



CONSULTATION RESPONSE

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Department for Transport Consultation, September 2016 Vehicles of Historical Interest- Exemptions from Annual Roadworthiness Testing

INTRODUCTION

The Federation of British Historic Vehicle Clubs (FBHVC) represents over 500 member clubs with a total membership of a quarter of a million historic vehicle owners and enthusiasts. Interest in historic vehicles sustains economic activity worth £5.5 billion annually to the UK economy and supports the employment of nearly 35,000 people.

FBHVC, both itself and through its membership, is thus the primary national repository of knowledge and expertise on the subject of historic vehicles in general.

The members of the FBHVC affiliated clubs possess a greater number and more extensive variety of historic vehicles, particularly those dating from before the Second World War, than in any other EU Member State. This reflects the different historical experiences of the UK, especially the absence of land war on its territory.

Dialogue with stakeholders

In responding, FBHVC wishes to point out that, following the coming into force of EU Directive 2014/45/EC, the DfT convened a first meeting, on 2 July 2014, of what it described as the Historic Vehicles Working Group. This Working Group, which included FBHVC and other interested organisations, was tasked by DfT to 'share ideas on the best ways of accommodating the new rules so that we minimise burdens on vehicle owners and businesses whilst supporting road safety'.

For whatever reason, DfT did not proceed with this Working Group, which never met again. Nor did DfT advise FBHVC, or as far as we are aware any of the other members, that the Working Group was being discontinued. The proposed 'sharing' thus never took place.

In the absence of continuation of the Group, FBHVC did provide an extensive briefing to the then responsible Minister, Claire Perry MP, and provided a copy of this briefing to the relevant part of DfT. A copy is appended to this Response.

There was no reaction from DfT to this briefing, nor is there any evidence its contents were taken into account by DfT.

The circumstances of the discontinuance of the Working Group and the lack of reaction to the briefing do unfortunately mean that this Response contains more fundamental questioning of the approach of the DfT and the chosen solutions than might have been the case had dialogue been continued.

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PRINCIPLES OF CLASSIFICATION OF A VEHICLE OF HISTORIC INTEREST IN THE LIGHT OF DEPARTURE FROM THE EU

On 23 June 2016, the electorate of the United Kingdom decided that it wished to leave the European Union. This fact has a major impact on one aspect of the proposals in the Consultation.

FBHVC will return to the matters discussed here in more detail in the answers to specific questions.

However, it appears to FBHVC that a significant matter of principle is created by the proposed introduction of a system of technical classification of a Vehicle of Historic Interest ('VHI' in the Consultation).

FBHVC is of the view that, during the course of the consideration of this matter, the very important external factor of the decision of the UK to depart from the EU has been insufficiently taken account of. Ideas and concepts being considered on the assumption of continued EU membership have been continued with and insufficient account has been taken in finalising the Consultation of the extreme change in that external factor.

One might very easily assume that the only account taken of the decision to leave the EU has been to add the penultimate paragraph to the Foreword and the Impact Statement, with no proposed change to any of the content thereafter.

FBHVC is concerned that the proposal to create a system of technical classification of a VHI does not recognise the particular circumstances in Great Britain.

FBHVC is, by reason of its membership of the Fédération Internationale des Véhicules Anciens (FIVA), fully apprised of the circumstances which led to the necessity to introduce an EU definition of what constitutes a VHI. Amongst other things, account had to be taken of those EU Member States which domestically recognised a very restrictive, academically pure, class of individual historic vehicles, which was markedly narrower than the general class of historic vehicles which the EU Commission intended to permit to be exempted.

The reason for this wider remit was not least because EU Member States saw a need to create a more efficient and modern test regime and networks of testing stations. Thus EU Member States wished to be absolved from the requirement to test too many vehicles, whose design would not be well suited to modern testing techniques, and considered that application to a wider range of preserved vehicles than those academically deemed historical would not significantly adversely affect road safety. It is assumed that the UK fully shared this EU objective.

In Great Britain, by contrast the introduction of such a system will limit, not extend, the class of vehicles for which the right of exemption from testing is proposed. It is of note, as will be explained more fully later, that at least some continuing EU Member States with similar issues are choosing to avoid complex technical classification of a VHI.

While, for registration purposes, processes designed to ensure vehicles entering or re-entering the registration regime have been put in place in Great Britain to ensure they have a genuine historic basis, which are not affected by this Consultation, Great Britain has otherwise adopted a consistent policy of 'laissez faire' regarding the state of modification or alteration of registered historic vehicles.

Control of configuration of most vehicles on the national register held by DVLA has been confined to requiring notification to DVLA only of changes to those details which DVLA already holds to identify each vehicle carrying a registration. While DVLA has always a right to remove a vehicle registration there is no direct prohibition on any of the changes of which notification is required.



The only exception to this regime has been that when public service vehicles are modified while in service, the modifications must be submitted for re-approval under the DVSA Notifiable Alterations requirements.

There has never before been an attempt in Great Britain to technically classify a historic vehicle.

What is more, the UK Government has both created an exemption from Vehicle Excise Duty based upon simple date of manufacture of the vehicle and, as the Consultation notes, exempted all vehicles manufactured before 1960 from the requirement for a regular roadworthiness tests.

In neither case has the UK Government deemed it necessary either for the purposes of road safety or general public policy to set out technically based distinctions upon which of those vehicles will qualify.

Despite this policy, it is of note that British road safety figures remain excellent on a European comparative basis and, in particular, the incidence of accidents to historic vehicles has remained at such a low level as to make statistical analysis of the possible effect of such a classification disproportionate.

