

AGENDA

Regulatory Committee

Date: **Tuesday 5 April 2011**

Time: **2.00 pm**

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

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

For any further information please contact:

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Agenda for the Meeting of the Regulatory Committee

Membership

Chairman	Councillor JW Hope MBE
Vice-Chairman	Councillor PGH Cutter
	Councillor CM Bartrum
	Councillor SPA Daniels
	Councillor JHR Goodwin
	Councillor RC Hunt
	Councillor Brig P Jones CBE
	Councillor PJ McCaull
	Councillor GA Powell
	Councillor A Seldon

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.

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AGENDA

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 1st February, 2011.	1 - 4
5. PROPOSED REVISED DUAL HACKNEY CARRIAGE/PRIVATE HIRE DRIVER CONDITIONS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847 To consider implementing revised licence conditions for dual driver (taxi) licensing.	5 - 18
6. PROGRESS OF REGULATORY MATTERS To note the main activities of those involved in regulatory matters since the introduction of changes to the Constitution on 1st February, 2011.	19 - 22
7. REPORT ON REGULATORY ACTIVITY OF ENVIRONMENTAL HEALTH & TRADING STANDARDS To note the main regulatory activities of Environmental Health & Trading Standards service for the year 2010/11.	23 - 32

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- 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.
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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 1 February 2011 at 2.00 pm

Present: Councillor JW Hope MBE (Chairman)
Councillor PGH Cutter (Vice Chairman)

Councillors: CM Bartrum, SPA Daniels, JHR Goodwin, RC Hunt, PJ McCaull and A Seldon

112. APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillors PGH Cutter, Brigadier P Jones and GA Powell.

113. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

114. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting

115. MINUTES

RESOLVED: That the Minutes of the meetings held on 4th and 11th January, 2011 be approved as a correct record and signed by the Chairman.

116. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH DO11 (PART) IN THE PARISH OF DORSTONE

The Parks, Countryside and Leisure Development Manager presented a report about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of footpath DO11 in the parish of Dorstone. The route of the footpath ran through the building of Primrose Hill and the owners had applied to divert it over a neighbour's land. The neighbour was agreeable to the proposals and the applicant had altered the route following comments received to preliminary consultations. There were no objections to the revised proposals and the applicant had agreed to meet the costs involved. The proposal has been agreed by the various user groups, the parish council and the Local Ward Member and met the criteria which were set out in Section 119 of the Highways Act 1980.

The Committee agreed to the proposals put forward by the Parks, Countryside and Leisure Development Manager.

RESOLVED THAT

a Public Path Diversion Order be made under Section 119 of the Highways Act in respect of part of Footpath DO11 at Dorstone, as illustrated on drawing number D364/119-11.

117. HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WA55B (PART) IN THE PARISH OF WALFORD

A report was presented by the Parks, Countryside and Leisure Development Manager about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of footpath WA55B in the parish of Walford. The route of the footpath was obstructed by a garage and ran through the garden of the applicant's property. He had applied to divert it around the boundary of the property. The adjoining landowners were agreeable to the proposals and no objections had been raised by the various user groups, the parish council or the Local Ward Member. The applicant had agreed to meet the costs involved and the proposals fulfilled the criteria which were set out in Section 119 of the Highways Act 1980.

The Committee agreed to the proposals put forward by the Parks, Countryside and Leisure Development Manager.

RESOLVED THAT

a Public Path Diversion Order be made under Section 119 of the Highways Act in respect of part of Footpath WA55B at Walford, as illustrated on drawing number D388/395B.

118. REVIEW OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY - LICENSING ACT 2003

A report was presented by the Licensing Officer regarding a review of the Council's licensing policy and its cumulative impact policy. The Committee had given preliminary consideration to the two policies at its meeting on 4th January 2011 and had decided that a Member Workshop should be held to go into the proposals in more detail. The Committee had also asked for the consultation period to be extended until 20th January to allow town and parish councils more time to respond. This had been undertaken and the amendments proposed at the workshop which had been held on 18th January were set out at Appendix C to the report.

The Committee considered the revised proposals. Councillor J Seldon felt that it would be useful if information could be provided about individual premises and it was agreed that paragraph 24.4 of the policy should be altered to reflect this, within the parameters of the Freedom of Information and Data Protection Acts which govern what information could be disclosed. Councillor Seldon also asked if information about the premises could be included on the Council's website. The Regulatory services Manager said that he could put 'signposts' on the website which would enable those wishing to find information about individual premises to contact the licensing section direct. The Committee was in favour of the Licensing Policy and the cumulative Impact Policy being adopted. It was noted however that a further review might be necessary during forthcoming months due to pending changes to the legislation regarding licensed premises.

RESOLVED THAT:

(a) Paragraph 24.4 - Requests for Information be amended to read:

The Licensing Authority will provide information contained within Part A of the Premises Licence, whenever reasonably requested to do so. However it is under no duty to reveal any such details as would be excluded in a response to a request made under the Freedom of Information Act;

(b) it be recommended to Council that Licensing Policy and the Cumulative Impact Policy, Licensing Act 2003, be adopted, subject to any such review as may be subsequently required.

119. CHANGES TO THE CONSTITUTION FOR REGULATORY COMMITTEE

The Committee Manager presented a report about the Changes that had been made to the Constitution regarding the Regulatory Committee and suggesting the delegation of certain functions to the Regulatory Sub-Committee. At its meeting on 19th November, 2010 Council had approved changes to the Constitution which were due to take effect from 1st February, subject to consultation first being undertaken with key stakeholders. This had involved the Committee and officers from the legal team together with those concerned with safeguarding, licensing and footpath diversions. Another part of the process was the creation officer review panel to deal with certain taxi licensing matters.

