



Name of meeting and date: **Licensing & Safety Committee – 16<sup>th</sup> September 2010**

Title of report: **Penalty Point System for Taxis and Private Hire Vehicles**

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	Not applicable
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Yes
Cabinet member <a href="#">portfolio</a>	

Electoral [wards](#) affected and ward councillors consulted: **All wards**

Public or private: **Public**

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## 1. Purpose of report

To assist the Council in improving standards by considering the proposed introduction of a penalty points scheme for Hackney Carriage, Private Hire drivers and Operators.

## 2. Relevant Background Details

Currently 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 Byelaws and the Conditions implemented by this Licensing Authority.

When Drivers, Owners or Operators of vehicles commit an offence or breach these rules, persons involved are asked to attend the offices for an interview and then once investigations are completed, letters are sent out detailing the outcome with a record kept on the drivers file. The outcome of investigations may result in no further action being taken, a formal warning, referral to the Licensing Panel and/or prosecution which could subsequently result in the revocation of a licence.

### **3. Key Points**

Whilst the majority of licence holders abide by the rules, there is small number of drivers that consistently do not. Officer's time is regularly unnecessarily spent chasing up drivers who do not produce required information on time and who contravene Council conditions e.g. not wearing badges. The primary objective of implementing a penalty point's scheme is to improve the levels of compliance within the trade which would subsequently help improve the standards, safety and protection for the travelling public.

The scheme is designed to work in conjunction with current procedures and assist in providing a formalised stepped enforcement plan which is easier for drivers and proprietors to understand. The basic purpose of the scheme is to record misdemeanours and to act as a record of driver's and/or operator's behaviour and conduct so as to ascertain whether they are a fit and proper person.

Penalty Points would be issued according to the agreed and published tariff, with any failure to put right any defects or infringements within the given timescales would attract further additional penalty points.

Generally infringements requiring immediate formal action and which would be the subject of a report to the Licensing Panel are rare. However, the introduction of a penalty points scheme will not in any way interfere with this process allowing the most serious cases to continue to be dealt with as they are now.

Points given will remain on record for twelve month rolling period which is considered a reasonable period of time over which the total penalty points awarded to any individual licensee should be assessed. This will allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.

The period is considered to be of sufficient length so as to allow any licensee who may find themselves accumulating penalty points to take appropriate remedial action before facing the possibility of sanctions being taken. Where it is decided that the use of the penalty points system is appropriate, the points will be imposed on the scale shown. Points will be issued under existing principles of evidence and infringements will have to be witnessed by Council Officers.

Where a licensee accumulates more than 6 penalty points in any 12 month period the matter would be referred to the Council's Licensing Panel for a decision as to whether the driver is a fit and proper person to continue to hold a license. The Licensing Panel may then suspend or revoke their licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension of a licence by a Panel will be dependant on the nature of the breaches of the legislation/conditions and the compliance history of the individual.

Any disputes regarding the issuing of penalty points will be referred to the Licensing Panel.

### **4. Consultation**

The above proposal for this scheme was put before the Licensing & Safety committee on 1<sup>st</sup> March 2010, where it was decided a working group should be formed to look at the feasibility of introducing such a scheme.

The working group members chosen were:

Cllr Rochelle Parchment, Cllr Adrian Murphy, Cllr Derek Yates, Taxi Trade Representatives: Amjad Nadeem, Akmal Hussain, Akooji Badat, Council Licensing Officers Michael Stocchero and Karen Eastwood.

#### **5. Issues to be taken into account:-**

The implementation of this scheme will alter the way in which enforcement is carried out. However, the scheme does not seek to introduce new regulations in order to complicate the legal process.

#### ***Human Rights***

The First Protocol 1 Article 1 is relevant in that this progressive enforcement regime could ultimately result in a Driver or Operator license being revoked. Notwithstanding this, there is derogation if the control is in the public interest. Consequently, the implementation of this scheme is a method by which vehicles are kept safe for use. However, a fair balance has to be achieved. The issues are the effect on the Driver or Operators business, the nature of the public interest, whether the public interest could be secured in another way, and if not whether there is a fair balance.

#### ***Equality Impact Assessment***

The challenge is to ensure that the scheme is consistently applied in all cases without exception, and that it will promote consistency of approach regardless of race, religion, gender etc.

#### **6. Conclusion**

The working group met on 19<sup>th</sup> April 2010.

#### **Taxi Trade Representatives :**

Members of the working group from the taxi trade were not in favour and declined to offer any suggestions other than a blanket refusal to accept a points system in any form, and produced a petition against the proposals. (attached as appendix 1)

Members of the group state that drivers feel the existing system is working well, none of them would welcome a penalty point system. They feel this is just focusing on the 'negatives' and treating all drivers as 'bad drivers'. They pointed out that many of the offences that would incur penalty points were in fact legal requirements enforceable by law.

These views are mirrored in the petition, with drivers believing the proposals to be direct discrimination and many of them calling for strike action.

An updated proposal was sent out to members of the working party requesting any comments, no representations have been received to date. (attached as appendix 2)

## **7. Recommendation**

It is recommended that the committee give consideration as to whether to progress the implementation of a penalty point scheme.

## **8. Contact officer and relevant papers**

Catherine Walter, Licensing Manager 01484 456860 Neal Fearn, Assistant H of S (Building Control) 01484 221550

### **List of Appendices**

**Appendix 1** – Petition from drivers

**Appendix 2** – Updated proposal