Dating back to the earliest days of the motor vehicle, British owners of vehicles have not been constrained from making changes to their configuration for a variety of reasons, be they cosmetic, aesthetic, performance, or safety related. The Construction and Use Regulations have underpinned the necessary balance between freedom to alter and maintenance of safety and roadworthiness standards. Provided that vehicles at all times are kept roadworthy, a legal requirement on owners, and meet specific requirements to ensure safety, they have legally been able to modify their vehicles without constraint. There are very many vehicles, currently and often long regarded in Great Britain without question as being historic, which have undergone substantial changes to the technical characteristics of their main components, often very early in their long lives.

The result of this freedom has meant that limited records exist of the extent or date of modifications of motor vehicles, whether on an individual or statistical basis.

What is absolutely clear is that introduction of a technically based standard for acceptance as a VHI would limit existing freedoms, and create a division within the cadre of historic vehicles in Great Britain which has not previously existed. Contrary to the assertion of the Consultation, at least some measure of new regulation would be being introduced, which would substantially affect our members.

The absence of data means that it is simply not possible to assess in advance how many vehicles would fall outside the remit of any exemption, whether or not there was a date before which modifications would be ignored.

If there were to be a large number of failures to meet a required standard for exemption, based upon a defined technical distinction, which would necessarily have an element of subjectivity and arbitrariness, there would be a presumption of unfairness, with a number of vehicle owners being disadvantaged.

Conversely, if the vast majority of vehicles were to meet the required standard, the UK Government would be constrained to ensure the maintenance in place of the existing unimproved and undeveloped testing system and adequate geographical spread of testing stations, simply to permit to be tested the small number of vehicles which, while meeting the current standard of the vehicle, failed to meet the technical definition. Failure to do so would result in a number of vehicles, some of which would without doubt have every appearance of being historic vehicles, being effectively banned from the roads of Britain.

And as previously mentioned the probable effect on road safety in Great Britain, which is the only possible substantive reason for making such a distinction, is likely to be so small as to be disproportionate to measure.

FBHVC must also, on behalf of its members, express the concern that if a technical standard of VHI were created, and if the dates for Roadworthiness Testing exemption and VED exemption were aligned, it would be



difficult for a future Chancellor of the Exchequer to resist the temptation only to apply the VED exemption to that smaller class of vehicles.

FBHVC did raise the dangers which the Directive as drafted might cause at least as early as April 2013.

Given that the EU Directive is not required to come into force until May 2018, by which time the departure of the UK from membership of the EU ought at the least to be well advanced, one might have thought that the intent of the DfT would be to achieve minimum necessary compliance with the Directive, for instance a simple statement by vehicle keepers that their vehicle was a VHI. In the light of many years of British culture in this field, this would appear to be a properly defensible position in the unlikely event of it being questioned. Instead, DfT appear to be seeking compliance with the existing EU requirement which is completely legally defensible if questioned.

This might be thought to be a very good example of exactly why the UK electorate has decided to depart from the EU, and thus to be contrary to the national will.

The responses to the consultation questions follow on page 5.



RESPONSES TO CONSULTATION QUESTIONS

Question 1: Do you agree with exempting 40 year old VHIs from annual testing plus introducing a VHI certification process to ensure a vehicle has not been substantially changed (option 3 in the proposals)?

Exemption

FBHVC supports with some misgivings the first part of the proposal set out in Option 3 to exempt historic vehicles over 40 years old from the MOT test.

It is important to recognise that this proposal by DfT to extend the existing pre-1960 exemption from the MOT does not arise from requests from the historic vehicle movement, nor in particular from the FBHVC. FBHVC did support the original general exemption from MOT of pre-1960 vehicles because of the problems experienced, particularly by older vehicles, in undertaking the MOT.

Neither the Proposal nor the Impact Statement sets out a positive justification for taking advantage of the rights granted in the Directive other than a general reduction of regulation. FBHVC must therefore assume that the primary benefit to DfT and taxpayers is seen as simplification of the MOT and revision of training of testers.

The assurance provided in paragraph 1.15 of the Consultation that owners will retain the right to take a voluntary MOT and the creation of a class of historic vehicles which is not exempted by reason of not qualifying as a VHI will limit the scope for simplification of the MOT and changes to training as testers will need to continue to be aware of the requirement to test to the standards in place at the date of manufacture of the vehicle.

FBHVC is aware that there is a strong body of vocal opposition among owners of historic vehicles to the proposal for extended exemption, the reasons for which we understand and respect, but has to recognise that the data in the Impact Statement does show that a very significant majority of those offered an exemption do avail themselves of it. FBHVC feels constrained to support the best interests of that silent majority.

Since the introduction of the right to exemption from the MOT of all vehicles built before 1960, no evidence has as yet appeared to show an increased risk of accidents, and indeed the numbers of accidents to all varieties of the historic vehicles currently exempted continue to be at such a low level that no statistically valid conclusions as to the causes of these accidents can be made.

However, as the effect of altering the qualifying date for to 40 years old would be to approximately treble the number of vehicles entitled to exemption, it may be wise closely to monitor the progress of relevant accident statistics.

If sound accident data emerges showing a measurably increased incidence of accidents caused by mechanical failure of vehicles, resulting in death, injury or damage to property, FBHVC would welcome an opportunity to revisit this position if necessary.

Limitation of the Exemption to Vehicles of Historic Interest

FBHVC is opposed to the creation of a special class of Vehicles of Historic Interest, never before felt necessary in Great Britain. In the answer to Question 4 we expand on our reservations regarding the 8 point rule in particular.

But in general the United Kingdom including Great Britain has no history of restricting modification of cherished vehicles. The only constraint has been the requirement to notify the authorities, latterly DVLA, of a limited number of changes which would otherwise render inaccurate the registration details held in respect of

the vehicle. The apparent difference recognised by laymen between alteration of the appearance of a vehicle, and its mechanical details, is in practice very difficult to disentangle, and perhaps for that reason has never been thought worth undertaking.