Applications for taxi driver licences and school contract driver were subject to different legislation. The officer panel would help the Council to fulfil its safeguarding responsibilities by introducing consistency in between the two service areas regarding the granting of driver licences. It was also proposed that the Regulatory Sub-Committee, in addition to its existing duties, would hear appeals arising from the refusal of taxi driver applications and panel recommendations for the revocation of existing licences. There was also the matter of those footpath/bridleway diversion matters which fell within the remit of the Regulatory Committee. There was a possibility that the straightforward ones without major issues to be resolved should be dealt with by the Officers. Those with major issues could be submitted to the Sub-Committee for consideration. The Parks, Countryside and Leisure Development Manager said that before that happened, there was a need for the Committee to be provided with further information about the different categories of diversions at a future meeting so that it could further consider the issues involved.

The Committee noted the changes which had been made to the Constitution and agreed with the proposals for the Sub-Committee to deal with certain licensing and footpath diversion matters. It was felt that it would give greater flexibility by removing the need for the Committee to deal with relatively routine matters and free it up for the more strategic matters, policy issues and the performance of the departments involved with regulatory matters. The Regulatory services Manager outlined the work of the different departments who were involved in those matters, and the area of reporting he envisaged submitting to the Committee.

RESOLVED THAT:

- (a) the changes to the Constitution regarding the Regulatory Committee be noted; and**
- (b) the responsibility for hearing appeals, revocation of licences and applications for those footpath diversions which fall within the remit**

of the Regulatory Committee, be delegated to the Regulatory Sub-Committee.

120. PROCEDURAL ARRANGEMENTS

The Committee noted the procedural arrangements for the meeting.

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 involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act

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

The Regulatory Services Manager referred to agenda item No. 11 regarding the holder of a dual hackney carriage/private hire licence who had been temporarily disqualified from driving by the Magistrates Court following a speeding offence. The matter had been considered by the Committee at its meeting on 7th December when it had been decided that it should be held in abeyance until the suspension ended. This had recently taken place and the licence holder provided the Committee with his reinstated licence. The Committee decided that his hackney carriage/private hire licence could be reinstated but warned him about his future conduct. The Chairman commended him for his honesty in notifying the licensing section about his driving ban.

RESOLVED:

That the licence holder remains a fit and proper person and that he can continue to hold a dual driver's licence.

The meeting ended at 2.45 pm

CHAIRMAN

MEETING:	REGULATORY COMMITTEE
DATE:	5 APRIL 2011
TITLE OF REPORT:	PROPOSED REVISED DUAL HACKNEY CARRIAGE/PRIVATE HIRE DRIVER CONDITIONS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847
PORTFOLIO AREA:	ENVIRONMENTAL HEALTH & TRADING STANDARDS PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To consider implementing revised licence conditions for dual driver (taxi) licensing.

Key Decision

This is not a key decision

Recommendation(s)

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.

Introduction and Background

1. From time to time the Council may review its conditions and policies as they relate to taxis.
2. The Herefordshire Hackney and Private Hire Taxi Association asked for the Dual Driver Conditions to be reviewed and amended following the lengthy consultation process that proceeded the adoption of the new Vehicle Conditions in March 2010.

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

REGULATORY COMMITTEE

3. Following this request from the trade, the Dual Driver Conditions were reviewed over a period of several months, following detailed consultation with the Herefordshire Hackney and Private Hire Taxi Association via its Chairman, Mr John Jones.
4. The consultation process was initiated at one of the regular Council / Trade liaison meetings and led to a new draft set passing back and forth between the Council and the Association whereby a number of minor amendments were made. The proposed conditions can be seen at Appendix 1.
5. The amendments are in a table and can be seen at Appendix 2.
6. The Taxi Association have been consulted in great depth and as the amendments to the original conditions are reasonably minor, opening the consultation exercise up even fuller is considered unnecessary.

Key Considerations

7. Whether or not to accept all or only some of the amendments to the draft standard dual driver licence conditions.

Reasons for Recommendations

8. The licensing authority believes it has considered amendments to the dual driver 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.

Alternative Options

- a) **That the conditions are 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.

Disadvantages: The current draft follows a consultation exercise and the amendments are minor. Therefore, it would seem unnecessary to consult more fully. This alternative will also delay the release of the new conditions.

- 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 being implemented.

- 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 Assistant Director (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. The Taxi Association have been consulted in great depth.

REGULATORY COMMITTEE

Financial Implications

Not applicable

Appendices

Appendix 1 – Proposed dual driver conditions

Appendix 2 - Amendments to conditions

Background Papers

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



THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS CONDITIONS

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CONDITIONS ATTACHED TO PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS

Herefordshire Council licenses both Hackney Carriage and Private Hire Vehicles under the provisions of The Town and Police Clauses Act 1985, Part 11 of the Local Government Miscellaneous Provisions Act 1976 as amended by the Transport Act 1985.

These conditions were approved by the Herefordshire Council's Regulatory Committee on xxxxxx 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.

Once a valid application has been accepted no refunds will be considered.

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

1.0 CONDUCT OF THE DRIVER

- 1.1 The driver of a hackney carriage or private hire vehicle licensed by Herefordshire Council shall hold a current dual drivers badge and licence from Herefordshire Council. Drivers of private hire vehicles must be aware that the driver, vehicle and Operator must all have licences issued by Herefordshire Council.
- 1.2 At all times the driver shall be clean and respectable in their dress and person and behave in a civil and orderly manner.
- 1.3 The driver shall not at any time cause or permit the sound emitted by any radio or other similar equipment in the vehicle to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- 1.4 The driver is not permitted by law to smoke in the licensed vehicle at any time.
- 1.5 All private hire drivers, when not engaged in a pre-arranged booking, must not park in such a position or location on the Public Highway which could give the appearance of being for hire.
- 1.6 The driver of a private hire vehicle shall not ply for hire in their vehicle but shall drive the vehicle for hire only by prior appointment.
- 1.7 The driver of a licensed vehicle shall not call out or influence any person in any way, which might reasonably be considered as an invitation to travel in their vehicle for gain.

