



**Report of the Assistant Director to the  
General Licensing Regulatory Board  
to be held on the 26 November 2014**

**PENALTY POINTS SCHEME REPORT**

**1. Purpose of Report**

The purpose of this report is to consult with Members on the proposed introduction of a penalty point scheme.

**2. Background**

The Council proposes to adopt a penalty point scheme as a disciplinary code whereby points are issued to licence holders for breaches of licensing conditions or non-compliance of the law. However, the penalty point scheme does not fetter the Licensing Services duty to consider other forms of enforcement action including formal prosecution, should it be deemed proportionate to the offence(s). Rather, the scheme will run concurrently with these powers. Depending upon the severity of an offence, the Council may decide to caution or prosecute for an offence as well as award penalty points under this scheme.

**3. Current Position**

In exercising its discretion in carrying out its regulatory function, the Council has regard to a guideline policy in relation to criminal convictions and the objectives contained within. The purpose of this policy is to outline the guidelines which detail the Council's stance on the relevance of convictions and cautions in respect of applications for the grant of new or the renewal of existing hackney carriage and private hire drivers, vehicle proprietors and operators.

Notwithstanding the existence of this policy, each application or enforcement measure is considered on its own merits. If the Council takes a decision to depart substantially from this policy, clear reasons are given for doing so.

These guidelines were introduced to assist the General Licensing Regulatory Board and Sub-Committee alike in their decision-making and to maintain the consistency of the decisions made.

In terms of discretionary powers available to Licensing Enforcement Officers, at present officers may suspend, revoke or issue a written warning to a licence holder for the breach(s) in licensing conditions and/or the Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A76).

However, the aim of a penalty point scheme is to work in conjunction with other enforcement options and assist in providing a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanors and act as a record of a driver's behaviour/conduct and in doing so, ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.

In essence, the primary objective of the penalty point scheme is to improve the levels of compliance and help improve standards along with the safety and protection of the travelling public.

The main features of the scheme are as follows:

- Points are issued to licence holders for breaches of licensing conditions or legislation by authorised officers of the Council;
- A total of 12 points credited to an individual licence/licensee in any 12 month period or where 3 repeat identical contraventions within a 12 month period will result in the review of the licence at a General Licensing Sub-Committee (GLSC) meeting;
- In the case of a private hire operator licence the total number of points credited in any licensing year is extended to 30 points;
- Points against a licence holder will be automatically removed after 12 months has elapsed from the date the points were issued;
- Penalty points will be issued where there is no reasonable excuse as to why the offence or breach took place and where there is clear evidence that the offence or breach has occurred; and
- 10 working day appeal period in writing to the Group Leader (Pollution & Licensing) on the penalty points awarded from the day following the date

on the notice. The Group Leader will have the authority to either decrease or increase the points awarded.

There is no financial penalty associated with this scheme and the licence holder (driver, vehicle proprietor or operator) may continue to work if points are awarded. A list of breaches covered by the scheme, together with the maximum points that can be awarded for each breach is shown below.

### **Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Offence</b>	<b>Penalty Points</b>
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection on request	4
50(4)	Failure to produce hackney carriage or private hire vehicle licence and insurance on request	6
53(3)	Failure to produce private hire/hackney carriage (dual) drivers licence	4
54(2)	Failure to wear drivers badge	4
56(2)	Failure of private hire operator to keep records of bookings, and/or failure to produce them on request	10
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, and/or failure to produce them on request	10
56(4)	Failure to produce private hire operator's licence on request	6
57	Making a false statement or withholding information to obtain a hackney carriage or private hire drivers licence	12
61(2)	Failure to surrender drivers licence within 14 days after suspension, revocation or refusal to renew	6
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank	4
67	Charging more than the meter fare when a hackney carriage is used as a private hire	6
69	Unnecessarily prolonging a journey	6
73(1)	Obstruction of an authorised officer or constable, or failure to comply with a requirement of an authorised officer or constable	6

## Town Police Clauses Act 1847

Section	Offence	Penalty Points
45	Plying for hire without a hackney carriage proprietor's licence	12
48	Failure of hackney carriage proprietor to hold copy of hackney carriage drivers licence of persons who drive such licensed vehicle	10
53	Refusal of hackney carriage to take a fare without reasonable excuse	6
62	Driver leaving a hackney carriage unattended	4

## Dual (Private Hire Vehicle & Hackney Carriage) Drivers Licence Conditions

Condition	Breach	Penalty Points
1	Failure to notify Licensing Section of change of name and/or address in writing within 5 working days	4
4(c)	Failure of driver to conduct him/herself with civility	4
7	Failure to notify Licensing Section in writing within 5 working days of any conviction, binding over, caution, fixed penalty notice, warning or reprimand	4
13	Smoking or permitting smoking in a licensed vehicle at any time	6