FBHVC does not accept that there exists any road safety case for treating modified historic vehicles differently from other vehicles previously recognised as historic, particularly from the point of view of roadworthiness and testing for roadworthiness. Not least, from the anecdotal evidence, which is all that exists as to the extent and scope of modifications to vehicles of all types, a significant reason for modification is to improve items such as braking and suspension precisely for the purpose of improving safety and driveability. FBHVC is aware of no underlying data which would show any difference in risk between modified and unmodified vehicles.

Nor does FBHVC believe that, contrary to an assumption made in the Impact Statement, there either is evidence, nor that there is reason to believe, that owners of modified vehicles are any more or less inclined to keep their vehicles in a proper roadworthy condition. Indeed, as many modifications are themselves carried out in whole or in part by the owner it is reasonable to believe that these owners are at least as aware of the mechanical state of their vehicles as owners of vehicles which have retained their entire original specification.

This is particularly significant as all of those vehicles built up to 1960 (approximately 30% of the total of surviving registered vehicles made before 1978) have, since 2012, benefitted from an exemption, which the proposal would presumably now revoke in respect of modified vehicles.

As this proposal would affect either any vehicle built before 1960 which has substantial modification or at least those in which substantial modification has been introduced during or after 1988, which previously benefitted from the overall exemption from the MOT, FBHVC strongly considers that there would need to be much more statistically based evidence showing a risk to road safety to justify any removal of an exemption which has now been in place for some years.

Voluntary and other applications of the MOT

FBHVC notes that the right to take a voluntary MoT is proposed to be retained. FBHVC thinks it vital to the peace of mind of those owners who wish to continue not to avail themselves of the exemption, that the right to submit a vehicle to the MOT on a voluntary basis should be both continued under the regulations and kept as a practical possibility in all geographical areas of Great Britain. This is already becoming a problem through the effects of the closure of VOSA operated test stations for large vehicles. There is now a paucity of test stations with facilities large enough for vehicles up to 4.5m high which severely limits practical possibility to obtain Class 5 tests. In more remote areas round trip distances to take Class 5 tests can be in excess of 150 miles.

It follows from that position that FBHVC wishes to be certain that the instructions to, and training of, MOT testers will enable and require MOT testers to continue to take account, in the application of the MOT, both of the design standards required, particularly in respect of such items as brakes, steering and suspension, at the time of manufacture of the vehicle, and of the fact that in certain cases, the design of the vehicle will require an amendment or an adjustment to the method of testing to take account of possible damage to the vehicle as a result of the test.

This will be of particular importance if a technical test is introduced which arbitrarily excludes a significant number of vehicles from the exemption.



Question 2: Do you believe that we should allow exemptions for 30 year old vehicles rather than 40 year old vehicles?

There are good reasons for Great Britain to align itself with the generally recognised standard that is promoted by the Fédération des Véhicules Anciens (FIVA) of which FBHVC is the United Kingdom's representative member, that a vehicle becomes historic when it is 30 years old, and FBHVC would thus be supportive of a move to extend any exemption finally decided upon to vehicles 30 years old.

Question 3: Do you agree that there are good safety reasons to exempt 40 year old rather than 30 year old VHIs from testing?

No. FBHVC is not aware that currently available accident data provides any guide to the road safety consequences of an extension of exemption to vehicles which are 30 years old. No such data appears in the Impact Statement.

The proposed date of 40 years appears to have been chosen to align with the existing 'historic vehicle' classification for Vehicle Excise Duty (VED) purposes. That date itself is a consequence of the point at which the Chancellor of the Exchequer chose to restore the principle of having a rolling exemption from VED.

FBHVC assumes that the continuation of any exemption from the MOT would need to be subject to the emergence of any data demonstrating trends of increase of accidents such as is discussed in the answer to Question 1.

Question 4: Do you agree with the option of using Driver and Vehicle Licensing Agency's (DVLA) 8 point rule as a way of defining the 'substantial change' provision in the new directive? If no can you suggest an alternative method.

FBHVC wishes to address this question in two parts; dealing first with the principle and then with suggested alternative methods.

Principle

FBHVC is opposed to the principle of applying any technical rule to divide the existing cadre of historic vehicles into 'sheep' and 'goats'.

The tradition in the United Kingdom has been to maintain the freedom to undertake modification of vehicles. In the current structure the only general proviso is that keepers make the relevant authorities, currently the DVLA, aware of any changes to the vehicle which mean it will differ from the registration details held for that vehicle (currently as shown on the Form V5C).

This approach is markedly different from those in a number of EU Member States, which have controlled their historic vehicle cadre quite strictly, both on a technical and curatorial basis. This results in a 'historic' category which is quite exclusive. Indeed the words 'substantial change' in the Directive were designed partly to permit a number of Member States to apply an exemption from roadworthiness testing more widely than simply to their extremely limited existing body of 'historic' vehicles.

The existing liberal regime in the United Kingdom regarding historic vehicles has traditionally recognised the entitlement of a vehicle to be thought of as historic by reference to the date of its chassis, usually by reference to the chassis number. There are a number of exceptions to this, notably where it is recognised that the chassis itself is prone to failure and to become worn out, when a recognised replacement of all or part of the chassis has always been permitted without loss of the vehicle's identity or date of manufacture.



It is this liberality which has created the rich tapestry of vehicles and vehicle types which constitute the motoring heritage of the United Kingdom. It should be interfered with only after more consideration than appears to have been applied.

FBHVC strongly dissents from the Policy Objective appearing on page 1 of the Impact Statement; *'The purpose of the new proposals is to ensure only vehicles of genuine historical interest are allowed exemption from testing as these vehicles are more likely to be well maintained and used less frequently.'*

No data whatsoever is presented to justify this statement as to the purported difference between modified and unmodified vehicles and in the view of FBHVC it is simply untrue. FBHVC deals more fully with this matter in the answer to Question 12.

