

Crawley Borough Council



Report to Licensing Committee

13th June 2016

Hackney Carriage and Private Hire Licensing Policy Additions

Report of the Head of Economic and Environmental Services PES/201

1. Purpose

- 1.1 To request that the Licensing Committee consider an update to the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy through the addition of a Penalty Point Scheme and a Code of Conduct.

2. Recommendations

- 2.1 To request that the Licensing Committee give permission to the Licensing Team to consult on the introduction of a Penalty Point Scheme and Code of Conduct for drivers of licensed vehicles. This is proposed to be added to the Council's existing Hackney Carriage and Private Hire Vehicle Licensing Policy as appendices (m) and (n) respectively. The suggested additions are attached to this report at **Appendix A**
- 2.2 At the conclusion of the consultation that the matter be returned to the Licensing Committee to consider any responses to the consultation, and then to recommend to Full Council to consider adopting appendices (n) and (m), including any amendments made following the consultation process.

3. Reasons for the Recommendations

- 3.1 Hackney carriage proprietors and private hire operators together with their drivers and vehicles are subject to control by way of the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, relevant byelaws and the conditions attached to licences.
- 3.2 The introduction of this addition to the Hackney Carriage and Private Hire Vehicle Licensing Policy would provide the Council with a mechanism to deal with repeated transgression from the controls listed in 3.1 above. This could be achieved through the use of a formal warning (notice) system, using an agreed range of penalty points allocated as per detailed in the Appendix A to this report. The proposed policy includes a provision for any person who does not agree with the issue of the points to be given an opportunity to appeal against the decision. It is proposed that the outcome of any such appeal may result in no further action being taken, the penalty points remaining, a formal warning or a referral to the Environmental Health Manager for the consideration of further action such as prosecution.

- 3.3 The aim of a penalty points scheme is to work in conjunction with other enforcement options. It would provide a formalised, proportionate enforcement approach. The purpose of the proposed scheme is to create a formal way of recording misdemeanours. This will provide a record of a driver's behaviour and conduct, so as to assist in the process of ascertaining whether they are still a "fit and proper" person to hold the appropriate licence. It is proposed the introduction of such a scheme would be without prejudice to the Council's existing options in regards to other formal or informal actions.
- 3.4 The primary objective of the penalty points scheme is to improve levels of compliance, and help improve local standards thus improving the safety and protection of the travelling public. Furthermore, the proposed appendices to the extant policy would further increase transparency and consistency of approach in regards to enforcement activity.
- 3.5 The proposal is that penalty points would remain for a rolling twelve month period. Any older points would normally be considered as spent and therefore excluded from the running total recorded against any individual licence holder. However, it is proposed that where there is evidence of repeated penalty points being issued occurring outside of the usual 12 month period resulting in 20 penalty points being accrued in any 18 month period, this would be taken into consideration and may be deemed as a serious breach of the policy or legal statute. Any serious breaches of the policy or legal statute will continue to be dealt with in the same manner as at present with the possible immediate revocation of any license as considered appropriate, thus the penalty points system may not be appropriate in all circumstances.
- 3.6 The Council's licensing office have received many complaints from hackney carriage drivers regarding the conduct of other drivers whilst on the taxi ranks in recent months. It is therefore timely to consider introducing a code of conduct as well as the penalty point systems to the overall policy.
- 3.7 The proposed code of conduct is designed to remind all drivers of their responsibilities whilst operating as a licensed driver and to ensure the public are treated in accordance with any conditions pertaining to the same. It is also an effective means by which to alert private hire operators regarding driver conduct and vehicle suitability.

4. Background

- 4.1 In July 2015 the Hackney Carriage and Private Hire Vehicle Policy was adopted by Full Council after extensive consultation and inputs from the Licensing Committee. The policy is designed to provide guidance and ensure the Council has a transparent approach to issues regarding the hackney carriage and private hire trade.
- 4.2 The policy is intended to provide a progressive and evolving approach to the matter of licensing hackney carriage and private hire vehicles and drivers in the Borough of Crawley. The extant policy document is intended to be subject to regular review and update as needed. The current policy is an extensive document but would be improved further by the proposed inclusions.
- 4.3 Introducing a code of conduct and a penalty points system would have substantial benefits for both the general public who use this mode of transport and will also demonstrate to members of the private hire and hackney carriage trade that matters will be dealt with robustly and in a transparent manner.

5. Description of Issue to be Resolved

- 5.1 All drivers, vehicle proprietors and operators are advised, and in some instances tested, in regards to the conditions they are subject to when they apply or renew their licence. Licence holders must adhere to these conditions at all times. The proposed penalty point system would enable the Council to proportionally and effectively deal with any licence holder who breaches their conditions of licence, any relevant legislation or otherwise does not act in accordance with the Council's policy.