2.0 BADGES AND PLATES

- 2.1 Whilst on duty, the driver shall wear the badge on the upper front of the body plainly and distinctly visible.
- 2.2 The second badge issue by the Council shall be displayed to be plainly and distinctly visible to persons being conveyed in the front of the vehicle.
- 2.3 The driver will return their drivers badge to the Licensing Unit upon the expiry, revocation or suspension of their licence.

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- 2.4 After the expiry date, shown on any drivers licence, that licence is no longer valid and any badge must be returned to the Licensing Unit immediately. (Insurance may be invalid if the dual drivers licence has expired.)
- 2.5 The driver is also required to supply the annual self-declaration form, fee and other documentation required to maintain the 3 year badge. Failure to supply these will result in the licence being suspended.

3.0 INSURANCE

- 3.1 The driver shall carry evidence of insurance cover in the vehicle at all times whilst on duty, showing that the vehicle is suitably insured for the purpose of Hackney Carriage/Private Hire use. A photocopy of the certificate will be accepted.

4.0 PASSENGERS\LUGGAGE

- 4.1 The driver shall not carry or permit to be carried in his vehicle any greater number of persons than the number specified in the licence issued to that particular vehicle.
- 4.2 The driver shall not, without the consent of the hirer, carry any other person in the vehicle.
- 4.3 All drivers shall if required: -
 - a) carry a reasonable quantity of passenger's luggage, ensuring its security.
 - b) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he/she may take up or set down such person.
 - c) take reasonable precautions to ensure the safety of persons carried in or entering or alighting from the vehicle.

5.0 LOST PROPERTY

- 5.1 The proprietor or driver of a licensed vehicle shall, when practicable after journeys search the vehicle for lost property.
- 5.2 Any property found by the driver in the vehicle, or handed to them, shall, if not claimed by or on behalf of the hirer within 24 hours, be given by the driver to the police or handed in to one of the Council Info Centres or to the Licensing Office.
- 5.3 Be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of the estimated value (or the fare for the distance from the place of finding to the return address of the owner of the property or police station, whichever be the greater, but not more than ten pounds).

6.0 TAXI METER/FARES

- 6.1 Licensed vehicles equipped with a taximeter (compulsory for a hackney carriage but optional for a private hire car) shall operate the taximeter in accordance with the requirements of the conditions. For hackney carriages the taximeter must be used even if it is a pre-booked journey. A lesser fee than the metered fare may be charged. If the journey is undertaken through a service contract or out of the county and the fee is quoted to be less than the metered fare the hackney carriage would not be required to use the taximeter.
- 6.2 The driver shall not charge more than the metered fare.
- 6.3 A driver 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.
- 6.4 If the vehicle is fitted with a taximeter, the driver shall not cause the fare showing to be cancelled or concealed until the hirer has had reasonable opportunity of examining it and has agreed the fare.

- 6.5 The driver shall not demand from the hirer a fare in excess of any previously agreed fare for that hiring between the hirer and the operator or, if the vehicle is fitted with a taxi meter, the fare shown on the face of the taximeter.
- 6.6 The driver of a hackney carriage undertaking, for any hirer, a journey ending outside Herefordshire and in respect of which no fare and no rate was agreed before the hiring was effected, shall not require for such journey a fare greater than that indicated on the taxi meter with which the hackney carriage is equipped.
- 6.7 The fare for each journey shall only begin when the hirer enters the vehicle, unless prior agreement has been made or if the customer is not available until later than the agreed pick up time. Appropriate waiting time shall be given without charge to people with disabilities.

7.0 COMPLAINTS

- 7.1 The driver shall advise the proprietor of the vehicle of any complaints made by passengers.
- 7.2 The driver shall advise passengers of their right to refer the complaint to the Council and give contact details for them to do so.

8.0 PROMPT ATTENDANCE

- 8.1 The driver who has agreed or has been hired to be in attendance with the vehicle at any appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at such time and place.
- 8.2 The driver shall not, without reasonable cause, unnecessarily prolong, in distance or in time, the journey for which the vehicle has been hired.

9.0 LICENCE/APPLICATION

- 9.1 If the driver is permitted or employed to drive a hackney carriage and/or private hire vehicle by an operator/vehicle proprietor they shall, before commencing to drive that vehicle, provide a copy of their dual driver's licence with that operator/vehicle proprietor for retention by them until such time as the driver ceases to be permitted or employed to drive for that operator/vehicle proprietor.
- 9.2 All drivers should ensure that the proprietor holds valid insurance to cover them for the hiring of a hackney carriage and/or private hire vehicle. The driver should also ensure that the proprietor has a private hire operator's licence where appropriate.
- 9.3 All drivers shall ensure that any car driven by them is licensed by the Council for that purpose.
- 9.4 The issue of a dual driver licence will be subject to satisfactory CRB, Medical, DVLA returns when appropriate, and for new applications the applicant must pass the Herefordshire Council Knowledge Test. In some circumstances a code of good conduct will be required in addition to the CRB.
- 9.5 Prior to the expiry of a licence a reminder will be sent to drivers. Only one reminder will be sent. Renewal paperwork must be submitted without delay, as no licence will be issued until the appropriate satisfactory checks are received, including CRB and Medical if required. Late renewals will be referred to Regulatory Committee for determination and the cost will be paid by the applicant.
- 9.6 All drivers applying for a new dual driver licence after 1st November 2005 or other drivers directed by the Regulatory Committee shall undertake and pass a knowledge test.

10.0 CHANGE OF DETAILS/CIRCUMSTANCES

- 10.1 The driver shall notify the Council in writing of any change of their address and/or telephone number within 7 days of such change.
- 10.2 The driver shall immediately, disclose to the Taxi Licensing Unit in writing, details of any conviction/caution imposed on him/her during the period of the licence, motoring or criminal. Failure to do this could result in immediate suspension of the dual driver licence or referral to Regulatory Committee for determination, the cost of referral will be paid by the applicant, unless this fee is waived by the Committee members.
- 10.3 The driver shall immediately, disclose to the Taxi Licensing Unit in writing, details of any involvement in incident/s which the Police are involved and may lead to caution/conviction. Failure to do this could result in immediate suspension of the dual driver licence or referral to Regulatory Committee for determination and the cost will be paid by the applicant, unless this fee is waived by the Committee members.
- 10.4 The driver shall notify the Council in writing, as soon as possible and in any event within 7 days of any serious illness or injury affecting their fitness to drive in any way. Failure to do this could result in immediate suspension of the dual driver licence or referral to Regulatory Committee for determination and the cost will be paid by the applicant, unless this fee is waived by the Committee members.

