefore the age is proportionate.
Colour of vehicle	Some firms may want different coloured panels	As above	5.1 b	This conditions ensures that when repairs are carried out we do not have multi coloured panelled



				vehicles
Number of doors	Stupid rule. Smart cars only have two doors	As above	5.1 c	These are standard conditions. Applications can be made which deviate from these, but we can not accommodate all possible variances to vehicles in standard conditions.
Wheel chair ramps	Stupid rule. Why should on site modification be a problem	As above	7.9	Wheelchair access vehicles must remain accessible at all times in line with legislation and guidance
Wheel chair seat	Does not want wheelchair facility to be counted as a seat	As above	7.10	We have to count it as a seat , as we can only licence vehicles up to 8 passenger seats
Roof sign	Wants roof sign on the front or rear as the magnets may cause headaches and dizziness	As above	11 b	The sign must be in the most visible position to be seen by passengers.
Door signs	Wants magnetic door signs	As above	11 c	This was abused and necessitated a change to permanent stickers.
General comment	We hope Hereford Licensing Regulatory Committee will consider our arguments and comments from a commercial experienced aspect and not let the Licensing Office change the rules without adequate research and common sense.			





**THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**CONDITIONS ATTACHED TO PRIVATE HIRE/HACKNEY CARRIAGE  
VEHICLE LICENCE**

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**Appendix 1 - licensed vehicle Testing standard – mechanical and structural**

**Appendix 2 - Hackney carriages Testing standard – appearance / safety / comfort / compliance with licence conditions**



## **CONDITIONS ATTACHED TO PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE LICENCE**

Herefordshire Council licenses both Hackney Carriage and Private Hire Vehicles under the provisions of Part 11 of the Local Government Miscellaneous Provisions Act 1976 and the Town and Police Clauses Act 1847.

These conditions were approved by the Herefordshire Council's Regulatory Committee on 18 December 2007 these conditions will replace all previous conditions and will remain in place until such time the regulatory committee approve any amendments or review the conditions.

**All applications received which fall outside the Licensing Authorities Conditions or Policy will be referred to Regulatory Committee for determination and will incur additional costs to be paid by the applicant.**

*(Herefordshire Council will use Government Guidance and Herefordshire Councils Hackney Carriage and Private Hire Licensing Policy to base its decisions)*

### **1.0 NEW HACKNEY VEHICLE LICENCE**

- 1.1 For a new application for a Hackney Carriage Licence, the vehicle to be licensed shall be a purpose built Hackney Carriage, or constructed or adapted to carry disabled persons whilst remaining in their wheelchairs, in accordance with the provisions set out in section 20 of these conditions. The vehicle will be 5 years of age or younger, the age of the vehicle will be determined by the date of first registration on the registration document. The licensed vehicle shall be replaced upon or before reaching fifteen years of age. This condition (1.1) will remain attached to the licence for each subsequent renewal or transfer.
- 1.2 Once a vehicle has been issued with a hackney carriage licence the vehicle cannot be re-used to get a new licence plate within Herefordshire.

### **2.0 NEW PRIVATE HIRE VEHICLE LICENCE**

- 2.1 For a new application for a Private Hire Licence, the vehicle to be licensed shall not be more than two years old, the age of the vehicle will be determined by the date of first registration on the registration document. The vehicle can be a saloon, estate car, MPV or a purpose built vehicle, or constructed or adapted in accordance with conditions 1.1 above. The licensed vehicle shall be replaced upon or before reaching eight years of age.
- 2.2 If the vehicle is constructed or adapted in accordance with conditions 1.1 above, then that vehicle shall not be more than five years old and shall be replaced upon or before reaching fifteen years of age or earlier.
- 2.3 Once a vehicle has been issued with a private hire licence the vehicle cannot be re-used to get another licence plate within Herefordshire.

**3.0 EXISTING VEHICLE LICENCES**

- 3.1 For existing Hackney Carriages and Private Hire Vehicle licences, the vehicle shall be replaced upon reaching eight years of age or fifteen for disabled access vehicles.
- 3.2 Written authorisation must be obtained before any new/replacement new vehicle is purchased and tested. The test will not be carried out until this is handed to the test centre.
- 3.3 The proposed new vehicle must comply with the following:-
- a) A wheel chair access vehicle cannot at any time be replaced with a non wheel chair access vehicle. A saloon may be replaced with a saloon or upgraded to a wheel chair access vehicle.
  - b) The replacement vehicle shall be no more than 2 years older than the outgoing vehicle, and have at least 30,000 less miles on the clock. All vehicles must be replaced at 8 years for non wheel chair and 15 years for wheel chair access vehicles.
  - c) Meet the criteria in condition 4.0 (vehicle specification) for non wheel chair access, 19.0 for wheel chair access vehicles, and 18.0 for mini buses.
- 3.4 All vehicles over 5 years will be subject to additional tests in accordance with the provisions set out at section 17.2

**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: -
- a) A capacity for a minimum of 4 seated passengers and a maximum of 8
  - b) A minimum of four doors
  - c) An engine rating of not less than 1600cc unless written authorisation is received from the Licensing Authority.
  - d) Have either a separate luggage compartment or a fixed screen (of sufficiently sturdy construction to protect passengers from injury from items in the luggage compartment) between the rear seat and the luggage compartment, which shall be kept, in position at all times. This condition shall not apply to people carriers and multi purpose vehicles.
  - e) A serviceable spare tyre, or run flat type tyres, jacking equipment and wheel brace must be provided.
  - f) Four road wheels, the tyre load ratings must be to the manufacturer's recommendations. The use of remoulds will not be permitted.
  - g) A permanent roof, which is watertight, must be provided. Sunroofs are only allowed if fitted as new by the vehicle manufacturer.
  - h) Be equipped with fully functional nearside and offside exterior rear view mirrors.
  - i) Have all windows/doors opening in accordance with the original vehicle specification or for legal conversions in accordance with compliance test.
  - j) Rear seat to have 16 inches per passenger as per national average.
  - k) A suitable boot must be available to carry passenger luggage, this must a minimum of 400 litres. (For existing vehicles that do not have a boot capacity of

400 litres, the vehicle can remain on the plate until it reaches 8 years age or is replaced. Upon replacement the new vehicle must comply with all specifications).

## **5.0 LPG SAFETY CHECK**

- 5.1 LPG installations must comply with the LPG Gas Association code of practice 2. A valid certificate confirming the compliance shall be given to the Licensing Section for copying when the installation is new.
- 5.2 No licence will be renewed until a valid certificate is produced to the Council confirming that a safety check has taken place and that the vehicle is safe. This must be provided annually.

## **6.0 SEAT BELTS**

- 6.1 Seat belts shall be fitted to all seats in all Licensed Vehicles. They shall be readily accessible for use by all passengers and shall be maintained in good condition and a useable state of repair at all times.

## **7.0 ALTERATIONS**

- 7.1 No alterations to any equipment, dimensions or other specifications shall be undertaken without the prior consent of any Authorised Officer of the Licensing Authority.
- 7.2 For the avoidance of doubt alterations includes both additions to and the removal of any existing equipment in, or on, Licensed Vehicles.

## **8.0 SIGNS**

- 8.1 The Licensed Vehicle shall be of such design or appearance or bare such distinguishing marks, as the Council shall require, clearly identifying it as a Licensed Vehicle. The under-mentioned signs shall be applicable in respect of this condition
  - a) All licensed vehicles except purpose built Hackney Carriage and Private Hire Vehicles are to have roof signs with "Herefordshire Council" above and "Licensed Hackney Carriage" below the word "Taxi" on both the front and rear. The sign to be green in colour as specified by the Council and to be a minimum of 600 millimetres in width. The rear of the sign will be red in colour and may show a fleet number, not more than 75 millimetres in diameter, in the top right hand of the sign. No other markings will be permitted on the roof signs. The Licence holder and Driver of the Taxi shall maintain the sign in efficient working order at all times, to allow inspection of the sign. The sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the vehicle is for hire. The sign shall be capable of being so operated that at night it indicates clearly and conveniently if it is for hire.
  - b) Both front doors of all Licensed Hackney Carriages must display the sign Herefordshire Council Corporate logo together with the Vehicle Licence number, in the following dimensions:- the total area of the sign must be a minimum of 60cm x 19cm wide with lettering measuring at least 6cm in height. The sign must be the adhesive type and not magnetic.

- c) In addition to the Council's official plate, private hire vehicles may fix on any door of the vehicle a non-illuminated, sign having a maximum total area of 5cm x 23cm, the lettering to be at least 6cm in height, and may be reflective. The sign may contain the following information:-

Name of operator  
Telephone number of operator  
The words "Advance booking only"

- d) In addition to the Council's official plate, Hackney Carriages may fix on the outside of the rear doors of the vehicle a non-illuminated, sign having a maximum total area of 2' x 9', the lettering to be 2.5' in height, and may be reflective. The sign may contain the following information:-

Hackney Carriage or Taxi  
Telephone number  
Name of the taxi company

- 8.2 One or more notices shall be displayed within the vehicle, in a conspicuous location, indicating "NO SMOKING". Such notice(s) must be clearly visible to passengers and the lettering must be white on a red background. Alternatively the international "NO SMOKING" symbolic sign may be used.

## **9.0 LICENCE PLATES AND BADGES**

- 9.1 For all licensed vehicles the licence plate must be securely fixed to the rear of the vehicle either by directly fixing it to the bumper or on a secure bracket under the number plate. If a square plate is used the licensed council plate and the number plate shall be displayed side by side in the area designated by the manufacturer for the number plate. The vehicle licence plate must not obscure the number plate.
- 9.2 The licence plate shall remain the property of the Council and shall be returned forthwith to the Herefordshire Council Environmental Health and Trading Standards Licensing Section, if the proprietor no longer holds a licence issued by the Council, which is in force in respect of the vehicle (whether by reason of expiry or revocation). After the expiry date on any hackney carriage or private hire licence, that licence is no longer valid and any badge or vehicle plate must be returned to the Council immediately. All licence plates must be returned before a new plate is issued.
- 9.3 The loss of, damage to or illegibility of a plate or badge shall be reported to the Council as soon as the loss, damage, or illegibility becomes known and a duplicate will be issued at the expense of the Licence Holder. The vehicle shall not be used for hire until the Plate or Badge has been replaced.
- 9.4 The holder of this licence is strictly prohibited from transferring or purporting to transfer any interest in the licensed vehicle (hiring or leasing the vehicle), if at any time during the period of the vehicle licence the proprietor for any reason does not wish to retain the vehicle licence they must immediately surrender and return the vehicle licence and the licence plates to the Council. This condition shall not



preclude the transfer of any interest in the licensed vehicle as part of the transfer/sale of the business to a new owner.

- 9.5 All applications received after the date of expiry will be treated as Grants and not renewals and the appropriate conditions and fees will apply.

## **10.0 ADVERTISING**

- 10.1 Position and content of advertising must be inspected and written authorisation received from the Licensing Unit before any advertising is placed on the vehicle.
- 10.2 The advertisements will be assessed against the following criteria:
- Non sexual
  - Non discriminatory
  - Not to cause public offence
  - Not misleading
  - Location does not distract from council vehicle signs
  - Not to obscure vision of the driver

## **11.0 TAXIMETER/FARES**

- 11.1 Licensed vehicles equipped with a taximeter of approved design (compulsory for a hackney carriage but optional for private hire vehicle) must be submitted for testing before operating within Herefordshire Council and is subject to further tests as and when required by the Licensing Authority.
- 11.2 A proprietor of a licensed vehicle shall not tamper with or permit any person, other than a proper authorised person or approved technician, to alter or adjust any taximeter with which the vehicle is provided, with the fittings thereof, or with the seals affixed thereto.
- 11.3 The proprietor of a Hackney Carriage shall cause a statement of fares fixed by the Council to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- 11.4 The proprietor of a Hackney Carriage shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.
- 11.5 The proprietor of a licensed vehicle shall deposit with the Licensing Section a copy of the statement of fares referred to above if the prices differ in any way from those that are in force at the time for Hackney Carriage vehicles licensed by the Authority.

## **12.0 VEHICLE DAMAGE**

- 12.1 Without prejudice to the provisions of Section 25 of the Road Traffic Act 1972, the proprietor of the vehicle shall report to the Licensing Section as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof, any accident to the vehicle causing damage affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein. Until the damage is repaired to the satisfaction of the

Licensing Authority or inspected by them, and written consent is received to continue to use the vehicle, the vehicle must not be used.

- 12.2 Vehicles that have sustained major accident damage will not be accepted for plating until a satisfactory steering geometry and alignment report is provided. This will be in the form of a written or printed document from an approved VBRA vehicle repairer.

### **13.0 INSURANCE**

- 13.1 Before the licensed vehicle is used such insurance or securities as are required under Part V1 of the Road Traffic Act 1972 shall be obtained in respect of the vehicle and the certificate in respect of the policy of insurance shall be produced to the Licensing Section for inspection. The policy must show that the vehicles are suitably insured for 'hire and reward' purposes.
- 13.2 On the expiry of the insurance a cover note or Certificate of Insurance renewing cover must be produced to the Licensing Section prior to or on the day of expiry of the previous certificate. Photocopies of the original can only be made by Licensing Section staff and faxed copies will only be accepted if received from the Insurance Company/Broker direct.
- 13.3 The proprietor must ensure that a copy of the Certificate of Insurance is kept in the vehicle at all times including details of drivers authorised under the policy to drive the vehicle.
- 13.4 The licence holder shall notify the Council of any change of insurer or any change to the insurance particulars and shall provide full details thereof within two working days of such change.

### **14.0 NOTIFICATIONS**

- 14.1 The proprietor of a licence shall produce details of the drivers permitted to drive by him to the Licensing Authority.
- 14.2 The proprietor shall notify the Council of any change in the list of drivers within seven days of the change.
- 14.3 The licence holder shall, within seven days notify the Council in writing of any change of address and produce the vehicle licence to the Licensing Section so that the new address may be endorsed there.

### **15.0 SAFETY EQUIPMENT**

- 15.1 The vehicle will be equipped with and carry at all times a British Safety Approved fire extinguisher, which is serviceable, suitable for use on vehicle fires and is located in a position for use by the driver. This must be permanently marked with the vehicle's Hackney Carriage or Private Hire licence number.
- 15.2 The vehicle shall be fitted with first aid equipment. The first aid kit must be carried in the vehicle in such a position as to be readily available for use and bear the plate number of the vehicle indelibly marked. It must contain as a minimum the following items as prescribed in the Public Service Vehicles (Condition of Fitness,

Equipment, Use and Certification) (Amendment No.2) Regulations 1986. This must be permanently marked with the vehicle's Hackney Carriage or Private Hire licence number.

	Item	Quantity
15.2.1	Suitable container in which to carry first aid items. Permanently marked with the vehicle plate number	1
15.2.2	Basic instruction card covering expired air respiration, external cardiac compression, treatment of shock, recovery position and treatment for bleeding control	1
15.2.3	Triangular bandages	2
15.2.4	Large sterile unmedicated dressing (not less than 15.0 cm x 20.0 cm)	3
15.2.5	Individually wrapped sterile adhesive dressings	24
15.2.6	Safety pins	12
15.2.7	Disposable gloves	1 pair
15.2.8	Antiseptic wipes	10
15.2.9	Disposable bandage (not less than 7.5 cm wide)	1
15.2.10	Sterile eye pads with attachments	2
15.2.11	Tuff-Kut scissors	1 pair

## 16.0 TRAILERS

16.1 Written permission shall be obtained from the Licensing Authority to use Trailers

16.2 Trailers can only be used in connection with Private Hire Bookings and cannot be used for plying for hire on the rank. Trailers must comply with the following standards:

- ❖ Unbraked trailers shall be less than 750 KGs gross weight
- ❖ Trailers over 750 KGs gross weight shall be braked acting on at least two road wheels
- ❖ The towing vehicle must have a kerb weight at least twice the gross weight of the trailer
- ❖ A suitable lid or other approved means of enclosure shall be fitted to secure the contents within the trailer whenever in use
- ❖ The maximum permissible length of the trailer shall be 7 metres including the drawbar and coupling
- ❖ The width of the trailer shall not be greater than the towing vehicle subject to no trailer being wider than 2.3m

- ❖ The maximum length for braked twin axle trailers is 5.540 metres.
- ❖ The trailer must at all times comply with all Road Traffic legislation requirements in particular those laid down in the Road Vehicles (Construction and Use) Regulations 1986.
- ❖ The vehicle insurance must reflect cover for towing a trailer.
- ❖ Trailers must not be left unattended anywhere on the highway.
- ❖ The speed restrictions applicable to trailers must be observed at all times.
  
- ❖ The registration number plate and the Vehicle Plate of the Private Hire Vehicle are attached to the rear of the trailer.
- ❖ The trailer be inspected annually, and is considered to be satisfactory by the Council.

## **17.0 VEHICLE INSPECTION see appendix A & B**

17.1 Prior to issue or renewal of a licence, all vehicles and trailers must be mechanically inspected at the Council's Testing Depot. Frequency of testing is dependent on the age of the vehicle, see table below

17.2 All vehicles must pass the Council's compliance test before each renewal.

AGE OF VEHICLE	TYPE OF VEHICLE	FREQUENCY OF TEST PER YEAR
1-5	CAR, MINIBUS, PEOPLE CARRIER, DISABLED ACCESS	X1
5-8	CAR, MINIBUS, PEOPLE CARRIER	X2
10-15	DISABLED ACCESS	X2

17.3 Should a vehicle fail to pass an inspection, the vehicle inspector or authorised Officer of the Council will notify the licensee that the licence has been suspended. The vehicle shall be required to be resubmitted within seven calendar days and a re-test fee is applicable. This seven-day limit shall also apply to any instruction issued for a vehicle to be presented for inspection.

17.4 An authorised Officer, an Officer nominated by the Council or any police constable shall have the power at all reasonable times to inspect and test any vehicle licensed by the Council for the purpose of ascertaining its fitness.

17.5 The second test may be a MOT test and the tests must be carried out 6 months apart.

17.6 For vehicles that have been modified

- a) In order to accept an application to licence the vehicle any modification must be listed on the Registration Document in accordance with Road Traffic Legislation.
- b) The vehicles must be registered as a passenger vehicle.
- c) If there is a structural modification to the vehicle, the vehicle shall have satisfactory test certificate issued by DVLA to show the vehicle complies with the Road traffic (construction and use) Regulations 1986 or have a Voluntary Single Vehicle Approval (enhanced) certificate tested by VOSA or an equivalent test certificate as agreed by the Licensing Authority.
- d) Any modification must be notified to DVLA and the registration document amended accordingly prior to submission for a licence.

- 17.7 No vehicle other than a vehicle that was originally manufactured for the purpose of carrying people will be accepted as part of an application as a new vehicle for a hackney carriage/private hire vehicle.

## **18.0 RADIOS**

- 18.1 Ensure that any telephone facilities and radio equipment provided are maintained in safe condition and that any defects are repaired promptly. The licensed operator will ensure that the licence issued by the Department of Trade and Industry for all radio equipment used is current and valid. All equipment must only be used on the frequencies stipulated in the D.T.I licence and the licensed operator must allow the Council access to inspect all equipment and D.T.I licenses.
- 18.2 Not to interfere with any other radio or telecommunication equipment.
- 18.3 Where apparatus for the operation of a two-way radio system is fitted, no part of the apparatus may be situated to cause accident or injury to the passenger, or in the rear boot compartment where LPG tanks or equipment are situated in them.

## **19.0 MINI BUSES**

- 19.1 These are in addition to all other conditions and apply to mini buses that are licensed as private hire vehicles and taxis.
- 19.2 All doors must be capable of being opened from the inside when locked from the outside.
- 19.3 The vehicle must have at least two doors to the rear of the driver for the exclusive use of passengers.
- 19.4 All doors must show the method of operation of door lock operating levers i.e. Pull or Push with directional arrows in 2-inch letters.
- 19.5 All emergency doors must be clearly identifiable as such to passengers and should be clearly marked "Emergency Exit" in 2-inch letters.
- 19.6 There must be unobstructed access to all Emergency Doors or exits. (Seats must be located to facilitate this).
- 19.7 All sliding windows in the passengers' compartment should be restricted to open six inches only to protect persons from head injury.
- 19.8 All steps at entrances and exits must be illuminated or have clearly visible markings at floor level.

