

**Name of meeting:** Licensing & Safety Committee  
**Date:** 13th December 2016  
**Title of report:** Individual Vehicle Approval ('IVA')

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Is it in the <a href="#">Council's Forward Plan</a>?</b>	<b>N/A</b>
<b>Is it eligible for "call in" by <a href="#">Scrutiny</a>?</b>	<b>N/A</b>
<b>Date signed off by Director &amp; name</b>	<b>Jacqui Gedman – 02/12/16</b>
<b>Is it signed off by the Assistant Director - Financial Management, Risk, IT &amp; Performance?</b>	<b>Debbie Hogg – 09/11/16</b>
<b>Is it signed off by the Assistant Director – Legal, Governance &amp; Monitoring?</b>	<b>Julie Muscroft – 30/11/16</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Mather – Portfolio Holder for Housing &amp; Enforcement Management</b>

**Electoral wards affected:** All  
**Ward councillors consulted:** N/A  
**Public or private:** Public

## 1 PURPOSE OF REPORT

1.1 To review the existing practice in respect of Individual Vehicle Approval ('IVA') and the options available, for existing private hire / hackney carriage vehicle licence holders, as an alternative to obtaining an IVA.

## 2 Key Points

2.1 Members of the public undertaking journeys within licensed vehicles have no opportunity to assess the fitness or safety of a vehicle prior to entering those vehicles. As such, they are reliant on the Licensing Authority to have carried out all the relevant checks on a vehicle before a licence is granted or renewed.

2.2 Currently the Council require all vehicles to pass a compliance test, conducted by the Council's own testing stations, before a vehicle licence is granted or renewed. This 'compliance test' is a more stringent version of a normal 'M.o.T' that all private vehicles must pass before being used on public roads. However, as with M.o.T's, this compliance test assesses the condition of the vehicle and not the design and construction of the vehicle.

- 2.3 In general, the safety of the design and construction of a vehicle is tested when it is 'type approved'. Type approval is conducted by vehicle inspectors employed by the Vehicle Operator Services Agency ('VOSA'); and the IVA is one aspect of 'type approval' that allows for the assessment of the design and construction of an individual vehicle.
- 2.4 As a result of working with partnering agencies on road side checks of licensed vehicles, in particular officers from VOSA, the safety of certain types of licensed vehicle is being called into question. The types of vehicles affected are, vehicles converted into mini-buses, vehicles that have had seating configuration changed and vehicles converted to carry wheelchairs; and it is the quality of the workmanship on these conversions that is being called into question. We recognised at this stage that whilst the vehicles were being tested for compliance this test did not check the safety of the conversion work.
- 2.5 The Council, currently licence 66 vehicles that have had some form of conversion carried out on them, whether that be a conversion from a van into a mini-bus or a mini-bus converted to carry wheelchairs.
- 2.6 As a result of these concerns a practice was introduced that stipulated all vehicles that have been subject to some form of conversion, must obtain an I.V.A from VOSA. This practice applied to all 'New' vehicles being brought onto the fleet, and existing licensed vehicles.
- 2.7 The policy, when applied to 'New' vehicles, is working well, people wishing to licence new, converted, vehicles know the requirement to obtain an IVA and must satisfy this requirement as part of the application procedure for a 'New' vehicle. However, the practice, when applied to existing licensed vehicles, is creating difficulties, for the trade.
- 2.8 This options paper looks at those issues, and examines the known alternatives to obtaining an IVA, that would still satisfy the Council's requirement that the vehicles it licenses are safe and suitable to carry the fare paying public.

### **3 IMPLICATIONS FOR THE COUNCIL**

- 3.1 The Licensing regime exists to ensure that the safety of the public is protected. As a result it is necessary for the Council to have a robust regime in place for assessing the safety and suitability of private hire vehicles that have been subject to some form of conversion.
- 3.2 While the safety of the public is paramount, any testing regime introduced has not only to be 'necessary' but has to be 'reasonable' as well. Based on this, the question needs to be asked, is it reasonable to ask the owners of vehicles that have been subject to a licence for, in some cases, a number of years without any issues, to now have to undertake an additional assessment over the vehicles normal compliance test; and the cost of this to be borne by the vehicle owner.
- 3.3 The Council, via its licensing service, are now aware of issues that affect the safety and suitability of some existing licensed vehicles that have been subject to some form of conversion; and in most cases, the standard of these conversions has not been assessed.