6. Information & Analysis Supporting Recommendation

- 6.1 Penalty points schemes and codes of conduct have been successfully introduced by other local authorities including Ashford Borough Council, Portsmouth City Council and Wealden District Council.
- 6.2 The Council receives a large number of minor complaints concerning hackney carriage and private hire vehicle drivers on an annual basis. The nature of the complaints suggest that the penalty points scheme and code of conduct would resolve many of the issues in Crawley based on evidence from other areas. Common complaints include unruly behaviour while waiting at a taxi rank, rudeness to customers and the excessive use of vehicle horns.
- 6.3 Adding the proposed appendices to the existing policy would provide a proportionate and effective means of ensuring conditions related to hackney carriage and private hire drivers' behaviour are maintained to a high standard as to be expected by the travelling public.
- 6.4 Ward Members have not be specially consulted as this matter is borough wide and therefore being reported to the Licensing Committee directly for their consideration.

7. Implications

- 7.1 There are no foreseen financial or staffing risks.
- 7.2 The regulation and enforcement of hackney carriage and private hire matters will continue to be conducted with reference to the Council's Enforcement Policy and Hackney Carriage and Private Hire Vehicle Policy thus there are no additional legal risks foreseen to arise through the proposal.
- 7.3 The introduction of the additional appendices to the Hackney Carriage and Private Hire Vehicle Policy would not result in any significant changes to the current control regime and is therefore considered as compliant with the Equality Act 2010 and compliant as regards the Licensing Authority's Public Sector Equality Duty.
- 7.4 The consultation period will be a minimum of 90 days to ensure it is in accordance with Code of Practice for Consultation.

8. Background Papers

1. Hackney Carriage and Private Hire Vehicle Licensing Policy

http://www.crawley.gov.uk/pub_livx/groups/webcontent/documents/otherdocs/pub265445.pdf

2. Minutes of Full Council when Adopted

http://www.crawley.gov.uk/pub_livx/groups/operational/documents/minutes/pub263568.pdf

3. Minutes from Licensing Committee

http://www.crawley.gov.uk/pub_livx/groups/operational/documents/minutes/pub259342.pdf

4. Code of Practice on Consultation

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47158.pdf

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**PROPOSED PENALTY POINTS SCHEME
(To become appendix (m) of extant policy)**

1. Issue of Penalty Points

- 1.1 Complaints concerning breaches of conduct, conditions of licence or policy will be subject to investigation by the Taxi Licensing Officer or their deputy who may then issue discretionary points.
- 1.2 Where a licence holder accumulates 12 or more penalty points in any 12 month period, the matter will be referred to the Environmental Health Manager. The Environmental Health Manager may then revoke a licence, or issue a warning to the licence holder, depending on the circumstances.
- 1.3 Points issued to either the proprietor of a vehicle, a driver or operator will usually be confirmed in writing within 10 working days from the discovery of the contravention.
- 1.4 The system will operate without prejudice to the Crawley Borough Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 1.5 Any appeals regarding the issuing of penalty points will be referred to the Environmental Health Manager who will have the discretion to award a greater number of points than displayed on the tariff, if the appeal is not upheld. Any appeal must be submitted in writing to the Council within 21 days from the date they are notified of the points being issued.
- 1.6 If a decision is made to issue points to a proprietor/driver rather than prosecute, for a matter which is also a criminal offence e.g. bald tyres; no badge etc., those person(s) will not normally then be the subject of a prosecution by the Council in respect of the same matter for which the points were issued. Such matters will be looked at on a case by case basis

	Offence/Breach of Condition	Maximum Points	Driver	Proprietor or Operator
1	Providing misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques).	6	✓	✓
2	Failure to notify, in writing, the Council of change of address within 14 calendar days.	3	✓	✓
3	Refusal to accept hiring without reasonable cause e.g. drunk or rude customer (Hackney Carriages only).	6	✓	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares.	6	✓	
5	Plying for hire by private hire drivers.	9	✓	✓
6	Failure to have current vehicle excise licence.	4		✓
7	Driving or operating and unlicensed vehicle for carrying passengers for hire or reward or vehicle without insurance.	12	✓	✓
8	Failure to produce relevant documents within timescale, when requested by a Licensing Officer/Police Officer.	4	✓	✓

9	Failure to maintain vehicle in a satisfactory condition – including interior or exterior.	4	✓	✓
10	Failure to provide proof of insurance cover when requested.	6	✓	
11	Failure to produce hackney carriage or private hire vehicle for testing when required.	4		✓
12	Driving for reward or gain or operating a vehicle when the vehicle does not hold the appropriate licence (including where the vehicle had been licensed but where the licence is either suspended or has been revoked).	12	✓	✓
13	Failure to report an accident the at the earliest reasonable opportunity or damage to a licensed vehicle, which may affect the comfort or convenience of passengers.	4	✓	✓
14	Carrying more passengers than stated on the vehicle licence.	6	✓	
15	Failure to display external/internal licence plate as required.	4		✓
16	Carrying any article which would reasonably be considered an offensive weapon in the vehicle.	12	✓	
17	Failure to notify transfer of private hire or hackney carriage vehicle licence.	4		✓
18	Failure to carry fire extinguisher.	4		✓