## **20.0 WHEELCHAIR ACCESSIBLE VEHICLES**

- 20.1 These are in addition to all other conditions and apply to wheelchair accessible vehicles.
- (a) Vehicles offered for approval must be constructed in accordance with **M/M1**

(b) Every new type of wheelchair accessible vehicle must comply in all respects with the following requirements: -

Motor Vehicle (Type Approval) Regulations 1980  
Motor Vehicle (Type Approval) Regulations (Great Britain) 1984

And when in use with the following: -  
Road Vehicle (Construction and Use) Regulations 1986 (C&U).

- 20.2 When offered for approval the vehicle must comply with British and European Vehicle Regulations and by type approved to the requirements of the M or M1 category of European Whole Type Approval 70/156/EEC as amended. Those vehicles (e.g. van conversions) which have not been 'type approved' to M or M1 Categories must be presented with approved certification that the specific vehicle meets the requirements of one of those (i.e. M or M1) categories. Most registration certificates issued since late 1998 should indicate the approval status of the vehicle.
- 20.3 Approved anchorages shall be provided for the wheelchair and chair bound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheel chair and occupant must be independent of each other. Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folder or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- 20.4 The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of the door when opened must be 90 degrees.
- 20.5 The clear height of the doorway must not be less than 1.2 metres.
- 20.6 Grab handles must be placed at door entrances to assist the elderly and disabled.
- 20.7 The top of the tread for any entrance must be at floor level of the passenger compartment and must not exceed 38 cm above ground level when the vehicle is unladen. The outer edge of the floor at each entrance must be fitted with non-slip treads.
- 20.8 The vertical distance between the highest part of the floor and roof in the passenger compartment must not be less than 1.3 metres.
- 20.9 A ramp or ramps for the loading of a wheelchair and occupant must be available at all times for use at the nearside rear passenger door. An adequate locking device must be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision must be made for the ramps to be stowed safely when not in use.
- 20.10 All vehicles fitted with a mechanical tail lift must supply a tail lift safety certificate annually. This must be supplied upon renewal of the vehicle licence.
- 20.11 Wheelchair accessible hackney carriages must remain wheelchair accessible at all times.

20.12 When tested any wheelchair provision will be counted, as a permanent passenger seat and this will be marked on the licence plate.

## **21.0 GENERAL CONDITIONS**

21.1 The proprietor of a licensed vehicle shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number specified in the licence issued to that particular vehicle.

21.2 All vehicle proprietors must maintain a reasonable standard of behaviour in their dealings with the general public, other licensed operators, proprietors, and drivers of licensed vehicles and Authorised Officers of the Council.

21.3 The proprietor or driver of a licensed vehicle licensed by the Council shall furnish the Authorised Officers, such information relating to either the drivers or vehicles as is necessary to enable them to undertake their duties.

21.4 The proprietor or driver of a licensed vehicle licensed by the Council shall provide assistance necessary for carrying out the functions of the appropriate legislation to an Authorised Officer and any person accompanying the Authorised Officer.

The Authorised Officer will show their authorisation if required.

## **22.0 SPARE VEHICLE TRANSFER CONDITIONS**

22.1 The alternative vehicle must comply with the standard conditions for licensed vehicles and hold a current compliance and test certificate.

22.2 The alternative vehicle will have valid insurance cover when in use.

22.3 The temporary transfer licence will be valid for a maximum of ten days. An extension to this may be granted at the discretion of the Licensing Officer. Notification must be made to the Taxi Licensing Office when the spare vehicle is being used, this may be done by telephone out of normal working hours.

22.4 A valid temporary transfer licence must be held during the operation of any alternative vehicle.

22.5 The spare plate will be printed on the reverse of the main plate, to allow it to be turned over and displayed when in use. Where this is not possible alternative arrangements can be made with the Taxi Licensing Staff.

22.6 22.6 Notification must be received at the Taxi Licensing Office before the spare vehicle plate is used. The notification must contain details of reason for its use.

## **23.0 ACCIDENTS**

23.1 Without prejudice to the provisions of Section 25 of the Road Traffic Act 1972, the owner of the vehicle shall report to the Licensing Section as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof, any accident to the vehicle causing damage affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried

therein. Until the damage is repaired to the satisfaction of an Authorised Officer, the vehicle must not be used for hire unless written consent is received.

- 23.2 Accidents involving personal injury to passengers must be notified to the Police and Licensing Unit as soon as possible but in any case within forty-eight hours.

## 24.0 CCTV

- 24.1 No recording CCTV equipment shall be fitted without the written consent of the Council. Consent shall only be considered for a system that encrypts the data to avoid tampering. Where CCTV equipment is fitted a Council approved sign must be displayed in the vehicle warning customers that camera surveillance equipment may be in operation. Any image captured by the camera shall only be viewed by, or with the written permission of the Council or Police.

## APPENDIX 1 HEREFORDSHIRE COUNCIL

### LICENSED VEHICLE TESTING STANDARD – MECHANICAL AND STRUCTURAL

Items for test in addition to MOT test.

The item numbers refer to the item codes on the test sheet.

29	Spare Tyre	Correct size for vehicle and conforms to legal requirements.
32	Seat Belts	All seat belts must conform to legal requirements and be operational
33	Wiring	Ensure that correct load fuses are being used. Ensure that visible wiring is not so corroded or chaffed that in the opinion of the tester a short circuit is likely to occur. That all junctions and installations are electrically sound.
34	Battery	Ensure that the battery mounting is not so corroded that the battery may break loose. Ensure that the battery is anchored securely. Ensure that the casing of the battery is sound and is not likely to allow acid to escape.
35	Starter Motor	Ensure starter motor is mounted securely
36	Engine Mountings	Mountings must be secure and not so corroded that they may be likely to fail.
37	Oil Leaks	Oil leaks must not create any type of hazard for the vehicle, pedestrians or other road users.
39	Drive Shaft	Universal joints must be serviceable and mountings secure. There must not be any undue 'play'.
40	Gearbox	Mountings must be secure and not so corroded as to be likely to fail. Gear selection must not be noisy.
41	Rear Axle	No oil leaks
43	Clutch Operation	Must operate satisfactorily and not 'judder', 'grab' or 'slip' outside normal limits.
44	Clutch Linkage	No signs of undue wear and are not likely to fail.
45	Clutch Hydraulics	System, if fitted, must not be leaking or the pipes and fittings so corroded that they may fail.
46	Fuel System	Inspected for security, corrosion and leaks.
50	Windscreen	Screen must be clear and there are no scratches, damage or obstructions, which will impede the view of the driver.
51	Windows	All windows must be clear of any obstructions or damage, which will in any way impede the view of the driver. No curtains must be placed over the windows and any blinds if installed must not be of a type, which will restrict all round vision. All windows must be capable of being operated in a satisfactory manner. All windows must be fitted with glass, which complies with the British Standard.
54	Vehicle Structure	The structure must be in a sound condition with no signs of excessive corrosion or damage.



55	Speedometer	The speedometer shall work in a normal manner.
56	Odometer	The odometer shall work in a normal manner
57	Mirrors	All mirrors must be securely mounted and not cracked, broken or corroded so as to distort any view to the rear. Where a mirror is intended to be adjustable it must be capable of being adjusted.
58 59	Doors / Handles / Locks	All doors, including boot, must open and close easily from both inside and outside. Any door locking mechanism shall be easily operated by passengers. All doors and boots shall be secure when shut. All lock fittings shall be secure and complete. Grab handles where fitted must be secure and fit for the purpose.
60	Fascia / Interior Lights	The speedometer shall be correctly illuminated. All interior and passengers lights where fitted shall be secure and operate. All switches and fittings shall be secure and operate correctly. There shall be no exposed wires or large holes in the fascia.
61	Bumper	Front and rear bumpers must be fitted and securely mounted. They must not be so badly damaged or corroded as to make them unfit for their purpose.
62	Road Test	The vehicle must be capable of manoeuvring safely and 'handles' correctly without any undue drift or pull etc
63	Registration Plates	Checked for condition, correct location and that they conform to legal requirements.
65	Other	Any item, defect or fault which in the opinion of the Licensing Officer or the mechanical tester which renders the vehicle in their opinion, to be unfit for use as a hackney carriage or private hire vehicle will be noted as a fail.
66	First Aid Kit	The kit must comply with conditions 15.2
67	Fire extinguisher	Must comply with condition 15.1

## APPENDIX 2

### **HACKNEY CARRIAGES** **TESTING STANDARD – APPEARANCE / SAFETY / COMFORT / COMPLIANCE WITH LICENCE CONDITIONS**

Items considered in test: -

#### **1.0 External Bodywork**

The body work shall have no damage which materially affects the safety or appearance of the vehicle, shall not have signs of corrosion or have any sharp edges which may cause injury to passengers. The paintwork shall be clean, consistent and uniform over the whole vehicle. The paintwork shall be of a professional standard. All fitments shall be intact and free from any damage, stains or corrosion of any kind.

#### **2.0 Seats and Upholstery**

All seats, upholstery, trim and carpets must be clean and free from stains, holes, tears and damage of any form. There must be no sharp edges, which would be likely to cause injury or damage. Seat coverings must be sound, intact, fitted snugly to seats and be clean. The interior seat springs shall be sound and not penetrating the fabric of the seat. There shall be no loose rugs, blankets, cushions or other articles on the passenger seats.

#### **3.0 Floor**

The floor must be sound and covered by fitted vehicle carpets. If furnished with rubber mats they must be in a clean and undamaged condition. Carpet off cuts are not acceptable as mats in the vehicle. Only one mat per seat is acceptable. The floor coverings must not be so worn as to cause danger to passengers.

**4.0 Doors**

All fittings shall be secure, undamaged and capable of being operated at all times by the passenger. The door linings shall be intact, clean and free from holes, tears, stains or any other damage.

**5.0 Head Lining**

The head lining shall be intact, clean and free from holes, tears, stains or any other damage.

**6.0 Boot**

The boot shall be kept clean and free of any stains, spills etc. Matting if fitted must be in one piece and be capable of being cleaned. The boot must be kept clear for the use of passenger's luggage apart from the spare wheel and jack (and excepting specialised fitments for first aid or other equipment etc).

**7.0 Fire Extinguishers**

A fire extinguisher (of the specified type) must be located and a notice displayed in the vehicle to identify its location. The fire extinguisher must be so secured and unobstructed that it will not create any danger or hazard for the driver or passengers. The extinguisher shall be clearly marked with the number of the licence when granted, in a manner acceptable to Officers of the Licensing Unit.

**8.0 First Aid Kits**

First Aid kits shall be available to PSV standard. The kit shall be marked with the number of the licence when granted, in a manner acceptable to Officers of the Licensing Unit.

**9.0 Taximeter**

The taximeter shall be checked and tested to ensure that the current tariffs set by Herefordshire Council are not exceeded. The taximeter may be sealed by the Inspecting Officer, as he/she considers necessary.

**10.0 Fare Card**

The fare card must be clearly displayed in such a position as to be easily seen by passengers.

**11.0 Internal Plate Sticker**

The internal plate sticker shall be displayed in such a position as to be easily seen by the passengers.

**12.0 Exterior Plate**

The external identification plate issued by the Council shall be securely fixed to the vehicle in such a position as to be clearly visible from the rear of the vehicle, or, centrally on the rear of the vehicle, where a bracket behind the registration number plate is used.

**13.0 Top Light**

The top light where fitted must be capable of being illuminated. The light must be securely mounted and installed so as not to cause any danger or hazard to the driver, passengers, the public or other road users.

Where in the opinion of the Inspecting Officer the vehicle fails to reach the standard required by the Council for the issue of a hackney carriage licence, the applicant(s) or nominee will be

informed of the defects or grounds on which the vehicle has failed to reach that standard. The applicant(s) or nominee will then be given the choice of: -

Removing the vehicle from the test garage for the defects to be rectified and returning the vehicle within 7 days and/or 200 miles (where the vehicle is normally kept within 10 miles of the testing station), or within 7 days and/or 300 miles (where the vehicle is normally kept more than 10 miles from the testing station). The applicant or nominee shall also pay the appropriate re-test fee if required.

If the vehicle is not returned for re-test within 7 days the applicant or his/her nominee shall inform the Licensing Unit of the reasons why and any proposed further actions to be taken in respect of the vehicle. Re-tests after 7 days may incur full application fees.

**Please note: - This list is not exhaustive and additional items may be included as deemed appropriate by Officers of the Licensing Unit.**

### **Data Protection Act 1998**

This policy covers the treatment of personal data that Herefordshire Council may collect when you e-mail us, complete an application form, or when you complete and submit an online form on our web site.

When completing forms you may be asked for personal information such as name, address, postcode etc. It is only when you supply this type of information that you can be personally identified.

Herefordshire Council is registered with the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the Council will be processed in compliance with the principles set out in the Act.

Further information relating to the Data Protection Act 1998 can be sent to you on request.

If you have concerns about the processing of your personal data by the Council you may contact the Council's Data Protection Officer:

Data Protection Officer,  
County Secretary and Solicitor  
Herefordshire Council  
Brockington  
35 Hafod Road  
Hereford HR1 1SH



<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2010</b>
<b>TITLE OF REPORT:</b>	<b>APPLICATION FOR APPROVAL FROM PONTING &amp; BETTY LTD TO BE ON HEREFORDSHIRE COUNCIL'S APPROVED LIST FOR WHEELCHAIR ACCESS FACILITIES &amp; N1 CONVERSION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES</b>
<b>PORTFOLIO AREA:</b>	<b>HEAD OF ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS ENVIRONMENT &amp; CULTURE</b>

**Classification:** Open

### **Wards Affected**

Countywide

### **Purpose**

To consider approving Ponting & Betty Ltd as an '*approved manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire*' and as '*an approved manufacturer of N1 conversions*'. The address of the company is given below:

- Ponting & Betty Ltd,  
Bernard Mansell,  
Media House,  
St James Mill Road,  
Northampton.  
NN5 5JW.

## Recommendation

THAT Committee:

**Accept Ponting & Betty as an approved manufacturer/installer of wheelchair facilities for their Volkswagen and Mercedes taxi adaptations as listed in Table 1 in this report, but not for their Ford Transit adaption. Also not to approve them as a general N1 converter for licensed vehicles.**

## Reasons for Recommendations

Based on the information submitted, the licensing authority believes that Ponting & Betty have met the criteria required for their wheelchair installation and conversion for their Volkswagen and Mercedes taxi adaptations, i.e. the Mercedes Town Cab, Mercedes BM8, VW Unique Cab, VW Town Cab, VW Caravelle Cab and VW City 7.

Although Ponting & Betty had adequate quality assurance, no independent test certification could be produced to support the suitability of their Ford conversion's wheelchair installation.

Likewise, no independent test certification could be produced to prove that any of the vehicles could be converted solely as minibuses, without wheelchair facilities. The tests were specifically for the wheelchair restraints and their seatbelt anchorage as well as the altered seating around this.

## Key Decision

This is not a key decision

## Legal Implications

The addition of Ponting & Betty Ltd to the Council's approved lists will enable operators of private hire vehicles or hackney carriages to use vehicles converted by this company without the need of a VOSA test.

## Introduction and Background

1. On 15 July 2008 the Regulatory Committee met to update the conditions for licensed vehicles in respect to a required test to ensure that vehicles retrofitted with wheelchair access facilities were safe and fit for use. The Committee agreed that the Council would normally approve wheelchair access vehicles for hackney or private hire *only* if they met the following criteria:-
  - i. The manufacturer must 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
  - ii. The manufacturer must prove to the Council that its vehicle has relevant safety standards and is able to demonstrate consistent manufacture to that standard

2. It is anticipated that on the day of this report (9<sup>th</sup> February 2010) the requirement mentioned in paragraph 2 above will be consolidated into new conditions to be approved by the Regulatory Committee. It is also anticipated that the new conditions will allow a similar list for converted N1 vehicles.
3. In August 2008 the licensing section wrote to all known installers / manufacturers of wheelchair facilities used in Herefordshire's taxi fleet to inform them that they must either seek approval to be on this list or that they obtain a VOSA test to ensure safety.
4. An application was then received from Ponting & Betty Ltd which was duly considered by the Regulatory Committee on 7<sup>th</sup> October 2008 along with five other manufacturers. However, as the application was lacking in the information requested the committee resolved to refuse the application from Ponting & Betty, although it invited them to reapply should they obtain an approved quality assurance accreditation and further prove that independent testing had been undertaken to verify the safety of the wheelchair facilities they install. (See Appendix 1 in background papers for extract of minutes from 7<sup>th</sup> October 2008).
5. The Licensing Team therefore informed Ponting & Betty of the decision reached by committee (See Appendix 2 - email sent 17<sup>th</sup> October 2008 stating why the application failed and giving advice on how to submit information likely to lead to approval).
6. Ponting & Betty were therefore asked to produce evidence for their wheelchair access vehicles in the following categories:
  - i. Details of any test certificates that would help demonstrate that their vehicle meets the industry standard for the installation of wheelchair access facilities (e.g. a 'Status' test or a 'Mira' test). If unavailable, they were asked to provide a VOSA Single Vehicle Approval Standard Test, for class D (disabled) and P (import).
  - ii. A quality assurance certificate to prove that they always manufacture to this standard.
  - iii. Documentation to demonstrate that there are procedures in place to ensure consistent installation of the wheelchair facility in accordance with the prototype which complies with the test certificates mentioned in (i) above.
  - iv. The list of vehicles seeking approval and their approval certificate numbers from the VCA.
8. Following a telephone enquiry from Ponting & Betty to the Licensing Team in November 2009, on 27 November 2009, this advice was resent by email thus confirming that previously given. (See Appendix 3).
9. On 2<sup>nd</sup> December 2009 a revised application from Ponting & Betty was received by Herefordshire Council by way of an email. They wished their vehicles to be approved

by the Council's Regulatory Committee for both wheelchair access and conversion because they believed that they now had *relevant safety standards and were able to demonstrate consistent manufacture to that standard*. (See Appendix 4 in background papers for application). However, the email only included evidence for their Mercedes conversions.

10. The Licensing Team therefore discussed the lacking information with Ponting & Betty. They stated that their wheelchair facilities and conversions have got full European approval and undertook to send further information to support this for all their conversions. This information was received by email on 14<sup>th</sup> January 2010. (See Appendices 5 and 6).
11. For ease of reference, Table 1 below summarises all the collated information so far provided against the criteria requested:



**Table 1: Summary of Information Provided to Herefordshire Council**

	<b>Test Certificates submitted</b>	<b>Quality Assurance docs / info received</b>	<b>List of vehicles for approval and VCA Type Approval docs submitted</b>
<b>Ponting &amp; Betty</b>	<p><u>Mercedes Conversions</u> 'Status Test' for a seatbelt anchorage report' for a <i>Mercedes Vito LWB Taxi Adaptation</i> was submitted. This was for a shell of a long wheel based Mercedes and considered suitable by Status to test the Mercedes Town Cab and Bm8 vehicles for which approval is sought for. The test was dated 1<sup>st</sup> March 2006. This test was witnessed by the Vehicle Certification Agency. The test showed compliance with the positional and strength requirements of the relevant EC Directive for seat belt anchorage and it also showed compliance with the 'Motability' standard for wheel chair restraints.</p> <p><u>Volkswagen Conversions</u> 'Status Test' for a seatbelt anchorage report' for a <i>Volkswagen T5 Taxi Adaptation</i> was submitted. This was for the shell of a Volkswagen under two configurations, and was considered suitable by Status to test all the Volkswagen vehicles for which approval is sought for. The test was dated 31<sup>st</sup> March 2005. This test was witnessed by the Vehicle Certification Agency. The test showed compliance with the positional and strength requirements of the relevant EC Directive for seat belt anchorage and it also showed compliance with the 'Motability' standard for wheel chair restraints.</p> <p><u>Ford Transit Conversions</u> Comment in email of 14<sup>th</sup> January 2010 from Steve Ponting reads "<i>I have not included the Transit as there are no references to wheelchairs. I have spoken to STATUS but unfortunately their records are the same as ours, although we know this vehicle was tested as an additional test specific for Buckingham County Council. It may well be that they hold the information, but unfortunately this was back in 2003 and the people we dealt with are no longer there</i>".</p>	<p>ISO 9001:2008. Certificate 2008 –0466. This QA accreditation covers the 'design, manufacture and conversion of wheelchair accessible private hire vehicles and taxis and other vehicles'.</p> <p>First issued 8 May 2009</p> <p>Current issue 8 May 2009</p> <p>Valid until 7 May 2012</p>	<p>Mercedes Town Cab EC Type approval No. LC/360/A/062V</p> <p>Mercedes BM8 EC Type approval No. LC/360/A/062V</p> <p>VW Unique Cab EC Type approval No. LC/382/A/085V</p> <p>VW Town Cab EC Type approval No. LC/383/A/086V</p> <p>VW Caravelle Cab EC Type approval No. LC/383/A/086V</p> <p>VW City 7 EC Type approval No. LC/382/A/085V</p> <p>Ford Unique Cab EC Type approval No. LC/359/A/061V</p>

## Key Considerations

Whether or not to accept Ponting and Betty as an approved manufacturer and converter.