- 3.4 Implications arise if an incident was to occur with one of these vehicles, and the standard of the conversion was a contributory factor in the incident, and the Council had not taken all reasonable steps to assess the condition of that conversion.

#### **4 CONSULTEES AND THEIR OPINIONS**

- 4.1 While no formal consultation has taken place on this option paper, the paper has arisen out of meetings with the trade who brought the issues with IVA's to the attention of officers.

#### **5 NEXT STEPS**

- 5.1 The Licensing Committee is requested to consider the options available and instruct the Licensing Manager to proceed with Members preferred option.
- 5.2 More information is attached at Appendix one and each option available to Members is set out in paragraph 5.

#### **6 OFFICER RECOMMENDATIONS AND REASONS**

- 6.1 Officers have no preference in relation to the current options as each has its benefits and disadvantages. Officers would recommend not making a decision without first hearing from the trade reps who will be in attendance at committee to make representations.

#### **7 CABINET PORTFOLIO HOLDER RECOMMENDATION**

- 7.1 Cllr Naheed noted that option e appeared to be a sensible option but considered that whichever option was preferred that it be reviewed after 12 months.

#### **8 CONTACT OFFICER AND RELEVANT PAPERS**

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**Papers:**  
Appendix 1 – Options

#### **9 ASSISTANT DIRECTOR RESPONSIBLE**

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# Individual Vehicle Approval Options

## 1. Background

The Council, in its capacity as Licensing Authority are under a duty to ensure that the vehicles it licences for use as a private hire or a hackney carriage vehicle are safe and suitable for the members of public they carry.

Members of the public undertaking journeys within licensed vehicles have no opportunity to assess the fitness or safety of a vehicle prior to entering those vehicles. As such, they are reliant on the Licensing Authority to have carried out all the relevant checks on a vehicle before a licence is granted or renewed.

As a result of working with partnering agencies on road side checks of licensed vehicles, in particular officers from the Vehicle and Operator Services Agency ('VOSA'), it has come to the attention of Licensing Officers that the safety of certain types of licensed vehicle is being called into question. The types of vehicles affected are, vehicles converted into mini-buses, vehicles that have had seating configuration changed and vehicles converted to carry wheelchairs; and it is the quality of the workmanship on these conversions that is being called into question. We recognised at this stage that whilst the vehicles were being tested for compliance this test did not check the safety of the conversion work.

To understand the concerns it is necessary to look at how a vehicle becomes registered, in the United Kingdom, to be used on public roads; and the Individual Vehicle Approval ('IVA') aspects of the type approval process.

## 2. Registering a Vehicle in the UK & IVA's

Before a vehicle can be first registered in the UK for sale or service it must be type approved. EU Directive 2007/46/EC is the base European legislation for the approval of vehicles that are mass produced, built in small numbers or as individual vehicles. The Directive amends the existing European Community Whole Vehicle Type Approval Scheme ('ECWVTA') so as to include other vehicle categories for the first time; and it provides for the mandatory implementation dates upon which all vehicle categories must meet specified safety, security and environmental standards before they can be used on the road.

The ECWVTA allows a vehicle, of a type, to be approved for use across all member states in the EU without the need for further testing in each country. Full ECWVTA won't suit everyone due to the extensive, rigorous and therefore expensive testing requirement that is necessary to gain approval, particularly those manufacturing vehicles in low numbers. As a result of this, the Directive provides for three basic routes to approval.

### a) ECWVTA - European Community Whole Vehicle Type Approval

This route is for manufactures of large numbers of vehicles who wish to get their vehicles 'type approved' to sell across the whole of Europe.

### b) NSSTA - National Small Series Type Approval

This route is for manufactures of small numbers of vehicles who wish to get their vehicles 'type approved' for sale only within the UK. NSSTA is based on the concept of 'type approval' rather than the approval of individual vehicles and uses similar (but sometimes less exacting) technical standards. The key disadvantages revolve around limitations in the number of vehicles that can be manufactured in a year.

**c) IVA - Individual Vehicle Approval**

This route is a UK National approval scheme for vehicles and trailers imported, assembled or manufactured in very small numbers or as individual vehicles e.g. amateur built cars, bespoke trailers etc. Vehicles submitted for IVA inspections need to demonstrate that they generally comply with the technical provisions of EU Directive 2007/46/EC. The IVA scheme also checks that vehicles constructed for non-European markets comply with UK law.