19	Failure to apply for prior approval for advertising signage on the outside of the vehicle.	3		✓
20	Displaying unsuitable or inappropriately sited signs or advertisements in or on the vehicle.	3		✓
21	Failure to use authorised roof sign.	4	✓	
22	Displaying unauthorised written or other material on any window.	4	✓	✓
23	Failure to provide information or assistance to a Licensing Officer/Police Officer.	6	✓	✓
24	Using a non-approved or uncalibrated taximeter.	6	✓	✓
25	Obstruction of Licensing Officer/Police Officer wishing to examine a licensed vehicle.	12	✓	✓
26	Evidence of food or drink in vehicle.*	3	✓	✓
27	Displaying any feature on a private hire vehicle that may suggest that it is a taxi.	6		✓
28	Failure to carry an assistance dog without requisite exemption.	12	✓	✓

29	Failure to wear driver's badge.	4	✓	
30	Failure to notify, in writing, a change in medical circumstances.	6	✓	✓
31	Unsatisfactory appearance of driver in as specified in the Code of Conduct.	3	✓	
32	Failure to observe rank discipline as specified in the Code of Conduct (hackney carriage only).	4	✓	
33	Failure to maintain proper records as required by any condition attached to the licence.	3		✓
34	Failure to keep or produce booking records of private hire bookings or other documents required to be kept or produced.	6		✓
35	Failure to issue receipt on request.	3	✓	
36	Unsatisfactory behaviour or conduct of driver as defined in the Code of Conduct.	4	✓	
37	Failure to notify the Council, in writing, of any motoring or criminal convictions within 7 days of said conviction or caution.	6	✓	✓
38	Failure to notify the Council, in writing, of being charged with any motoring or criminal convictions within 7 days of being so charged.	6	✓	✓

39	Failure to behave in a civil and orderly manner towards a Licensing Officer.	4	✓	✓
40	Failure to give assistance with loading/unloading a passenger's luggage to or from any building or place.	3	✓	✓
41	Failure to display table of fares. (Hackney carriage only.)	4	✓	✓
42	Failure to carry legal spare wheel or authorised suitable alternative and tools.	4	✓	✓
43	Failure to attend punctually at appointed time and place without sufficient cause.	4	✓	✓
44	Using a licensed vehicle with bald tyre(s). 4 Points will be awarded for each tyre.	4	✓	✓
45	Operating a licensed vehicle where the Certificate of Compliance has expired.	6		✓
46	Failure to display a current private hire vehicle or hackney carriage licence plate.	4		✓
47	Waiting or stopping on a double yellow line area, bus stop or private land (without the owner's permission) and double parking unless requested by a paying customer present in the vehicle.	3	✓	

Ticks indicate potential recipients of penalty points for infringements.

N.B. Certain infringements may result in drivers, proprietors or operators receiving penalty points. Points may be awarded to one or several persons depending upon the nature of the infringement, however each case must be determined on its own merits. The list above is not exhaustive and may

be subject to change.

If the matter is referred to the Environmental Health Manager they may impose up to 12 points.

Decisions taken above will be made with regard to the Council's General Enforcement Policy.

PROPOSED CODE OF GOOD CONDUCT

(To become appendix (n) of policy)

This Code should be read in conjunction with the other statutory and policy requirements set out in this document.

1 Responsibility to the Trade

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trades by:

- (a) complying with this Code of Good Conduct;
- (b) complying with all the conditions of their licence, byelaws and the Council's Hackney Carriage and Private Hire Licensing Policy;
- (c) behaving in a civil, orderly and responsible manner at all times.

2 Responsibility to Clients

Licence holders shall:

- (a) maintain their vehicle(s) in a safe and satisfactory condition at all times;
- (b) keep their vehicle(s) clean and suitable for hire to the public at all times;
- (c) attend punctually when undertaking pre-booked hires;
- (d) assist, where necessary, a passenger into and out of the vehicle;
- (e) provide reasonable assistance to passengers with their luggage.

3 Responsibility to Residents

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- (a) not sound the vehicle's horn illegally (between 11.30pm and 7.00am or from a stationary vehicle, except when another road user poses a danger);
- (b) keep the volume of music media player media systems and VHF radios to a minimum;
- (c) switch off the engine if required to wait; and
- (d) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood, which might arise from the conduct of their business.

4 Responsibilities at Ranks and Offices

Hackney Carriage Licence holders shall:-

- (a) rank in an orderly manner and proceed along the rank in order and promptly;
- (b) remain in attendance of their vehicle;
- (c) not allow their music media players or VHF radios to cause disturbance to residents of the neighbourhood; and
- (d) take whatever additional action is necessary to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.
- (e) not sound the vehicle's horn from a stationary vehicle whilst sitting waiting at the taxi rank. This includes requesting drivers to move up the rank.

5 General

Drivers shall:-

- (a) pay attention to personal hygiene and dress so as to present a professional image to the public;
- (b) be polite, helpful and fair to passengers;
- (c) drive with care and due consideration for other road users and pedestrians;
- (d) obey all Traffic Regulation Orders and directions at all times;
- (e) not consume alcohol immediately before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle;
- (f) not drive while having misused legal or taken illegal drugs;
- (g) fulfil their responsibility to ensure that adequate rest periods are taken during and after the working day;
- (h) not eat in the vehicle in the presence of customers; and
- (i) respect Officers at Council offices and elsewhere during the normal course of their duties.