## Key Points Summary

- Application made to Regulatory Committee in August 2008 but not accepted for wheelchair installation
- Application remade in December 2009 with additional information
- Additional information submitted in January 2010 to support application,

## Alternative Options

- A) To approve Ponting & Betty Ltd as an approved installer for their Ford Conversions as well

**Advantages:** It allows the trade to use all their conversions without the need for a VOSA test.

**Disadvantages:** There is an area of doubt in relation to the Ford's performance under crash conditions, as independent testing could not be proven.

- B) To approve Ponting & Betty Ltd as both an approved installer for all their wheelchair conversions and as an approved converter for N1 for the vehicles listed.

**Advantages:** It allows the trade to use their all their conversions without the need for a VOSA test, both for wheelchair conversions and as minibus conversions (without wheelchair access).

**Disadvantages:** There is an area of doubt in relation to the wheelchair performance under crash conditions for the Ford Transit wheelchair conversion and the performance of seating under crash conditions for any minibus conversions (without wheelchair access), as independent testing was not submitted for these.

- C) To defer the decision to require further information.

**Advantages:** It may allow additional information should the committee require this.

**Disadvantages:** This will delay Ponting & Betty's potential acceptance and may therefore pose a financial burden on both the trade and manufacturer.

- D) To refuse the application.

**Advantages:** It will ensure that only individually tested vehicles by Ponting & Betty will be permitted and will not be reliant on consistency of manufacture.

**Disadvantages:** If the application is deemed suitable, this would not follow the precedent already set for other approved manufacturers.

- E) To come to some other conclusion.

**Advantages:** This leaves other options open to the Committee to resolve the matter.

**Disadvantages:** There are no clear directions from the Head of Environmental Health & Trading Standards in respect to alternatives.

## Community Impact

It is felt that any decision will have only a minor impact on the community as a whole, as it relates specifically to the taxi trade.

## **Financial Implications**

Not significant to the Council.

## **Appendices**

Appendix 1 – Extract of minutes from 7th October 2008 refusing application

Appendix 2 – Email sent 17th October 2008 confirming requesting further information

Appendix 3 – Email sent 26th November 2009 confirming advice

Appendix 4 – Initial application from Ponting & Betty via an email dated 2nd December 2009

Appendix 5 – Additional information from Ponting & Betty with email dated 14th January 2010

Appendix 6 – Email from Ponting & Betty dated 14th January 2010



EXTRACT FROM REGULATORY COMMITTEE MEETING OF 7<sup>TH</sup> OCTOBER 2008

(Reference to Ponting and Betty Ltd shown in bold text)

**ITEM 52.**

**APPLICATION FOR APPROVAL OF 6 MANUFACTURERS / INSTALLERS OF WHEELCHAIR ACCESS FACILITIES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

To consider approving six independent and separate companies as approved manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.

Minutes Read:

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

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

The Committee discussed the details of each of the applicants. The Acting Regulatory Services Manager described the relevance of the supporting documentation received from each of the applicants and advised that the benchmark for acceptability that he had used was Quality assurance ISO 90001. He had looked at the way in which each manufacturer had demonstrated that they could fulfil the requirements of the Council which had been established in May this year, that their vehicles were manufactured to relevant safety standards regarding wheelchair accessibility. Having considered the documentation put forward by each applicant, the Committee was satisfied that applicants (i) and (iv) fulfilled the Council's criteria.

**Further information was required from applicants (ii), (iii) & (v) but subject to the officers subsequently being satisfied, those manufacturers could be approved.** The Committee was not satisfied that applicant (vi) could comply and was refused.

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

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

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

**RESOLVED THAT:**

- (I) that the following applicants be approved for the purpose of being manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire:-
  - (a) Allied Vehicles Ltd, Glasgow and
  - (b) Oughtred & Harrison (Facilities) Ltd, Goole, Humberside.
  
- (II) **subject to the provision of further information to the satisfaction of the Acting Regulatory Services Manager, the following applicants be approved for the purpose of being manufacturers of wheelchair access vehicles to be used as licensed vehicles in Herefordshire:-**
  - (a) GM Coachwork Ltd, Newton Abbot, Devon
  - (b) LDV Group Ltd, Birmingham; and
  - (c) **Ponting & Betty Ltd, Northampton**
  
- (III) the application from Stanford Coachworks Ltd, Essex be refused for the purpose of being a manufacturer of wheelchair access vehicles to be used as licensed vehicles in Herefordshire.
  
- (IV) in the case of vehicles licensed by the Council which have wheelchair equipment fitted but the manufacturer or installer has applied for the approval of the Council and has been refused, the vehicles be allowed to continue to operate until such time as a voluntary standard VOSA Single Vehicle Approval Test is passed.

## APPENDIX 2

**From:** Willimont, Marc  
**Sent:** 17 October 2008 17:31  
**To:** 'steveponting@bernardmansell.com'  
**Subject:** Application for Approval from Herefordshire Council - Wheelchair Access  
Steve,

Further to the discussion with your colleague on Friday 17th Oct, I confirm that Herefordshire Council's Regulatory Committee could not approve Ponting & Betty's application for wheelchair access made in August 2008.

Although minded to accept, they felt that more information was required, this being:

- The application implied that the QA ISO 9001 was still being applied for. The Committee were not prepared to give approval until attained.
- The application did not include detailed information on independent test certificates for each of the vehicles applied for, e.g. VOSA tests, Status tests, Mira tests etc. An extract was included in the application which only covered the VW 'T5' taxi conversion.

Please could you therefore:

- i. Send the appropriate certificates for the vehicles applied for, namely the VW Unique Cab, VW Town Cab, VW Caravelle Cab, VW City 7, Mercedes Town Cab, Mercedes BM8 and Ford Unique Cab. These certificates would normally be from VOSA, Status or Mira or other reputable and independent agency.
- ii. Please also confirm that QA 9001 has been attained by providing a copy of the certificate. If not yet attained, please could you inform us of the anticipated date of accreditation.

The forms/certificates can either be scanned & emailed or posted over to the address below, being marked for my attention.

Look forward to your response.

**Marc Willimont,**  
Acting Regulatory Services Manager,  
Licensing, Markets & Fairs,  
Environmental Health and Trading Standards,  
Herefordshire Council,  
Bath Street Offices,  
Bath Street,  
Hereford.  
HR1 2HQ

Tel. 01432 261986  
Fax. 01432 261982

**email:** [mwillimont@herefordshire.gov.uk](mailto:mwillimont@herefordshire.gov.uk)





## APPENDIX 3

**From:** Willimont, Marc  
**Sent:** 26 November 2009 21:41  
**To:** 'steveponting@bernardmansell.com'  
**Cc:** Dean, Gemma  
**Subject:** FW: Application for Approval from Herefordshire Council - Wheelchair Access  
Steve,

Gemma Dean has referred your enquiry to me. Please see my email to you from last year. The advice has not changed, so to take things back to committee you will need to address the points I flagged up in Oct 2008.

Look forward to receipt of outstanding certificates and your QA 9001 certificate.

If you are unable to oblige, each and every vehicle requiring approval in Herefordshire will have to be independantly tested by VOSA under their Standard SVA test.

regards

Marc

**Marc Willimont,**  
Acting Regulatory Services Manager,  
Licensing, Markets & Fairs and Bereavement Services,  
Environmental Health and Trading Standards,  
Herefordshire Council,  
Bath Street Offices,  
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**Subject:** Application for Approval from Herefordshire Council - Wheelchair Access

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- ii. Please also confirm that QA 9001 has been attained by providing a copy of the certificate. If not yet attained, please could you inform us of the anticipated date of accreditation.

The forms/certificates can either be scanned & emailed or posted over to the address below, being marked for my attention.

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**STATUS**  
SPECIALIST TRANSPORT ADVISORY & TESTING UTILITY SOCIETY

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Web: [www.status.org.uk](http://www.status.org.uk)

**SEAT BELT ANCHORAGE TEST REPORT**

**REPORT REF No: 1146T**

FOR A IN-VEHICLE  
TEST TO DIRECTIVE 76/115/EEC  
AS AMENDED BY 96/38/EC.

**CONFIDENTIAL**



Manchester  
Metropolitan  
University

## 1. Summary

**Vehicle:** Volkswagen T5 Taxi Adaptation.

**Company:** Bernard Mansell Commercials

**Test Standard:** 76/115/EEC as amended by 96/38/EC

**Tests conducted by:** Richard Vernon Bsc (Hons).

**Test date:** 31/03/2005

**Witnessed by:** James Eccleston on behalf of the Vehicle Certification Agency.

**Report prepared by:** Firasse Ahmed

**Report checked by:** Michael Hughes BSc, C eng, MIMechE  
STATUS Manager

**Summary of results:** The vehicle tested complied fully with the EC Directive.

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### 3. Definitions

The Directive 76/115/EEC as amended by 96/38/EC shall hereafter be known as the Directive.

The three-dimensional 'H' point machine, used to determine 'H' points and torso angles, shall hereafter be known as the 'Manikin'.

The 'H' point is defined using the Manikin and corresponds to the pivot centre of the Manikin's torso and thigh (the hip).

The seating reference point, 'R' is defined by the vehicle manufacturer. Its coordinates must be within a square of size 50mm horizontally and 50mm vertically with the 'H' point at the centre of area.

The effective belt anchorage, or effective anchorage means the point to which a strap would need to be attached to provide the same lie as the belt when worn. (i.e. the last rigid guide which the belt touches before reaching its wearer). This is not necessarily where the seat belt bolts to the vehicle (the actual anchorage).

The 'S' distance is the distance between the effective upper belt anchorage and a plane parallel to the median longitudinal plane of the seat.

The STATUS seat belt anchorage test rig shall hereafter be known as the rig.

#### **4. Requirements of Directive 76/115/EEC as amended by 96/38/EC**

##### **4.1. Positional requirements**

The seating reference point, 'R' shall be determined according to Directive 77/649/EEC (Drivers Forward Visibility) as amended by 90/630/EEC using the Manikin constructed by the SAE to ISO Standard 6549 - 1980.

In order to comply with the Directive the following positional requirements shall be satisfied:

The anchorages must be suitable for attaching belts of the correct type.

The angles made between the horizontal and a line between the lower anchorages and the 'R' point must be within the limits specified by the Directive, for the seat. (See Appendix 1).

The separation of the lower anchorages must be greater than or equal to the limit set by the Directive (350mm for all seats).

The distance of each lower anchorage from the median longitudinal plane of the seat must be greater than or equal to the limit set by the Directive (120mm for all seats).

The 'S' distance must be greater than or equal to the limit set by the Directive (140mm).

The effective upper anchorage must lie in a zone constructed according to the Directive depending on the 'R' point, torso angle and 'S' distance.

##### **4.2. Strength requirements**

The seat belt anchorages shall be subjected to tractive forces in a forward direction at an angle of 5° to 15° above the horizontal, in a plane parallel to the median longitudinal plane of the vehicle. The forces shall be transmitted using traction devices, as described in the Directive.

If one or more of the seat belt anchorages are attached to the structure of the seat, an additional load shall be added according to the weight of the seat and a factor defined in the Directive. The required loads and factors are shown in Appendix 2.

The anchorages must withstand this load for not less than 0.2 seconds. Partial failure shall not constitute a failure provided that the minimum requirements for separation of the lower anchorages, and height of upper anchorage are maintained.

## **5. Test Equipment**

### **5.1. The rig**

The rig used was a free standing structure with horizontal beams that could be moved into appropriate positions in order to clamp down the vehicle. A total of ten hydraulic rams were fitted to a carrier of which only six were required for the test. The rams were provided with a means vertical and horizontal position adjustment as well as having angular freedom in a vertical plane parallel to the longitudinal plane of the rig.

### **5.2. Instrumentation**

Loads were measured using load cells with full bridge strain gauges, which were calibrated using an Instron 8500 dynamic testing machine (Serial No: 8500 H1715), with calibration traceable to primary standards. Voltage outputs were sampled at a rate of 100Hz through a data acquisition card to a computer. These voltages were buffered and then used to generate load against time graphs using the calibration factors previously obtained.

### **5.3. Monitoring Equipment**

The testing was monitored visually and recorded on video. 'Before and after' still photographs were taken using a digital camera.

### **5.4. Test Equipment Appraisal**

The test equipment is appraised to perform tests to EC directive 76/115/ECE as amended by the Vehicle Certification Agency



## 6. Test Vehicle / Structure

The vehicle submitted for testing was Volkswagen T5 taxi adaptation. The vehicle had two front doors, two side sliding doors and rear tailgate.

In the first vehicle configuration a dividing bulkhead was fitted behind the drivers and front passenger seats. The bulkhead was secured to the vehicle's floor via bolts through the floor, two brackets fastened to the vehicle B pillar via one M8 bolt and star rivnut for each pillar and a diagonal support fixed to the passenger floor via 3 M8 bolts and rivnuts.

The first row of seats was three reverse facing tip-up seats. The seats were fixed to the bulkhead. None of the seat belt anchorages were on the seats structure, they were all fastened to the bulkhead.

A space for a reverse facing wheelchair was located between the B & C pillars. The wheelchair rear restraints were fixed to the bulkhead such that the rear of the wheelchair would butt up against the bulkhead and use the middle reverse tip-up seat seat belt as the wheelchair occupant restraint.

In the second vehicle configuration, the bulkhead was replaced with six lengths of Koller heavy duty tracking. The tracking pair separation was 500mm.

The second row of seats was three Bernard Mansell reverse facing tip-up seats. The seats were located near the B pillar. The seats were bolted through the tracking and the vehicle floor via four M10 bolts (no lockables)

The second wheelchair space was for a forward facing wheelchair secured to the floor via two front and two rear Slide 'n' Click Q'Straint fixings. The arrangement at the front and rear restraints was identical in terms of location into the vehicle floor. The rear restraints also provided the lower occupant restraints in lap only configuration.

Refer to the pre-test photographs shown in Appendix 5.

## 7. Results

### 7.1. Effective anchorage positions

A drawing showing the position of the 'H' point in relation to the effective belt anchorages, with regard to the requirements, is shown in appendix 3.

### 7.2. Test description

The following list includes details of the tests undertaken with reference to the test number.

- 1146\_2097 Test of first row of reverse facing bulkhead mounted seats was tested to standards laid down for M1 category (M3 load for reverse facing seats).
- 1146\_2098 Test of the reverse facing wheelchair rear restraints in bulkhead to standards based on Motability standards.
- 1146\_2099 Test of second row of reverse facing Bernard Mansell seats was tested to standards laid down for M1 category (M3 load for reverse facing seats).
- 1146\_2101 Test simulation of the forward facing Q straint wheelchair rear & occupant restraint (Lap configuration) with loads applied in the rear direction to standards based on Motability standards.

See Appendix 4 for complete test log.

### 7.3. Loads applied

The additional applied loads were derived by multiplying the seat weight (declared or measured) by 9.81 and a weight factor of 20 This was then added to the lap belt load as specified in the directive (See appendix 2) to produce the loads shown in the following table:

Test Reference	Load applied to each traction device	Results Filename
1146_2097	4.50 kN (lap belt) 4.5 KN (diagonal belt)	1146_2097.res
1146_2098	11.10 KN (W/chair)	1146_2098.res
1146_2099	4.50 kN (lap belt) 4.5 KN (diagonal belt)	1146_2099.res
1146_2101	44.5 KN (W/chair)	1146_2101.res

#### **7.4. Loads held**

The loads held were as shown in the graphs found in Appendix 7:

#### **7.5. Condition of vehicle following test**

Following each test the vehicle was visually examined; during this examination the condition of the vehicle and components were noted. The examination results in the following observations:

- 1146\_2097 Deformation of B-pillars adjacent to star rivnuts most noticeable on LHS pillar with 'legs' of rivnut just starting to show through drilled attachment hole.
- 1146\_2098 No discernible damage to bulkhead structure
- 1146\_2099 Slight loosening of base with front legs primarily pushing down on front base bar.
- 1146\_2101 Floor pulled up directly adjacent to Q'straint fixings.

Post-test photographs are shown in Appendix 6.

## **8. Conclusions**

The vehicle seat belt anchorages tested complied with the positional requirements of Directive 76/115/EEC (as amended up to and including 96/38/EC) as demonstrated by the drawing in Appendix 3.

The vehicle seat belt anchorages tested complied with the strength requirements of Directive 76/115/EEC (as amended up to and including 96/38/EC) as shown in the graphs in Appendix 7.

The reverse facing wheelchair rear restraints complied with the strength requirement based on Motability standards in the reverse direction.

The forward facing wheelchair rear restraints complied with the strength requirements based on Motability standards in the forward direction when simulated in the reverse direction.

The forward facing wheelchair occupant restraints in lab configuration complied with the strength requirements based on Motability standards in the forward direction when simulated in the reverse direction.

**Appendix 1 - Angular Requirements.**

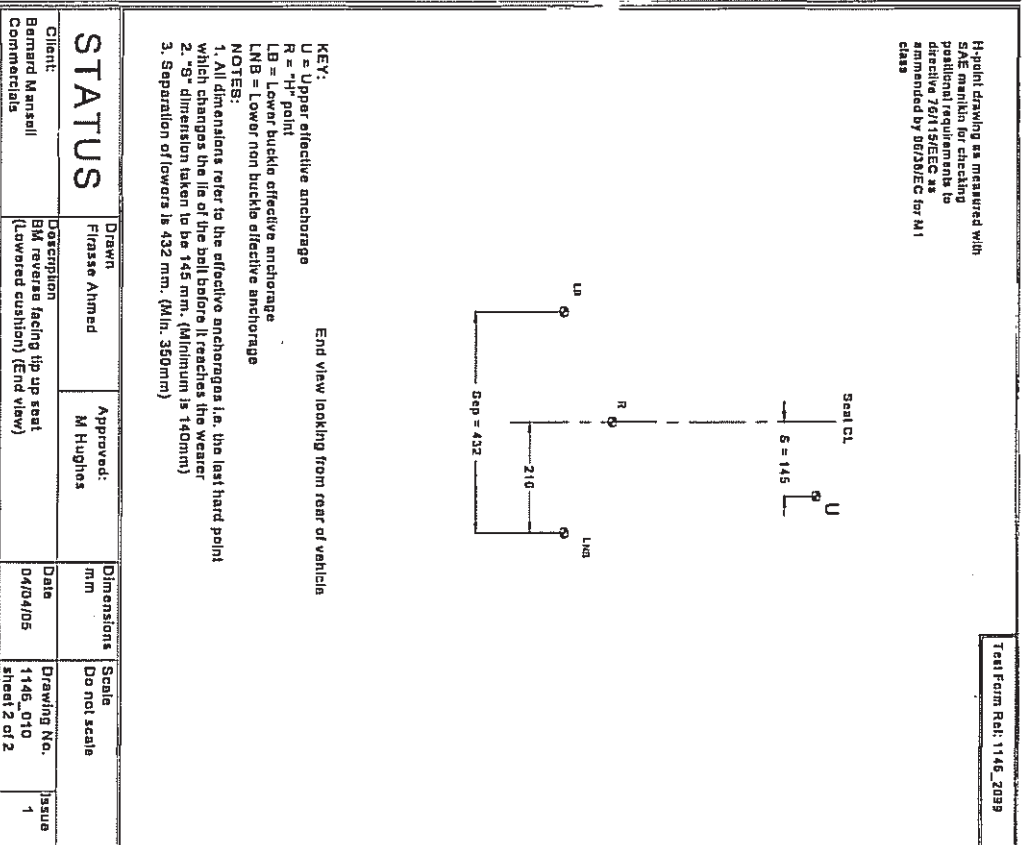
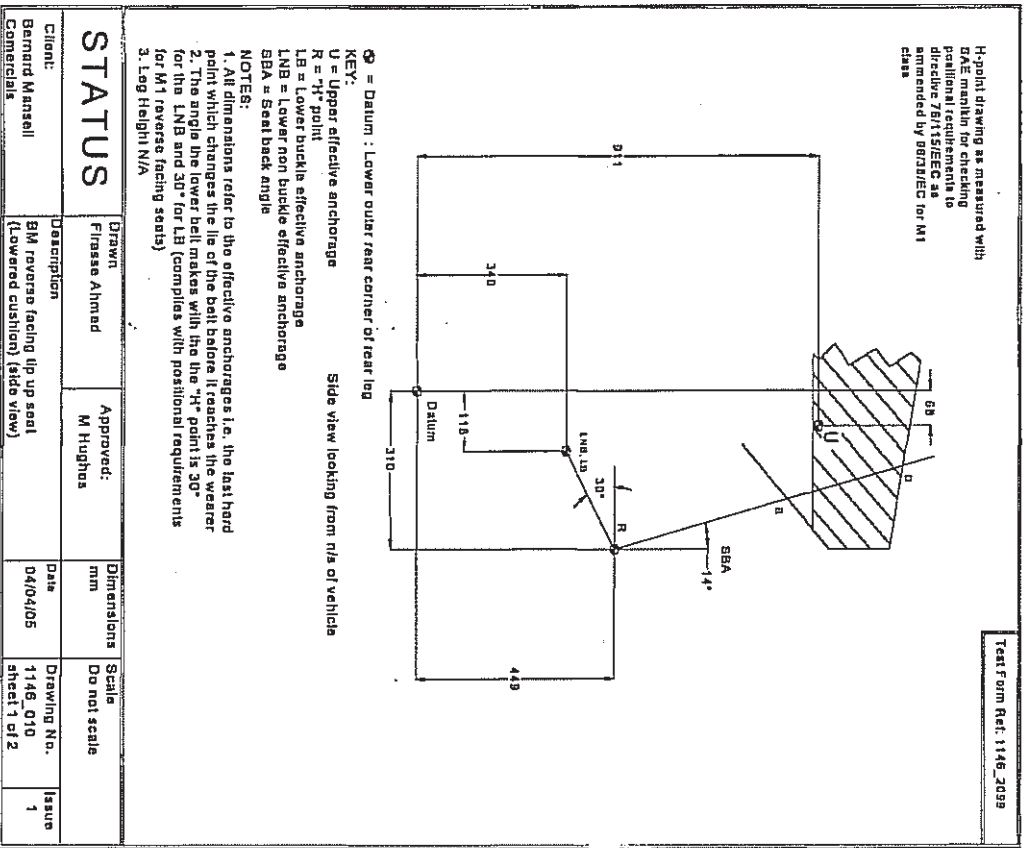
Seat		M1	M2 & M3
Front	buckle side ( $\alpha_2$ )	45°-80°	30°-80°
	other than buckle side ( $\alpha_1$ )	30°-80°	30°-80°
	angle constant	50°-70°	50°-70°
	bench - buckle side ( $\alpha_2$ )	45°-80°	20°-80°
	bench other than buckle side ( $\alpha_1$ )	30°-80°	20°-80°
	adjustable seat with back angle <20°	45°-80° ( $\alpha_2$ ) 20°-80° ( $\alpha_1$ )	20°-80°
Rear		30°-80°	45°-90°
Folding	No belt required. If anchorage fitted: see angle requirements Front and Rear		

