

**DEPARTMENT OF ENVIRONMENT AND LEISURE**

**ORIGINATING SECTION: PUBLIC PROTECTION SERVICE**

**REPORT TO: LICENSING COMMITTEE 14<sup>th</sup> July 2015**

**TITLE : PROPOSED PENALTY SCHEME FOR HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS AND DRIVERS**

**1. PURPOSE**

To inform members of a proposal to introduce a penalty point scheme for dealing with breaches of law or conditions attached to Hackney Carriage and Private Hire vehicle, driver and Private Hire operator licences.

**2. RECOMMENDATIONS**

That Members note the report and recommend a consultation to take place on the adoption of a penalty point scheme.

**3. KEY ISSUES**

Members will be aware that currently when officers have sufficient evidence to warrant action being taken with Private Hire and Hackney Carriage drivers for breaches of licensing legislation or licence conditions, these matters are usually dealt with by way of advice ( written or verbal), simple cautions, proceedings before the Courts or referral to the General Licensing Sub Committee.

It is felt that this system is not totally effective in dealing with drivers who repeatedly flout responsibilities on items which may in isolation be considered minor. By dealing with cumulative breaches on a more formal footing it may re-enforce the need for drivers and vehicle owners to take their responsibilities seriously. Examples of these breaches could be failing to wear their badge or display fare tables.

The Licensing Committee are therefore asked to consider a penalty point system, which if adopted would be more effective against those drivers and proprietors who repeatedly ignore their responsibilities in relation to the conditions attached to licences and potentially put public safety at risk.

It is important to clarify the nature of the penalty point system proposed. The scheme is not intended to replace the normal mechanisms of referral to the licensing committee or prosecution for individual, serious offences. The scheme will enable officers to hold data on observed breaches of licence conditions or issue of Fixed Penalty Notices (FPNs), usually issued on specific operations, by the Police for vehicle defects which render vehicles unfit for the road. The FPN is issued rather than a prosecution taken but with a pattern established over time would lead the committee to consider the issue of a person's fit and proper status.

The scheme involves penalty points being issued for minor breaches to drivers or proprietors. When they have accrued a set maximum (20 points in any 12 month period) number of points they would be referred to the General Licensing Sub-Committee for consideration. The panel members have the authority to impose a range of sanctions dependant on the circumstances. This could range from a warning to in more severe cases a revocation of licence.

At the moment the public protection service issue verbal or written warnings. This scheme would enable this to continue but with a more systemised approach which would create clarity for all concerned.

Serious offences or breaches will still remain liable to prosecution.

The scheme will be subject to consultation with the Private Hire and Hackney Carriage trade. A further report on the conclusions of the consultation will be brought to the Licensing Committee for consideration before any scheme could be implemented.

A preliminary meeting was held with trade representatives on 30<sup>th</sup> June. The group thought that if a scheme was to be implemented, then there should be a trial period of 12 months to assess the suitability of the scheme.

**Please see Appendix A for details of the proposed penalty point scheme.**

#### **4. RATIONALE**

The Public Protection Service believes that a Penalty Point Scheme will be a valuable tool in safeguarding members of the public and improving the taxi service offered by licensed individuals across the Borough.

Hackney carriage and private hire operators, drivers and vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Rules, Regulations and Conditions set by the Council.

Penalties will only be applied when witnessed by a public protection officer; or when there is clear evidence of a breach; or where the licensee admits the offence.

Officers will take a common sense approach and not set out to repeatedly catch licensees committing offences. There will be an appeal procedure for any disputed points. In the first instance this appeal will be to the head of service. The appeal must be made in writing within 14 days of the penalty point notice being issued. Some authorities have introduced a fee for dealing with an appeal, similar to the Magistrates courts. If the appeal is won the fee would be reimbursed. In the boroughs it has been introduced it has stopped spurious appeals being lodged.

If the matter progresses through to suspension or revocation of a licence by the General Licensing Sub Committee, the licensee would have the right of appeal to a magistrate's court.

Feedback from other authorities that use similar systems states that these schemes improve the compliance of the trade, and overall standards are raised. If points are issued, the licensee will not be affected financially, but will be put "on notice" to improve. If there are further breaches and the licensee is referred to the General Licensing Sub Committee, the scheme will show the graduated approach that has been taken with the licensee.

#### **5. POLICY IMPLICATIONS**

Any penalty point scheme would be subject to approval by Executive Board.

#### **6. FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report

#### **7. LEGAL IMPLICATIONS**

The Council has an ongoing duty to ensure its licensed drivers are "fit and proper persons" as required under the Local Government (Miscellaneous Provisions) Act 1976.

The Penalty Points Scheme would be one of a range of mechanisms available to the Council to fulfil this duty.

## **8. RESOURCE IMPLICATIONS**

The are no resource implications associated with this scheme.

## **9. CONSULTATIONS**

If the committee are minded to recommend the introduction of a penalty point scheme, a 28 day consultation will commence with the trade. The results of the consultation will be brought before the next committee in September.