## Hackney Carriage Vehicle Licence Conditions

Condition	Breach	Penalty Points
1	Failure to display interior and exterior licence plates in the prescribed manner	4
4(a)	Failure to display prescribed roof sign	4
11	Failure to notify the Licensing Authority of any accident in writing within 72 hours of such accident taking place	4
14	Parking in contravention of parking restrictions	4
16	Failure to carry out and record daily safety check of licensed vehicle and remedial action taken	4

**Hackney carriage Bye Laws made under S68 Town Police Clauses Act 1847 and S171 Public Health Act 1875**

<b>Condition</b>	<b>Breach</b>	<b>Penalty Points</b>
14	Failure to convey or assist with carrying luggage without reasonable excuse	4
18(a)	Failure to display hackney carriage fare card in vehicle	4

**Private Hire Vehicle Licence Conditions**

<b>Condition</b>	<b>Breach</b>	<b>Penalty Points</b>
2	Failure to display interior and exterior licence plates in the prescribed manner	4
12	Failure to notify the Licensing Authority of any accident in writing within 72 hours of such accident taking place	4
16	Failure to carry out and record daily safety check of licensed vehicle and remedial action taken	4

**4. Proposal**

If the Council is minded to adopt such a policy, the penalty point scheme will operate as follows:

The Council's guideline policy in relation to criminal convictions will be fully considered by the Enforcing Officer when determining the manner in which any breach of legislation or the requirements of this policy are dealt with. Where it is decided that the use of penalty points system is appropriate, the points will be issued in accordance with this scheme. If this scheme allows for a range of points for the particular incident, the Enforcing Officer will determine the appropriate number of points proportionate to the offence.

Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a licence holder will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring licence holders who

repeatedly contravene regulations and/or the policy are assessed by a panel of the GLSC whose remit it is to consider the penalty offences in light of any mitigating circumstances the licence holder wishes to be considered.

A maximum of penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points and a licence holder has committed more than one offence or breach of licence conditions, the points will be issued consecutively for each offence. Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.

When issued, the penalty points will remain 'live' for a period of 12 months from the date they are imposed, and then will be deemed spent. Therefore the scheme is based on a rolling 12 month period. If a driver, proprietor or operator accumulates twelve or more points within a period of 12 months from the date they are imposed or commits 3 repeated identical contraventions within a 12 month period, he will be required to attend a meeting of the GLSC, where appropriate disciplinary action will be taken in accordance with this policy.

Where a driver, proprietor or operator is brought before a GLSC, the options available to the panel will include suspension or revocation of the driver's licence, where appropriate. If the panel does not feel that the matter warrants suspension or revocation of the licence, it may extend the period for which the points are to remain 'live' or issue a written warning to the driver as to his future conduct.

Periods of suspension of a licence will be dependant upon the nature of the breach of legislation or the requirements of this policy and the compliance history of the licence holder. Any driver, proprietor or operator subject to suspension or revocation by the GLSC has the right of appeal to the Magistrates Court against the suspension or revocation within 21 days starting on the date following the date specified on the decision letter.

More than one accumulation of penalty points in excess of the twelve point threshold in any three year period will normally result in the GLSC revoking a licence where it believes the licence holder is no longer considered to be a 'fit and proper person' as defined in this policy. Once the matter has been dealt with by the GLSC, the points will be removed if a suspension or revocation is imposed. If the 'live' period is extended by the GLSC the points will remain 'live' for the duration of the extended period.

A licence holder will retain the right to be represented at any meeting of the GLSC, either legally or otherwise and to state any mitigating circumstances he/she deems necessary.

Even though penalty points have been issued by an authorised officer of the Council, if it is subsequently found that the driver has previously been issued with penalty points, or has been formally cautioned, for similar offences, the Council reserves the right to deal with the matter in accordance with the Council's guideline policy in relation to criminal convictions in addition to the imposition of penalty points under this scheme.

As previously stated, there is a 10 working day appeal period to the Group Leader (Pollution & Licensing) on the penalty points awarded from the day following the date on the notice. The Group Leader will have the authority to either decrease or increase the points awarded. In addition, should an accumulation of penalty points be referred to a GLSC for determination, licence holder's penalty points will be considered in the light of any mitigating circumstances he/she wishes to offer.

**5. Background Papers**

There are no background papers relating to this report.

**6. Officer Contact**

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