

Specialist Vehicles

Licensing Issues in London

Help from TfL

While this particular story is a London one, it clearly has ramifications well beyond the M25 and it demonstrates the importance of dialogue between Local Authority Regulators, our Trade Association and in this case TfL, the DfT and VOSA. All Local Authorities and Operators outside London should look at what happened here to prevent the same happening in hundreds of Authorities and to thousands of Operators outside the capital.



Earlier this year on 10th February, **Transport for London's (TfL's) Taxi and Private Hire Directorate (TPHD)**, issued a notice that brought all kinds of problems to members who provide the *most special of specialist vehicles* in London.

Clearly there were serious issues following the issue of this **Supplementary Notice** about the introduction of a new **VOSA IVA** inspection scheme and requirements. The notice started by saying:

“ Following discussions with members of the **Private Hire Trade, TfL**, is aware that there is some confusion with regards to the **VOSA Individual Vehicle Approval (IVA) inspection scheme** (PCO Notice 14/9: 30th April 2009) and the *requirements for operators at the point of licensing for vehicles which have been constructed, modified or converted to carry passengers in their wheelchairs which, under the IVA scheme are defined as **special purpose vehicles**.*

As a result **TfL** would like to provide further clarification on the certification requirements at the point of licensing such vehicles.

The **Special Purpose Vehicle** definition was then described in detail (Published in our last edition 49) with potential new requirements to commence from 1st June. The **LPHCA** was inundated with our **'Specialist Vehicle Providing Members'** claiming all sorts of difficulties and problems and it was very clear was that their issues were serious.

We therefore sent out an **E-Alert** to **all Members** so we could convene an emergency meeting as soon as possible. This took place on Thursday 25th March on the **RS Hispaniola** on the **Victoria Embankment**.

At that meeting, we briefly discussed these problems, identified the main concerns and formed a **'Specialist Vehicles Group'** to meet and work on the issues.

Meanwhile **Robin Hulf** our **Political Consultant** and **LPHCA Chairman Steve Wright** met **Paul Lawry**, who is responsible for **Taxis & Private Hire** at the **Department for Transport (DfT)**, and commenced dialogue with **TfL's TPHD Senior Vehicle Licensing Management**.

Problems continued to be notified and we re-convened with the new group at a longer meeting to put together a strategy and set up a joint meeting between the group, the **TPHD**, the **DfT** and the **Vehicle and Operator Services Agency (VOSA)** to discuss the Notices, the 1st June deadline and practical solution for the **Operators** running these vehicles.

Further discussion took place between the **LPHCA**, the **TPHD**, the **DfT** and **VOSA** and a formal meeting with the **TPHD** was convened for Tuesday 4th May.

We put forward that the **'Specialist Vehicles Group'** and the parent committee had established that there are considerable problems and many questions about complying with proposed requirements, especially in the areas of cost, necessity, timing, bureaucracy, economic viability and regulatory impact.

A considerable amount of information has been filtered and the key issues and problems for the meeting to discuss were as set out below followed by three sets of feedback.

ISSUES WITH SPECIALIST VEHICLE TESTING REQUIREMENTS

- Lack of notice / information / multi-agency responsibility
- Regulatory Impact
- Timescales
- Necessity of testing
- Difficulties for older vehicles
- Inconsistency, Delays and Costs of testing and re-testing
- Discrimination against wheelchair users

LACK OF NOTICE / INFORMATION / DIALOGUE / MULTI AGENCY RESPONSIBILITY

In spite of the two **TPHD** Notices, both **Operators** and the **LPHCA** (as a primary trade association), have had little or no dialogue on the new requirements prior to problems being identified by members. The root cause of this to us seems to be that there are multiple agencies involved in invoking, assessing and delivering new requirements. **European Union (EEC)**, **DfT**, **VOSA**, **TPHD** and **SGS**.

REGULATORY IMPACT

This has manifested itself into new rules being required with *little or no dialogue* with those whose vehicles are being tested (**Licensed Operators / Drivers**) and with us (the **LPHCA**) as their **Trade Representatives**. Lack of dialogue has meant - no regulatory impact assessment and as a consequence no assessment of the actual necessity or impact of completely new requirements.

To compound matters there seems to have been no collective dialogue with all the stakeholders as a group. The end product of this is an unwieldy and we believe unworkable set of testing systems and requirements for **Specialist Vehicles in London**, that could have a devastating impact on cost and supply, which in turn could lead to leaving the most vulnerable people and groups without transport.

TIMESCALES

In spite of the two **TPHD** Notices, lack of dialogue has thrown up all manner of problems, the first being the requirement to start the process from June 1st 2010, which was just a few weeks away.