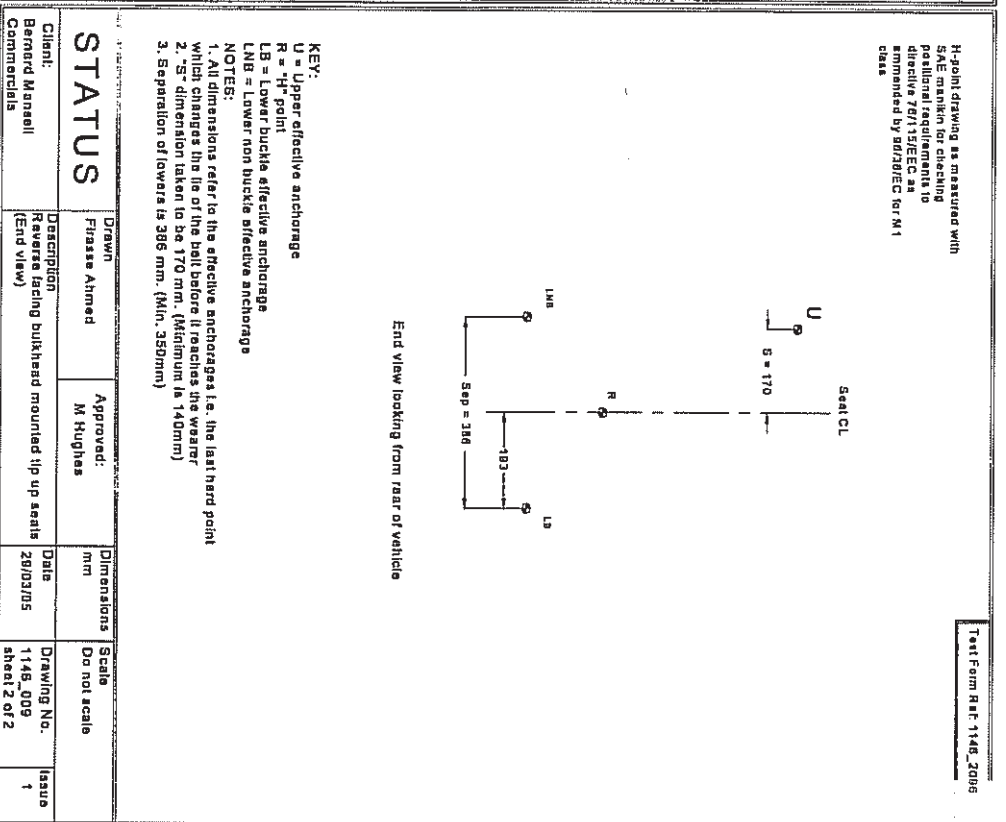
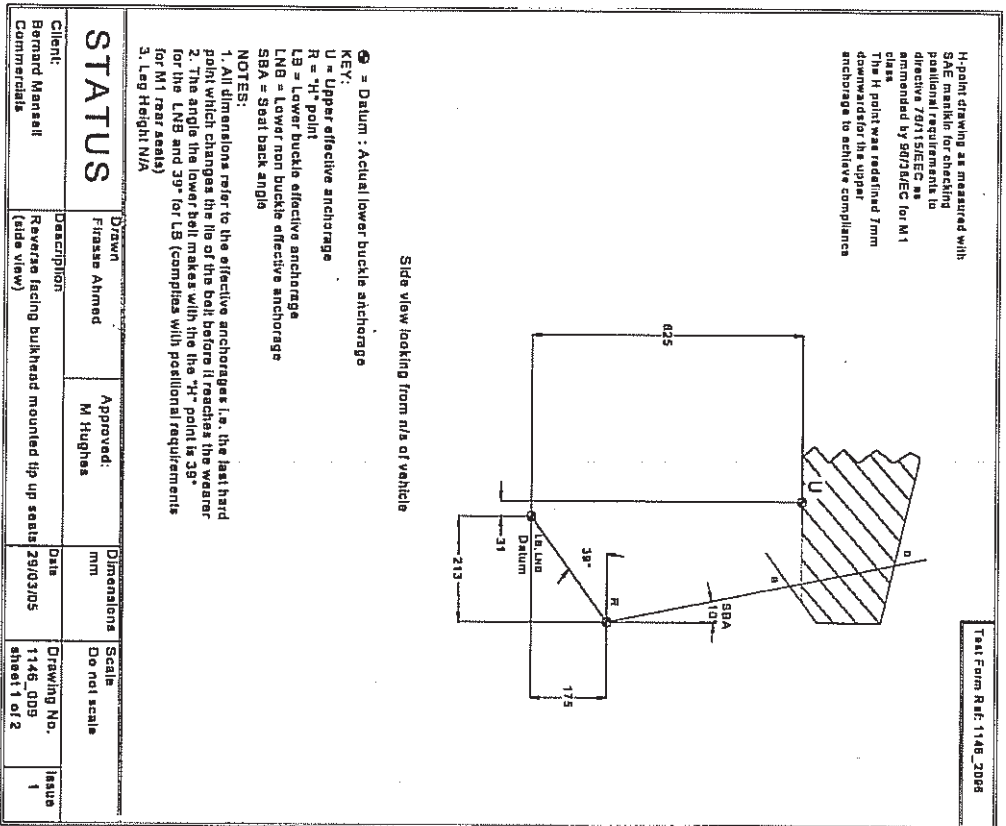
**Appendix 2 - Load requirements.**

Category	Load per ram 3-point	Load - lap belt	Weight of seat factor
M1	13.5kN	22.25kN	20
M2	6.75kN	11.10kN	10
M3 or rearward facing	4.5kN	7.40kN	6.6

**Appendix 3 - 'H' point drawing.****Drawings Supplied:**

Drawing Number	Title
1146_009	Reverse facing bulhead mounted tip-up seat
1146_010	B M reverse facing tip up seat (Lowered cushion)







## Appendix 4 – Test log.

Test number	Date	Manufacturer ref.	Seat Description and test observation	Leg Separation (mm)	Leg Height F/R (mm)	Weight (kg)	Trip load (kN) Lower	Trip load (kN) Upper	Result (Pass/Fail)	Single/Double/Triple	M1/M2/M3 Destruct	3 pt / lap / harness	Results Filename
2097	21 Mar 2005	1146	Volkswagen T5. Single nut and bolt taken from support bar base plate 3 x reverse facing lip-ups (GM version) on fabricated bulkhead. No anchorages on seat itself - all on bulkhead. Further deformation of B-pillars adjacent to star rivnuts; most noticeable on LHS pillar with 'legs' of rivnut just starting to show through drilled attachment hole	n/a	n/a	0.00	4.50	4.50	Pass	3	M3	3p3p3p	1146_2097.RES
2098	21 Mar 2005	1146	Volkswagen T5. Reverse facing wheelchair restraints. Note intended upper for occupant would be through bulkhead (e already tested. No discernible damage to bulkhead structure	n/a	n/a	0.00	11.10	0.00	Pass	1	M2	1	1146_2098.RES
2099	21 Mar 2005	1146	Volkswagen T5. 3 x reverse facing lip-ups (BM version) Seats sit in Koller heavy duty tracking. 4 x M10s used to fasten seats to twin tracking; seat base 'front' base bar 2250mm from rear of vehicle. tracking pairs separated by 500mm. Seats bolted through tracking and floor ie NO lockables.. Slight loosening of base with front legs primarily pushing down on front base bar	n/a	n/a	20.45	5.82	4.50	Pass	3	M3	3p3p3p	1146_2099.RES
2101	21 Mar 2005	1146	Volkswagen T5. Reverse facing wheelchair restraints. Qstraint 'mushrooms' replicating forward pull ie same arrangement respective to under-floor beam Floor pulled up directly adjacent to Qstraint fixings	n/a	n/a	0.00	22.25	0.00	Pass	2	m1	11	1146_2101.RES

Appendix 5 - Pre-test photographs.

Figure 5.1 – Vehicle on test rig.

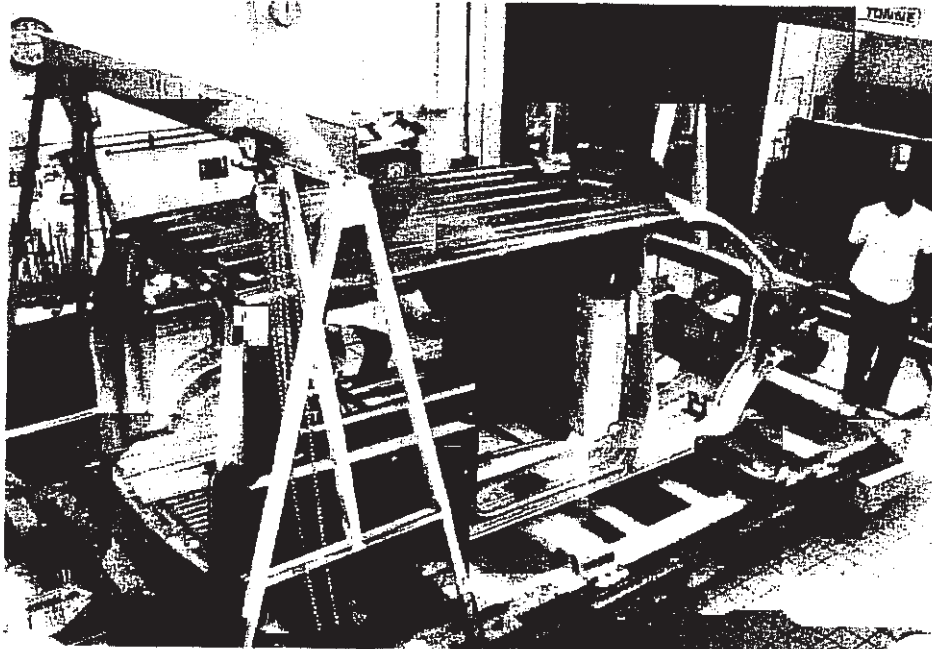


Figure 5.2- 1146\_2097 Pre test picture

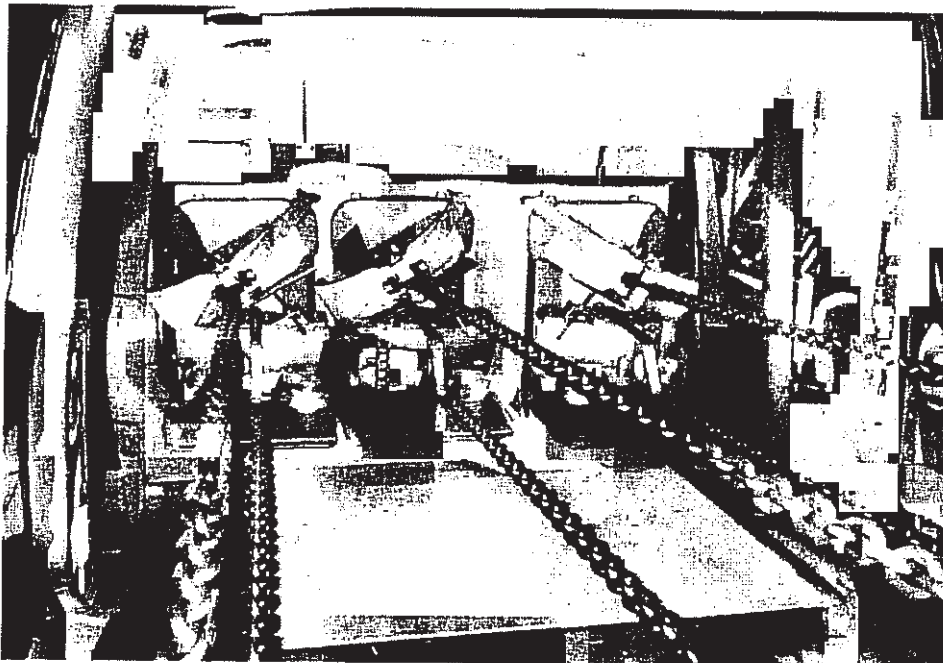


Figure 5.3- 1146\_2098 Pre test picture

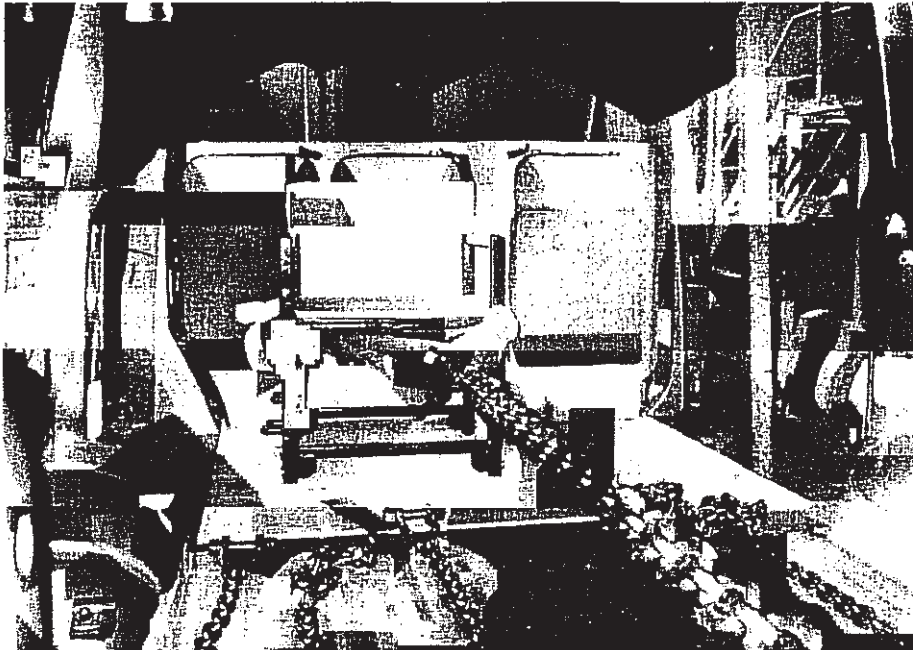


Figure 5.4- 1146\_2099 Pre test picture

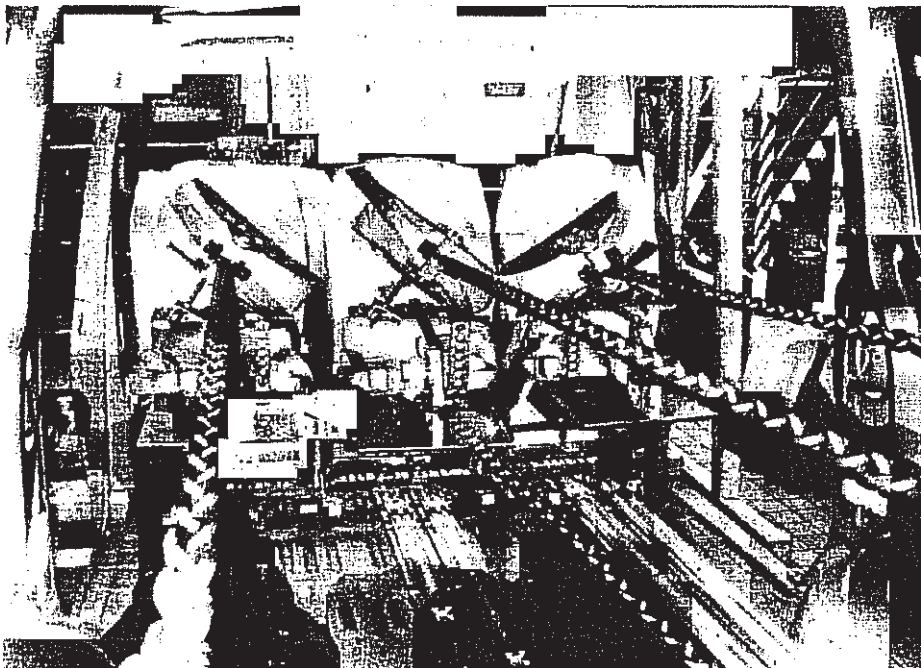
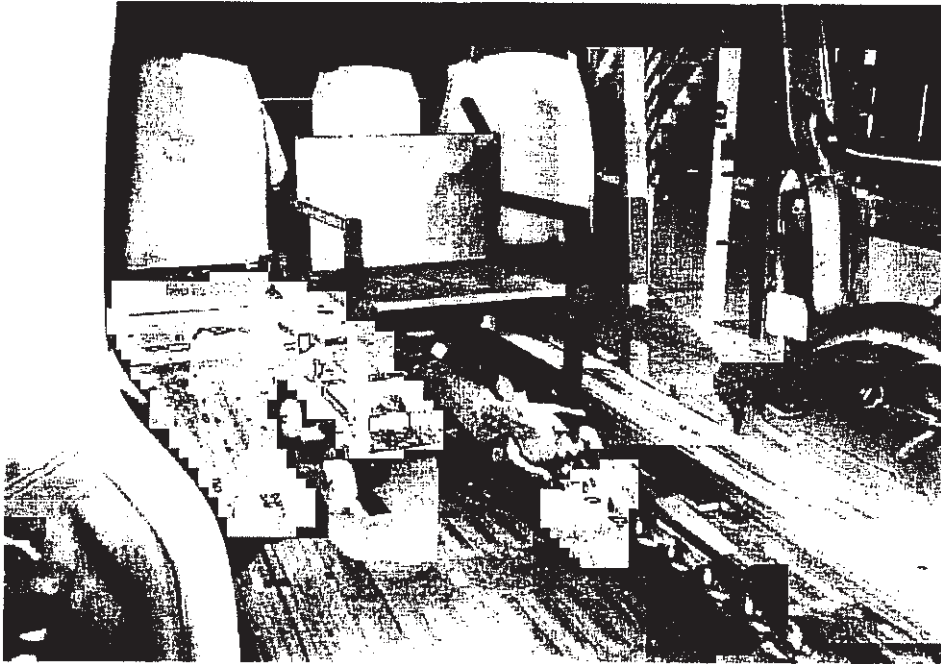


Figure 5.5- 1146\_2101 Pre test picture



Appendix 6 - Post-test photographs.