DfT does not appear either to have undertaken simple observation of the historic vehicle movement, nor sought advice or assistance from either FBHVC or, as far as FBHVC can ascertain, any other properly qualified body. Such observation would readily demonstrate that there is little if any difference between the forms of usage or of miles driven between modified and unmodified vehicles and it might indeed be thought that, as the majority of modifications are undertaken either by or with the active involvement of technically aware vehicle owners, their vehicles are at least, if not more, likely to be carefully maintained.

There is no other justification provided in the Consultation for the requirement to have a specific description of a 'Vehicle of Historic Interest', save to comply with the Directive.

On the basis of available data on the incidence of accidents caused or substantially contributed to by technical failure of historic vehicles, there is no reason to think that a requirement for substantially modified vehicles (however defined) to continue to be tested would have any significant beneficial road safety effect when compared with an exemption of the great majority of modified vehicles, whether more than 40 years old or, if the FBHVC proposal were to be accepted, more than 30 years old.

FBHVC has not succeeded in identifying any particular form of modification which predominates. There are many reasons for and methods of modifying vehicles. It would be perverse to lump all of them together.

This has resulted in a recognised cadre of vehicles over the years which are markedly changed but still identified by their date of chassis manufacture.

While there are a number of vehicles which have undergone some alteration or increase of their power to weight ratio these changes are regularly accompanied by changes to other aspects of the vehicle to ensure that they become no less drivable and in most cases they do become safer. Thus the more the mechanical modifications, the greater probability of inherent safety notwithstanding that the level of modification is increased.

Similarly, the practical requirements of use on modern roads have resulted in a significant number of passenger and goods vehicles undergoing changes to their running gear, from engine to brakes, to render them more economical, safer and more driveable than they were in their as-built condition.

Any proposed distinction of the kind proposed, whether made on the basis of the 8 point rule or on any other technical rule, would contain an unjustified element of randomness, thus prejudicing the interests of those owners whose vehicles did not meet the chosen criteria.

FBHVC considers also that any such classification would run the risk of being used by a future Government for other potentially discriminatory purposes apart from Roadworthiness Testing.



FBHVC further argues that the implied removal of the existing pre-1960 exemption from the MOT of any vehicle which does not qualify as a VHI imposes a significant burden on the owners of those vehicles, which the Impact Statement does not recognise in any way.

FBHVC seeks clarity on how the proposal would affect steam traction engines and road rollers, which have never been subject to testing. The attention of DfT is specifically drawn to the Response to this consultation which has been submitted by the National Traction Engine Trust, which deals with this matter in more detail than can FBHVC, but which FBHVC would wish generally to support.

Likewise pre-1940 lorries have never been subject to testing. Although these early lorries now benefit from the general pre-1960 exemption, their freedom from testing arises from a different legal basis.

For purely technical reasons, it would, FBHVC considers, be entirely unsuitable for either steam traction engines and road rollers or early lorries, however modified, to become subject to testing for the first time.

Basis for Assessing a Substantially Modified Test

In the Introduction, FBHVC has already objected to the cessation of the promised Working Group. But in this instance in particular, FBHVC considers it is entitled to protest at the failure to honour the apparent commitment made by Duncan Buchanan of the DfT on 2 December 2013 in a document entitled 'Update EU Roadworthiness Package - New rules regarding exemption of historic vehicles from MOT tests.' (The full document is attached as part of the response to Question 14.)

In that document there is the statement that 'we do envisage that guidance will be available to outline what would be considered a substantial change...' It also says, 'Such guidance would be worked on jointly with classic and historic vehicle groups and is likely to focus on being strict about any changes that could have a negative safety impact while being as flexible as possible about non-obvious changes that impact vehicle safety.'

The Joint Briefing by FBHVC and the All Party Parliamentary Historic Vehicles Group dated 2 March 2015 to the then Minister responsible, Claire Perry MP, which is attached in full as part of the additional evidence being submitted by the FBHVC pursuant to Question 14, assumed that the principles enunciated by DfT in the Update were to be followed.

The 8 Point Rule

The rule is superficially attractive as it concentrates, as it should, on the fundamental underpinnings of the vehicle and is not concerned with aspects of aesthetics which can be very subjective.

However, it contradicts previous guidance set out above in two respects, in that:

1. Its simple numerical standard is extremely inflexible, and;
2. It does not, and cannot, take account of the positive or negative safety aspects of a modification.

The rule is in addition fundamentally unsuitable for the task for it is now proposed it should be used. FBHVC is of the opinion that it would also be significantly more onerous and expensive to undertake, both for vehicle keepers and for DVLA and DVSA, than appears to be assumed in the Impact Statement.

The DVLA created the 8 point rule to deal with the phenomenon of Reconstructed Classics, which are vehicles being assembled from parts. No claim is being made that the vehicle existed as a whole prior to its assembly.

DVLA considers that for a vehicle to be eligible to be registered in this category, the applicant needs to demonstrate that the parts used are generally all of the same period. As in general only the chassis, monocoque or motorcycle frame, and in some cases the engine, carry serial numbers, for an applicant to meet



the DVLA requirement he or she needs to keep records of the type of parts and the sources of such parts, so as to demonstrate that the resulting vehicle is genuinely representative of the marque and model it purports to be. It is important to recognise that this requirement exists only in respect of a new registration. This test is demanding for a vehicle being constructed, but at least the constructor is aware at the outset of the task of the hurdle he will have to surmount to achieve a registration.