11.0 ANIMALS

- 11.1 Any animal belonging to or in the custody of any passengers can be conveyed in a licensed vehicle at the driver's discretion.
- 11.2 A driver of a licensed vehicle which has been hired by or for a disabled person with their guide, hearing or prescribed assistance dog, or a person who wishes such a disabled person to accompany him in the vehicle will have a duty to:
 - a) Convey the disabled passenger's dog and allow it to remain with the passenger; and
 - b) Are not to make any additional charge for doing so.

An assistance dog is defined by regulations as a dog which is trained by a specified charity i.e. "Dogs for the Disabled", "Support Dogs" or "Canine Partners for Independence", to assist a disabled person with a physical impairment, and which at the time that its owner hires a taxi is wearing a yellow jacket inscribed with the name of one of those charities.

- 11.3 The driver shall only be exempt from the condition 11.2 on medical grounds and has obtained an exemption notice from Herefordshire Council. The notice of exemption shall be exhibited in a prominent position.

12.0 MOBILE PHONES

- 12.1 Drivers wishing to use a mobile phone in the vehicle must use them in accordance with The Road Vehicles (construction and use) (Amendment) (No.4) Regulation 2003.

13.0 GENERAL CONDITIONS

- 13.1 The holder of this licence shall comply with the provisions of the Town Police Clauses Act 1847 as amended by Part 11 of the Local Government (Miscellaneous Provisions) Act 1976, a copy of which is available for inspection at the Licensing Office.
- 13.2 The driver is to ensure reasonable cleanliness of the vehicle inside and out.

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- 13.3 The driver is to inform the Council's Licensing Section and the proprietor of the vehicle of any accident or damage to the vehicle within 72 hours, and present the vehicle for inspection forthwith if requested to do so.
- 13.4 The driver shall, if requested by the hirer of the vehicle, provide them with a written receipt for the fare paid.
- 13.5 The driver of a licensed vehicle shall co-operate with any Authorised Officer, Constable or any other clearly identifiable person nominated by the Council, with any enquires.

14.0 PRIVATE HIRE

- 14.1 Private hire vehicle drivers must keep a record of journeys, which is to be kept in the vehicle or accessible through the private hire operator immediately if it is requested.
 - (i) The driver of a private hire vehicle shall at all times whilst acting in accordance with the private hire driver's licence keep a record sheet in the private hire vehicle and before commencement of each journey, enter particulars of each journey to be undertaken and the name and address of the person who has made the booking. This may be in computerised form if the operating system provides this facility. If the journey is part of a contract, individual records of each journey will not have to be detailed, as long as the journeys are noted in the contract of hire.

15.0 THE WEARING OF SEATBELTS

15.1 The requirements contained in the Road Traffic Act 1988, s 15, the Motor Vehicle (wearing of seat belts) Regulations 1993, Part III and the Motor Vehicles (wearing of seatbelts by Children in Front Seats) Regulations 1993 and the Motor Vehicles (Wearing of Seat Belts) (Amendments) Regulations 2006 must be complied with. Please see table below

	Front Seat	Rear Seat	Who is responsible
Driver	Taxi drivers - hackney carriage drivers are exempt from wearing a seat belt while on duty (whether they have a passenger or not). Private hire taxi drivers are only exempt when carrying a fare-paying passenger. They must wear a seat belt at all other times.		Driver
Child up to 3 years old	Correct child restraint MUST be used.	If no appropriate restraint available the child may travel unrestrained in the rear.	Driver
Child from 3 rd birthday up to either 135cms in height or 12 years old	Correct child restraint MUST be used	MUST use adult belt if the correct child restraint is not available.	Driver
Child over 135 cms or 12 to 13 years	Seat belt MUST be worn if available	Seat belt MUST be worn if available	Driver
Passengers 14 years and over	Seat belt must be worn if available	Seat belt must be worn if available	Passenger

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:

Authorised by Regulatory Committee on xxxxxx

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

Appendix 2 – Amendment to Dual Driver Conditions

Amendment	Condition number Existing Conditions	Reason
Grammatical change	1.1	
Condition removed as it is in the Byelaws	1.5	Duplication
Conditions removed as it is in the Byelaws	2.6	Duplication
Altered to allow property to be left at a Council Office	5.3	Request of the Trade
Altered to allow more convenient charging for contract work	6.1	Request of the Trade
Wording added to allow for waiver of fee by Committee Members	10.2	Request of the Trade
Wording amended to take account of contract journeys	14.1 (i)	Request of the Trade



MEETING:	REGULATORY COMMITTEE
DATE:	5 APRIL 2011
TITLE OF REPORT:	PROGRESS OF REGULATORY MATTERS
PORTFOLIO:	ASSISTANT DIRECTOR LAW & GOVERNANCE

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To note the main activities of those involved in regulatory matters since the introduction of changes to the Constitution on 1st February, 2011.

CHANGES TO THE CONSTITUTION

1. Members will recall that at its meeting on 19th November, 2010 Council approved changes to the Constitution which came into effect on 1st February, 2011. This also involved the creation of an officer review panel which is comprised of officers from licensing, the legal team and safeguarding.
2. The Committee has also decided that the Regulatory Sub-Committee, in addition to its existing duties under the licensing and gambling Acts, will deal with the following matters:
 - hear appeals arising from the refusal of taxi driver applications and officer panel recommendations for the revocation of existing licences; and
 - those footpath/bridleway diversion applications which have 'major issues' to be resolved.
3. The Committee feel that the changes will give greater flexibility to it by removing the need to deal with relatively routine tasks and free it up for the more strategic matters, policy issues and reviewing the performance of those departments which are involved in the regulatory arena.