Figure 6.1- 1146\_2097 Post test picture

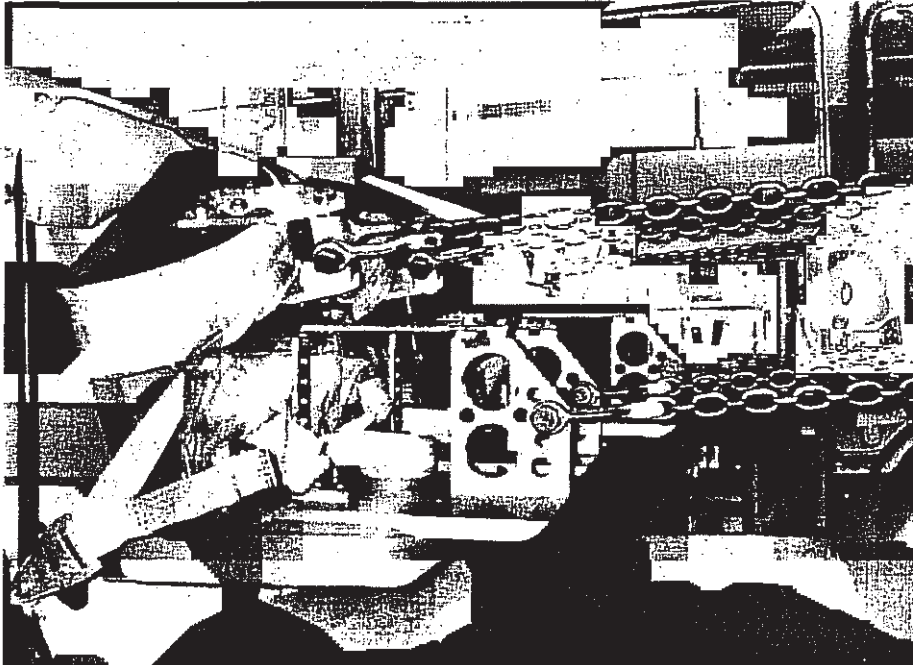


Figure 6.2- 1146\_2098 Post test picture

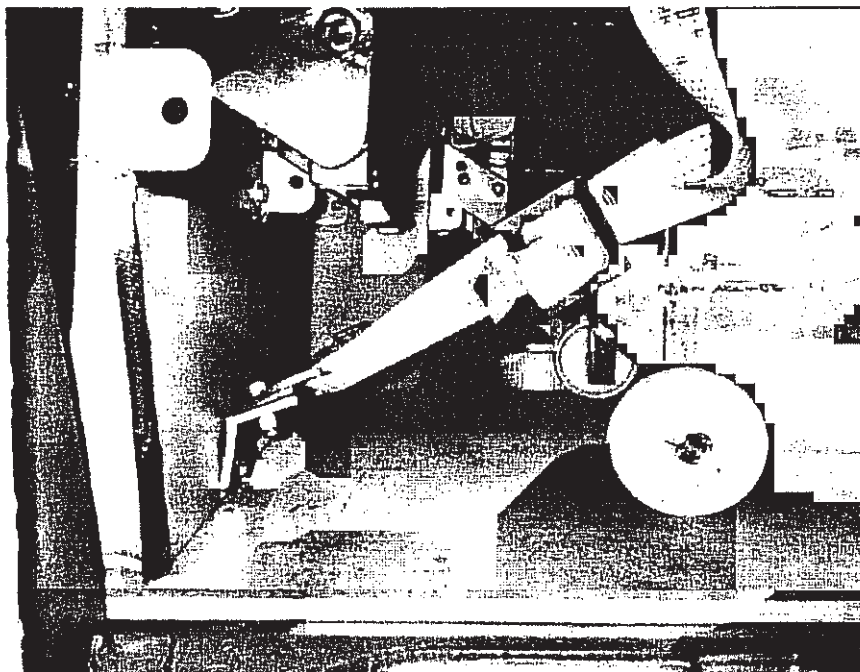


Figure 6.3- 1146\_2099 Post test picture

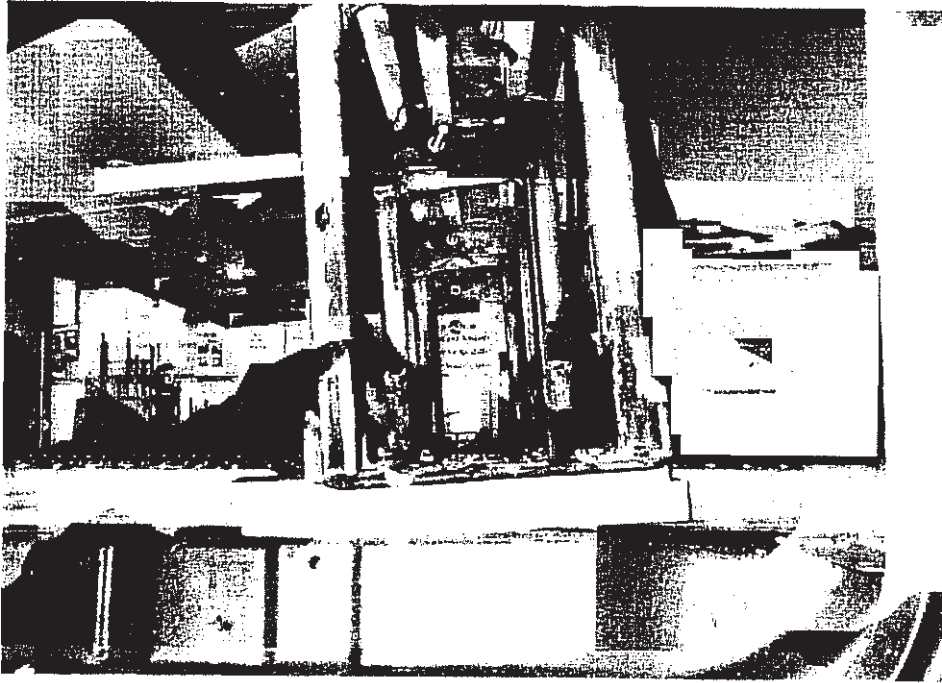
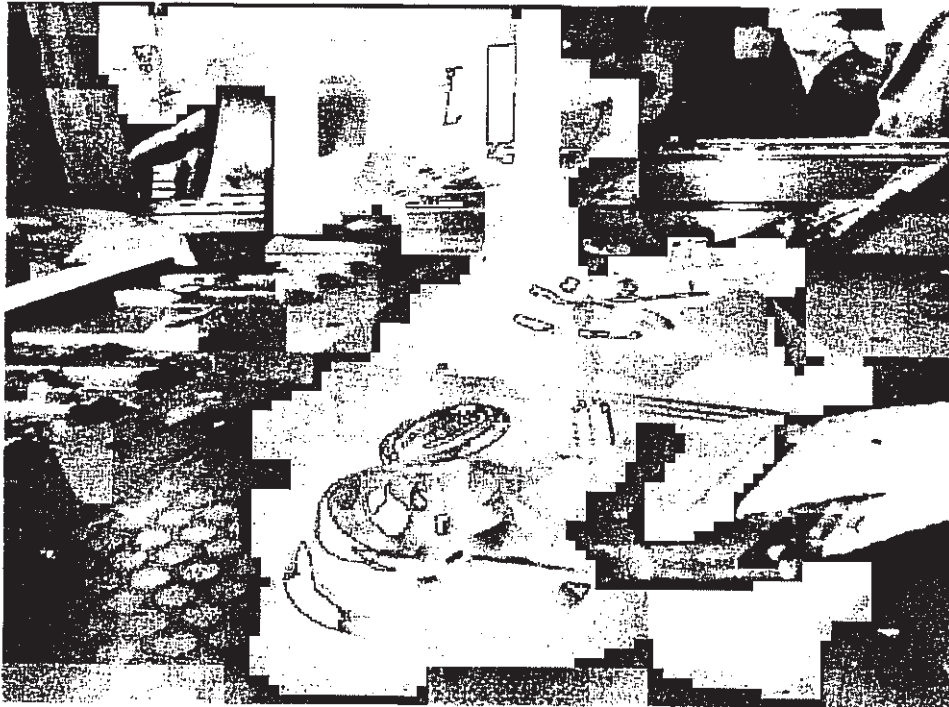


Figure 6.4- 1146\_2101 Post test picture



**Appendix 7 - Load graphs.**

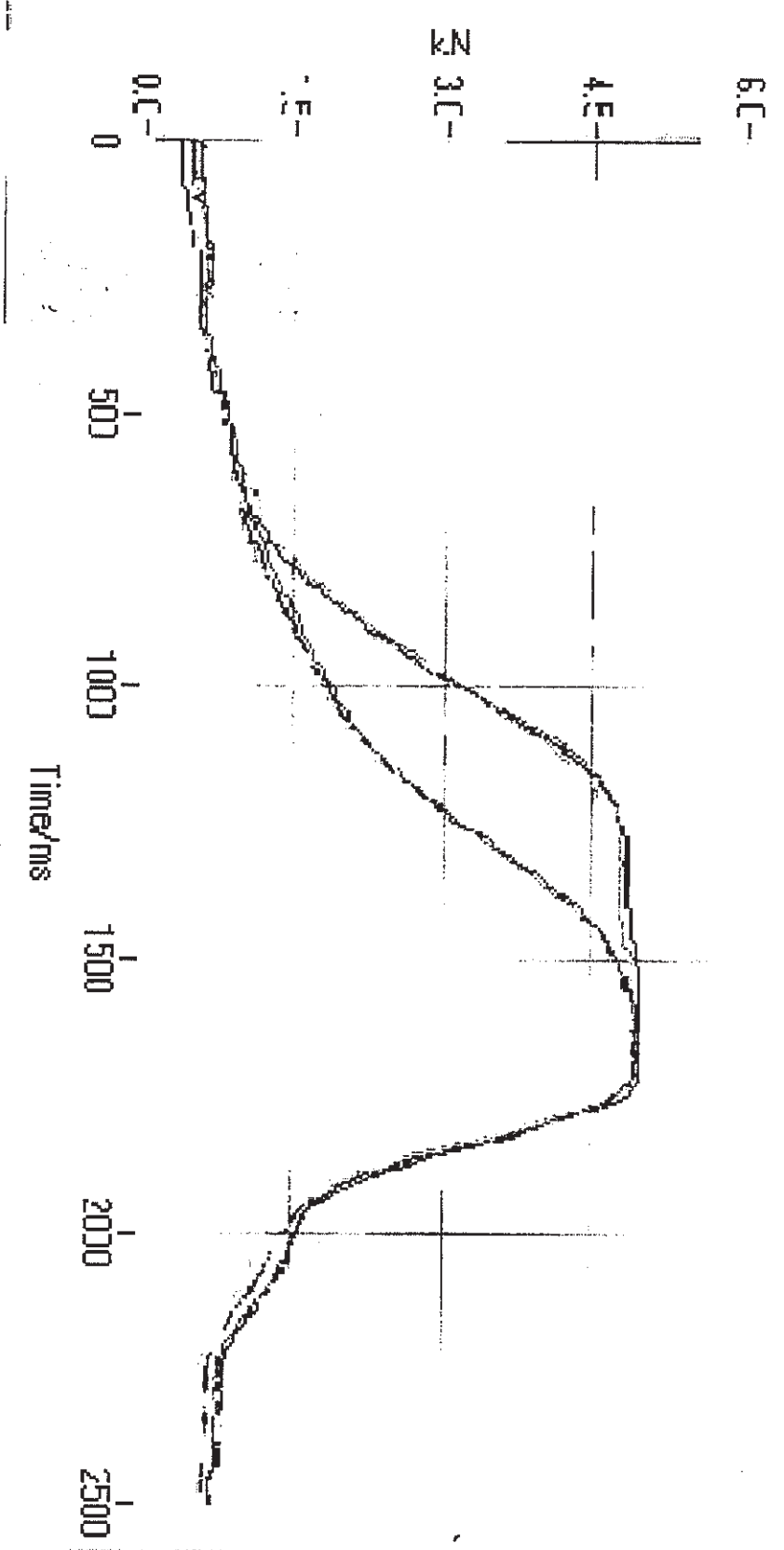
**Graph Channel Key**

Lower Rams		Upper rams	
Channel Number	Colour	Channel Number	Colour
1	○	2	●
3	●	4	●
5	○	6	○
7	○	8	●
9	●	10	●

**Test Channel Allocation**

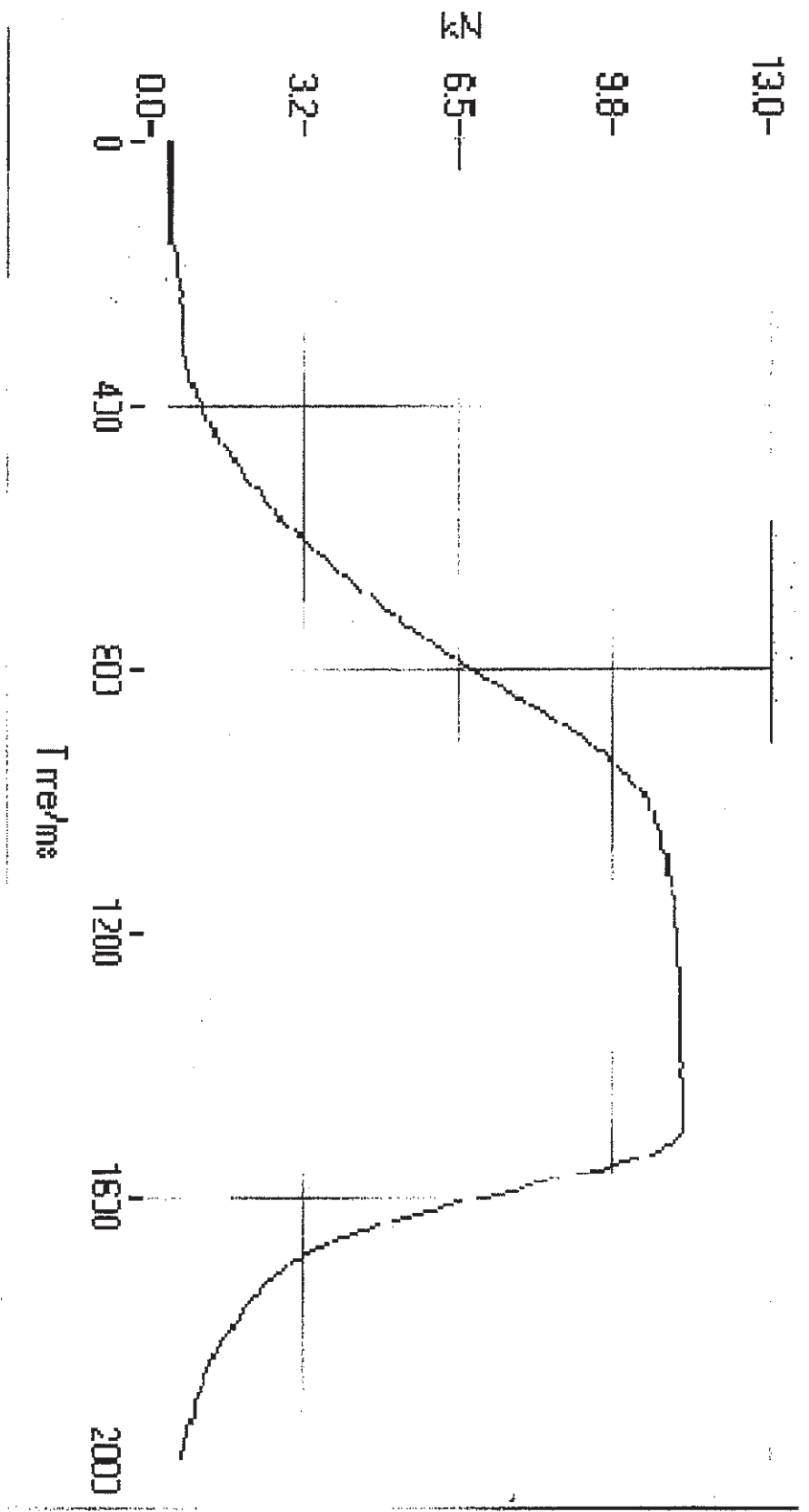
Test Ref	Load Position	Channel Number		
		Seat Position		
		RHS	Centre	LHS
1146_2097	Diag	8	6	4
	Lap	7	5	3
1146_2098	W/chair	3	N/A	N/A
1146_2099	Diag	8	6	4
	Lap	7	5	3
1146_2101	Diag	N/A	3 & 7	N/A

Test Reference: 1146\_2097      Test Details: Test of First row of seats to M1 (M3 load for reverse facing seats)