It is currently possible, provided the vehicle has a genuine chassis, monocoque or motorcycle frame, bearing a current registration, to carry out the same level of rebuild with no control. The vehicle simply retains its identity. If changes are made to features shown on the DVLA database and thus the registration document (V5C) which include the engine size, colour, number of axles and body type (not appearance), DVLA must be advised. It is usual for DVLA simply to amend the record in accordance with the notification. No other modifications need to be advised.

The level of randomness implied in the 8 point rule becomes unacceptable in the event of the vehicle being already built and properly registered perhaps for a large number of years.

If the 8 point rule were to be applied to all complete historic vehicles currently on the road, it would be almost impossible to be sure as to the identity or source of the parts of the vehicle, other than the chassis, monocoque or motorcycle frame. It could certainly be a significant task to establish whether or not the rule was complied with by a particular complete vehicle.

It has long been common practice for manufacturers to make improvements to the listed components of the vehicles they produce, in the light of experience of operation. It is often possible, and owners may think it wise and prudent, to substitute a more reliable or up-to-date part for the part originally fitted. The part itself may not be the same part but its functionality and fitment to the vehicle may be unchanged from its predecessor part. It may be difficult without a very detailed examination of a vehicle to ascertain what if anything has been changed in the past and, in the case of a vehicle which has recently come into the possession of the owner, he or she may or may not have records of its history or know precisely what has been done to the vehicle.

Replacement of parts and components may be consequent on failure of a part or the part corroding or otherwise being worn out.

Records cannot be assumed to be complete, and even under a self-certification system it could be difficult if not impossible to state positively that sufficient components are original to earn the 8 points.

This situation is worse in the case of motorcycles, where certain of the defined components, e.g. axles, are simply not fitted. Absence of components makes achievement of the required 8 points even more difficult because the potential total of points for all items is less.

And in the case of large goods vehicles and buses, it has long been the practice for changes of a fairly fundamental nature to be made, even during their service life, to enable longer life, safer and more economical running, and better handling and performance. It is not unusual in this sphere for these changes to be made necessary simply because no examples of the original equipment, which may only have been made in relatively small numbers in the first place, exist. It is important to emphasise that this category includes a number of vehicles which would immediately be recognised as being of high historic interest, but which would not meet the 8 point rule.

Specification of any latest date of modification, such as is discussed in Question 9, could make the random nature of this rule worse, as it could have the effect that a vehicle with a modification made prior to the date would be acceptable as a VHI, while another vehicle, identical in all respects to the first, could be outside the



VHI category for the sole reason that the modification had been undertaken a few months later. This would be manifestly unfair.

FBHVC addresses this matter in Question 12, but it is clear that this proposal would impose a significant burden on vehicle keepers. It would also result in the keepers of all pre-1960 vehicles, which currently are exempt from testing, having to undertake some examination of their vehicle to assure the authorities that their self-certification is valid.

FBHVC doubts that a system such as is proposed could long survive without some level of assurance of compliance. Someone, presumably DVLA or DVSA), would have at the very least to receive and log certificates and it is difficult to imagine a system of monitoring and examination, at the very least of the document, if not of its evidence, coming in to force. This would necessarily impose a regulatory burden both on vehicle keepers and on DVLA (or DVSA).

ALTERNATIVE SUGGESTED METHODS

FBHVC is not clear why it is required to introduce any new technical rule in Great Britain to assure qualification as a VHI.

Application of the 8 point rule would require all keepers of historic vehicles, including those currently exempt from MOT testing, if they wished to remain exempt, to submit their vehicles to the 8 point rule, whether by examination or self-certification.

It is assumed that most keepers would be reluctant to self-certify unless they themselves were satisfied of the accuracy of their certification. This might be thought to place a greater regulatory burden on the law abiding citizen than on others. It would impose excessive regulation of those individuals for no defined practical benefit.

Alternative 1: Avoid technical distinction

It is open to the DfT to take a view that, taking account of the extremely low incidence of accidents affecting historic vehicles, the practicalities of making the decision between historic vehicles which are VHIs and those which are not is such as to make the introduction of any rule not cost-effective and excessively onerous on keepers of all historic vehicles.

The UK could decide to treat the entire cadre of existing historic vehicles in Great Britain as VHIs. FBHVC is aware that both Sweden and the Netherlands, which have similar traditions of more liberal approach to modification of historic vehicles, and which of course intend to continue to remain in the EU, are proposing to take a similar approach. Should road safety statistics subsequently suggest that modified vehicles do indeed pose a greater risk, steps can in the future be taken to rectify the situation.

It is the view of FBHVC that, given the accident and current MOT failure data in the Impact Statement, it is most unlikely that the EU would wish to question this decision.

The above is the preferred position for FBHVC.

However, if a rule is necessary, FBHVC can offer two alternatives, both without prejudice to the answer to Question 9. The first alternative is the preference of FBHVC.

Alternative 2: Simple Self-Certification

This would be a simple self-certification by the vehicle keeper that the vehicle was considered to be a VHI. If and to the extent that the vehicle departed from the original manufacturer's specification in any way, then for record purposes a basic specification would be included. Submission of a certificate properly completed would



enable the DVLA and DVSA to recognise that the vehicle did not need to be MOT tested. It would be open to DVLA to interrogate the accuracy of the certificate should there be any obvious error or discrepancy. For the avoidance of doubt, FBHVC assumes that the appearance of a vehicle with a chassis, as distinct from a monocoque, would, in line with the 8 point rule proposal, have no bearing whatsoever on the decision as to level of modification and thus as to whether the vehicle was a VHI.

Alternative 3: Monitored Self-Certification

The second alternative is generally in accordance with that set out in Clause 5 of the Joint FBHVC /APPHVG Briefing referred to above.