Type approval places vehicles into different categories; the categories are defined according to the following classification:

- **Category M: Motor vehicles with at least four wheels designed and constructed for the carriage of passengers.**
  - Category M1: Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat.
  - Category M2: Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes.
  - Category M3: Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding 5 tonnes
- **Category N: Motor vehicles with at least four wheels designed and constructed for the carriage of goods.**
  - Category N1: Vehicles designed and constructed for the carriage of goods and having a maximum mass not exceeding 3,5 tonnes.
  - Category N2: Vehicles designed and constructed for the carriage of goods and having a maximum mass exceeding 3,5 tonnes but not exceeding 12 tonnes.
  - Category N3: Vehicles designed and constructed for the carriage of goods and having a maximum mass exceeding 12 tonnes.
- **Category O: Trailers (including semi-trailers).**
  - Category O1: Trailers with a maximum mass not exceeding 0,75 tonnes
  - Category O2: Trailers with a maximum mass exceeding 0,75 tonnes but not exceeding 3,5 tonnes.
  - Category O3: Trailers with a maximum mass exceeding 3,5 tonnes but not exceeding 10 tonnes.
  - Category O4: Trailers with a maximum mass exceeding 10 tonnes.

Type approval is only mandatory when a vehicle is first registered in the UK for sale or service. It is not mandatory for vehicles that already have a type approval and are subsequently converted once registered in the UK. This means a vehicle falling under category N1 can be converted from a Light Goods Vehicle into a Minibus without having to be re-assessed for type approval. It is this lack of oversight on conversions and the quality of workmanship on vehicles that are converted from one type to another that is causing concerns, as the workmanship is not something that would be picked up on at a vehicles normal MOT.

A 'M.O.T' assesses the condition of the vehicle, whereas 'Type Approval' assesses the design and construction of a vehicle.

### **Types of IVA**

There are two types (levels) of IVA 'Basic' and 'Normal'. Basic IVA involves a visual inspection and other tests to make sure the vehicle meets the necessary standards. Documentary evidence is not normally needed for a 'Basic' IVA'. However, if the vehicle has been modified by the fitting of additional seats that contain seat belt anchorages, a certificate may be required for the additional seats to demonstrate compliance with the M1 seat belt anchorage requirements.

You can only apply for a 'Basic' IVA if you have a passenger car (M1) or light goods vehicle (N1) in one of these categories:

- left-hand drive vehicles
- personal imports
- amateur built vehicles (kit cars)
- rebuilt vehicles
- very low volume production vehicles
- ambulances
- motor caravans
- hearses
- armored passenger vehicles
- a vehicle manufactured using parts of a registered vehicle

A 'Normal' IVA is for vehicles that don't meet the criteria for a basic IVA. It involves a more detailed inspection, vehicles have to meet extra standards, and documentary evidence has to be provided.

### **Are IVA's Voluntary**

If a vehicle has been registered in the UK and it needs to prove compliance you cannot go for a 'Statutory IVA' you have to use the 'Voluntary IVA system instead and this is the only route a vehicle owner can take if a Local Authority requires proof of compliance for a taxi / vehicle that has been modified since it was first registered. Therefore an IVA is only mandatory by way of conditions attached to a vehicle licence or because it forms part of the application criteria for new vehicle licences.

Because the IVA is voluntary it would be down to each individual Local Authority if they make a vehicle owner go for a Basic IVA or Normal IVA. With a Voluntary IVA, if the vehicle passes the inspection the vehicle owner gets a 'Confirmation of Compliance' rather than an 'Approval Certificate'

### **Voluntary IVA Fees**

The following table outlines the current fees for a IVA inspection. It should be noted, even though the costs of the inspection are relatively low; the associated costs are significant, for example the costs of obtaining the documents and / or the costs of carrying out any work to meet the IVA standard.

Voluntary	Inspection fee before VAT	Inspection fee including VAT at 20%	Re-inspection fee before VAT	Re-inspection fee including VAT
Basic (classes L, M, N, P)	£213.98	£256.77	£43.01	£51.61

### 3. Current Position

In relation to applications for a 'New' private hire or hackney carriage vehicle licence the current application criteria is as follows:-

1. If your vehicle is type approved as M1, and no alterations have been made to the seating or internal layout of that vehicle, you can licence that vehicle as it is without producing any further documentation.
2. If your vehicle is type approved as M1, and alterations have been made to the seating or internal layout (inc. alterations to allow the carriage of wheelchairs), then before an application is made to licence that vehicle, the owner must have an 'IVA' undertaken at a Vehicle and Operator Services Agency ('VOSA') approved centre. The certificate produced upon passing the IVA must accompany the initial application for a licence.
3. If your vehicle is type approved as N1, that is converted from a 'Light Goods Vehicle' to a minibus, then before an application is made to licence that vehicle, the owner must have an 'IVA' undertaken at a VOSA approved centre. The certificate produced upon passing the IVA must accompany the initial application for a licence.