NECESSITY OF TESTING

The **LPHCA** meetings have brought into question the necessity of the new testing and certification requirements, it seems clear that *'testing for testing's sake'* was a major concern and that **Licensed Operators** do not believe that any new benefits or improved safety will happen. On the contrary, **Licensed LPHCA Operators** believed that many vehicles that are fit for purpose were being re-tested or becoming subject to petty requirements to *'comply for compliance sake'*, rather than to facilitate additional safety.

Such vehicles have often been expensively converted or are factory builds that were designed and manufactured for the purposes they have always undertaken and they already have all manner of certification and testing requirements in place.



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There is also a 'catch 22' – when vehicles 'comply with one standard, they fail another', we therefore question the merit of this extra testing.

It would appear that **LPHCA Licensed Operators** shared the same view as senior **VOSA Official** and others that the new requirements are unnecessary. **Mark Vickers – (VOSA Individual Vehicle Approval (IVA) Technical Officer)**, who we invited to the meeting but could not attend, was surprised that we were being asked for an **IVA** as he considered it to be 'far in excess' of what is actually needed.

Mr Vickers in fact informed one of our members that in order to issue an **IVA**, vehicles would need to comply with at least 10 European Directives and if our member could not get compliance confirmation from vehicle manufacturers, they would have to arrange these tests independently, the costs of which would run into thousands of pounds per vehicle.

DIFFICULTIES FOR OLDER VEHICLES

Whilst some of these vehicles are older it should be remembered that because of their specialist function they are *very low mileage* compared to most **Private Hire Vehicles**.

LPHCA Licensed Operators had made the point that it would be uneconomically viable to put such specialist vehicles through more testing with unnecessary and expensive minor conversions just to comply. They believed that perfectly safe vehicles might need to be scrapped before the end of their working lives as it would not be viable to comply or provide new vehicles out of their fleet budget and procurement cycles. This could lead to a *lack of specialist vehicles* for **London Councils, Dial a Ride** and **Special Needs Groups** in the short term and ultimately for the **2012 Olympic** and **Paraplegic Games**, which would be a *catastrophe* as well as a *major embarrassment* to **London**.

INCONSISTENCY, DELAYS AND COSTS OF TESTING AND RE-TESTING

LPHCA Licensed Operators that have already embarked on **VOSA** testing have fed back reports of inconsistency, with a vehicle passing one day and an identical vehicle failing the next.

There have been complaints in the delays in the availability of testing slots, about the location and number of testing centres plus the expensive costs of tests and re-testing.



DISABILITY DISCRIMINATION ACTS (DDA) 1995 & 2005

One of the impacts of invoking and sustaining these requirements is in the area of discrimination against disabled and wheelchair users. There is a requirement for public bodies to promote equality of opportunity for disabled people so that they can use public transport easily. This via access to goods, facilities and services, including larger private clubs and land-based transport services, with specific requirements for the functions of public bodies and an example of this is *in the issuing of licenses*.

We saw the current requirements as being at odds with the requirements of the DDA Acts

The **TPHD Team** were given the three written sets of feedback below, plus views of all the **LPHCA 'Specialist Vehicles Group Members'** attending.

Because of the **SVA** test being for vehicles of 8 passenger seats or less, it is now required that all other seat mounting holes be welded over disabling the ability to ever fit seats back into the bus for reasons such as repositioning seats for different passenger needs or for resale of the vehicle.

We use **MWB** and **LWB** vehicles and we constantly need to move the seats around, due to the passenger needs and the various sizes and types of wheelchair. According to the **SVA/IVA** regulations the vehicle should be retested each time.

Some routes have just 1 or 2 seats, as the students thrash about or have difficulty in manoeuvring around seats/obstacles, the vehicle would be totally useless for any other use after having welded up all the remaining seat holes.

M1 seat requirements are going to be a major issue regarding making the vehicles **IVA** compliant. All seats fitted to every bus will have to be replaced as none of them have either **M1** stamped on them or a certificate confirming they are built to **M1** standard.

Majority of our buses are between **6 to 10 years old**, originally **12 or 15 seater** where seats are to **M2** standard. The cheapest **M1 seats** I have found so far start at £230 for a single seat. It would not be financially viable for us to replace the seats.

The **SVA** requires that we add additional bolts / plates and this is more realistic than replacing seats. Every edge with a slight angle to it has to be covered in rubber, which in some cases leaves that item unusable.

Some of our vehicles are not wheelchair accessible, but are still for passengers with

disabilities and special needs (taxation class is still disabled passenger vehicle), therefore all the above is still relevant to these vehicles.