The terms have been adjusted to reflect the terms used in this Consultation. There are two substantive alterations. Firstly, in line with the 8 point rule proposal by DfT, for the purposes of this alternative, changes to the appearance of a vehicle with a chassis, as distinct from a monocoque, would have no bearing whatsoever on the process. Secondly alterations to PSVs approved under the DVSA Notifiable Alteration process would be accepted.

The proposal is as follows:

- a) The underlying assumption of DfT should be that a vehicle meeting the date qualification, be it 40 or 30 years old, is not substantially modified and thus entitled to be exempted from periodic MOT testing as a VHI. For the avoidance of doubt, changes to non-structural bodywork, lighting, direction indicators, instrumentation, ignition, carburettor, injection system, fuel system, engine cooling system, vehicle heating and cooling system, tyres or wheels, seats, trim or accessories would not be deemed to be 'substantial' for these purposes.
- b) The existing obligation on keepers to notify DVLA of changes to any vehicle should, at the commencement of the implementation of the Directive in Great Britain, be restated to require the keeper of any vehicle, known to have been changed from the standard to which it was built, to the extent that the details held in respect of the vehicle by DVLA may be incorrect, to notify DVLA of the details of any modification or modifications not already notified to DVLA. Unless the process in paragraph c) below was exercised by the keeper, the notification would result in the vehicle being subject to the general periodic MOT requirement.
- c) If the keeper of a vehicle meeting the date qualification, but which has been changed, considers the change or changes are not substantial as defined below he or she could apply to DVLA for exemption from periodic MOT testing as a VHI.
- d) If DVLA considers there must be independent authentication of information supplied by keepers, it would be possible to use a process based upon a simplified version of the current V765 process used to authenticate a vehicle seeking registration by DVLA with its original registration number. Information supplied would be confirmed to be accurate by a body such as an organisation on the current list of V765 Clubs. DVLA would, strictly on the basis of the criteria for a Definition of Substantial Change set out below, be the final arbiter of entitlement of a changed vehicle to be classified as a VHI.

DEFINITION OF A SUBSTANTIAL CHANGE

1. A vehicle incorporating only changes made before 1988 should be classified as a VHI.
2. On any vehicle not covered by Paragraph 1, replacement of a chassis, or bodyshell of a vehicle of integral construction, or motorcycle frame, if it replicates in all substantive respects the structural and dynamic aspects of an original chassis, bodyshell or motorcycle frame which has deteriorated through corrosion or fatigue, or been irreparably damaged, should not be regarded as 'substantial.'



3. On any vehicle not covered by Paragraph 1, replacement of brakes, assistance of brakes with servos, fitting of secondary braking systems, fitting of power steering, modification or enhancement of the chassis or of suspension components and geometries and replacement of gearboxes or other transmission components, all of which are designed to improve driveability and therefore safety of the vehicle should not be regarded as 'substantial'.
4. In many cases earlier vehicles when built were underpowered and are less than ideal for use in modern traffic conditions. Therefore on any vehicle not covered by Paragraph 1, the fitting of a replacement engine should not be regarded as 'substantial' unless the consequence is an excessive increase in the power to weight ratio of the vehicle.
5. Any vehicle not covered by Paragraph 1 conversion from left hand to right hand drive to better suit the road conditions in Great Britain, regardless of the date of conversion, should not be regarded as 'substantial'.
6. In the interests of limiting environmental ill-effects, replacement in commercial vehicles and in buses and coaches of original engines with more modern ones, which have the effect both of enabling these vehicles to proceed more smoothly in modern traffic, and of providing more economical and less polluting movement, should not be regarded as 'substantial'.
7. Any modification to a bus or coach, which has already been subject to the DVSA Notifiable Alteration re-approval process, should not be regarded as 'substantial'.

Question 5: If we use DVLA's 8 point rule, how many VHIs might fail to prove they have not undergone substantial changes?

FBHVC questions the terminology 'fail' when applied to a criterion which has not been required at any time for historic vehicles in Great Britain, and has not been planned for by vehicle keepers, by DfT or by DVLA. There is an implication in the term of a lower technical standard which FBHVC rejects and considers not to be supported by any known evidence.

Given the facts set out above FBHVC can confirm that it is not aware of any valid source of data on vehicle modifications held by anybody in Great Britain. FBHVC certainly holds no such data, indicative or otherwise.

A proper answer to the question posed must thus be that FBHVC has no knowledge whatsoever of the answer in any of the categories of historic vehicles affected. FBHVC would be surprised if any such data of any credible status exists.

Question 6: Do you agree with the assumption that the majority of VHIs used for business purposes will continue to have an MOT test to ensure they remain roadworthy and to keep insurance premiums down.

This question requires an answer in four parts.

Large commercial vehicles, buses and coaches

This question appears not to take account of the current requirements of DfT (managed and enforced by DVSA) which are wider than the requirements for an MOT.

Currently it is not possible to operate a heavy goods vehicle, a bus or a coach, of whatever age for commercial purposes without an operator's licence.



Holding an operator's licence requires the carrying out of an inspection process monitored by DVSA for each heavy goods vehicle, bus or coach being used, whatever its age .

Pre-1960 vehicles used for commercial purposes which are exempt from an MOT nevertheless need to have regular defined inspections.

It is not the intention of FBHVC to describe these requirements in detail as the DfT themselves impose these requirements and must be assumed to be fully aware of them. Nor is FBHVC aware that any change to these current legislative requirements is proposed.

As the regular inspections to maintain operators' licences are themselves designed to assure roadworthiness to a high standard, there is not currently any justification for these vehicles, if built before 1960, to require an MOT test as well. It is to be assumed that this would equally apply were the age for MOT exemption to be extended.

Cars

Of those historic vehicles built before 1960 and used for business purposes, some will currently be subject to private hire conditions, while some will be used under current dispensations as wedding and funeral transport. It is to be assumed that the same will be the case if the date for exemption is extended.

