

**Licensing Committee**  
**10 March 2014**

**IMPLEMENTATION OF A PENALTY POINTS SYSTEM FOR TAXI ENFORCEMENT**

**1 Purpose**

- 1.1 For Licensing Committee to consider the contents of the proposed penalty points system for taxi enforcement and recommend Cabinet Member approval.

**2 Recommendations/for decision**

- 2.1 To agree the proposed penalty points system for taxi enforcement, make any further comments or recommendations and recommend Cabinet Member approval.

**3 Supporting information**

- 3.1 In July 2013 members of Licensing Committee discussed a report on the use of a penalty points system for taxi (i.e. hackney carriage and private hire) enforcement. Members agreed in principle with the adoption of such a scheme and authorised the Licensing Services Manager to consult with the trade and other local, relevant organisations on the content of the system and bring back a report to the Licensing Committee.
- 3.2 Members will recall that the purpose of a penalty points enforcement system is to provide a more transparent, targeted, consistent and structured approach to taking enforcement action in respect of certain, and usually repeated, breaches of the council's taxi standards. The Council's current licensing policy effectively deals with serious breaches of licensing conditions and committing of relevant offences. However there continue to be a significant level of contraventions for breaches and offences for which a regulatory sanction such as a suspension would not be warranted. Examples are not wearing a badge or producing it on request or failing to display the licensed plate or door signs on a licensed vehicle.
- 3.3 Such breaches are susceptible to absolute proof and, in all but the rarest of occasions, inexcusable. It is proposed that such breaches should result in a penalty amounting to a number of points, in the same way that a driving licence can accrue points for driving offences. Should a driver receive twelve points his suitability to continue to be licensed will be formally reviewed. Similarly drivers can see at a glance the potential impact on their licence of repeated breaches.
- 3.4 Attached as Appendix 1 is a proposed Penalty Points System and guidance notes to accompany it. It is important that the System is flexible enough to accommodate change and therefore Members are asked to note that the right to make changes has been reserved. In due course, the Cabinet Member will be requested to delegate to the Environmental Health & Licensing Group Manager or the Licensing Services Manager the authority to make changes to System having consulted the Cabinet Member.

3.5 By way of consultation a questionnaire was devised and sent to all licensed private hire operators, the white and red Hackney Carriage Associations, Bucks CC Transport for Bucks, Bucks CC School Transportation, Thames Valley Police – licensing and Neighbourhood, Chiltern Railways and Bucks Disability Service. Appendix 2 contains the limited comments received following consultation.

**4 Options considered**

4.1 None

**5 Reasons for Recommendation**

5.1 To provide a graduated, proportionate and transparent approach to taxi enforcement.

**6 Resource implications**

6.1 There will be an initial investment of approximately £9K to acquire intelligent points recording software. The system will however yield efficiencies when implemented and the costs in any event will be met by the licensing fees and delivered within existing budgets.

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Background Documents None

## **Penalty Point System for Taxi Enforcement**

### **Use and enforcement**

The following document provides guidance in respect to the penalty point system for taxi enforcement. The system will operate without prejudice to or in addition to the council's other enforcement powers in respect of hackney carriage and private hire controls (referred to in this document as 'taxi'). The operation of the system is not intended to fetter the council's discretion to exercise the full range of its enforcement powers as it sees fit.

It is intended that the penalty points system will be enforced by licensing officers and Aylesbury Vale District Council's Civic Enforcement Officers, all of which have the appropriate authorisation under the Local Government (Miscellaneous Provisions) Act 1976 and Town and Police Clauses Act 1847. In addition, police constables and Police Community Support Officers may refer taxi misdemeanours, along with the appropriate evidence to the council's licensing services which in the council's discretion could result in the issuing of points. Similarly, Bucks County Council / Amey transport enforcement officers may refer breaches and offences to licensing services. Points may also be issued arising from complaints from other third parties such as members of the public.

The system will target the following breaches:

- **Failure of a Hackney Carriage / Private Hire Driver to wear driver's badge** (private hire and hackney carriage drivers must wear a badge in a prominent position at all times) – **2 Points**
- **Failure of a Hackney Carriage / Private Hire Driver to produce driver's badge** (drivers must wear and be able to produce their driver's badge on request) – **3 Points**
- **Failure to display licence plate, door signs or window badge** (all vehicles are subject to a set livery in order for the vehicle to be identifiable to the travelling public) – **3 Points**
- **To obstruct or fail to comply with any requirement properly made by or fail to give information or to give false information to an authorised officer or constable** (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) – **4 Points**
- **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) – **4 points**
- **Failure to operate the taximeter from commencement of the journey and charging more than the fixed charge for hire of Hackney carriages** – all journeys in a hackney carriage taxi vehicle must be charged based on a running taximeter calibrated to the latest tariff – **3 Points**
- **Failure to carry the required first aid kit or fire extinguisher** – **2 Points**
- **Driving a vehicle not properly maintained, defective or not clean and tidy** (this would include but not be limited to defective tyres, damage to bodywork or rips and tears to passenger seating) – **2 - 4 Points**

