

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

REPORT BY: Head of Environmental Health and Trading Standards

Purpose

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

Legal Background

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

Background

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

‘For vehicles manufactured by a manufacturer approved by the Regulatory Committee for being able to demonstrate to their satisfaction that all their vehicles are consistently manufactured to a standard ‘

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

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

Tests

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

Summary of Status testing

Test Procedure – Wheelchair restraints and wheelchair user restraints.

Test Procedure – Vehicle Fitted Wheelchair Ramps & Tail Lifts

Test Procedure – Re located Spare Wheels in Wheelchair Accessible

Test Procedure – Adapted Torsional Stiffness Assessment Vehicles

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

Forward –holds the description of the test

Annex - Standard SVA – Non European & Other Acceptable Standards

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

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

Issues

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

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

Options

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

RECOMMENDATION

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

Notes:**Appeal**

Section 77. -

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

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

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

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

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

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

(ii) that person may carry on that business.

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

Appeals and applications to court of summary jurisdiction

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

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

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

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

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

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

APPEALS TO [CROWN COURT] AGAINST DECISIONS OF JUSTICES

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

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

[Substituted by the courts Act 1971.]

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

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

EFFECT OF DECISION OF COURT UPON AN APPEAL

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

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

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

Appendix 2

Summary of Status testing

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