

## IMPLEMENTATION OF AN ENFORCEMENT POINTS SYSTEM FOR LOW LEVEL NON- COMPLIANCE OF THE TAXI POLICY

### 1 Purpose

- 1.1 To consider introducing a points system to assist the council with reducing low level non-compliance issues throughout the taxi trade

### 2 Recommendations

- 2.1 The committee authorise the Licensing Services Manager to consult with the trade and other local, relevant organisations on the detailed content of an enforcement points system in respect to taxi and private hire and to report back to the committee in due course

### 3 Supporting information

- 3.1 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 the licensing authority
- 3.2 When drivers, owners or operators of vehicles commit an offence or breach these rules, persons involved are either asked to attend the council offices for an interview or are contacted by a council officer in the first instance. Once investigations are completed, letters are sent out detailing the outcome with a record being kept on file. The outcome of investigations may result in no further action being taken, a formal warning, prosecution or a regulatory sanction to include refusal to renew, revocation or suspension of a licence.
- 3.3 To assist the council in improving standards, it is proposed to introduce a penalty points scheme for low level non compliance of the councils current taxi and private hire policy. Whilst the majority of licence holders abide by the rules, there are a small number of drivers that consistently do not. Licensing officers time is regularly and unnecessarily spent chasing up drivers who do not produce required information on time or who contravene council conditions e.g not wearing their badge in a prominent position or not have the required livery on the vehicle. The primary objective of implementing a penalty points 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.
- 3.4 The scheme is designed to work in conjunction with current procedures and to assist in providing a formalised, stepped enforcement plan which is easier for drivers and proprietors of the taxi and private hire companies to understand. The basic purpose of the scheme is to record misdemeanours and to act as a simple record of drivers behaviour and conduct so as to ascertain whether they are a "fit and proper" person for the purpose of holding a licence.

- 3.5 Penalty points would be issued according to an agreed and published points scheme. Accumulation of points to a pre-determined level could lead to further actions being taken which may include suspension, revocation or refusal to renew a licence. Importantly, at this time it is the low level non-compliance we would like this system to address. **Appendix 1** details the most common issues of non-compliance
- 3.6 Points would remain on file for the driver for a set period of time. **Appendix 2** details a skeleton framework for operation, setting out a method for appeal both for the initial points and subsequent action.
- 3.7 The civil enforcement officers from the parking services team have been duly appointed authorised officers for the purpose of the aforementioned Acts, the points system would allow for a very fair and proportionate method with which to issue “warnings” to trade members for low level non-compliance. The simplistic nature of the initial points being awarded and the automation that can be achieved through the points system software removes the unnecessary burden for licensing officers to write letters and interview drivers. The system will provide a more easily reconcilable, accountable and immediately visible tool for licensing officers and trade members alike.

#### **4 Options considered**

None

#### **5 Reasons for Recommendation**

To ensure that Aylesbury Vale District Council are able to quickly and efficiently deal with low level non-compliance in regard to the councils Taxi and Private Hire policy

#### **6 Resource implications**

There will be financial implications if a points scheme was adopted. There would be an initial outlay of approximately £5-10K for intelligent points recording software, however this would be offset through the efficiencies and time savings this system would bring. All costs would be met by the licensing fees

#### **7 Response to Key Aims and Outcomes**

None specific.

Contact Officer  
Background Documents

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None

<b>Contravention</b>	<b>Offence</b>	<b>Fine Level of offence</b>	<b>Points</b>
Driver not wearing a badge in a prominent position	Local Government (Miscellaneous Provisions) Act 1976 Section 54 (2)	£1,000	2
Driver does not have a badge	Local Government (Miscellaneous Provisions) Act 1976 Section 46 (1) (b) Town Police Clauses Act 1847 Section 47	£1,000	3
Plate, door signs or other livery not correctly displayed or absent from vehicle	Local Government (Miscellaneous Provisions) Act 1976 Section 48 (6)	£1,000	2
Failure to comply with an authorised officer	Local Government (Miscellaneous Provisions) Act 1976 73(1)(b) Section 48 (6)	£1,000	3
Private Hire Vehicle Parked in Rank	Local Government (Miscellaneous Provisions) Act 1976 Section 64	£1,000	4

Hackney carriage vehicle not using the taximeter	policy offence	none	3
licensed vehicle not carrying either the required Fire Extinguisher and First Aid kit	Policy offence	none	2
Vehicle defect Major - immediate suspension (bald tyres/prohibition)	Policy offence (road traffic offences and other)	none	4
Vehicle defect minor - advisories (crack in windscreen, rust etc)	Policy offence	none	2
Other	could be anti-social behaviour	none	2

## **Operational procedure for Penalty Points scheme for Taxi licensing**

The following document provides a skeleton framework for the introduction of a penalty points scheme for low-level non compliance within the taxi licensing regime. It is important to understand that, whilst the points system would be the preferred method used for non compliance, the Licensing Services Manager may decide that a prosecution, or direct regulatory sanction may be the best course of action and may refer to our taxi policy and enforcement actions in lieu of points.

Historically a disproportionately large amount of officer time is spent on dealing with low level non-compliance issues. These include drivers not wearing or not having badges, incorrect livery on vehicles or not carrying the pre-requisite first aid kit or fire extinguisher.

Whilst some of these breaches mentioned are punishable via prosecution, in most cases, a letter, warning or interview with the driver is enough to deter future incidents, however where repeat offences are committed by individual drivers, a points system would determine when the level of breaches would merit further action via a suspension, a revocation or indeed prosecution. The points system would seem the most balanced, proportionate and fair way of dealing with low level non compliance, however consideration must be given to drivers that have current warnings on their file. Any driver with current warnings would expect that these be taken into account with any future transgressions.

