

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
EQUALITIES LEGISLATION (3) - DRAFT POLICY / TESTING REQUIREMENTS TO ENSURE THE SAFETY OF LICENSED VEHICLES WHICH HAVE BEEN SUBJECT TO MODIFICATION	DENISE JOHNSON

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 2) and (ii) the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of the draft policy attached to this report as Appendix 1.

2. RECOMMENDATIONS

Members are requested to:

- 2.1 consider whether to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of the draft Policy attached as Appendix 1 to this report, which includes details of the technical standards considered necessary to ensure the continuing roadworthiness of licensed / modified vehicles;
- or
- conclude that – given the technical nature of the proposed requirements – delegated authority should be given to the Revenues and Benefits Manager and Interim Licensing Manager to initiate further discussion with the trade, in a constructive manner, in order to further refine the draft technical specification forming part of Appendix 1, prior to referring it to full Council on 22 November 2017; and in either case
- 2.2 consider whether testing should be carried out by private testing stations which currently carry out roadworthiness checks on behalf of this Council, or whether testing should solely be undertaken by Lancashire County Council (options 1 and 2 in section 6 below) and – in light of the consultation exercise - to recommend a preferred option to Council.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe	x	Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	x

4. BACKGROUND TO THE REPORT

- 4.1 On 21 March 2017, the General Licensing Committee received an initial report on a draft policy to ensure the safety of licensed vehicles which had been subject to modification. This report confirmed that the need for such a policy had arisen from a situation discovered by Licensing staff formerly employed by the Council, when it had been discovered that vehicles licensed for use in the Borough were being modified but were not then subject to any further enhanced testing to ensure their continuing roadworthiness. These vehicles were typically larger road vehicles which had been modified to carry wheelchairs, with many service users affected being particularly vulnerable. In these circumstances there is clearly an enhanced responsibility for the licensing authority to ensure the safety of passengers and other road users. Members requested that a more detailed report was brought back to a future meeting after further work had been carried out.
- 4.2 On 13 June 2017, an updated report containing a draft policy and testing specification was presented to the General Licensing Committee. This updated report contained two alternative options relating to the testing of modified vehicles for roadworthiness; one option was that tests could continue to be carried out by a range of private sector testing stations as at present, and the other option restricted the tests to the Lancashire County Council facility at Bamber Bridge. Members agreed that the proposed policy and specification should be subject to a consultation exercise as set out in the report, with the option on restricting the location of tests to the LCC facility being stated as the preferred option.

5. MEETING WITH LANCASHIRE COUNTY COUNCIL

- 5.1 On 30 March 2017 the Interim Licensing Manager met with the County Council's Compliance Manager for Integrated Transport Services. The meeting took place at the County Council's testing facility at Bamber Bridge, and was felt to be productive (particularly in identifying a set of standards which the County Council would consider appropriate to ensure the continuing safety of passengers in modified vehicles - and by extension other road users). These standards are technical in nature, and are set out in detail in the Appendix to the draft Policy (attached as Appendix 1 to this report). In essence they concern matters such as:

a) Tracking

- Floor rails correctly fitted and secured / capable of meeting the strength requirements;
- "Cant rail" (if fitted) correctly fitted and secured / capable of meeting the strength requirements; and
- Correct 30mm washer or underfloor spreader plate fitted.

b) Seating

- Any removable seat fixture must have been successfully tested to appropriate standards;
- Evidence that seats are M1 compliant must be provided by the operator; and
- Removable seat fixtures should only be fitted and used in accordance to the manufacturer's instructions.

c) Restraints

- Any restraints for disabled passengers will be tested for compliance with international standards; and
- Any restraining equipment must be marked as being in compliance with international standards.

6. TESTING ARRANGEMENTS

- 6.1 Currently, the licensing authority requires all licensed vehicles to be tested every 6 months for roadworthiness prior to renewal of the vehicle licence. However, such tests have not applied to any modifications to the vehicle and it is this omission that this report seeks to correct.
- 6.2 The current testing regime states that roadworthiness tests can be carried out at around 12 private / independent trade outlets across the Borough. The vehicle owner will make arrangements for a testing station to carry out the necessary test for the appropriate fee, which is paid directly to the testing station. There is no contractual arrangement between the Council and the testing stations who undertake this work.
- 6.3 Two options for the testing of modified vehicles were identified:

Option 1:

One possible option is to allow the current independent testing stations to undertake the additional testing (as well as the roadworthiness tests currently undertaken) proposed under the modified vehicles policy. This would give a flexible approach and allow licence holders a choice in their preferred testing station.

Option 2:

Given the concerns which members have previously expressed about this matter, and the paramount importance of ensuring the safety of vulnerable service users, an alternative option would be to require all additional testing of modified vehicles (ie above and beyond roadworthiness tests) to be carried out by Lancashire County Council at their premises in Bamber Bridge. This is a purpose-built state of the art facility, and it is of particular relevance that it does not carry out any private repair work which may be identified as a result of the test on modified vehicles; in this way it can be said to be completely impartial in its assessment of the licensed fleet. For this reason, members are invited to consider whether additional testing should be restricted to the County Council's in-house testing station.