The time scale for which we have been given to adhere to this new regulation is completely unrealistic, as the **VOSA** testing stations cannot cope with the volume of work.

We will not be able to get all our vehicles through an **SVA** by 1st June, and the majority of vehicles would not pass an **IVA**, which would put us out business. If this regulation goes ahead then there will be no school transport run by **London PCO Vehicles**.

All work would need to be covered by Community Transport and Operators outside the London area, who's regulations are less stringent, ultimately resulting in older and non compliant vehicles transporting school children around London, which is defeating the object of TfL, and is also not fair competition as their operating costs are far less.

This is discrimination against disabled and passengers with special needs, come June there will not be enough vehicles to transport the school children.

Feedback 1

- Problems with **VOSA**
- Booking times are nowhere near adequate (not enough staff)

Feedback 2

- The test is over testing
- Testing and failing vehicles on things that haven't been changed from the factory
- Variations of test – one vehicle passes one day another identical one fails the next

When the same vehicles come out of the factory with more than eight seats that have simply had seats removed and certification that the seats meet **M1** category they should not need a test.

SGS should check and pass vehicles with **M2** category (minibus) that have been converted to wheelchair access. They should only be checked/tested on the conversion i.e. floor track and lift and seats *not the whole vehicle*.

Vehicles that have **COIF** (certificate of initial fitness) should not be tested, or vehicles that have a conversion certification already, should not need testing. Vehicles with **N1** category (Van) should be tested by **IVA/SVA** if no conversion certification of **COIF** is present.

Also, one big question – We were checking with the **TPHD** last week about the June deadline and the impression he was given was all vehicles from this date need to have an **SVA** on them. Not just when they are next tested. If this is so we have a massive problem. I was led to believe that each vehicle needs to have an **SVA** as they are presented for their annual **TPHD** after July 2010.

It's virtually impossible for older vehicles to pass inspections.

Cost prohibitive.

Inspection fee plus the cost of alterations and re-test fees.

Current waiting time for appointments is five weeks. Our local testing station has one inspector who will not be able to handle demand.

Chief Engineer at VOSA Swansea, Mark Vickers and the Head of Certification and Homologation, at MIRA (Motor Industry Research Assoc.), Richard Whiting, both surprised that PCO ask for VIVA.

Discrimination against wheelchair users and disabled passengers by effectively reducing the number of vehicles able to accommodate them.

Not enough time allowed for requirements to sink in. Start date must be delayed.

1st June is too early as VIVA does not become effective until June 2012.

Tests should be confined to tracked floor, tail lift installation and grab handles as the rest of vehicle is already tested at point of manufacture. If the vehicle has already been licensed then TPHD should not be able to refuse further licenses.

We are currently contracted to Surrey County Council for five years. If we are unable to provide transport we are penalised heavily. We are in jeopardy from this penalty which, if inflicted, will be passed on as increased costs thereby making us uncompetitive. This will affect staff members who may find themselves out of work.

Currently we operate approximately 39 special purpose vehicles of which about 12 will not require IVA inspection. Therefore we are in serious doubt about 27 vehicles each of which is employed on school contracts for Surrey County Council. Each vehicle affected works, at most, five hours per day, weekdays only, for 190 days per year travelling approximately 12000 – 15000 miles.

On average each vehicle will carry two wheelchairs plus three seated passengers. In total we are talking about 135 children who will almost certainly not be able to travel to school this coming September.

SENSIBLE DISCUSSION

Following this feedback and a host of other difficulties

outlined to the TPHD

team we discussed what

can be done to review, amend and improve requirements to be safe, cost effective

and sensible for **Licensed Operators, Regulatory Bodies** and **Special Needs**

Passengers, without impacting negatively or unfairly on all involved?

Feedback 3

The TPHD rightly pointed out that **safety** and **meeting regulatory requirements** was the key to going forward in conjunction with the realities and practicalities of balancing the various testing regimes against costs and inadvertent over testing.

The challenge appeared to be within these realities and must not detract from safety.

The TPHD team pointed out that some vehicles presented were clearly not fit for purpose but the **'Specialist Vehicles Group Members'** felt that mechanisms existed within TfL at the SGS testing stations to fail such vehicles.

All involved recognised that there were serious implications if the June 1st deadline were to be implemented as was demonstrated by one member of the group having over **30 vehicles off the road waiting testing**.

It was also clear that manufacturer's certificates from vehicles licensed a while ago may not be producible or have even been issued and that some converters were no longer trading, so certification would never be forthcoming.

It was also clear that under the new requirements a massive amount of replication of unnecessary duplicate testing would be needed to meet requirements.

The bottom line was that **'Specialist Vehicles'** provision in **London** could collapse with **Operators** potentially put out of business.