Initially we must be clear on what breaches could be classed as low level, or would be better dealt with through a points system. It would be prudent with such a new system to identify the most common incidents we currently have for warning drivers. We have initially decided to deal with the following incidents:

- **Driver not wearing a badge** (private hire and hackney carriage drivers must wear a badge in a prominent position at all times)
- **Driver does not have the badge with him/her** (again, drivers must wear the badge at all times when operating a licensed private hire vehicle)
- **Plate, door sign or other vehicle livery not correctly displayed** (All vehicles are subject to a set livery in order for the vehicle to be identifiable to the travelling public)
- **To obstruct, fail to comply, fail to provide information or make a false statement to an authorised officer** (This could be a request to see a dvla driver licence and a subsequent refusal, or a request to be shown the fire extinguisher and again, a refusal)
- **Private Hire vehicle entering or stopped in a Taxi Rank** (The taxi ranks are for hackney carriage vehicles only. A private hire vehicle may not stop, drop off, pick up or wait in a rank)
- **Hackney carriage not running its meter** – all journeys in a hackney carriage taxi vehicle must be charged based on a running taximeter calibrated to the latest tariff
- **Licensed vehicle not carrying the required first aid kit or fire extinguisher**
- **Vehicle defect** (this would include but not be limited to defective tyres, damage to bodywork or rips and tears to passenger seating)
- **Other** (This may be for things such as verbal abuse, littering from inside the vehicle or other anti-social behaviour)

### **Who can Issue points?**

Any authorised officer may issue points on the spot. This would include officers from the Licensing team and also from the Parking Services team who also have authorisation under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses

Act 1847. Further, we would discuss with Thames Valley Police whether it would be appropriate for police officers to directly give points. This will require further discussion and is on-going. The other possibility would be the compliance officers at Bucks County Council who routinely inspect vehicles and drivers licensed by this authority whilst performing home to school transport checks. Not all points would need to be issued on the spot. They can be issued by an authorised officer based on information provided by a responsible authority.

### Points for the offences and general guidance

**Appendix 1** of the committee report and attached to this document, provides the set points per offence. The following would act as guidelines for attributing points to drivers for offences committed that fall within the pre-determined breaches.

- The councils Taxi and Private Hire Policy and Enforcement Policy must be considered by the reporting officer when determining the manner in which any offence or breach of licensing conditions is dealt with
- If the decision to use the penalty points system was made, points would be attributable on a range of 2-4 points per offence or breach
- A maximum of 7 points can be dispensed at any one time. For instance a driver in a private hire vehicle parked in a rank, not wearing his badge and with no fire extinguisher or first aid kit would not receive points totalling **more than** 7 points. Points would be attributable to the worst offence and then in turn to other offences until 7 points are reached, this level of breach would be noted by the licensing enforcement officer and would attract scrutiny from the Licensing Services Manager. who may wish to invite the driver in for interview and/or deal with the licensing breaches in a method other than the points system.
- Points will remain on the licensee's file for a period of 18 months. If the licence lapses during this period, the points would be noted on the system and may be carried onto a new application. This way, If the licensee applies again at a later date points may be "carried forward" for the remaining period that the points would have remained "live"
- If a pre-determined amount of points are accrued in the 18 month time period (currently set at 12 points) the offender will be requested to attend the council offices and be interviewed by a licensing officer
- Following interview a report will be presented to the Licensing Services Manager who may impose a regulatory sanction if satisfied that the driver has failed to comply with the provisions of the taxi licensing policy and conditions. The accumulated points would support the action taken.
- If the Licensing Services Manager feels the matter does not warrant suspension or revocation then they may consider an extension to the period with which the points remain on the licence or/and issue a reprimand.
- Once the driver has been dealt with the points would be removed from his/her licence, however a file note would be kept for the life of the licence and on renewal. However if the action taken was to extend the period of the points, the points would remain live until such time as decided by the Licensing Services Manager. If a reprimand was given the points would remain "live" for the normal 18 month period.
- Whether or not penalty points have been issued, the council reserves the right to suspend, revoke or refuse to renew a licence.

## Methods and right of Appeal

With any policy or procedure when applying a penalty system to an individual, there must be consideration paid to the individuals right to appeal a decision. There must be two levels of appeal within a points scheme. The first would be at the initial stage of receiving any points, the second would be at the point where the totting up would then lead to an action taken by the Licensing Services Manager. The second appeal would be on a decision to possibly revoke or suspend a drivers licence. At this point the appeal process would be to the magistrates court. Below is a simple procedure that would allow a balanced and fair procedure of appeal for both situations.

- **Appealing a points allocation** – if the driver is not satisfied that the points attributed for an alleged offence were given fairly, then an appeal may be made in writing, to the Licensing Services Manager within 21 days of the points being given. A decision will be made to either uphold or dismiss the points based on the evidence provided by the issuing officer and the representations made by the appellant. The appeal must detail all of the circumstances as to why the points were unfairly attributed. It would be important that for a multiple point offence the alleged offender must stipulate for what offence he or she is appealing. The authority, if the appeal is upheld, would then dismiss those points only and apply the remaining points. The response from the Licensing Services Manager would be sent back detailing whether the appeal was upheld or dismissed and the reasons why. The points, if accepted as correct would be issued on the driver from the date of the offence.
- **Appealing a suspension, revocation or refusal to renew a licence following the totting up procedure** – A revocation or suspension of a drivers licence may be appealed by way of the Magistrates court and must be done within 21 days of the date of the decision to suspend or revoke. **At all points of appeal the driver may wish to obtain legal representation as is his or her right.**

## Introduction of additional conditions that could attract points

The council reserves the right to add additional breaches and offences to the list of breaches currently covered under Appendix 1 of this document.