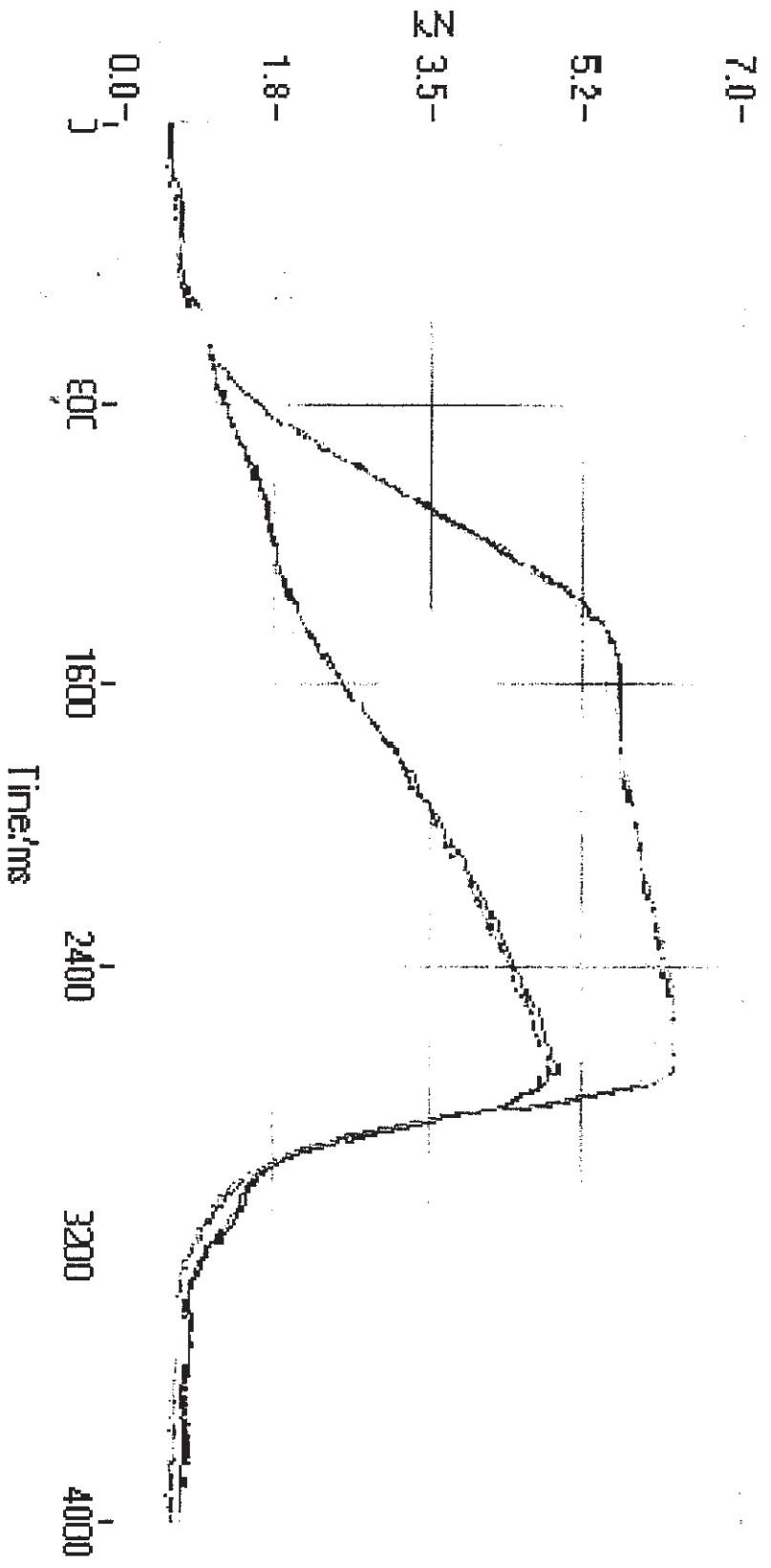




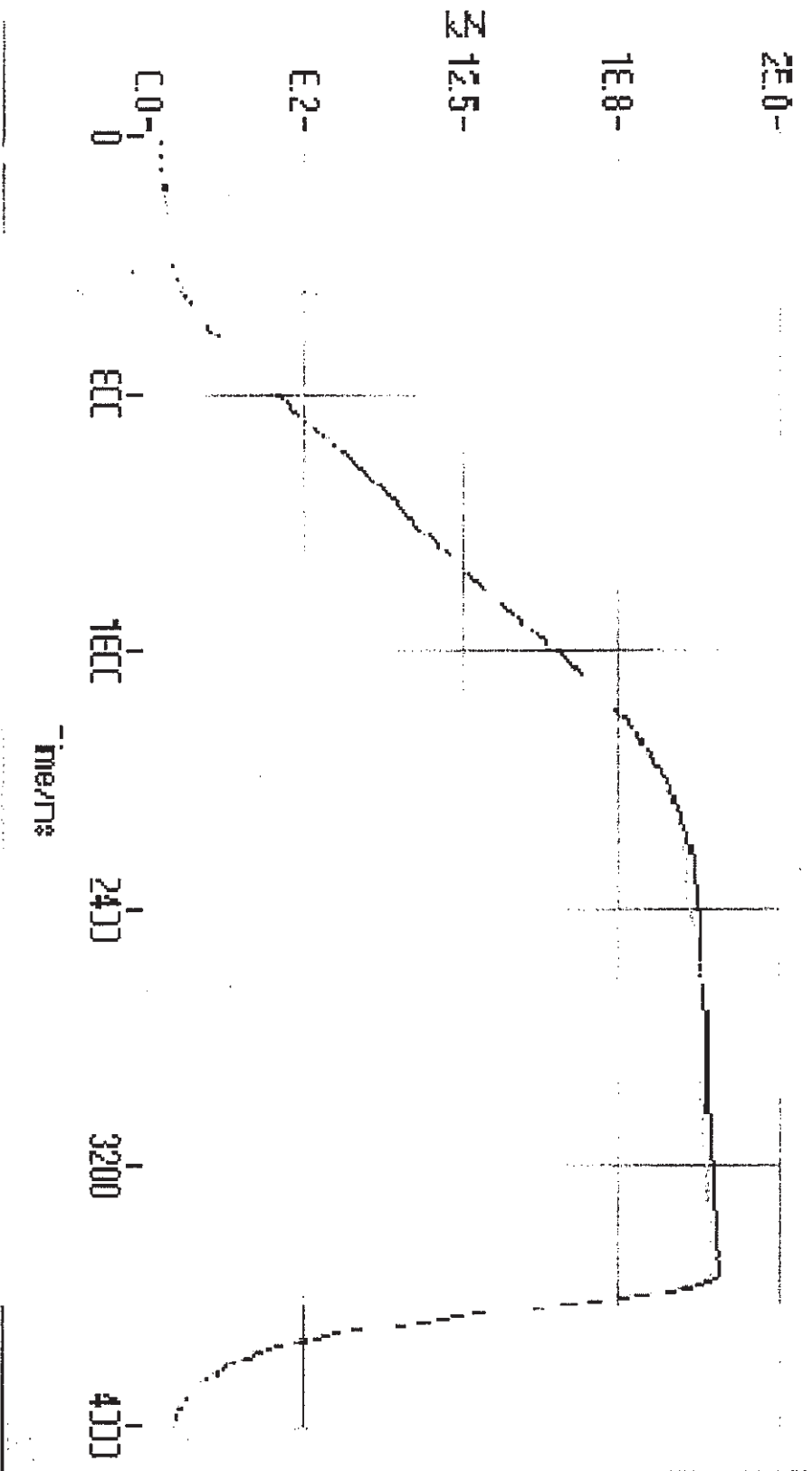
Test Reference: 1146\_2098      Test Details: Test of the reverse facing wheelchair rear restraint in the rearward direction.




Test Reference: 1146_2099	Test Details: Test of the second row of seats to M1 (M3 load for reverse facing seats)
---------------------------	--



Test Reference: 1146\_2101      Test Details: Simulation of the forward facing w/chair and occupant restraint







**STATUS**  
SPECIALIST TRANSPORT ADVISORY & TESTING UTILITY SOCIETY

Dept. of Engineering & Technology  
Manchester Metropolitan University  
Chester Street, Manchester M1 5GD

Tel: 0161 247 6240  
Fax: 0161 247 6779  
Web: [www.status.org.uk](http://www.status.org.uk)

**SEAT BELT ANCHORAGE TEST REPORT**

**REPORT REF No: 1146U**

FOR A IN-VEHICLE  
TEST TO DIRECTIVE 76/115/EEC  
AS AMENDED BY 96/38/EC.

**CONFIDENTIAL**



**Manchester  
Metropolitan  
University**

## 1. Summary

**Vehicle:** Mercedes Vito

**Company:** Bernard Mansell Commercials

**Test Standard:** 76/115/EEC as amended by 96/38/EC

**Tests conducted by:** Richard Vernon Bsc (Hons).

**Test date:** 1<sup>st</sup> March 2006

**Witnessed by:** Mr. Steven Trenoweth, on behalf of the Vehicle Certification Agency.

**Report prepared by:** Chandramohan Mathavan

**Report checked by:** Michael Hughes BSc, C eng, MIMechE  
STATUS Manager

**Summary of results:** The vehicle tested complied fully with the EC Directive.

## 2. Contents

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### 3. Definitions

The Directive 76/115/EEC as amended by 96/38/EC shall hereafter be known as the Directive.

The three-dimensional 'H' point machine, used to determine 'H' points and torso angles, shall hereafter be known as the 'Manikin'.

The 'H' point is defined using the Manikin and corresponds to the pivot centre of the Manikin's torso and thigh (the hip).

The seating reference point, 'R' is defined by the vehicle manufacturer. Its coordinates must be within a square of size 50mm horizontally and 50mm vertically with the 'H' point at the centre of area.

The effective belt anchorage, or effective anchorage means the point to which a strap would need to be attached to provide the same lie as the belt when worn. (i.e. the last rigid guide which the belt touches before reaching its wearer). This is not necessarily where the seat belt bolts to the vehicle (the actual anchorage).

The 'S' distance is the distance between the effective upper belt anchorage and a plane parallel to the median longitudinal plane of the seat.

The STATUS seat belt anchorage test rig shall hereafter be known as the rig.



#### **4. Requirements of Directive 76/115/EEC as amended by 96/38/EC**

##### **4.1. Positional requirements**

The seating reference point, 'R' shall be determined according to Directive 77/649/EEC (Drivers Forward Visibility) as amended by 90/630/EEC using the Manikin constructed by the SAE to ISO Standard 6549 - 1980.

In order to comply with the Directive the following positional requirements shall be satisfied:

The anchorages must be suitable for attaching belts of the correct type.

The angles made between the horizontal and a line between the lower anchorages and the 'R' point must be within the limits specified by the Directive, for the seat. (See Appendix 1).

The separation of the lower anchorages must be greater than or equal to the limit set by the Directive (350mm for all seats).

The distance of each lower anchorage from the median longitudinal plane of the seat must be greater than or equal to the limit set by the Directive (120mm for all seats).

The 'S' distance must be greater than or equal to the limit set by the Directive (140mm).

The effective upper anchorage must lie in a zone constructed according to the Directive depending on the 'R' point, torso angle and 'S' distance.

##### **4.2. Strength requirements**

The seat belt anchorages shall be subjected to tractive forces in a forward direction at an angle of 5° to 15° above the horizontal, in a plane parallel to the median longitudinal plane of the vehicle. The forces shall be transmitted using traction devices, as described in the Directive.

If one or more of the seat belt anchorages are attached to the structure of the seat, an additional load shall be added according to the weight of the seat and a factor defined in the Directive. The required loads and factors are shown in Appendix 2.

The anchorages must withstand this load for not less than 0.2 seconds. Partial failure shall not constitute a failure provided that the minimum requirements for separation of the lower anchorages, and height of upper anchorage are maintained.

## **5. Test Equipment**

### **5.1. The rig**

The rig used was a free standing structure with horizontal beams that could be moved into appropriate positions in order to clamp down the vehicle. A total of ten hydraulic rams were fitted to a carrier of which only six were required for the test. The rams were provided with a means vertical and horizontal position adjustment as well as having angular freedom in a vertical plane parallel to the longitudinal plane of the rig.

### **5.2. Instrumentation**

Loads were measured using load cells with full bridge strain gauges, which were calibrated using an Instron 8500 dynamic testing machine (Serial No: 8500 H1715), with calibration traceable to primary standards. Voltage outputs were sampled at a rate of 100Hz through a data acquisition card to a computer. These voltages were buffered and then used to generate load against time graphs using the calibration factors previously obtained.

### **5.3. Monitoring Equipment**

The testing was monitored visually and recorded on video. 'Before and after' still photographs were taken using a digital camera.

### **5.4. Test Equipment Appraisal**

The test equipment is appraised to perform tests to EC directive 76/115/ECE as amended by the Vehicle Certification Agency

## **6. Test Vehicle / Structure**

The vehicle submitted for testing was Mercedes Vito LWB taxi adaptation. The vehicle had two front doors, two side sliding doors and rear tailgate.

The vehicle configuration consisted of a dividing bulkhead which was fitted behind the drivers and front passenger seats. The bulkhead was secured to the vehicle's floor via 5x M8 bolts and associated rivnuts. Two additional brackets, riveted to the B-posts and utilising one M8 bolt per side, secured the top of the bulkhead.

A row of three reverse facing tip-up seats were fixed to the bulkhead. The seats were configured for 3 point seat belts and none of the seat belt anchorages were on the seat structures, they were all fastened to the bulkhead.

A space for a reverse facing wheelchair was located between the B & C pillars. The wheelchair rear restraints were fixed to the lower bulkhead such that the rear of the wheelchair would butt up against the bulkhead and use the left hand reverse tip-up Upper and LNB seat belt anchorage in conjunction with the middle tip-up seat's LB anchorage.

Refer to the pre-test photographs shown in Appendix 5.

## 7. Results

### 7.1. Effective anchorage positions

A drawing showing the position of the 'H' point in relation to the effective belt anchorages, with regard to the requirements, is shown in appendix 3.

### 7.2. Test description

The following list includes details of the tests undertaken with reference to the test number.

1146\_2292 -Test of row of three bulkhead mounted reverse facing tip-up single seats to standards laid down for M1 category. (M3 for reverse facing seats)

1146\_2293 - Test of the reverse facing wheelchair restraints using a surrogate wheelchair in the reverse direction to loads based on Motability standards for forward facing wheelchairs.

See Appendix 4 for complete test log.

### 7.3. Loads applied

The additional applied loads were derived by multiplying the seat weight (declared or measured) by 9.81 and a weight factor of 20 This was then added to the lap belt load as specified in the directive (See appendix 2) to produce the loads shown in the following table:

Test Reference	Load applied to each traction device	Results Filename
1146_2292	4.5 kN (lap belt) 4.5 kN (diagonal belt)	1146_2292.res
1146_2293	11.10kN(wheelchair)	1146_2293.res

### 7.4. Loads held

The loads held were as shown in the graphs found in Appendix 7:

### **7.5. Condition of vehicle following test**

Following each test the vehicle was visually examined; during this examination the condition of the vehicle and components were noted. The examination results in the following observations:

1146\_2292 - Slight bowing across the top of the bulkhead. Slight further deformation on slotted holes.

1146\_2293 - Bulkhead metal directly adjacent to M10 bolts showed deformation with loosening of bulkhead to floor rivnut.

Post-test photographs are shown in Appendix 6.

## **8. Conclusions**

The vehicle seat belt anchorages tested complied with the positional requirements of Directive 76/115/EEC (as amended up to and including 96/38/EC) as demonstrated by the drawing in Appendix 3.

The vehicle seat belt anchorages tested complied with the strength requirements of Directive 76/115/EEC (as amended up to and including 96/38/EC) as shown in the graphs in Appendix 7.

The wheelchair chair restraints complied with the Motability requirements for forward facing wheelchairs applied to the rear restraints of a reverse facing wheelchair in the reverse direction.

**Appendix 1 - Angular Requirements.**

Seat		M1	M2 & M3
Front	buckle side ( $\alpha_2$ )	45°-80°	30°-80°
	other than buckle side ( $\alpha_1$ )	30°-80°	30°-80°
	angle constant	50°-70°	50°-70°
	bench - buckle side ( $\alpha_2$ )	45°-80°	20°-80°
	bench other than buckle side ( $\alpha_1$ )	30°-80°	20°-80°
	adjustable seat with back angle <20°	45°-80° ( $\alpha_2$ ) 20°-80° ( $\alpha_1$ )	20°-80°
Rear		30°-80°	45°-90°
Folding	No belt required. If anchorage fitted: see angle requirements Front and Rear		

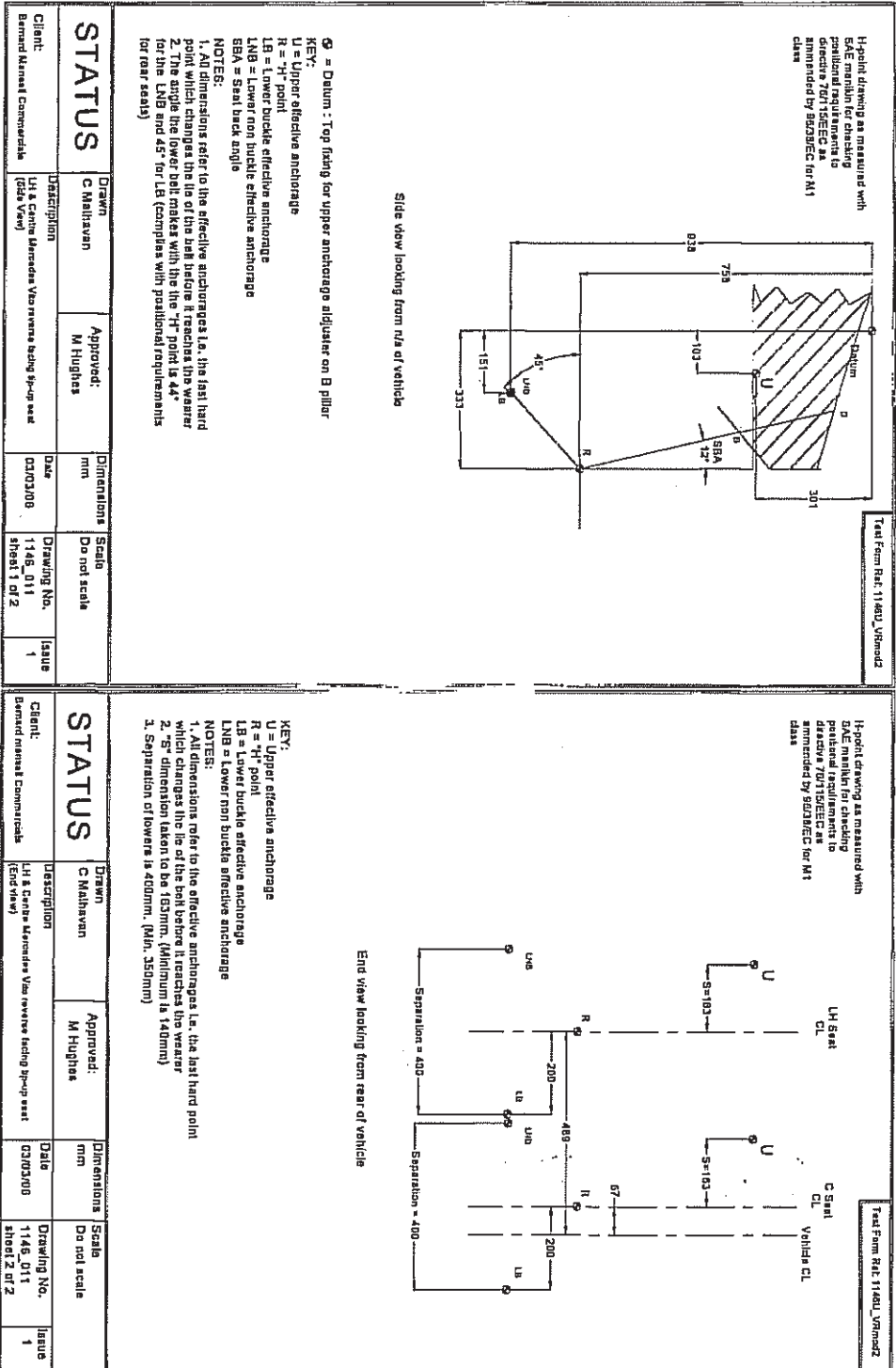
**Appendix 2 - Load requirements.**

Category	Load per ram 3-point	Load - lap belt	Weight of seat factor
M1	13.5kN	22.25kN	20
M2	6.75kN	11.10kN	10
M3 or rearward facing	4.5kN	7.40kN	6.6

**Appendix 3 - 'H' point drawing.****Drawings Supplied:**

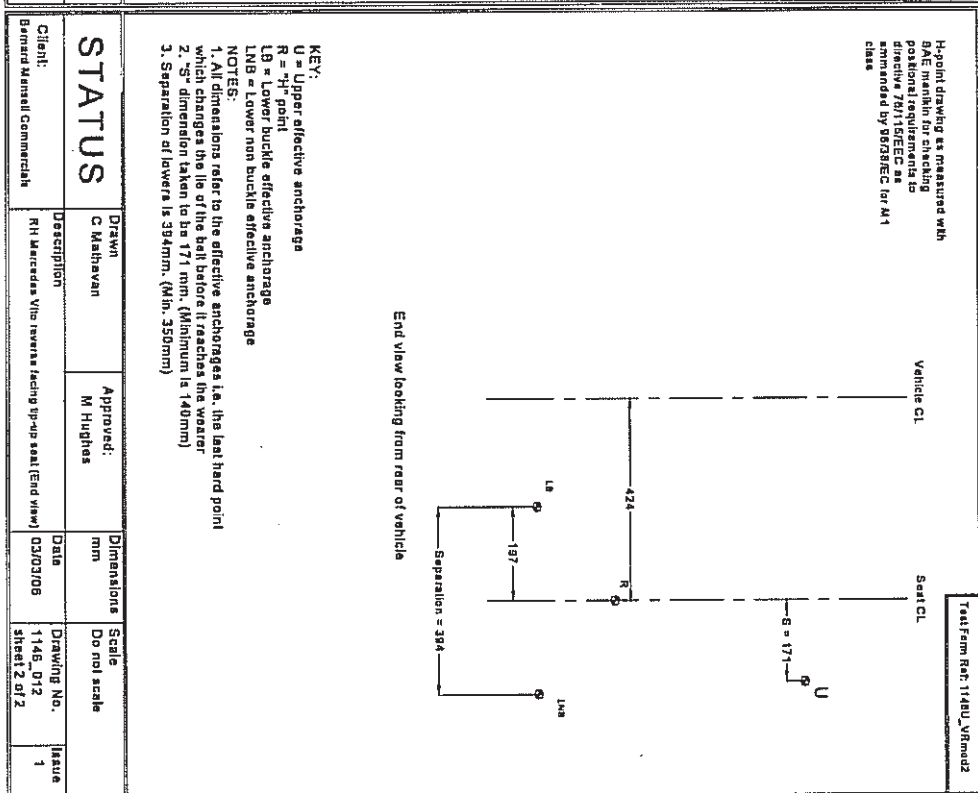
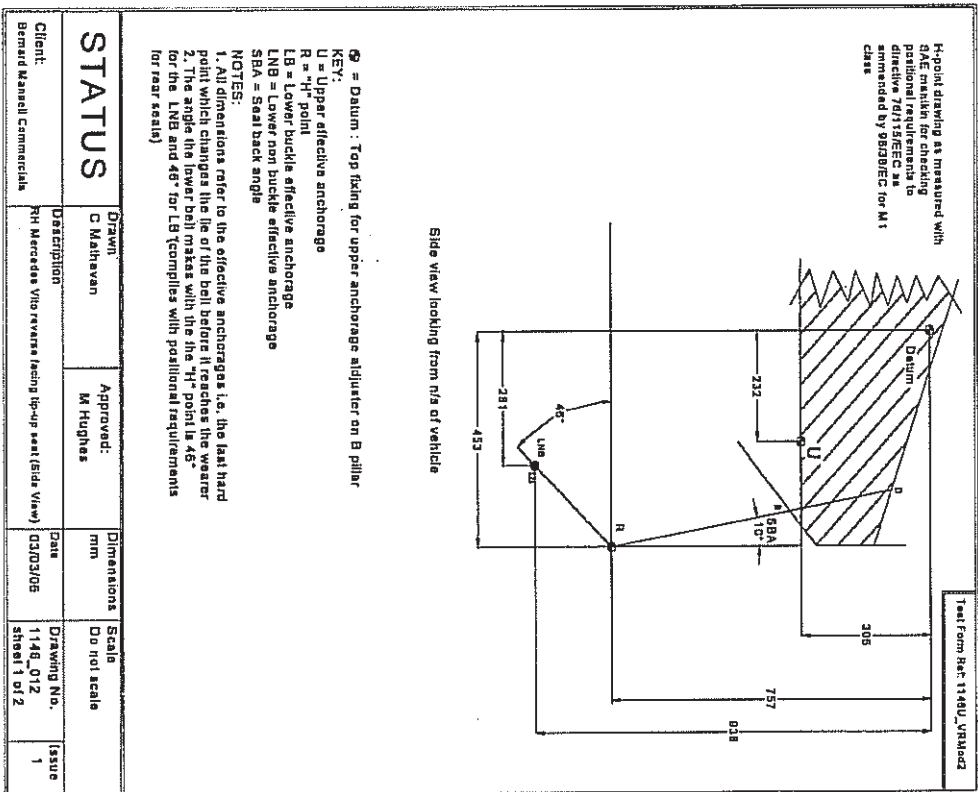
<b>Drawing Number</b>	<b>Title</b>
1146_011	LH & Centre Mercedes Vito reverse facing tip-up seat
1146_012	RH Mercedes Vito reverse facing tip-up seat





<b>STATUS</b>	<b>Drawn</b>	<b>Approved:</b>	<b>Dimensions</b>	<b>Scale</b>
	C Mallawaan	M Hughes	mm	Do not scale
<b>Client:</b>	<b>Description</b>	<b>Date</b>	<b>Drawing No.</b>	<b>Issue</b>
Bernard Kinneal Commercial	U1 & Carole Alexander Via reverse facing dip-up seat (55a View)	02/03/08	1146_011	1
			Sheet 1 of 2	

<b>STATUS</b>	<b>Drawn</b>	<b>Approved:</b>	<b>Dimensions</b>	<b>Scale</b>
	C Mallawaan	M Hughes	mm	Do not scale
<b>Client:</b>	<b>Description</b>	<b>Date</b>	<b>Drawing No.</b>	<b>Issue</b>
Bernard Kinneal Commercial	U1 & Carole Alexander Via reverse facing dip-up seat (55a View)	02/03/08	1146_011	1
			Sheet 2 of 2	



Appendix 4 – Test log.