## **10 . CONTACT OFFICER**

Donna Riding – Principal Licensing Officer  
Telephone 01254 585004



## APPENDIX A – PENALTY POINTS SCHEME

### 1. The Scheme

- 1.1 Points will be issued by authorised officers of the Authority to licence holders who are found to be in breach of legislation, byelaws, this policy or conditions of licence.
- 1.2 The maximum number of points that can be imposed in respect of any particular matter is 10 but it is possible for one incident or inspection to result in more than one set of points being issued.
- 1.3 If a licence holder accumulates 20 points or more within a rolling period of 12 months then their licence will be subject to a review by the General Licensing Sub-Committee.
- 1.4 Any licence holder aggrieved by the imposition of penalty points on their licence may appeal to the Head of Service, where they will have the opportunity to explain why the points should not have been imposed.
- 1.5 Notice of the appeal must be submitted in writing to the Authority within **14 days of receiving** the penalty points notice accompanied with a fee of £50 refundable if the appeal is won.
- 1.6 The tables below list the breaches of legislation that attract penalty points.
- 1.7 The issue of some points will be applicable to both the driver and vehicle proprietor or operator for example where a vehicle is found with illegal tyres, points will be issued to both the driver and the vehicle owner.

## Private Hire

A.	<b><u>Offences under the Local Government (Miscellaneous Provisions) Act 1976</u></b>	<b><u>Penalty Points</u></b>
1.	Vehicle not displaying plates. (Sec.48(6)(a))	10
2.	Failure to notify vehicle transfer within 14 days. (Sec.49(1))	10
3.	Failure to present vehicle for inspection. (Sec.50(1))	5
4.	Failure to notify Authority of any convictions	
5.	Failure to inform Authority where the vehicle is stored. (Sec.50(2))	5
6.	Failure to report an accident within 72 hours.(Sec.50(3))	10
6.	Failure to produce a vehicle licence and insurance certificate.(Sec50(4))	5
7.	Failure to produce Private Hire driver licence.(Sec.53(3))	5
8.	Failure to wear driver badge.(Sec.54(2))	10
9.	Failure by Operator to keep records of bookings.(Sec.56(2))	10
10.	Failure by Operator to keep records of vehicles.(Sec.56(3))	10
11.	Failure to produce a Private Hire Operators licence.(Sec56(4))	5
12.	Making false statement or withholding information to obtain a licence.(Sec.57(2))	10
13.	Failure to return vehicle plate within 7 days after notice given.(Sec.58(2))	5
14.	Failure to surrender driver licence after suspension.(Sec.61(2))	5
15.	Charging more than the meter fare when HV used as a PV.(Sec.67)	10
16.	Unnecessarily prolonging a journey.(Sec.69)	10
17.	Obstruction of an authorised officer or constable.(Sec.73(1)(a))	10
18.	Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b))	10
19.	Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c))	10
20.	Major vehicle defects e.g. illegal tyre	10
21.	Driver smoking in the vehicle	5
22.	Driver using a handheld mobile phone, handheld two way radio, eating or drinking	5

<b>B. <u>Offences under the Transport Act 1980</u></b>		
<b><u>Section</u></b>	<b><u>Offence</u></b>	<b><u>Penalty</u></b>
64 (2) (a)	Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word	10
64 (2) (b)	Causes or permits a vehicle to have a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of	10

**C. Policy and Conditions of Licence**

All non-compliance with the policy and breaches of licence conditions shall attract 10 penalty points.

### **HACKNEY CARRIAGE**

<b>A. <u>Offences under the Local Government (Miscellaneous Provisions) Act 1976</u></b>		<b><u>Penalty Points</u></b>
1.	Failure to notify vehicle transfer (Sec.49(1))	10
2.	Failure to present vehicle for inspection. (Sec.50(1))	5
3.	Failure to inform Authority where the vehicle is stored. (Sec.50(2))	5
4.	Failure to report an accident.(Sec.50(3))	10
5.	Failure to produce a vehicle licence and insurance certificate.(Sec50(4))	5
6.	Failure to produce HD driver licence.(Sec.53(3))	5
7.	Making false statement or withholding information to obtain a licence.(Sec.57(2))	10
8.	Failure to return vehicle plate within 7 days after notice given.(Sec.58(2))	5
9.	Failure to surrender driver licence after suspension.(Sec.61(2))	5
10.	Charging more than the fare shown on the meter for a journey ending outside the district without prior agreement (Sec.66)	10
11.	Charging more than the meter fare when HV used as a PH.(Sec.67)	10
12.	Unnecessarily prolonging a journey.(Sec.69)	10
13.	Obstruction of an authorised officer or constable.(Sec.73(1)(a))	10
14.	Failure to comply with requirement of an authorised officer or constable.(Sec73(1)(b))	10
15.	Failure to give information or assistance to an authorised officer or constable.(Sec.73(1)(c))	10

**B. Offences under the Town Police Clauses Act**

<b><u>Section</u></b>	<b><u>Offence</u></b>	
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48	Failure by HC proprietor to hold a copy of HC driver licences of persons who use the vehicle	10
	Carrying other person than the hirer without consent	10
<b>C. <u>Offences under the Byelaws</u></b>		
All breaches of hackney carriage byelaws shall attract		10
<b>D. <u>Policy and Conditions on Licence</u></b>		
All non-compliance with the policy and breaches of licence conditions shall attract		10

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