FBHVC has no direct knowledge of and can offer no valid opinion as to whether these vehicles do or do not submit to voluntary MOT tests.

Light commercials

DVLA data identifies that, based upon a vehicle population of vehicles over 30 years old (built before 1985) light commercials represent 2% of the total population. 40% of these vehicles are on SORN but FBHVC is aware of no data to advise what proportion performs business functions. Therefore FBHVC can offer no valid opinion on the likelihood of submission of these vehicles to voluntary MOT tests now or in the future.

Insurance

The insurance industry is currently clear that it does not base risk and thus premium calculations on taking of an MOT test, but relies instead on claims experience, on reviewing accident data and the observance of vehicle keepers with the legal obligation to maintain the vehicle in a roadworthy condition. Thus it is currently not likely that the taking or otherwise of a voluntary MOT would be affected in any way by insurance premiums.

Question 7: If we decide that VHIs should undergo a basic VHI roadworthiness 'safety' test do you agree that the test should only check vehicle identity, brakes, steering, tyres and lights only? If not what should the test cover?

There is strong support amongst the membership of FBHVC for such a test. A majority appear to favour a bi-annual test to reflect that percentage of historic vehicles which cover a very low annual mileage.

This would particularly be the case were Option 2 to be adopted in full, whereby the need for creation of a separate class of VHIs could be avoided.

Should such a test be instituted it should include structural corrosion in addition to the items listed.

Should DfT decide to institute such a test FBHVC would seek further consultation with DfT before its initiation. This would cover the modalities of the test, concerning inter alia its relationship to the full MOT, the sites at which tests could be performed, the need for extensive and comprehensive geographical availability of



testing, and the qualifications and training required for testers. The costs of such a testing regime both to the DfT and to vehicle keepers need to be measured against developing accident data in respect of VHIs.

Should such a test be instituted it would require to be subject to the same constraints as the current MOT regarding testing being in accordance with the standards in force when the vehicle was manufactured.

Question 8: Do you agree that the exemption should apply to all VHIs or should we continue to test certain classes of VHIs, e.g. heavy goods vehicles and public service vehicles?

The consultation does not appear to take account of the current requirements of DfT which are wider than the requirements for an MOT.

Currently it is not possible to operate a heavy goods vehicle, a bus or a coach, of whatever age for commercial purposes without an operator's licence.

Holding an operator's licence requires the carrying out of an inspection process monitored by DVSA for each heavy goods vehicle a bus or coach being used, whatever its age.

Even pre-1960 vehicles which are exempt from an MOT thus need to be regularly inspected. FBHVC does not consider that this process would be adversely affected if the date for exemption were extended.

Nor can FBHVC see why the implementation of the EU Directive would in any way affect the continued operation of the current DVSA procedures in this regard.

Question 9: Do you agree that we should not take into account any vehicle modifications made before 1988?

Subject to the answers given to Question 5, FBHVC would agree in principle with the proposal to limit modifications to be considered for the purposes of defining a VHI to 1988.

The proposal would have the effect of significantly reducing the number of exceptions to the category of VHIs. The actual effect on the number of MOTs performed is however unclear as it is to be assumed a number of the vehicles exempted would nevertheless undertake voluntary testing.

However, a single cut-off date could also mean that out of two identical vehicles built in the same year, with identical modifications, one, which had undergone the change before 1988, would be a VHI, while the other, which had undergone the same change but after 1988, would not. This may be thought to demonstrate the essentially capricious nature of the whole classification exercise into VHIs and historic vehicles which are not VHIs and help to explain why FBHVC remains so strongly opposed to its introduction.

Question 10: Do you agree that most privately owned VHIs are kept in a well maintained condition by their owners?

This question is fundamentally misconceived. At the moment there are no VHIs in Great Britain.

It is only under the DfT proposals the subject of this Consultation that a classification of VHI will exist in Great Britain.



Currently, the only relevant classification applicable in Great Britain is that of 'historic class' vehicles which are those built before 1 January 1976.

That classification would necessarily include both VHIs and substantially modified vehicles.

FBHVC considers that by far the great majority of vehicles in the historic class, excepting those currently benefitting from SORN and therefore not required to be kept roadworthy, are kept in a well maintained condition by their owners, whether personally or with professional assistance.

This has to be an opinion as the only data exists which might be thought to support it is the small numbers of accidents to such vehicles and the absence of any evidence that the accidents which did occur were significantly caused or contributed to by mechanical failure in the historic vehicles involved.

It is for the above reason that FBHVC strongly considers that the proposed classification of VHIs is without serious merit and ought not to be proceeded with.

Question 11: Do you agree that an annual mileage limit should be imposed on VHIs exempted from testing? If yes, what annual mileage limit should be imposed?

FBHVC does not agree that an annual mileage limit should be imposed.

The Directive does not require one.

A significant number of historic vehicles, in particular but not only motorcycles, have never been fitted with, nor are they currently required to carry, an odometer. Therefore their mileage cannot be measured.

In the view of FBHVC, experience of the historic vehicle cadre as measured by DVLA over recent years does not show any scope for improvement of accident statistics if such a limit were to be imposed.

While FBHVC has recently calculated as part of its 2016 National Historic Vehicle Survey that the average mileage across all types of historic vehicles is only of the order of 1000 miles per annum, that average covers a large range. There will be vehicles which cover only a very few miles, but on the other hand there are a number of vehicles which their owners use for historic vehicle events across Europe and indeed further afield. These will cover very significantly greater mileage. But these vehicles are likely to be those which will also undergo the most intense concentration on mechanical condition, for the simple purpose of ensuring they safely complete their trips.