Test number	Date	Manufacturer ref.	Seat Description and test observation	Leg Separation (mm)	Leg Height F/R (mm)	Weight (kg)	Trip load (kN) Lower	Trip load (kN) Upper	Result (Pass/Fail)	Single/Double/Triple	M1/M2/M3	3 pt / lap / harness	Results Filename
2292	01/03/06	1146	Mercedes Vito LWB. Mercedes Vito with bulkhead section. 2 x M8 bolts with penny washers located through slotted brackets locating top of bulkhead. B-post adapters riveted to B-post. 5 x M8s (into star rivets into floor) locating bulkhead to floor. No SBAs were on the seats themselves. Very slight further deformation of slotted holes. Slight bowing across the bulkhead top.	n/a	n/a	n/a	4.50	4.50	Pass	3	M3	3pt	1146_2292.RES
2293	01/03/06	1146	Mercedes Vito LWB. Mercedes Vito with bulkhead section. 2 x M8 bolts with penny washers located through slotted brackets locating top of bulkhead. B-post adapters riveted to B-post. 5 x M8s (into star rivets into floor) locating bulkhead to floor. The two rear front cabin mounted struts were removed for this test. Wheel-chair front tie downs fastened into bulkhead. Metal directly adjacent to M10 bolts showed deformation with loosening of directly adjacent bulkhead to floor riv-nut.	n/a	n/a	n/a	11.10	0.00	Pass	1	M2	1	1146_2293.RES

Appendix 5 - Pre-test photographs.

Figure 5.1 – Vehicle on test rig.

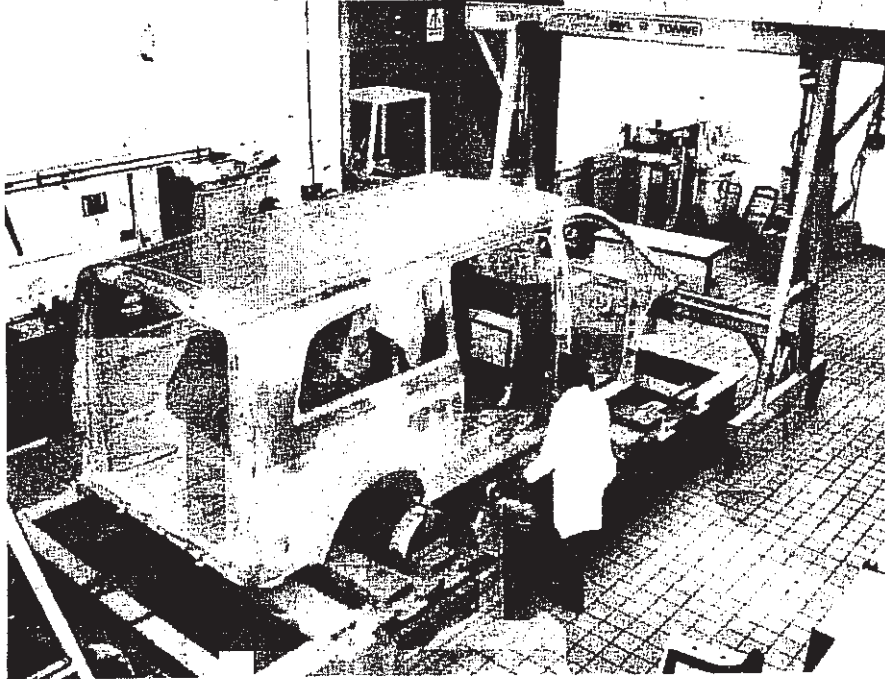


Figure 5.2 - Test 1146 2292

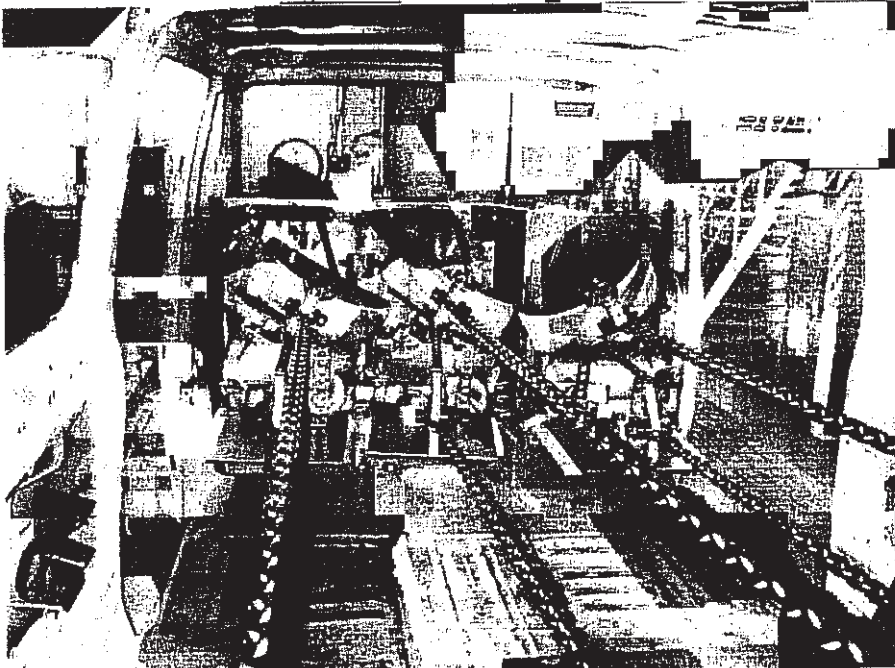
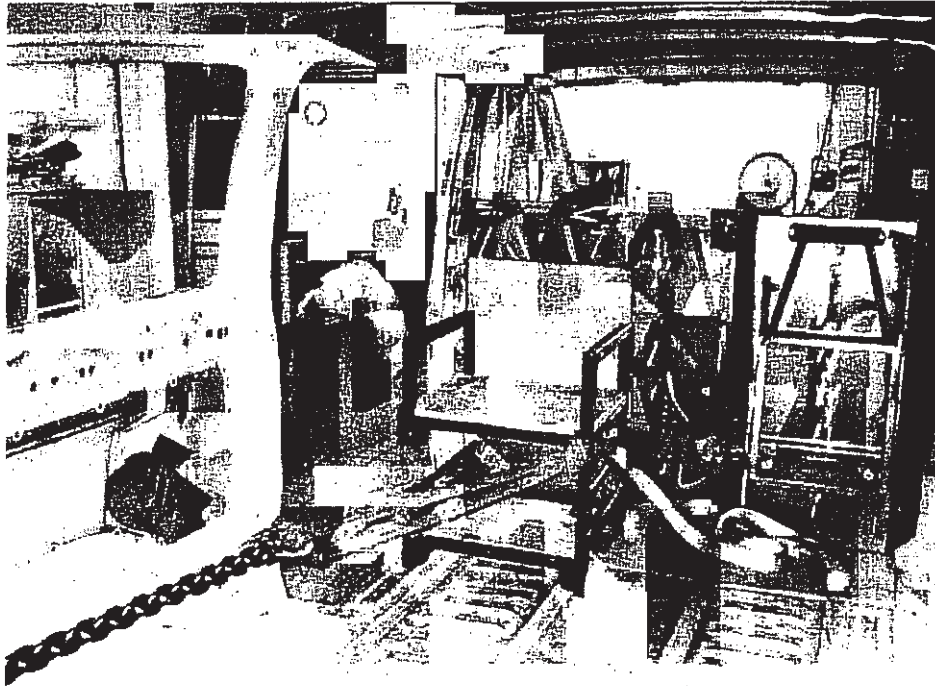


Figure 5.3 - Test 1146\_2293



Appendix 6 - Post-test photographs.

Figure 6.1 - Test 1146 2292

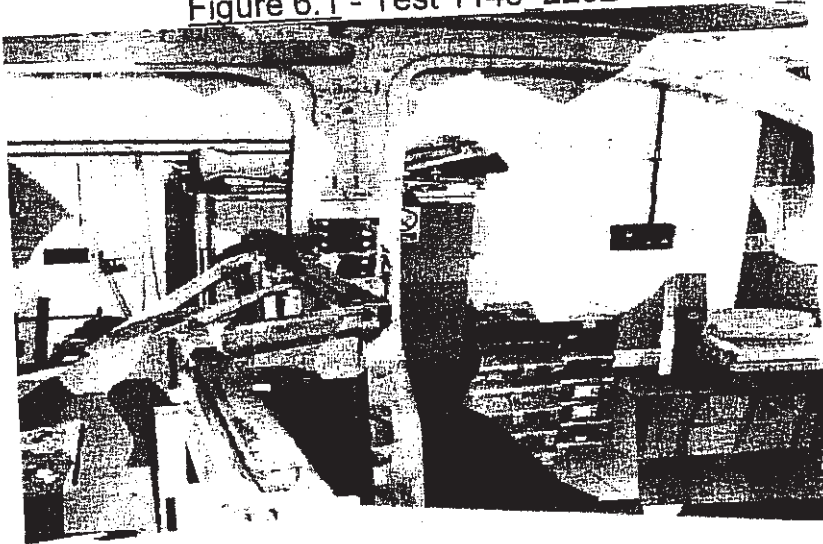
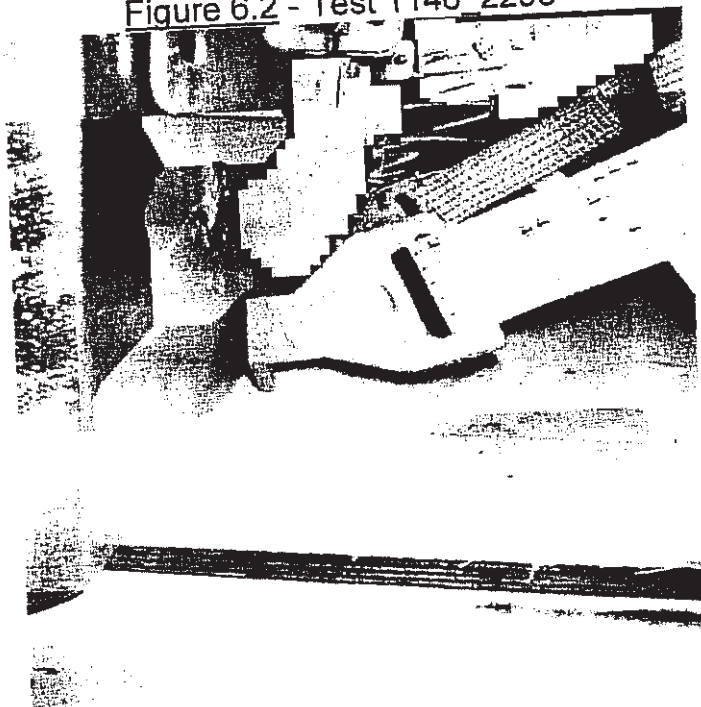


Figure 6.2 - Test 1146 2293



**Appendix 7 - Load graphs.**

**Graph Channel Key**

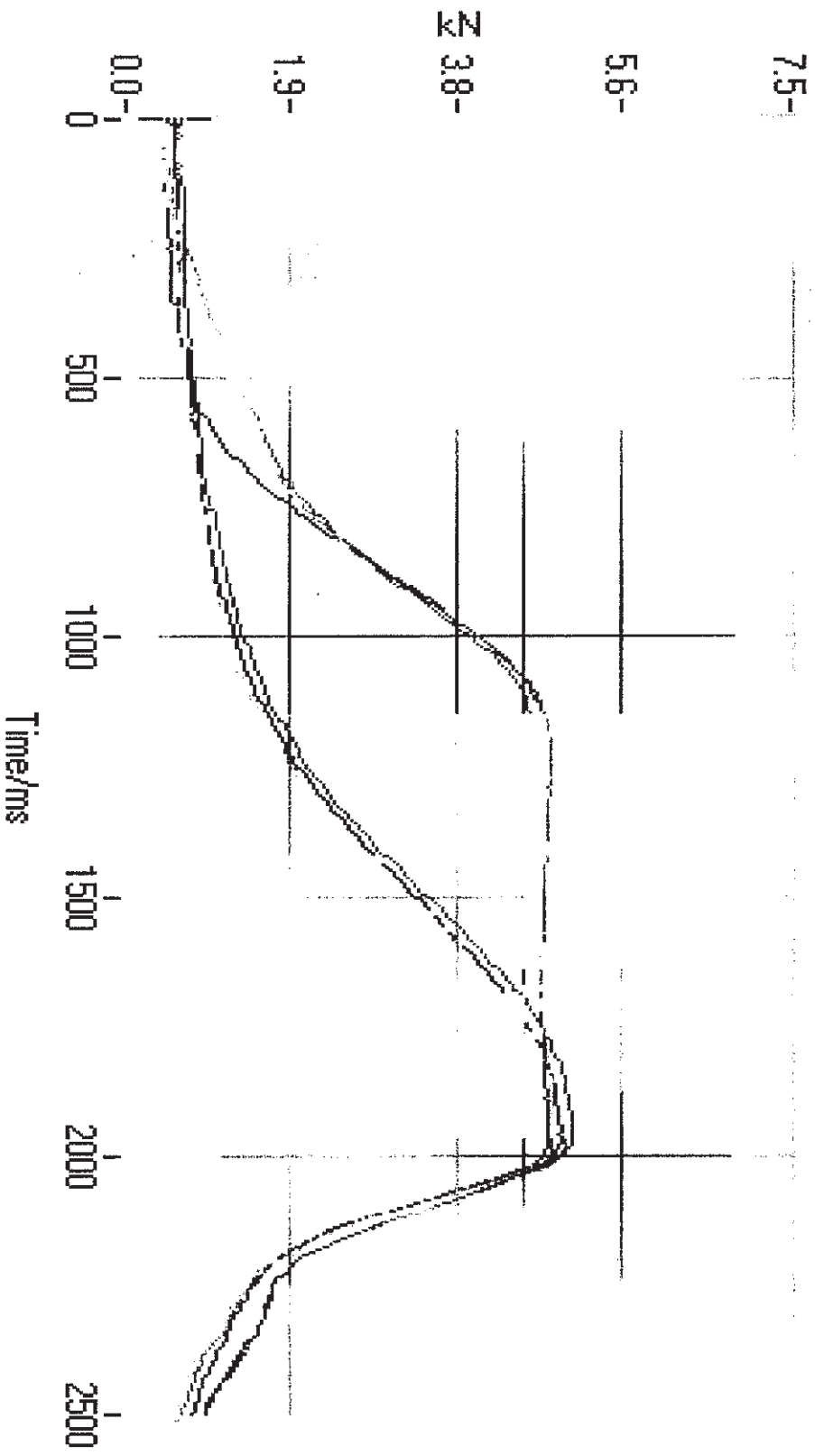
Lower Rams		Upper rams	
Channel Number	Colour	Channel Number	Colour
1	○	2	●
3	●	4	●
5	○	6	○
7	○	8	●
9	●	10	●

**Test Channel Allocation**

Test Ref	Load Position	Channel Number		
		Seat Position		
		LHS	Centre	RHS
1146_2292	Diag	4	6	8
	Lap	3	5	7
1146_2293	W/chair	3	-	-

Test Reference: 1146\_2292

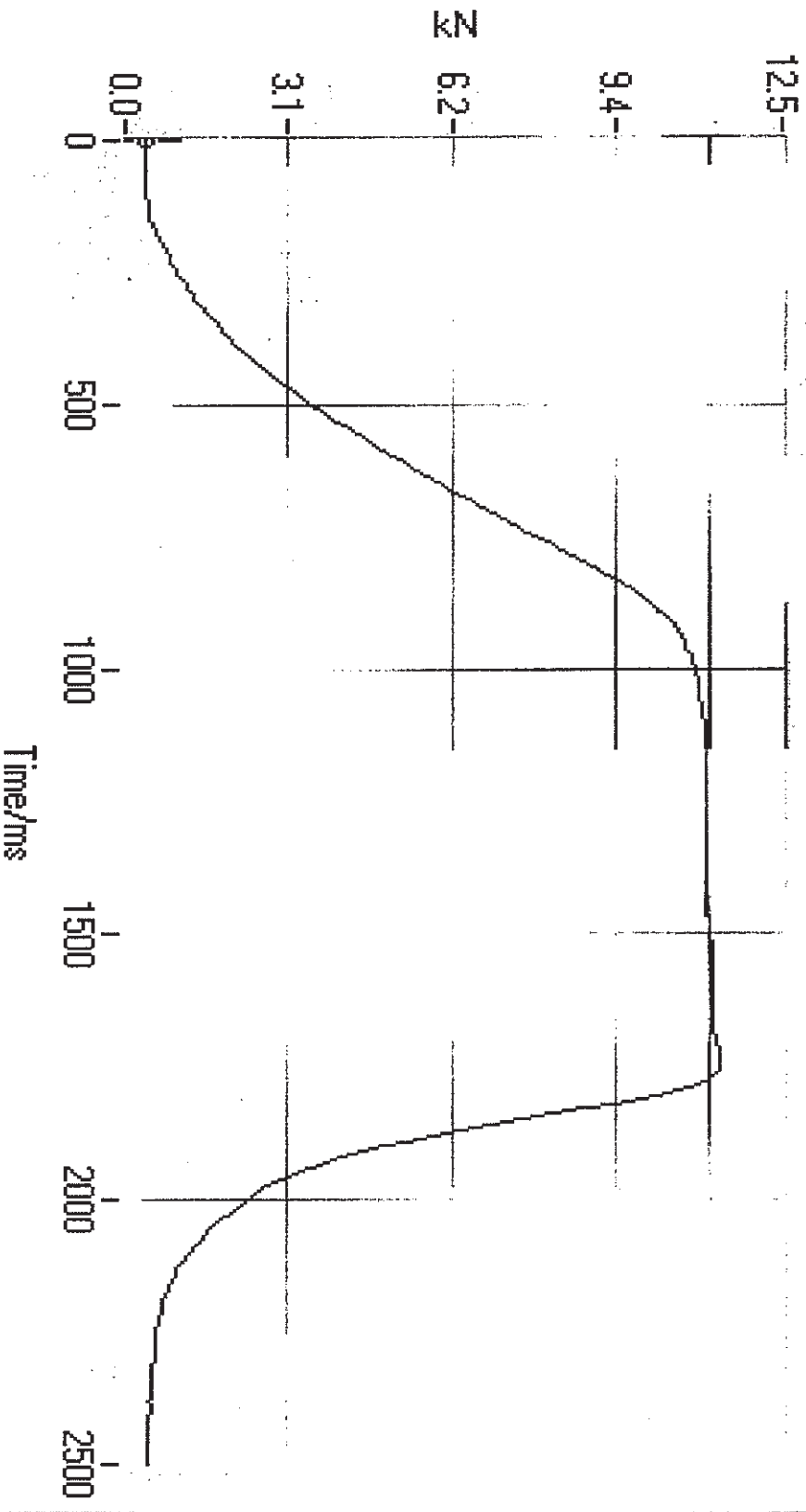
Test Details: Test of first row of seats to M1 (M3 load for reverse facing seats)





Test Reference: 1146\_2293

Test Details: Test of wheelchair front tie-downs to Mobility standards(reverse direction)





## APPENDIX 6

**From:** Steve Ponting [StevePonting@bernardmansell.com]  
**Sent:** 14 January 2010 15:24  
**To:** Willimont, Marc  
**Subject:** RE: Herefordshire Council - request for additional information[MESSAGE NOT SCANNED]

**Attachments:** Seat Belt Anchorage Test Report 1146T.pdf  
Marc

I have not included the Transit as there are no references to wheelchairs.  
I have spoken to STATUS but unfortunately there records are the same as ours.  
Though we know this vehicle was tested as an additional test pacific for Buckingham County Council. It may well be they hold the information but unfortunately this was back in 2003 and the people we dealt with are no longer there.

regards  
Steve Ponting

BernardMansell.com  
part of Ponting & Betty Ltd  
Media House  
St James Mill Road  
Northampton  
NN5 5JW  
01604 683897

---

**From:** Willimont, Marc [mailto:mwillimont@herefordshire.gov.uk]  
**Sent:** 12 January 2010 15:24  
**To:** Steve Ponting  
**Subject:** Herefordshire Council - request for additional information[MESSAGE NOT SCANNED]

Steve,

as per telephone conversation with your colleague, in order for me to take this to committee for 9th Feb I will need further supporting information for at least your VWs and Ford conversions. Apologies if you have already sent as I am working off-line at the time of sending this email.