This application criteria for new vehicles means the Council, acting in its capacity as Licensing Authority, can be confident any vehicle that has been subject to some form of conversion / alteration to the original manufacturer's design / specification, still meets the required EU safety standards for vehicles, and is therefore safe and suitable to be used as a licensed vehicle.

For existing licensed vehicles it is not as straightforward. Records indicate there are 66 vehicles licensed by Kirklees Council that are type approved as M1 or N1 that have had some form of conversion / alterations carried out on them. Most of these vehicles have been licensed for a number of years without any problems. They have passed the Council's compliance test and have been used by members of the public and the Council's School contract team without any reported incidents about the vehicle's safety. Notwithstanding this, as described in the introduction to this paper, we are now aware through our partnership working, problems do exist, and that these problems may not be detected when vehicles are presented for their compliance test, which is the benchmark generally used for assessing a vehicle; and we cannot now ignore those problems and concerns.

Initially existing licence holders with a converted vehicle were informed they would need to have the vehicle inspected by VOSA under the IVA scheme and provide the certificate upon successful completion. The existing licence holders were spoken to in June 2016 and given until the 31<sup>st</sup> July 2016 to produce proof they had made an appointment otherwise their vehicle licence would be suspended.



While the trade were understandably concerned about this change in practice, some have made attempts to obtain IVA's, with a handful being successful. However, the attempts of those trying to obtain an IVA, have brought to the forefront a number of unanticipated problems the trade are facing in obtaining an IVA, with some of those problems being:-

- the length of time VOSA are taking to not only respond to applications,
- the length of time for getting an appointment to have a vehicle assessed, once an application has been processed,
- inconsistency in the way vehicles are tested and the interpretation of the regulations by different VOSA inspectors,
- having to provide additional documentation to VOSA which is either not available, or could not be located by the vehicle,
- VOSA are refusing to test vehicles over a certain age,
- VOSA are saying the IVA is voluntary so why are the Council saying it is 'Mandatory'
- VOSA test to today's standards – if the vehicle was converted satisfactorily in 2009 for example, if the standards have changed since this date, the vehicle may not pass an IVA test in 2016 even though it was safe in 2009.
- In cases where vehicles have changed hands since being new the original convertors/suppliers are charging the current owners to obtain retrospective documents. The cost of obtaining these is about twice the cost of the actual IVA test.

As a result of the issues the trade are saying they are experiencing a commitment given to re-visit the practice relating to compulsory IVA for existing licensed vehicles. It needs to be noted that officers have asked the trade for evidence of the problems being experienced, but none has yet been produced.

#### 4. Offences

In relation to a vehicle that is already registered in the UK, and has been modified, there is no offence for if the vehicle is not subjected to a IVA, this borne out by the fact if a vehicle is already registered then, from a DVSA view point, the IVA is voluntary, albeit a Local Authority may make it a mandatory requirement for licencing purposes.

However, if the conversion / adaptations are not suitable offences under the Road Vehicle (Constructions and Use) Regulations may occur, for examples:-

Regulation 46 – offences relating to seat belt anchorage

Regulation 75 – offences relating to maximum permitted laden weight

Regulation 100 – offences relating to maintenance & use of vehicle so as not to be a danger etc.

#### 5. Options

Following further research by officers the following options have been identified, that, to varying degrees, alleviate the concerns over the safety of the conversions to existing licensed. It needs to be emphasised that it is intended these options only apply to existing licensed vehicles and not 'New' vehicles.

##### a) Mandatory IVA for existing licensed vehicles, conducted by VOSA only

This option would maintain / reaffirm the current position, in that all existing licensed vehicle that have been modified would need to have a IVA test conducted at an approved VOSA testing station.

Keeping this position will ensure the test is conducted by an independent body and to national recognised standards. In addition it will ensure the public and officers can be confident the alterations made to a vehicle are safe and suitable and therefore can allow the vehicle to continue to be licensed.