7. PROPOSED FEES

- 7.1 The County Council has confirmed that, for a fee of £90 plus VAT, it would undertake a package of 3 tests which includes the checks on modified vehicles. These tests are itemised below:
- i) regular 6 monthly SRBC roadworthiness test;
 - ii) annual LOLER (Lifting Operations and Lifting Equipment Regulations) for safety of tail lifts; and
 - iii) annual safety check on modified vehicles as per appendix to Appendix A (structural conversion work, tracking and seating).
- 7.2 Alternatively, the County Council has stated that it would undertake the annual LOLER tail lift check (paragraph 7.2ii above) AND the safety check (paragraph 7.1iii above) on modified vehicles for a sum of £60 plus VAT. This would leave the vehicle owner free to continue to have their other 6 monthly checks required by the Council carried out at the private testing stations currently utilised across the Borough.

8. CONSULTATION / COMMUNICATION PLAN

8.1 The report presented to members on 13 June set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

8.2 Publicising the consultation exercise:

8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the end of July 2017 a letter was sent to all drivers, proprietors and operators licensed with the Borough (as well as those existing private sector testing stations who would be directly affected by this proposal) outlining the consultation areas under consultation and advising them of how responses may be submitted;
- similar letters were sent to other interested parties including local disability groups; and
- social media / tweets were used to further circulate information about the consultation.

8.3 The consultation exercise itself

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

9. OUTCOME OF THE CONSULTATION

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received (although a significant contribution from a local company who would be affected by the introduction of the proposal was received – shown as Manufacturer 1 in the table below). However, the drop in sessions can be said to have been a success, with the following attendees:

Date of drop in session	Persons attending
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

Source:	Date:	Issue:	Council response
Driver 1	17.8.17	Not like the thought of just 1 testing station for this it creates an unfair competition which forces prices up.	Noted
Driver 2	24.8.17	Would prefer testing at SRBC approved garage rather than by LCC –	Noted

		would keep cost down and employment local	
LCC	25.8.17	Draft suggests that maximum height of step should be 420mm for first step and 300 mm for subsequent ones, whereas LCC criteria for school work are 250mm for first step and 300mm for subsequent ones	Noted
Manufacturer 1	30.8.17	<p><u>Inspections to ensure converted vehicles have been correctly and safety modified:</u></p> <p>Feels that further consultation is required with all interested parties before a meaningful revision to a policy for wheelchair accessible vehicles can be adopted</p> <p>Current testing regime by LCC ensures vehicles are inspected to VOSA standards and include ensuring tracking and seats are correctly fitted</p> <p>Current testing undertaken by the appointed testing stations also ensure correct fitting and use of seats and seatbelt during a class 5 test</p> <p>Seating compliance is impossible to demonstrate for older vehicles already licensed as many seat certificates are unavailable from manufacturers due to age</p> <p><u>Standards for modified minibuses/psv's</u></p> <p>All drivers have been trained in wheelchair use by LCC compliance officer</p> <p>Passenger seats have the same trim wherever</p>	All noted

possible but due to operational needs matching seats are not always possible. This is not a safety issue and these type of vehicles aren't front line taxis that service the general public directly

Floor height at 420mm incorrect

Minimum rail length incorrect or wrongly worded

Turning circle of a wheelchair within the vehicle doesn't seem to have any relevance.

Testing going forward

IVA's booking are not easily available in the local area. I understand that FMU may have capacity issues if they were to undertake all of the ongoing road worthiness testing.

We propose FMU undertake a 1st use inspection instead of an IVA using the amended Appendix one details to tests to be undertaken on modified vehicles. The current appendix has some errors that would need to be amended before it is to be used

Opposed to testing solely by LCC - ongoing testing to be undertaken by authorised garages using established taxi test regime along with an amended appendix one.

This is only a brief response due to current time constraints and I feel a great deal more of

		further consultation is required before things can move forward. I am happy to work with SRBC to this end.	
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9.3 Key points to emerge from the consultation are as follows:

- i) a number of technical objections to the content of the draft were raised by the manufacturer which responded to the consultation exercise. Some of these (such as the incorrect reference in Appendix 1 to a floor height of 420mm) are relatively non-contentious and are accepted, but others are more fundamental in that they suggest at least some elements of the proposed tests will be either (a) unnecessary or (b) a duplication of tests already carried out by Lancashire County Council. The manufacturer who submitted detailed comment has requested that further discussions of a technical and specialist nature between all interested parties are required to iron out the above issues, and members may wish to consider this option (set out in section 2.2 above); and
- ii) it should be noted that no responses were received from private testing stations (ie those bodies which currently undertake the roadworthiness tests required by this authority). However, all 3 respondents have expressed opposition to any requirement for all testing to be carried out by Lancashire County Council

9.4 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

10.2 Comments of the Monitoring Officer

Road safety is of paramount importance to the licensing authority, and this report seeks to ensure the safe transport of passengers in modified vehicles, by introducing an additional testing regime on modified vehicles.

Other implications:	
▶ Risk	See Legal comments above.
▶ Equality & Diversity	The report seeks to ensure the safe transport of passengers with physical disabilities, many of whom will be wheelchair users and require modified transport.
▶ HR & Organisational Development	None
▶ Property & Asset Management	None
▶ ICT / Technology	None

11. BACKGROUND DOCUMENTS (or there are no background papers to this report)

Appendix 1 – draft Policy and testing standards to be imposed

Appendix 2 – Equalities Impact Assessment

SMT Member's Name: Denise Johnson

Job Title: Director of Development, Enterprise & Communities

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