So far the report summarises:

	<b>Test Certificates submitted</b>	<b>Quality Assurance docs / info received</b>	<b>List of vehicles for approval and VCA Type Approval docs submitted</b>
<b>Ponting &amp; Betty</b>	<p>'Status Test' for a seatbelt anchorage report' for a <i>Mercedes Vito LWB Taxi Adaptation</i> was submitted. This was for a shell of a long wheel based Mercedes suitable to test the Mercedes Town Cab and Bm8 vehicles for which approval is sought for. The test was dated 1<sup>st</sup> March 2006. This test was witnessed by the Vehicle Certification Agency. The test showed compliance with the positional and strength requirements of the relevant EC Directives and 'Motability' requirements as well.</p>	<p>ISO 9001:2008. Certificate 2008 –0466. This QA accreditation covers the 'design, manufacture and conversion of wheelchair accessible private hire vehicles and taxis and other vehicles'.</p> <p>First issued 8 May 2009</p> <p>Current issue 8 May 2009</p> <p>Valid until 7 May 2012</p>	<p>Mercedes Town Cab EC Type approval No. LC/360/A/062V</p> <p>Mercedes BM8 EC Type approval No. LC/360/A/062V</p> <p>VW Unique Cab EC Type approval No. LC/382/A/085V</p> <p>VW Town Cab EC Type approval No. LC/383/A/086V</p> <p>VW Caravelle Cab EC Type approval No. LC/383/A/086V</p> <p>VW City 7 EC Type approval No. LC/382/A/085V</p> <p>Ford Unique Cab EC Type approval No. LC/359/A/061V</p>

If you provide further Status (or other independent) tests for the other listed vehicles this will help the committee make their decision.

If the reports are for both wheelchair facilities and for conversion (i.e. inclusion of seats in a panel van etc) please also provide documentation to prove this has been independently assessed and passed.

regards

**Marc Willimont,**  
Acting Regulatory Services Manager,  
Licensing, Markets & Fairs and Bereavement Services,  
Environmental Health and Trading Standards,  
Herefordshire Council,  
Bath Street Offices,  
Bath Street,  
Hereford.  
HR1 2HQ

Tel. 01432 261986  
Fax. 01432 383142

**email: [mwillimont@herefordshire.gov.uk](mailto:mwillimont@herefordshire.gov.uk)**



Save paper - please only print out this message if you really need to.

<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2010</b>
<b>TITLE OF REPORT:</b>	<b>TO CONSIDER A REVIEW OF THE LICENSING 'STATEMENT OF PRINCIPLES' (POLICY) UNDER THE GAMBLING ACT 2005. – GAMBLING ACT 2005</b>
<b>PORTFOLIO AREA:</b>	<b>HEAD OF ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS ENVIRONMENT &amp; CULTURE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Countywide

### **Purpose**

For the committee to consider adopting the licensing 'Statement of Principles' under the Gambling Act 2005 (document attached) and then make recommendations to the Full Council.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

**THAT Committee recommend to the Full Council that the 'Statement of Principles' be adopted, as attached.**

### **Reason for Recommendation**

The 'Statement of Principles' is based upon the generic statement of principles which has been drawn up by LACORS. It was then amended to taken into account the specific issues and characteristics of the county of Herefordshire, insofar as a gambling policy would apply.

### **Key Points Summary**

- Herefordshire Council has to prepare and publish its second Gambling Act 'statement of principles' (policy), following the first three-year period to which the former policy applied.
- One response has been received, which is attached to the rear of this report.

Further information on the subject of this report is available from  
Fred Spriggs – Licensing Officer 01432 383542

## Options

- a) To recommend the statement as published to Full Council.
- b) To make amendments to the proposed statement and then recommend the amended statement to the Full Council.
- c) To refuse to recommend the policy.
- d) To reach some other decision.

## Introduction and Background

- 1 Section 349 of the Gambling Act requires that all licensing authorities should prepare and publish a statement of the principles that they propose to apply in exercising their functions under the act during the three-year period to which the policy applies.
- 2 The statement of principles will last a maximum of three years but can be reviewed and revised by the authority at any time.
- 3 This is the second 'statement of principles' under the Gambling Act 2005, the first being approved in November 2006.
- 4 The licensing objectives under the Gambling Act 2005 are:
  - Preventing gambling being a source of crime or disorder
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and the vulnerable people from being harmed or exploited by gambling
- 5 One response has been received in respect of the statement, which is attached for reference to the rear of this report (see also paragraphs 12 – 16 below).

## Key Considerations

- 6 To consider whether the statement of principles should be recommend in its revised draft format, as attached.

## Community Impact

- 7 The statement is unlikely to have any great impact on the community as a whole.

## Legal Implications

- 8 There would appear to be none, although a person aggrieved would have the right to a judicial review of the policy.

## Consultation.

- 9 The Act requires that the licensing authority consult the following on the statement of principles / licensing policy or any subsequent revision.
- The chief officer of police for the authorities area;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authorities area; and
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this act.
- 10 The consultation document has been published on the Council's website between 19<sup>th</sup> October and 19<sup>th</sup> December 2009.
- 11 Consultation also took place by:-
- Publishing notices in the local press.
  - Writing to all premises licensed under the Gambling Act 2005
  - Local or national organisations identified as having an interest in gambling.
  - Notifying local members.
  - Writing to local organisations acting on behalf of young people and children.
- 12 Only one response was received which can be found in the background papers. This contained two comments, as follows:
- 13 The first comment requests that Herefordshire Council send out invoice/reminder letters at least 28 days prior to the fee being due.
- 14 In response to this comment, the Gambling Act 2005 makes it quite clear that it is not the responsibility of Local Authorities to request the cost of the annual fee. The responsibility rests with the Premises Licence Holder to ensure that the fee is paid. In most cases, operators have systems in place to ensure that this done. If circumstances arose where the fee was not paid then a reminder letter would be sent. To require the Local Authority to send reminder letters would involve additional unnecessary cost, which may result in an increase in fees.
- 15 The second comment relates to the suitability of Truck Road Service Areas.
- 16 In response to this comment, it would be unlawful for the Licensing Authority to recommend any particular location, as each application should be dealt with on its own merits.

## Appendices

- a. Statement of Principles
- b. Representation

Further information on the subject of this report is available from  
Fred Spriggs, Licensing Officer on (01432) 263542



**Appendix 1**



# **Statement of Principles**

## **Gambling Act 2005**

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## **PART I**

### **INTRODUCTION**

#### **1.0 GENERAL**

- 1.1. The Gambling Act 2005 (hereafter referred to as “the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts should be the subject of re-consultation. This is the second Statement of Principles to be published and will replace the initial statement of 2006-2009.
- 1.2 This Statement of Principles has been prepared as required by Section 349 of the Act and has had regard to the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act, the licensing objectives and the views of those consulted. We have consulted widely upon this statement before finalising and publishing. A list of those consulted can be found at the rear. A full list of comments can be obtained by writing to the Licensing Section. The policy was approved at a meeting of the Full Council on 13<sup>th</sup> November 2009.
- 1.3 Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. The licensing objectives are:
  - Preventing gambling from being a source of crime or disorder; being associated with crime or disorder; or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 It should be noted that the Gambling Commission has stated that “the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

- 1.5 Herefordshire Council is aware, in accordance with Section 153 of the Act, that in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling insofar as it is:
- In accordance with any relevant Code of Practice issued by the Gambling Commission;
  - In accordance with any relevant guidance issued by the Gambling Commission;
  - Reasonably consistent with the licensing objectives; and
  - In accordance with the Authority's Statements of Principles
- 1.6 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## 2.0 Licensing Authorities

Herefordshire Council is the licensing authority, its key functions being:

- Preparing a Statement of Principles for Gambling and reviewing it every three years.
  - Licence premises for gambling activities, including the issue of provisional statements,
  - Regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
  - Regulate gaming and gaming machines in alcohol licensed premises,
  - Grant permits to family entertainment centres for the use of certain lower stake gaming machines,
  - Grant permits for prize gaming,
  - Receive and endorse notices given for the temporary use notices,
  - Receive occasional use notices for betting at tracks,
  - Register small societies lotteries,
  - Maintain public registers,
  - Monitoring and inspection of premises to ensure the conditions of the gambling premises licence are complied with,
  - Ensuring applications are adequately consulted upon with Interested Parties and Responsible Authorities.
  - Holding licensing committee hearings for applications that receive representations and
  - Provide information to the Gambling Commission on issued licences.
- 2.1 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The "National Lottery" is regulated by the National Lottery Commission.

### 3.0 AUTHORISED ACTIVITIES

- 3.1 'Gambling' is defined in the Act as gaming, betting, or taking part in a lottery.
- gaming means playing a game of chance for a prize,
  - betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
  - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

### 4.0 GENERAL STATEMENT OF PRINCIPLES

- 4.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-
- in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - in accordance with this Statement of Principles, and
  - reasonably consistent with the licensing objectives.
- 4.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 4.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to "demand" when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 4.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 4.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 4.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.

- 4.7.1 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.

## **5.0 OTHER STATEMENTS OF PRINCIPLES**

- 5.1 Applicants for Prize Gaming Permits (PGP) and Unlicensed Family Entertainment Centres (UFEC) should be aware that, in addition to the 'General Statement' of Principles, the Authority has made a Statement of Principles in respect of PGP's under paragraph 8 of Schedule 14 of the Act and in respect of UFEC's under Paragraph 7 of Schedule 10 of the Act.
- 5.2 The purpose of these statement of principles is to clarify measures that the council will expect applicants to demonstrate when applying for a permit so that the council can determine the suitability of the applicant and the premises for a permit.
- 5.3 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit,
  - they have considered and are proposing suitable measures to promote the licensing objectives and
  - they have a legal right to occupy the premises to which the permit is sought.

## **6.0 PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER**

- 6.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 6.2 We will not issue a premises licence to someone who does not hold an operator's licence and we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 6.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for SIA registered door supervisors.

- 6.4 Disorder will only be considered under this Act if it amounts to an activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 6.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

## **7.0 ENSURING GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY**

- 7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 7.2 Because betting track operators do not need an operating licence from the Commission we may condition the licence relating to the suitability of the environment in which betting takes place.

## **8.0 PROTECTING CHILDREN AND VULNERABLE PEOPLE FROM BEING HARMED OR EXPLOITED BY GAMBLING**

- 8.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 8.2 Codes of Practice, including advice about access by children and young persons, may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 8.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 8.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of

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entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

- 8.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 8.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

## 9.0 Premises licences

- 9.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
  - bingo premises
  - betting premises, including betting tracks
  - adult gaming centres
  - family entertainment centres
- 9.2 By distinguishing between premises types the Act makes clear that the main activity of the premises should be that described. Thus in a bingo premises the main activity should be bingo, with the gaming machines as an ancillary attraction to the premises. This principle also applies to betting premises licences. Subject to the gaming machine entitlements (and except in the case of tracks) the Act does not permit premises to be licensed for more than one of the above activities.
- 9.3 Where an application is made in respect of premises we will consider the following indicators in determining all premises licences:
- can the customer readily tell what sort of premises he/she is in e.g. can they distinguish a betting shop from a bingo premises or an AGC?
  - the space allocated to the primary activity relative to that allocated to other gambling activities e.g. machine gaming
  - is appropriate information provided to customers about how the gambling facilities work, and is it readily accessible?
  - is the primary activity clearly promoted on the premises and by way of external advertising (e.g. newspapers, flyers, posters, signage, on the internet)?
  - is the primary activity more popular than the ancillary facilities?
- 9.4 In the case of betting premises we will consider the following indicators in determining the application;



- is there a bet placing capacity (and where solely by terminal, are there more betting terminals than gaming machines)?
  - is information available on details of events (e.g. races, competitions, likelihood of things occurring etc.) including the results of all such events, on which bets can be made?
  - can customers receive pay outs on winning bets on the premises?
  - the proportion of the gross gaming yield in the premises derived from betting rather than gaming machines;
  - is the primary activity on the premises betting, which may be indicated by the relative popularity of the gaming machines?
- 9.5 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 9.6 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place.
- 9.7 We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed.
- 9.8 In determining whether two or more premises are truly separate, the licensing authority will consider the following:
- Does the premises have different postal addresses?
  - Does the premises have a separate registration for business rates?
  - Is the premises' neighbouring premises owned by the same person or someone else?
  - Can each of the premises be accessed from the street or a public passageway?
  - Can the premises only be accessed from any other gambling premises?
  - Would the ordinary person on the street consider that they were one premises or two?
- 9.9 Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 9.10 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.
- 9.11 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The

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District of Herefordshire has not been identified as a suitable location for a casino. In addition the authority has passed a resolution under Section 166 not to issue casino premises licences.

- 9.12 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 9.13 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 9.14 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 9.15 We are aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 9.16 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.
- 9.17 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
  - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place?
- 9.18 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 9.19 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 9.20 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9 am until 5 pm.

## 10.0 Responsible Authorities

10.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below. Contact details for each of the responsible authorities can be obtained from the Licensing Section on request.

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Herefordshire Council Planning Department
- Connexions, Hereford
- HM Revenue and Customs
- Environmental Health Department
- Herefordshire Council Licensing Department
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.

10.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## 11.0 INTERESTED PARTIES

11.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

11.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

11.3 In determining whether someone lives sufficiently close to particular premises so as to be affected, we will take into account, among other things:

- the size of the premises,
- the nature of the premises,
- the distance of the premises from the person making the representation,

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- the nature of the complainant and
- the potential impact of the premises.

11.4 In determining whether a person has a business interest which could be affected, the Council will consider, among other things:

- the size of the premises,
- the catchment area of the premises and
- whether the person making the representation has business interests in the catchment area that might be affected

11.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this (in the absence of other evidence) as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

11.6 We may consider a representation to be either frivolous or vexatious and reject it. This will generally be a matter of fact given the circumstances of each individual case, but before coming to a decision we will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

## 12.0 LICENCE CONDITIONS

12.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be:

- relevant to the need to make the building suitable for use as a gambling facility;
- directly related to the premises and the type of licence applied for and
- fairly and reasonably related to the scale and type of premises and reasonable in all other respects.

We will not have recourse to a pool of standard conditions.

12.2 We will also ensure that where category C or above machines (that are on offer in premises to which children are admitted) are located in an area of the premises which is separated by a physical barrier to prevent access (other than through a designated entrance) the designated area is supervised and observed by staff or the licence holder.

12.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming

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machines. We will also expect the applicant to offer their own suggestions as to any other ways in which the licensing objectives can be promoted effectively.

12.4 We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

12.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## 13.0 GAMING MACHINES

13.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

13.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

13.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises, (including tracks )
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

13.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

13.5 We will encourage permit and premises licence holders to adopt applicable codes of practice, which may be introduced by the amusement industry or Gambling Commission, from time to time.

## 14.0 TEMPORARY USE NOTICES

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- 14.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 14.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

## 15.0 OCCASIONAL USE NOTICES

- 15.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses, for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

## 16.0 LOTTERIES

- 16.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission, unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small society lotteries," which we will allow, after registration. We will maintain a register of small society lotteries.
- 16.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted:
- for charitable purposes;
  - for the purpose of enabling participation in, or of supporting sport, athletic or a cultural activity; or
  - for any other non-commercial purpose other than for private gain.

## 17.0 EXCHANGE OF INFORMATION

- 17.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 17.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.
- 17.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Legal Department.
- 17.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.
- 17.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## 18.0 ENFORCEMENT PROTOCOLS

- 18.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.
- 18.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.

- 18.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 18.4 We will also be mindful of future developments, as regards the work of the Better Regulation Executive, whilst carrying out our regulatory functions.
- 18.5 We will endeavour to be proportionate, accountable, consistent, transparent and targeted. We will also endeavour to avoid duplication with other regulatory regimes as far as possible.

## 19.0 Reviews

- 19.1 A review of a premises licence can be made by interested parties or responsible authorities. However, we will decide if the review is to be carried out on the basis of the following:
- Is it accordance with any relevant Code of Practice and/or guidance issued by the GC?
  - Is it consistent with the licensing objectives?
  - Is it in accordance with our statement of principles?
- 19.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.
- 19.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 19.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:
- Add, remove or amend a licence condition;
  - Remove or amend a default condition, such as opening hours;
  - Suspend the premises licence for a period not exceeding 3 months;
  - Revoke the licence.



**List of Consultees**

- All Responsible Authorities
- Premises license holders under the Gambling Act 2005
- Connexions – Hereford
- General Public through Herefordshire Council Website
- General Public through advertisement within a local paper
- District Councillors
- Parish Councils
- Representatives of the Gaming Industry, including suppliers of Gaming facilities and machines

**Appendix 2**

Further information on the subject of this report is available from  
Fred Spriggs, Licensing Officer on (01432) 263542

**RESPONSE**

From: Noel Richards [mailto:noel@firstmotorway.co.uk]

Sent: 25 November 2009 12:06

To: Licensing

Subject: Gambling Act 2005-Consultation

Dear Mr Spriggs,

Please could you ensure that Herefordshire council send out an invoice/letter reminding licence holders of when their fee is due at least 28 days prior to the fee payment date?

Would you also please take into consideration that Trunk Road Service Areas (TRSA) that have AGC on them are good locations due to the following points:

1. They are located on dual carriageways and can normally be only accessed in a vehicle.
2. To drive to a TRSA, s the driver would normally be older than 18 years of age, due to being 17 to obtain their driving licence and at least another 6 to 12 months before passing their driving test.
3. They are well staffed and the AGC is monitored.
4. Any children or youngsters under 18 years of age would normally have been driven there by a responsible adult.
5. Good CCTV systems are used at most TRSA's.
6. The majority of TRSA's do not serve Alcohol.
7. Public order at TRSA, s is good due to the lack of alcohol and that the customer is transient with an average stopping time of half an hour.
8. Any regular or excessive use of the machines by an individual would be quickly identified and appropriate advice and help given.

Thank you for the opportunity to comment.

Yours sincerely,

Noel Richards

Operations Director

First Motorway Services Ltd

**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 Advisor 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 one of refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second and subsequent applications in the same way.



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