

Appendix 4

Taxi Meeting Response to meeting 19 March 2008

Regulatory Committee hearing 18 December requiring M1 Standard.

The committee report dated 18 December 2007 stated that M1 Vehicles would be satisfactory, as it was believed at the time to be the case. However in January 2008 the Vehicle Certification Agency advised that the M1 standard did not cover wheelchair access facilities therefore the M1 standard could not be relied upon to demonstrate vehicle fitness. The Department of Transport later confirmed this in writing

In relation to the committee hearing and the introduction of the condition that vehicles had to comply with the M1 Standard the Local Government (Miscellaneous Provisions) Act 1976 under section 47 and 48 allows the Local Authority to attach conditions onto hackney carriage vehicles and private hire vehicles. At the time of the 18 December 2007 committee hearing it was believed that the M1 standard would demonstrate that the vehicle had undergone strict controls in its manufacturer which would cover the entirety of the vehicle including the wheelchair access facilities.

After establishing that M1 standard did not apply to wheelchair access facilities the Officers of Herefordshire council then turned to powers provided under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 that allowed any authorised officers to require tests to establish if vehicles are fit for use and thereby, Officers are able to use these powers without any referral to the Regulatory Committee. Therefore although the conditions state that vehicles must be M1 standard if the authority requires further information to ensure the vehicles are fit for use they are able to request the test under S.68.

VOSA advised that once a vehicle has been adapted the type approval no longer exists; The Motor Vehicles (Approval) Regulations 2001 as amended would require the whole vehicle to be tested because it is not known what modifications have been made to the vehicle or what the effect of those modifications is on the vehicle. Therefore by adding the wheelchair access facilities this would constitute a modification to the type approval therefore the vehicle would have to undergo the single vehicle Approval Test (SVA). Consequently Herefordshire Council has requested this test under power provided by Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

The condition will be referred to the regulatory committee for them to consider updating or removing the condition in light of the new information, however this does not affect the powers under Section 68 mentioned above.

In relation to new vehicles section 68 allows the local authority to ask for such information they consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached. Therefore the power to request proof that the vehicle is fit for the road by providing a VOSA (SVA) test certificate comes from this section.

Review of Licence conditions.

A review of the license conditions will be undertaken and the council will look to commission the services of James Button to review proposed final version.

Other points raised relating to the conditions

The reference to the conditions requiring wheelchair access on the nearside rear passenger door, the comments in relation to the roof light being clearly identifiable

along with the incorrect abbreviation and use of imperial measurements have been noted and will be included in the review.

In relation to the point made about the size of signage and lettering the conditions refer to area of signage and not dimensions of signage, however this will be looked at to establish if there is a clearer method of relaying this information.

In the meantime if any of the trade could highlight on a set of conditions the problem areas and present them to the licensing team this would help speed up the process and would be gratefully received.

Complaint made to Andrew Tector.

Having looked into why John Jones did not received a response to his complaint concerning.... Andrew Tector was working the understanding that during a conversation with John that he had asked to drop the complaint, consequently a written response was not provided.

There is a complaints procedure published on the councils website www.herefordshire.gov.uk or a copy of the complaints form can be obtained by contacting Info By Phone on 01432 260 500.

Refunds

Refunds have been provided however if anyone has not received an appropriate refund for a spare vehicle or replacement vehicle application applied for during the period of April 07 to November 07 then I would ask that they contact the licensing service. Refunds can take some time to go through the system.

Consultation

It was agreed that the persons present would look at setting up a representative working group of trade members to allow for consultation. In addition the local authority will look at using alternative technology to try and engage the trade e.g. text messaging.

Rotherwas test centre

The service will revisit the contract and instructions given to the Rotherwas test centre to ensure there is a consistent approach to testing vehicles that would ensure compliance with conditions at the testing process.

Rights of Appeal

The right of appeal is set out below.

Vehicle - Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 deals with Appeals I have provided the extract of that section below:-

S.77 (1) section 300 to 302 of the Act of 1936, which relates to appeals, shall have effect as if this part of this Act were part of that Act.

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

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

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

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

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

(ii) that person may carry on that business.

Section 300 to 302 of the Public Health Act of 1936 sets out the appeal process.

Rights of drivers to continue using suspended vehicles if an appeal is logged

If a vehicle has been suspended the local authority shall not instigate legal proceedings if an appeal has been logged therefore the vehicle could be driven until the appeal is heard without threat of prosecution under the Local Government (Miscellaneous Provisions) Act 1976. If the vehicle is unroadworthy the driver or proprietor may leave themselves open to prosecution by the police under the Road Traffic Acts.

Summary of grounds why the VOSA tests have been required

1. In response to trade complaint about converted vans and wheelchair access conversions.
2. That M1 passenger vehicle status does not test or provide any accreditation for wheelchair access facilities installed into a vehicle at the manufacturers, due to there being no European standard to test the installations against.
3. If the M1 standard does not cover wheelchair access facilities then the type approvals in turn would not cover the wheelchair access facilities. Therefore The Motor Vehicles (Approval) Regulations 2001 as amended. – Requires the whole vehicle to be tested because it is not known what modifications have been made to the vehicle or what the effect of those modifications is on the vehicle.
4. Manufacturers were asked to provide evidence that the vehicles are consistently manufactured to the prototypes, to date the service has not received evidence of consistency with prototype but will continue to work with the manufacturers. We are not alleging inconsistency but would need demonstration of consistency.
5. Other models were examined:-

Leeds – they approve type approved vehicles but did not consider as part of this approval the installation of wheelchair access facilities instead relied upon European type approvals.

Public Carriage office- they carry out their own destructive tests on prototype Type vehicles to give their own type approval over and above the M1 status. They will then carrying out audits at manufacturer and have each vehicle tested twice a year to their own standard tests. the test are carried out by SGS who receive additional training from the Public Carriage Office and also undergo audits by the Public Carriage Office.

6. The VOSA single vehicle type approval test is the only test that has been highlighted as a legally recognised test that would provide assurances the vehicles are fit for the road in light of the modifications made in additions to the type approval.
7. The service has sought advice from the Department of Transport who has not recommended any other course of action and has said that the VOSA test would provide assurances for vehicles with wheelchair access installed to demonstrate its safety for the road.
8. The local VOSA service and Rotherwas were approached initially to establish if they could carry out the checks on behalf of the service to determine if the vehicles were fit for the road, both declined on the grounds they did not have the necessary training to make such judgements. Only the VOSA single vehicle approval test could be found to provide those assurances.