THE NEW OFFICER REVIEW PANEL

4. The panel (Taxi & County Transport Badge Officer Panel) held its first meeting on 1st March and dealt with an application for a dual hackney carriage/private hire driver's licence and a referral from the police about a hackney carriage found to have been driven without insurance. The two matters were dealt with as follows:
 - the application for a dual drivers licence and County Transport Badge was granted, subject to the applicants version of events regarding a police caution

Further information on the subject of this report is available from
Pete Martens (01432) 260248

proving to be correct (the applicant's version of events were subsequently found to be at variance with what was alleged to have happened by a complainant, and the matter was referred to the Sub-Committee); and

- it was recommended to the Regulatory Sub-Committee that a dual driver's licence be revoked because the licence holder had not provided clear evidence to the officers that he held an insurance policy for a licensed hackney carriage.

REGULATORY SUB-COMMITTEE

4. The Sub-committee has met on two occasions since the new arrangements came into effect being and has dealt with the matters referred to it as follows:

(a) 7th March 2011

- Review of a Premises Licence: Eagle Inn, 23 Broad Street, Ross on Wye due to public safety and crime & disorder issues – decided that the hours for licensable activity be amended and additional conditions be attached to the licence.

(b) 18th March 2011

- Application for variation of premises licence in respect of 'Tesco, Orchard Lane, Ledbury – the applicants subsequently withdrew the application
- application for variation of premises licence in respect of 'Tesco 2, Abbotsmead Road, Belmont, Hereford - the applicants subsequently withdrew the application
- application from West Mercia Constabulary for an '*expedited licence review*' of the premises licence relating to 'East European Food, 133 Eign Street, Hereford – alcohol and tobacco were being sold there for which no UK tax had been paid. The Sub-Committee decided to suspended the licence with immediate effect, subject to a further review which will take place at its meeting on 26th April, 2011.
- application for a dual drivers licence and County Transport Badge referred from the Officers Panel - the Sub-Committee decided that the application should be granted because the applicant had provided sufficient evidence that he was a fit and proper person to hold a licence.
- proposed revocation of a dual drivers licence and County Transport Badge referred from the Officers Panel - the Sub-Committee decided that the licence should remain in force, subject to the licence holder providing the officers with evidence on a regular basis for the next twelve months, confirming that his vehicle was properly insured.

REVIEW OF THE LICENSING POLICY AND CUMULATIVE IMPACT POLICY - LICENSING ACT 2003

5 At its meeting on 4th March 2011 Council approve the following recommendation from the Committee:

The Licensing Policy and the Cumulative Impact Policy, Licensing Act 2003, as submitted to the Regulatory Committee at its meeting on 1st February 2011 be adopted, subject to any subsequent review which may be required.

ADOPTION OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISC PROVISIONS) ACT 1982

6. At its meeting on 4th March 2011 Council approve the following recommendation from the Committee:

Schedule 3 and the amendments of Section 27 to the Local Government (Miscellaneous Provisions Act 1982) which gives power to regulate lap dancing clubs and similar venues be adopted by the Council.

COMMUNITY PROTECTION TEAM

7. At the last meeting the Committee decided that it would like to know about some of the other areas of regulatory work which the Council deals with. The Council's Community Protection Team have been involved with the following matters during 2010:
- (i) Number of 'incidents' dealt with (as recorded on Civica) – 4039
 - (ii) Number dealt with within target (5 days) – 3898 (96.5%)
 - (iii) Achieved grade 1 for NI 196 (very effective performance)
 - (iv) Worked closely with Waste Management with regards to local businesses cancelling or not renewing waste licences – as a consequence carried out 323 Duty of Care inspections on local businesses. As an example of the impact of this - in July Amey picked up 374 black bags in High Town, 355 in August, but in November this was down to 140 as a consequence of businesses disposing of their business waste more appropriately.
 - (v) 113 Fixed Penalty Notices issued (88 for littering, 17 for dog fouling, 7 for failing to produce a waste transfer note, and 1 for fly-posting). Payment of these realised £5,340.
 - (vi) There were 35 full investigations into named suspects for fly-tipping and associated litter offences. Each of these resulted in an evidential file for consideration of prosecution. As a consequence there was no further action in 10 cases (evidential issues), 2 people received a formal warning, 7 people received a formal caution, and 16 people were prosecuted. Of the prosecutions 14 defendants pleaded guilty and 2 not guilty. The 2 trials resulted in one conviction and one acquittal. Fines totalled £3,335 with a further £3,208 in costs being awarded.
 - (vii) The procedures for the collection and return of stray dogs were revised with more elements of the process being contracted out from March 2010. The subsequent release of Dog Warden time has enabled them to be deployed in an intelligence-led proactive manner to address issues of dog fouling, a problem frequently raised at public meetings as being a concern to communities. As a consequence since April 578 targeted patrols have been carried out, and complaints of dog fouling have fallen from a peak of 18 in June to just 3 in December.
 - (viii) In April the Community Protection Team Leader, initiated the first cross-border meeting of environmental crime teams (Forest of Dean) following a fly-tip on the Ross-Gloucester border. Since that first meeting he has established a bi-monthly meeting structure now attended by representatives of the Forest of Dean, Wychavon, Malvern Hills, Monmouth, Gloucester, Cheltenham, and Worcester. The group meets to share intelligence, good

practice and training opportunities, and is currently looking at options for an information-sharing database, and at joint working opportunities.