### **Implementation**

- Whilst a multi-agency approach is used to identify offences and breaches of condition it is the council's licensing services that issue penalty points. The council's Taxi and Private Hire Policy will be considered when determining the manner in which any offence or breach of licensing conditions is dealt with.

- Penalty points will be issued depending on the points designated for that specific breach or, as appropriate, a specific number of points within the designated range depending on the facts and circumstances.
- 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. 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 driver accumulates 9-11 points, the driver will be put on notice that any further breaches will result in the driver being interviewed by a licensing officer
- 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 Environmental Health & Licensing Group Manager or the Licensing Services Manager who may impose a regulatory sanction such as a suspension or revocation.
- If the Environmental Health & Licensing Group Manager or the Licensing Services Manager feels the matter does not warrant suspension or revocation consideration maybe given to an extension to the period with which the points remain on the licence or/and issue a formal warning.
- Once the driver has been dealt with the points will be removed from his/her licence, however a file note will be kept for the life of the licence and on renewal. If, however the action taken is to extend the period of the points, the points will remain live until such time as decided by the Environmental Health & Licensing Group Manager or the Licensing Services Manager. If a formal warning is given the points will remain "live" for an 18 month period, as usual.
- Whether or not penalty points have been issued, the council reserves the right to suspend, revoke or refuse to renew a licence or to prosecute.

### **Right of Appeal**

If a driver is not satisfied that the points attributed for an alleged breach were given fairly, then an appeal may be made, in writing, to the Environmental Health & Licensing Group Manager or the Licensing Services Manager within 14 days of the points notice being given. A decision will be made to either uphold or dismiss the points based on the evidence provided by the enforcement officer and the representations made by the appellant. The appeal must detail all of the circumstances as to why the points were unfairly issued. It would be important that for a multiple point breach the alleged offender must stipulate for what breach he or she is appealing. The council, 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.

A revocation or suspension of a driver's licence or the refusal to renew a licence can be appealed to the Magistrates' Court and must be done within 21 days of the date of the decision to suspend or revoke or refusal to renew.

### **Changes to the points system**

The council reserves the right to make changes to the points system and, in particular, to vary the number of points which can be issued for a specified breach and to vary (by adding, removing or otherwise) the list of specified breaches.

**Consultation on the Introduction of Points system for taxi enforcement (for example, not wearing a driver badge).**

Q1. Would you agree that a points system would be a fairer method of dealing with low level non-compliance than the current warning system.

- **Thames Valley Police (TVP) - Agree**
- **Bucks Disability Service (BuDS) – Agree**
- **AVDC Parking Services - Agree**

Q2. If you don't think we should adopt a points scheme – how would you like us to deal with low level non-compliance of driver standards and conditions, in particular repeat offenders?

**No comments**

Q3. Do you agree with the suggested points for breaches –in particular how many points are awarded for breaches?

- **TVP - 3 points for 'to wilfully obstruct, fail to comply, fail to provide information or to make a false statement to an authorised officer or constable' is too lenient. Drivers should be accountable and should have to show integrity and honesty. Response – amended from 3 to 4 points.**
- **AVDC Parking Services – Thought that wilfully obstructing, etc, etc ought to carry a heavier penalty. Response - amended from 3 to 4 points.**

Q4. As an operator, do you feel there should be anything added to this that could help you regulate your drivers?

- **BuDS – Points should be applied when a driver discriminates against a person due to disability and either refuses a fare or charges a higher price than the standard fare without due cause. Response – points system relates to breaches that are susceptible to absolute proof. Complaints of discrimination will be subject to investigation – no change.**

Q5. Apart from regulatory sanctions (revocation, suspension or refusal to renew a licence), what other forms of reprimand would you like us to use to help you deliver a better service? – i.e. road awareness course, Better driver course etc

- **TVP – Awareness course (with a fee) are always a good deterrent as well as being a point of learning and improving. These should be mandatory with a revocation if the course is refused. Response – noted.**
- **BuDS – Disability awareness training for those who fail to provide a good service for people with wide range of disabilities. Response – noted.**

Any other comments: **None received**