Thus any mileage limit would either have to be so low as to be a serious constraint on a high proportion of VHIs, thus invalidating the move to widen exemption from MOT testing, or else impinge only on the small number of owners who might be thought to be most obsessive about the roadworthiness of their vehicles. FBHVC thus declines to offer a proposal as to any actual limit.

Question 12: Do you agree with the impact assessment published alongside this document? Please provide any information you have that will help us to more precisely estimate costs and benefits.

It is not the intention of the FBHVC to enter into a detailed critique of the Impact Statement. The underlying basis of certain of the data is difficult to be sure of. FBHVC has repeatedly sought clarification regarding the sources of certain of the data but without success.

However the following issues are, FBHVC considers, of significant importance.



STATEMENT OF POLICY OBJECTIVES

FBHVC disagrees profoundly with the statement of policy objectives and intended effects which underpins the Impact Statement and considers it to be substantially inaccurate and thus unhelpful to the whole thrust of the DfT proposals.

The second sentence of the statement contains three assumptions, each one of which FBHVC considers to be in error. The sentence states, 'The purpose of the new proposals is to ensure only vehicles of genuine historical interest are allowed exemption from testing as these vehicles are more likely to be well maintained and used less frequently'

The first assumption: only unmodified vehicles are of genuine historical interest.

This assumption raises two points.

The word 'genuine' is additional to anything in any definition and introduces an unacceptable level of subjectivity into any definition. In whose opinion and against what measures is historical interest 'genuine'? This is not a trivial point as this subject has a source of continuing and unsettled debate even within historic vehicle circles.

Setting that important point aside, FBHVC knows the assertion not to be the case, and a number of examples, especially in the field of commercial vehicles, can be evidenced to demonstrate this. A single example, set out in the Joint FBHVC/APPHVG Report referred to in the answer to Clause 14 would be the former Ministry of Technology Mobile Cinema. This vehicle is an iconic example of the heritage of Great Britain which has appeared regularly on modern day television and will be very widely recognised as being of genuine historic interest. However, with the passage of the years, the loss of availability of historic components and the need to operate economically and efficiently, it has undergone a significant level of modification, set out in the Annex to the Report attached to this response. It is however without any possible doubt a vehicle of genuine historic interest.

The second assumption; unmodified historic vehicles are 'more likely to be well maintained'.

There is certainly no existing data to support this assumption: nor could there be as the two categories have never been considered separately in Great Britain. The types and nature of modifications vary immensely across the whole cadre of historic vehicles. The majority of modifications however are carried out by or with the close supervision of enthusiasts with a high level of technical expertise and knowledge. There is no reason whatsoever to consider that the owners of these vehicles maintain their vehicles in any lesser condition than fully original vehicles.

The third assumption: unmodified historic vehicles 'are used less frequently'.

As with the second assumption, there is no available evidence: nor could there be as the two categories have never been considered separately in Great Britain. Indeed there is observed evidence to the contrary. To the knowledge of FBHVC modified and unmodified vehicles attend many of the same events, partake in the same activities and are generally used in exactly the same manner. It may be that older vehicles are generally used less frequently than more modern vehicles, but that is a quite different categorisation than is being used here.

In the view of FBHVC the essential untruth of these three assumptions raises fundamental uncertainty about the entire justification for an artificial and arbitrary distinction in the existing vehicle population of Great Britain proposed by DfT.

Policy Option 1

A benefit from increased emissions testing is claimed. This is erroneous as pre-1960 vehicles were not tested for emissions under the MOT regime prior to exemption and are not tested now under voluntary MOT tests. This is because there are no contemporary emissions standards against which they could be assessed. It is simply not possible to align modern emission testing to the standards in force when the vehicles were built.



This position would be continued under the Directive because the Directive test standards require that older vehicles be tested with reference to standards relevant to their date of manufacture.

Policy Option 3

Under the heading Key Assumptions, a remarkably precise figure of 277,943 additional exempt vehicles is assumed. Whatever the underlying data, how can any figure be assumed when the division between VHIs and modified vehicles has never been ascertained and remains entirely unknown? If any proportion has been assumed it does not appear in any disclosed data.

DATA

FBHVC has despite repeated enquiries been unable to obtain clarification from DfT on the sources for vehicle age-related accident data.

Table 1

It is difficult to reconcile the overall vehicle number shown in Table 1 (229,721) with other data available from DVLA which appear to show 215,904. Additionally FBHVC cannot establish the source of the age-related data.

Table 5

FBHVC considers that if accident risks are to be predicted using MOT failure rates, it would be better to exclude the PRS category, of failures which are corrected within an hour, suggesting most if not all are trivial from a safety point of view. These would tend to reduce the failure rates by around 25% and affect subsequent calculations.

Assumptions

FBHVC cannot locate a source for the absolute number of pre-1960 vehicles taking a voluntary MOT, nor has DfT, despite repeated attempts to make contact, provided a source. FBHVC is thus unable to agree or disagree with the DfT assessment of a rate of 7%, which may not be correct.

Question 13: Are there any other options you think we should consider in connection with testing exemptions for VHIs? (including documentation)

FBHVC wishes to provide no further options save where listed in the answers to other questions.

Question 14: Provide evidence or information that you feel may assist us in considering the options.

FBHVC offers the following documentation in support of its response:

1. DfT Briefing of 2 December 2013 entitled 'Update: EU Roadworthiness Package - new rules regarding exemption of historic vehicles from MOT tests'.
2. The Federation of British Historic Vehicle Clubs and the All Party Parliamentary Historic Vehicles Group: Ministerial Briefing Paper presented 2 March 2015 and appendix.
3. The 2016 National Historic Vehicle Survey, Summary Report.

Bob Owen, Director, Legislation
Federation of British Historic Vehicle Clubs