- (ix) In February and March the team was a key partner in the TAAG Graffiti Campaign, working with Amey, Safer Herefordshire and the Police. This involved a 'clean-up' of the worst affected areas across the County. This campaign attracted excellent publicity and was a success in terms of ridding Hereford and the market towns of unsightly graffiti that, in some cases, had been in place for many years. Preventative follow-up activity ensured that graffiti removed was not replaced.
- (x) On St George's Day the team led a 'tidy-up' at Yazor Brook and surrounding area, an area of long-standing concern in respect of dumped waste and litter. Working with Amey, the Police, the Environment Agency and a local school a substantial amount of waste was removed significantly improving the area for the enjoyment of the local community.
- (xi) In April, following a successful bid led by the Community Protection Team Leader, Herefordshire was selected as a campaign partner in the national Chewing Gum Campaign. The campaign was run between 18 August and 10 September and was supported by Safer Herefordshire and Amey working with the Community Protection Team. A real bonus for the Herefordshire campaign was securing 'Gumdrop' as a partner (an innovative new product focusing on the recycling aspects of chewing gum). The resulting publicity saw in the region of 4,000 articles appearing on the web with coverage reaching as far afield as Arizona and India. More locally the benefits of being a campaign partner was free publicity on street 'banners' and buses, and a strategically placed 'Ad-van'. Most importantly the campaign resulted in a 39% reduction of inappropriately dropped chewing gum in the 10 identified monitoring sites.
- (xii) Between May and September four 'Responsible Dog Owner' courses were run, at Hereford, Ross, Ledbury and Leominster. Each was well attended and proved to be very popular. The courses dealt with obedience training, and also covered legal requirements associated with dog ownership.
- (xiii) Between 20 September and 18 October the team took part in the Keep Britain Tidy Dog Fouling Campaign. The local focus was on education in a number of targeted areas identified as 'hotspots' ahead of the introduction of Dog Control Orders on 25 October.

BACKGROUND PAPERS Agenda papers from Council and the Regulatory Sub-Committee.



MEETING:	REGULATORY COMMITTEE
DATE:	5 APRIL 2011
TITLE OF REPORT:	REPORT ON REGULATORY ACTIVITY OF ENVIRONMENTAL HEALTH & TRADING STANDARDS
PORTFOLIO:	ASSISTANT DIRECTOR (ENVIRONMENTAL HEALTH & TRADING STANDARDS)

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the main regulatory activities of Environmental Health & Trading Standards service for the year 2010/11.

LICENSING TEAM

1. During the period April 2010 – February 2011 there were 12 reviews referred to committee:

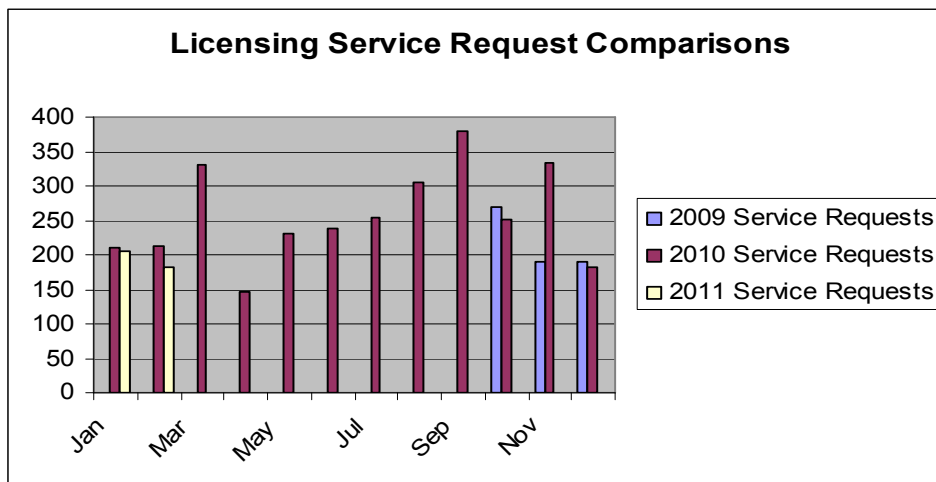
2010/11	Reviews held by Sub Committees
April	McColls Off Licence
May	None held this month
June	Kington Show Mr Chips (4am extension)
July	Jamstand – cancelled as application withdrawn Wyeside at Sutton St Nicholas
August	Jamstand, Ross - Event cancelled after joint letter sent from police / Council.
September	Jamstand, Ross Withington Stores

For further information please contact
Marc Willimont, Regulatory Services Manager on 01432 261986

October	Crown & Sceptre, Ross – Expedited Review
November	TJ's Longbar, Commercial Rd Dukes Head (Wetherspoons) Leominster
December	None held this month
January	Commercial Pub, Hereford Crown & Sceptre, Bromyard
February	The Eagle, Ross-on-Wye
March	No data yet

In addition to the above review work, the Licensing Team deals with many enquiries and complaints from the public. In 2010 there were 3072 service requests and by the end of February in 2011 there have so far been 338 service requests, comparing to 525 for this time last year.

In 2010 there were 2724 licensing transactions (e.g. granting of licences etc). By the end of February 2011, we have had 407 transactions comparing to 448 for this time last year.



Night Time Enforcement Work

The Licensing Team undertook numerous night time inspections of the pubs and clubs of Hereford and its market towns. A number of these were in conjunction with the police.

Festivals and Regulatory Work

A number of festivals during the summer months required extra regulatory effort in order to ensure compliance. The Big Chill particularly took a great deal of resource and regulate, culminating in 5 days of monitoring and enforcement work during the event by officers working throughout the day and night time.

Underage Test purchases

Trading Standards worked closely with the police and licensing team to undertake four evenings of covert underage test purchase of alcohol in licensed premises. These 30 test purchases took place on:

- i. Weekend of 3rd / 4th and 10th / 11th December 2010.
- ii. Weekend of 18th / 19th and 25th / 26th February 2011

As a consequence, reviews are being made by the police / Trading Standards and fixed penalty notices were issued.

