

6. Consideration of Taxi Licensing Report

REPORT OF: Tom Clark, Head of Building Control, Housing and Environmental Health
Contact Officer: Paul Thornton, Senior Licensing Officer
Email: paul.thornton@midsussex.gov.uk Tel: 01444 477428
Wards Affected: All
Key Decision Yes/No

Purpose Of Report

1. Mid Sussex District Council plan to introduce a Penalty Point Scheme for the Licensed Taxi and Private Hire trade . This report outlines the scheme and gives the Licensing Committee an opportunity to comment on it before it is presented to Scrutiny Committee for Leisure and Community.

Summary

2. The Council are seeking to amend the MSDC Taxi Licensing Policy by introducing a Penalty Points Scheme for the Licensed Taxi and Private Hire trade. The primary objective of the penalty point scheme is to improve the levels of compliance and the standards of the trade and for the safety and protection of the travelling public.
3. The penalty point scheme works in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. Its purpose is to record misdemeanours and to act as a record of driver's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

4 Background

- 4.1 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 Licensing Committee.
- 4.2 How will it work?

If Operators, Drivers or Proprietors of Vehicles currently commit an offence or breach rules, regulations or conditions of licence, the persons involved are asked to attend the Council offices for an interview. Once investigations are completed options include no further action, formal words of advice, warning letters or attendance before Licensing Sub Committee A.
- 4.3 The penalty point system allows officers to allocate points depending upon the nature and severity of the alleged misdemeanour. An investigation will still take place. All options referred to above will still exist.
- 4.4 Penalty Points will remain current for 12 months from the date the points were allocated. The period is on a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total

recorded against any individual licensee. In effect on the 12 month anniversary of points being awarded the numbers are re set.

- 4.5 Points issued to either the proprietor of a vehicle or a driver will be confirmed in writing normally within 10 working days from the discovery of the contravention.
- 4.6 The majority of drivers who come to the notice of the council do so only the once. This system will allow a pattern of behaviour to be taken into account. It is an evidence gathering tool. Upon reaching the limit of allowed points (proposed to be twelve in twelve months) the driver/operator is reported to Licensing Committee for members to ask 'is he/she still a fit and proper person ' The current system does not adequately incorporate this
- 4.8 The Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension of a licence by a Panel will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.
- 4.9 The current system caters for some offenders to be brought straight before the Licensing Committee. This will continue to be the case under the penalty point scheme. The Committee will retain the powers it has at present i.e. Revocation, suspension, warning, no further action. In addition, it will be able to award points against the driver/operator as a sanction. These points will be awarded against the current 12 months tally.
- 4.10 In accordance with current practice, these decisions made will have to be justified by the Committee.
- 4.11 Disputes regarding the issuing of penalty points by officers will be referred to the Licensing Committee who will have discretion to award a greater number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers to the Licensing Committee within 21 days.
- 4.12 There is no right of appeal against the awarding of points by the Licensing Committee. The only recourse to a legal challenge is by way of judicial review.
- 4.12 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 4.13 If points are issued to a proprietor/driver for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not then be the subject of a prosecution by the Council.
- 4.14 Attached to this report is a list of offences and suggested points to be awarded against them.
- 4.14 Since December 2015 the Licensing Team have been running a 'pilot' penalty point system in an effort to gauge what a real time system would resemble. This has purely been an information gathering exercise. Points have been awarded against offences. Disciplinary sanctions are not taken as a result of this 'pilot' system and the drivers are not informed.

- 4.15 An analysis shows that forty nine drivers have accumulated points. Of these, two have reached twelve points with one more on nine.
- 4.16 This scheme will form part of the Taxi Licensing Policy. It will not be a condition on drivers or operators licences.
- 4.16 The projected time table for consideration and implementation is ;
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| 11 th July 2016 | Licensing Committee for comments |
| 11 th October 2016 | Scrutiny Committee for Leisure and Community |
| 17 th October to | Public and Trade Consultation |
| 27 th November 2016 | |
| 14 th December 2016 | Council for adoption |
| 1 st January 2017 | Implementation and Taxi Licensing Policy amended |

5. Policy Context

- 5.1 The legality of Penalty Point Schemes was dealt with in 2012 in;

R (on the application of Singh) v Cardiff City Council.

Para 65 of the judgement “In my view, there is nothing wrong in principle with the defendant authority such as the present, adopting the policy, which seeks, both in fairness to the driver potentially affected and also to protect the public interest, to have, as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgment of the local authority, a person is not a proper person to continue to enjoy the relevant licence.

6. Financial Implications

A decision made by the Committee is subject to appeal at the Magistrates Court by the applicant or those making representations

Equality and customer service implications

7. None.

Other Material Implications

8. None

Background Papers

<u>Document</u>	<u>Pages</u>
Details of offences and points	4-6