However, anecdotal evidence suggests there are inconsistencies between the different approved testing stations, what will fail in one test station will pass in another. The test and associated ancillary cost can be expensive; in addition, an IVA is not an MOT so vehicles will still have to undertake a compliance test with the Council. There is a limited number of relatively local testing stations, and appointments are scarce, this is already proving problematic for drivers who have tried to get an IVA and have struggled to get an appointment within a reasonable timescale, some are reporting that VOSA are not responding to their applications at all.

As the IVA would be classed as 'Voluntary' it would be a decision for the Council to decide if we accept a 'Basic' or 'Normal' IVA. The original letter sent to vehicle owners stipulated that it should be a Basic IVA, which in theory means the vehicle owner would not need to provide documentation, other than, potentially, documents relating to additional seats. However, anecdotal evidence suggests VOSA are asking for more detailed documentation.

**b) Commission third party vehicle convertor to test vehicles.**

This option would allow the Council to commission third party vehicle convertors to test and approve the conversions that have been undertaken on existing licensed vehicles. This would mean the testing is done by companies, independent of the Council, that carry on a business as 'vehicle convertors' and would be qualified to assess the workmanship of conversions.

However, assessing these businesses as to their suitability to carry the testing is not a straight forward processes. There appears to be no formal requirement for a business to be registered with any organisation or government department. As such the onus would be on the Council to satisfy itself that the business was legitimate and was capable and competent to carry out the testing on the Council's behalf. In addition, there is more of a risk in inconsistencies when using third party companies. There is also the possibility companies will fail vehicles unnecessarily in order to try and generate more income for their own business. There is also a risk companies will accept additional payment in order to pass a vehicle that was not safe or suitable.

**c) Council testing stations test the vehicles**

Taking this option will allow the Council to retain control over the test and the standards to be applied. It will ensure there is a more consistent approach to the testing and there would be potential for it to link into the current compliance test, meaning vehicle owners would not need to have two tests done. As the Council can only recover costs, the cost to the trade would also be kept to a minimum.

However, while staff at the Council's testing stations are experienced, they do not necessarily hold qualifications that would allow them to judge the workmanship of a conversion and whether it is safe and suitable. Fleet management have stated there are likely to be courses available that would up-skill the current staff to enable them

to carry out the assessment; but, they are concerned over liability issues if the Council were to approve a conversion and state it is safe and suitable and something goes wrong. Timescales to up-skill vehicle testers would also have to be factored in. In addition, the testing stations are currently running at near capacity. These additional testing requirements would therefore place additional strain on the resources available and may lead to backlogs for other compliance tests.

**d) Document production**

This option places the onus on the vehicle proprietor to provide sufficient documentation to prove the conversion has been carried out to a standard that makes the conversion safe and suitable.

The problems associated with this are numerous. Vehicle proprietors are already complaining they cannot get the documentation required by VOSA for the IVA. In some cases vehicles have changed hands on several occasions and any documentation that might have been available has been lost. In addition, there would be issues surrounding who is qualified enough to assess any documentation that is produced, is the documentation legitimate, what would qualify as sufficient documentation, who has completed the documentation.

However, following discussions with Licensing Officers at East Cambridgeshire Council, this approach may not be as problematic as first impressions may give. Asking the vehicle owner to produce documentation as to the quality of the conversion, if done correctly, places the onus on the vehicle owner to satisfy the Council the conversion of a vehicle has been done to a satisfactory standard.

The Council could set the criteria for acceptable documentation, for example the documentation has to come from a reputable garage registered with a recognised trade organisation / body, it must specify that the conversion has been done to a standard that would, if tested, meet the requirements of a 'Basic IVA', it must be signed and dated by the garage owner and the person inspecting the vehicle. If officers have any concerns over the legitimacy of the documentation arrangements could be made to visit the vehicle converters business premises to assess the quality of the business, any refusal to accept this condition would be an automatic refusal of the documentation. In addition, any serious concerns over the documentation or any doubts at all as to the quality of conversion despite the production of documentation, the option should remain that allows officers to request or compel the vehicle owner to obtain an IVA from VOSA.

**e) Appoint external agency, other than VOSA, to inspect vehicles**

Fleet management has suggested that the Freight Trade Association ('FTA') may be able provide a service, whereby they inspect the vehicle on behalf of the Council and offer some form of documentation to say the conversion is safe and suitable. Fleet management have been asked to make enquiries with the FTA about this; however, this is not likely to be a quick process. From initial discussions, the FTA already offer a vehicle checking service for PSV's and HGV's, and it is suggested it would be a similar service that the FTA could offer.