TAXI LICENSING TEAM

2. During the period April 2010 – February 2011 the following regulatory work was undertaken

	2010/11
Suspension Notices (Drivers)	4 referred to committee 6 for medical reasons 60 for non payment of annual fee
Suspension Notices (Vehicles)	1
Penalty Points issued	44 drivers were issued with points
Fit & proper driver status referred to committee or panel	45 drivers

In addition, out-of-hours work enabled the team to inspect 50 of the hackney cabs for compliance whilst they operated on the ranks in the evening / night time.

Likewise, the team successfully inspected the entire fleet of 110 private hire vehicles through joint working with Amey's vehicle inspector on several successive evenings.

ENVIRONMENTAL PROTECTION TEAM

3. The Environmental Protection Team encompasses key areas such as:-
 - **Noise nuisance** – investigation and service of abatement notices
 - **Other nuisances** – e.g. odour, dust, smoke etc
 - **High Hedge complaints**
 - **Burial of deceased without means**

- **Smoke offences** – e.g. Clean Air Act and dark smoke offences
- **Drainage** – clearance of drains and sewers and broken septic tanks
- **Public Health** – clearance of rubbish and land with rats or mice on
- **Planning Consultations**
- **Licensing Consultations**

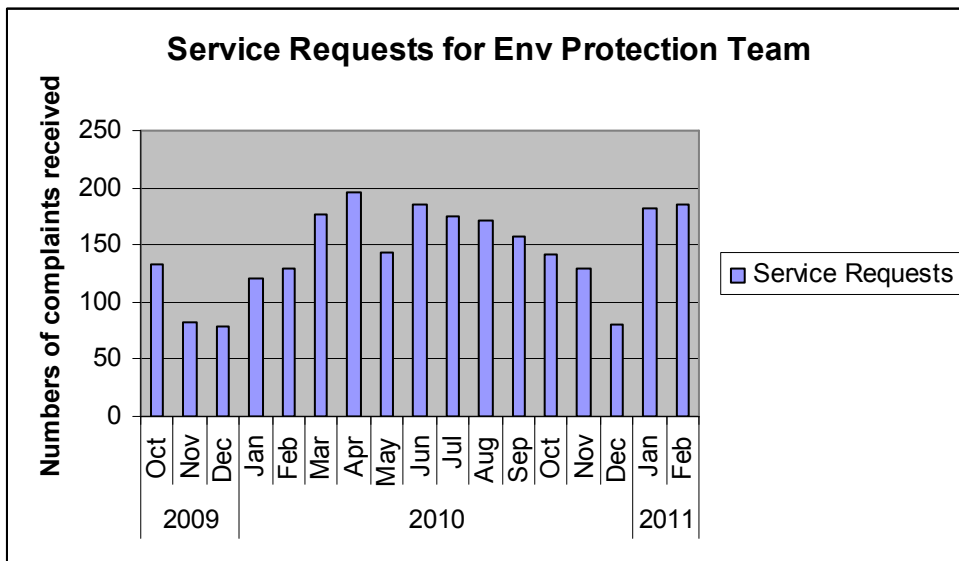
During the period April 2010 – February 2011 the following regulatory work has been undertaken:

	2010/11
Noise Abatement Notices	2
Rubbis Clearance Notices	1
Drainage Notices	11
Clearance Notice on Filthy and Verminous houses	1
High Hedge Notices	0 (although a notice from a previous year was appealed)
Seizure of noise equipment	2 x seizure of equipment - both times at a flat in Leominster following a noise abatement notice served the previous year.
Prosecutions	1 – for noise nuisance from a flat in Leominster

By the end of February 2011 there had been 366 service requests compared to 250 last year at this stage.

In the calendar year of 2010 there were 1884 service requests in total.

The graph below helps show the seasonality and long term trend compared to the previous year.



AIR, LAND & WATER TEAM (SPECIALIST POLLUTION)

4. The Air, Land & Water Team encompasses key areas such as:-

- **Closed landfill site management** – monitoring and project managing engineering works etc.
- **Contaminated land** – responses on planning applications and investigations
- **Private and mains water supply** monitoring and regulation
- **Industrial pollution control** – issuing of environmental permits for large factories
- **Air Quality** – monitoring and assessment of air quality across the county and its oads
- **Seagulls** – managing the contract for egg and nest removal

Although much of this team's remit is not enforcement based, during the period April 2010 – February 2011 the following regulatory work was undertaken by this team:

Industrial Pollution Control

40 x Industrial Process Inspections for compliance with environmental permit.

Water Supply Monitoring

1136 samples taken and 14 notices served on defective supplies so far in 2010/11

GYPSY & TRAVELLER TEAM

5. Although much of this team's remit is the management of the council owned gypsy & traveller sites across the county, during the period April 2010 – February 2011 the following regulatory work has been undertaken:

Movement of illegal encampments: 18 incidents logged on Council's Civica data base.

ENVIRONMENTAL HEALTH (COMMERCIAL) TEAM

6. The commercial team encompasses key areas such as:-

Food hygiene - ensuring basic food hygiene of food registered premises as well as promotion of 'Scores on the Doors' indicating a star rating of premises, provision of business advice and support to new and existing businesses

Health & Safety at Work – providing advice and assistance to businesses, investigating accidents and fatalities and instigating criminal prosecutions

Dealing with infectious disease notifications

Ensuring Smoke Free Workplaces

During the period April 2010 – February 2011 the following regulatory work has been undertaken:

- i. Major investigation undertaken in relation to a fatality at the Kington Agricultural Show resulting in a successful prosecution of the society responsible for running the event for a breach of Health & Safety requirements. They were fined £10,000 with £15,800 costs awarded
- ii. A number of other Health & Safety investigations undertaken in relation to serious accidents or incidents including two separate incidents relating to fork lift trucks and injuries sustained by the drivers, and an entrapment injury sustained to an employee packing goods on a conveyor belt
- iii. Issuing 25 written warnings in relation to Health & Safety at Work incidents
- iv. Undertaking a county wide project relating to the inspection of LPG tank installations and addressing safety problems associated with buried supply pipes that have corroded – several faulty installation identified and rectified
- ii. Health & Safety enforcement action (prohibition notice and improvement notices) against a restaurant and fast food take away in relation to faulty and dangerous gas cooking equipment posing a safety risk to both employees and customers
- iii. Food safety enforcement action (issuing of improvement notices) involving a bakery and take away restaurants
- iv. Promotion of food hygiene rating system – 'Scores on the Doors' to enable customers to have an informed choice with regard to food premises and to encourage businesses to improve their star rating with the result of driving up food hygiene standards across the county
- v. Undertaking circa 504 food hygiene inspections of registered food businesses within the county and some 1003 inspections in total
- vi. Undertaking 138 food samples in relation to microbiological testing

