

REPORT TO:	Licensing Committee
DATE:	4 th December 2019
LEAD OFFICER:	Head of Planning and Public Protection
CONTACT OFFICER:	Public Protection Business Manager licensing@denbighshire.gov.uk 01824 706066
SUBJECT:	Review of Penalty Points Policy & Procedure

1. PURPOSE OF THE REPORT

- 1.1 To provide members with an update on the Penalty Policy & Procedure and make recommendations on the use of the process.

2. EXECUTIVE SUMMARY

- 2.1 The Penalty Points Policy and Procedure is a single document encompassing how the Council will deal with minor breaches in respect of taxi licensing and was approved by Members in September 2014 and further updated in September 2015.
- 2.2 Officers have reviewed the process and seek support to adapt how such breaches are dealt with in the future.

3. POWER TO MAKE THE DECISION

- 3.1 The Local Government (Miscellaneous Provisions) 1976 & Town Police Clauses Act 1847

4.0 BACKGROUND INFORMATION

- 4.1 The council's key responsibility under the licensing legislation is to ensure that only fit and proper persons are granted and remain hackney carriage / private hire drivers or operators. This is to ensure the safety of those using hackney carriages and private hire vehicles and general public.
- 4.2 Members resolved to adopt the Penalty Points Policy and Procedure firstly in September 2014 and further revised in 2015 and 2016.
- 4.3 The Policy and Procedure is to be reviewed every three years.

- 4.4 Members will be aware that the Policy and Procedure laid down how officers would deal with breaches of conditions or legislation and also gave breaches a points value.
- 4.5 An accumulation of 20 points in two years by a licensee would lead to that person being reported to the next available Licensing Committee.
- 4.6 Where a matter was serious then a single penalty of 20 points was given to the relevant licensee (driver or proprietor or operator). Thereafter, further action was to be determined by the Head of Service in consultation with the Chair or Vice Chair of the Licensing Committee.
- 4.6 The scheme allows for a 10 day appeal process irrespective of the level of points or incidents.
- 4.7 Members will be aware that through the Constitution and Scheme of Delegation that the Licensing Committee has delegated functions to the Head of Service who in turn has delegated certain functions to certain officers. These functions include, in certain circumstances, suspension and revocation of driver, vehicle and operator licences.
- 4.8 During 2019, six incidents were reported for penalty points with one incident involving the issue of 20 points.

5.0 CONSIDERATIONS

- 5.1 The process has unintended consequences in so far as delaying appropriate action, including suspension / revocation if necessary, as time frames for appeals are specified as are individuals for certain actions.
- 5.2 Officers, working with Members and a Legal Services have developed a "*Procedure for the Revocation or Suspension of a Private Hire or Hackney Carriage licence*" (Appendix A) which outlines actions to consider in determining whether or not to suspend or revoke and also specifies officer delegations.
- 5.3 The issuing of points does not easily allow for discretion or deviation where circumstances might warrant it, for example where an individual is continuing with non-compliance and is subject to multiple incidents of low scoring points it could be some time before further action is taken. Given the repetition of warnings officers may consider further action is warranted before reaching 20 points.
- 5.4 Officers are minded to remove the Penalty Point Policy and Procedure and in its place allow Officers, who are already authorised to enforce specific legislation including that associated with hackney carriage and private hire industry, to deal with each case on its merits whilst having regard to the Planning and Public Protection Service "Enforcement Protocol". Officers' competency is regularly assessed and training provided as necessary.
- 5.5 There are not significant numbers of incidents being reported for points.

- 5.6 Databases allow for the recording of warnings and / or advice. This data would be used in consideration of appropriate action against a licensee where necessary.
- 5.7 The scoring matrix developed over the previous years is a beneficial guide to officers and service users of the perceived severity of issues likely to be found in a licensing authority.

6.0 RECOMMENDATION

- 6.1 Members support the removal of the Penalty Points Policy & Procedure process.