



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	11 <sup>th</sup> June 2014
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed amended Penalty Point Policy and Procedure

**1. PURPOSE OF THE REPORT**

1.2 To present, to Members, an amended Penalty Point Policy and procedure for their consideration.

**2. EXECUTIVE SUMMARY**

2.1 For Members to consider approving an amended penalty point policy and procedure to secure further improvement in standards for Hackney Carriage Proprietors, Drivers and Vehicles and Private Hire Operators, Drivers and Vehicles.

**3. BACKGROUND INFORMATION**

3.1 Members will be aware that the current hackney carriage and private hire condition book (“the blue book”) contains a penalty point scheme which was approved by Members a number of years ago. This scheme was never implemented due to concerns at the time over the legality of such a scheme, in particular for offences that may have already been considered through the Magistrates Courts or via fixed penalty points on driving licences. The current Penalty Point scheme can be found at Appendix A.

3.2 Recent case law, R (application of Singh) v Cardiff City Council [2012] EWCH 1852 (Admin) considered the legality of penalty points schemes for taxi drivers’ licences. Justice Singh found that the introduction and enforcement of a penalty point scheme was not unlawful in principle.

3.3 We have also obtained specialist legal advice confirming that a Penalty Point policy can be adopted.

3.4 While it is lawful to adopt a penalty point’s scheme it must not remove the

authority's discretion. There should be no automatic revocation of a licence, which would leave no room for judgment or discretion. There should be an appropriate appeals process.

- 3.5 It has been the practice for authorised officer dealing with hackney carriage and private hire enforcement to deal with breaches of policy and or legislation through a graduated enforcement approach ranging from verbal advice to suspension/revocation of licence.
- 3.6 The council's key responsibility under the licensing legislation is to ensure that only "fit and proper persons" become (and remain as) licensed hackney carriage / private hire drivers or operators. This is to ensure the safety of those using these services and the public in general.
- 3.7 The Penalty Points Scheme is designed to identify those drivers, vehicle proprietors or operators who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence. It is a means by which officers can identify and record both serious and also relatively low-level breaches of an unacceptable nature. The Scheme will act as a record of a licensed individual's behaviour and conduct, and will provide the Council with guidance as to whether a person is "fit and proper" to hold the relevant licence.
- 3.8 The Penalty Points Scheme is not intended to work in isolation, but rather in conjunction with other enforcement options. It provides a formalised, graduated and transparent enforcement approach. It will improve the level of compliance within the licensed trade, and help to improve the standards, safety and protection of licensed drivers. It will also support the best interests of the travelling public, safeguarding their welfare and interests.
- 3.9 The Penalty Points Scheme is intended to refer drivers/operators/proprietors back before Members of the Licensing Committee once a licence holder has reached 20 points or more, to provide the licence holder with an opportunity to put forward representations before a decision is made as to whether any further action is to be taken.
- 3.10 The proposed revised Penalty Point Policy and Procedure can be found at Appendix B.

#### 4. **CONSULTATION**

- 4.1 Contrary to usual practice, Officers sought approval from the Head of Planning and Public Protection, to deviate from our existing Policy

Process, and consult with the licensed trade and interested parties before presenting it to Members of the Licensing Committee. The purpose of this change was to minimise any delay in Members making a decision on this important policy, and to avoid any need to have to report back again to Members after the consultation period had ended.

- 4.2 Members will be aware that they were included as part of the consultation process, along with all Elected Members, Town and Community Councils, all licence holders, and trade associations.
- 4.3 As a result of the consultation, we received an extremely low response (3 in total). A summary of the responses can be found at Appendix C.
- 4.4 It is worthy of note that one of the main Taxi operators in the County are fully supportive of the scheme, and have been invited along to the meeting, along with all other individuals that had responded to the consultation.

## 5. **RECOMMENDATION**

- 5.1 For Members to consider approving the revised Penalty Point Policy and Procedure found at Appendix B, and in doing so agree to replacing the existing Penalty Point Scheme detailed at Appendix A.
- 5.2 To further approve the Officer's recommendations as detailed in the last column of Appendix C to this report.
- 5.3 To implement the scheme from the 1<sup>st</sup> August 2014, with a grace period of one month before enforcement of the scheme is introduced.