- vii. Dealing with 954 service requests
- viii. Dealing with 315 infectious disease notifications
- ix. Dealing with 134 RIDDOR accident notifications.
- x. Ongoing work with a local business over recalling its products that were found to contain salmonella
- xi. Helping to co-ordinate the successful enforcement and running of the Big Chill event – Herefordshire's' largest outdoor festival
- xii. Pending prosecution of public house for numerous food hygiene breaches
- xiii. Undertaking an investigation into a food poisoning outbreak at a local pub restaurant

TRADING STANDARDS TEAMS

7. The Trading Standards service encompasses key areas such as :-

- **Consumer safety** - ensuring the safety of consumer goods and the 'CE' mark.
- **Food standards and agriculture standards** – advising businesses on food labelling ensuring that composition and description are correct and truthful including animal feeding stuffs relating to labelling and composition .
- **Fair trading** relating to numerous commercial practices including consumer credit, packaging , green claims, time share etc., and especially protecting the elderly and vulnerable against cold calling and rogue traders
- **Metrology** – ensuring that weights and measures used in trade are correct and that suitable equipment is used, checking the quantity of goods sold ranging from bread to petrol
- **Licensing of Petroleum & explosive storage**
- **Advice to business and support to consumers**

During the year period April 2010 – February 2011 the following regulatory work has been undertaken:

- i. £82,939.16p currently saved or recovered for consumers and businesses within Herefordshire and beyond
- ii. 2 major criminal investigations involving fraud currently awaiting trial at crown court – one relating to 'cold calling' the elderly and vulnerable in relation to bogus property repairs and one relating to the sale of numerous misdescribed and unsafe caravans
- ii. Successful conviction of an individual under the Trade Marks Act for illegally copying and selling films on DVD. Sentenced to 120 hrs of unpaid community service and fined £600 costs.

- iii. Successful prosecution of company and its director over 'misleading and high pressure' selling techniques relating to Kirby vacuum cleaners. The company were targeting the elderly and vulnerable selling them vacuum cleaners overpriced at £2500 that were totally unsuitable. Innovative use of new legislation Consumer Protection for Unfair Trading Regulations - Company fined £13,000 with £200 of costs imposed, Director was also ordered to pay £500 to costs.
- iv. Formal cautions issued to two traders falsely claiming membership of professional or trade bodies
- v. 6633 complaints and notifications received so far by Trading Standards
- vi. 639 inspections/visits undertaken of premises including 49 relating to petroleum and explosives storage.
- vii. 30 underage alcohol test purchasing exercises and 1 for tobacco resulting in a number of licence reviews, conditions imposed and on-going enforcement action
- viii. 55 food samples checking for composition and quality, 18 animal feeding stuffs samples taken for nutritional analysis and illegal presence of GMO's, 4 relating to consumer safety and 17 for compliance with description or other claims
- ix. 'Crucial Crew' exhibitor 2010 in relation to age restricted products and now lead organiser for 2011 to ensure that event continues
- x. Testing of thickness of black refuse sacks on behalf of the waste management service to ensure compliance with contract
- xi. Number of interventions relating to 'cold calling / rogue trader' incidents within the county to protect the elderly and vulnerable
- xii. Provision of support and advice to local businesses through promotion of the home 'authority principle'
- xiii. Assisting local craft producers of Cider and Perry to claim European Union recognition under Protected Geographical Indication status (PGI's). Herefordshire Environmental Health & Trading Standards service are the designated inspection body for the three counties in this respect - Herefordshire, Worcestershire & Gloucestershire Cider and Perry are all protected product names

ANIMAL HEALTH TEAM

- 8. During the period April 2010 – February 2011 the following regulatory work has been undertaken:

The Animal Health & Welfare team deal with farms, livestock and farmers to ensure that disease control measures are in place and are adhered to, providing support and guidance in relation to animal health & welfare legislation, the control of animal by-products, bovine tb notifications, livestock market surveillance, transport of animals, primary food producers and welfare of animals on farm.

- i. Undertaken investigation requiring DNA testing of cattle and their offspring in relation to a potential fraud relating to Bovine TB and compensation scheme
- ii. Enforcement actions taken – oral advice 156, written advice 35, oral warnings 84 and written warnings issued 14
- iii. Dealt with 889 service requests including 326 in relation to business advice
- iv. Completed 608 farm inspections
- v. Undertaken 10 visits to abattoirs and 1 visit to a knackers/hunt/animal by-products processor
- vi. Have attended 281 separate markets and 2 agricultural shows/events
- vii. Resolved 2721 enforcement/breach reports
- viii. Checked 4265 animal transport vehicles and 29 animals
- ix. Animal movements (85% goats, 84% pigs and 94% sheep) entered onto DEFRA 'AMLS' database within 3 days
- x. 93% of all enforcement actions recorded onto DEFRA 'AMES' database within 5 days

PEST CONTROL TEAM

9. The Pest control team deal with the eradication of most domestic pest infestations through treatment and prevention. They also operate a number of contracts with businesses for pest control services as well as dealing with mole infestations in playing fields and sports pitches for AMEY, as well as for the councils crematorium and cemeteries.
 - Have responded to 2004 service requests ranging from wasps fleas, rats, mice and moles
 - Have circa 120 contracts in place with businesses for pest control
 - Actual income accrued **£130,351** against profiled for year £123,730