John Mason TfL Director at the TPHD with **Members of his team**, quickly realised the seriousness of the dilemma facing **'Specialist Vehicles'** providers and convened a quick meeting with his team privately.

They returned to say that in principle they would stop the June 1st deadline and re-think requirements in discussion with **DfT, VOSA** and the **Industry** at a later date.

This was welcomed by the **'Specialist Vehicles Group'** who heavily sighed with relief at **John's** immediate leadership and sensible judgement in this matter.

The TfL TPHD subsequently issued the following notice.

TfL London Taxi and Private Hire Notice 16/10

Private Hire Vehicle Licensing

Arrangements for the requirement to produce IVA/SVA certification

Notice 04/10, published in February 2010, set out to clarify the intention of London Taxi & Private Hire to introduce mandatory production of a VOSA Individual Vehicle Approval (IVA) inspection scheme for Special Purpose Vehicles.

Following positive and constructive discussions between London Taxi & Private Hire and key stakeholders in early May 2010 it has been agreed to postpone the introduction of the SVA/IVA inspection for

PHV's modified or converted to category M1 special purpose wheelchair accessible vehicles until further notice.

The decision to postpone this introduction has been agreed between all parties to ensure further consultation can take place with all interested parties to resolve a number of concerns regarding operational, technical and safety issues raised.

All parties have the same commitment to the implementation of an inspection scheme which provides a consistent and appropriate inspection standard to ensure licensed wheelchair accessible vehicles transporting our most vulnerable customers are fit for purpose.

Special Purpose Wheelchair Accessible Vehicle Licensing

As an interim measure, during this postponement period, any special purpose wheelchair accessible vehicle that has been previously licensed and / or new vehicles entering the private hire vehicle licensing scheme will **continue** to be licensed without a SVA/IVA certificate.

However, London Taxi & Private Hire reserve the right to refuse to license any vehicle with obvious poor modification / conversion standards which are deemed to be unsafe and / or not fit for purpose.

A further notice will be published to set out the long term inspection arrangements once we have identified and agreed the most appropriate way forward.

Other modified vehicles

For clarity, with the exception of the special purpose vehicles as set out above, all other modified vehicle types such as stretch limousines, KIT cars, converted vehicles, imported vehicles, etc, without relevant EC or UK vehicle type approval certification will still be required to produce an SVA/IVA certificate at the annual inspection. This is to guarantee the safety of passengers, drivers and other road users.

1 June 2010 John Mason

SUCCESS

The LPHCA's **'Specialist Vehicles Group Members'** and the TfL

TPHD Team had in a few months covered a great deal of ground, working together for a sensible and safe solution.

The **Association** is grateful to all the **Specialist Vehicles Group Members** who assisted in this matter and to the **TfL TPHD Team**, the **DfT** and **VOSA** for their help, guidance and *swiftness of response* in this matter.

We now look forward to further dialogue with the above regarding the future arrangements that need to be formalised to meet all regulatory requirements going forward.

Well done to all concerned.

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THE FOLLOWING LETTER WAS SENT TO MAYOR BORIS JOHNSON



Boris Johnson
Mayor of London

City Hall, The Queens Walk, London, SE1 2AA
18th May 2010

Dear Boris,

Specialist Private Hire Vehicles Update – Good News

I understand that **Roger Lynch**, an **LPHCA Member** who runs hundreds of the **Specialist Private Hire Vehicles** that transport thousands of **Special Needs** and **Wheelchair Bound Passengers** in **London**, lobbied your goodself and **David Cameron** just prior to the general election.

Mr Lynch was concerned with a raft of proposed new regulations and requirements that were being potentially introduced, which would have impacted seriously and negatively on this important part of **Licensed Private Hire** and its very dependent passengers.

I am delighted to inform you that we had already initiated talks with the **Department for Transport, VOSA** and the **TfL Tax & Private Hire Directorate** and that at a meeting the **LPHCA** convened, early in May, matters were taken forward positively.

Following that meeting and swift action by **TfL Tax & Private Hire Director John Mason**, many of the issues that were

worrying **Roger Lynch**, myself and many others have either been resolved or are being reviewed.

I am extremely grateful to **John Mason** and his team for the positive and decisive action that they have taken since our meeting. Going forward collectively, I believe that the **LPHCA** (alongside the **Directorate, VOSA** and the **DfT**) can resolve that necessary requirements are sensible, safe and not over-regulatory or costly.

I look forward to seeing you at the next **TfL Board** meeting in June.

Best regards

Yours sincerely

Steve Wright MBE

Chairman LPHCA

Mayor of London's Private Hire TfL Board Representative

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