

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING COMMITTEE – 1 MARCH 2011**

Title of report	<b>INITIATIVES TO FURTHER IMPROVE THE SAFETY AND CONDITION OF LICENSED PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLES</b>
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Purpose of report	To consult Members on the introduction of further measures to improve the condition and safety of licensed vehicles
Strategic aims	Strong and Safer Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>All staffing costs associated with the implementation of a penalty points scheme can be met by the existing level of staffing.</p> <p>Safer CAT</p> <p>Not applicable</p> <p>Equality Impact Assessment to be undertaken during 2011/2012.</p> <p>Under Article 8, no unfair hindrance should be set up to the carrying out to the proprietors and drivers of legitimate business.</p> <p>Not applicable</p>
Comments of Head of Paid Service	Report is satisfactory

Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	The Highland Council Stafford Borough Council Corby Borough Council East Hertfordshire District Council Breckland Council Elmbridge Borough Council
Background papers	Taxi and Private Hire Vehicle Licensing Best Practice Guide available from <a href="http://www.dft.gov.uk">www.dft.gov.uk</a> Local Government (Miscellaneous Provisions) Act 1976 available from <a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a> Disability Discrimination Act 2005 available from <a href="http://www.opsi.gov.uk">www.opsi.gov.uk</a>
Recommendations	<b>(1) SUBJECT TO LEGAL ADVICE RECEIVED TO CONTINUE THE DEVELOPMENT OF AND TO CONSULT ON A PENALTY POINTS SYSTEM</b>  <b>(2) TO INTRODUCE A £50 RE-TEST FEE FOR ALL VEHICLES FOUND WITH DEFECTS DURING AN 'ON THE SPOT' CHECK RESULTING IN EITHER THE SUSPENSION OR REVOCATION OF THE VEHICLE LICENCE</b>

## 1.0 INTRODUCTION

- 1.1 At a meeting of the Licensing Committee on 24<sup>th</sup> November 2010 a report was submitted to Members detailing the results of enforcement activity undertaken by Council Licensing Enforcement Officers and VOSA, and vehicle inspection results, in relation to licensed Hackney Carriage and Private Hire Vehicles.
- 1.2 The conclusion reached by Members was that the levels of non-compliance and vehicle defects were too high. Many of the vehicle defects were considered to be easily avoidable and were, therefore, seen as being directly related to general competence and diligence of the operator and driver.
- 1.3 A penalty points system was put forward as an option to deter licensees from repeatedly presenting vehicles for inspection in a condition that is found to be dangerous or defective, or permitting them to operate whilst defective. This proposal was accepted by Members as worthy of further consideration and details of a draft scheme are set out in the report.
- 1.4 During the financial year 2009/10 only 68% of licensed vehicles passed their scheduled depot inspection first time. On 1<sup>st</sup> August 2010 a £50 re-test fee was introduced for all vehicles requiring a second inspection having failed their initial depot inspection. Since the

introduction of this fee the monthly pass rate has significantly increased with percentages ranging from 80% to 86%. It is proposed to extend the application of the £50 re-test fee to include all vehicles found with defects during an 'on the spot' mechanical check resulting in either the suspension or revocation of the vehicle licence.

## **2.0 PRINCIPLES OF THE PENALTY POINTS SYSTEM**

2.1 The objective of a Penalty Points System is to improve the overall levels of compliance within the taxi trade by driving up the standard of licensed vehicles.

2.2 In achieving the above, the system must be effective in deterring licensees from:

- (1) Repeatedly presenting vehicles for inspection at the Council depot in a condition that is found to be dangerous or defective;
- (2) Driving, or permitting a licensed driver to drive a vehicle that is found to be dangerous or defective;
- (3) Falling into a pattern of behaviour where they persistently fail to comply with the vehicle inspection pass standard the Council has set; and
- (4) Effectively facilitate a clear decision making route by which any serious or persistent offenders will be reported to Licensing Sub-Committee for consideration as to their continued fitness to hold a licence.

2.3 In order to achieve the above, the system needs to be transparent and fair in the way it deals with licensed operators and drivers and as simple and straightforward as possible, so as to be able to be easily understood by all involved, and to avoid any significant additional workload or cost by the Council.

2.4 Research undertaken has discovered that a number of local authorities operate penalty points systems for both licensed vehicles and drivers. Other Local Authorities currently using some form of penalty points scheme includes, East Hampshire District Council, Fenland District Council, Watford Borough Council, Preston City Council, South Gloucestershire Council, Elmbridge Borough Council, Breckland Council, Stafford Borough Council, East Hertfordshire District Council, Corby Borough Council, Rother District Council, Hastings Borough Council, Highland Council and Oadby And Wigston Borough Council. Discussion has taken place with a couple of local authorities currently operating schemes around advantages and disadvantages of their schemes and drawing on lessons learned. The following proposal has been devised following consultation with existing successful scheme operators.

## **3.0 SUMMARY OF THE PROPOSED SYSTEM**

3.1 Licensed vehicles are currently subject to inspection by the Council's mechanics when first licensed and at set intervals thereafter. Vehicles less than 8 years old are inspected every 12 months, 8 years and older every 6 months and limousines every 3 months. The Council's Licensing Enforcement Officer together with Leicestershire Police and VOSA also carry out routine 'on the spot' inspections whilst vehicles are in use. Vehicles, drivers and operators are also subject to scrutiny by Licensing Enforcement Officers where complaints have been received from the public or other interested parties.

3.2 At present any non compliance found as a result of the above activities can be dealt with by a number of enforcement actions:

Verbal warning  
Written warning  
Suspension of the licence  
Revocation of the licence  
Report to Licensing Sub-Committee  
Prosecution in Magistrates Court

- 3.3 Under the penalty points system any such infringements would, in addition to the above enforcement action, attract penalty points according to an agreed and published tariff. Should Committee Members agree the resources to further develop a point system, a list of vehicle defects will be produced, categorised and allocated a number of penalty points. The defect descriptions and codes will be taken from the Vehicle and Operator Services Agency's published "Categorisation of Defects" manual. Appendix 1 provides an indication of the format of a penalty points tariff.
- 3.4 Two years has been selected as a reasonable period of time over which the total penalty points awarded should be addressed. This two year period would be on a roll forward basis, so as to allow any older penalty points to be considered as spent and therefore excluded from the running total recorded against any individual licensee. The period is considered to be of sufficient length so as to allow any licensee who may find himself accumulating penalty points to take appropriate remedial action before facing the possibility of sanctions being taken against him.
- 3.5 The penalty points allocated to each infringement/defect type have been carefully considered so as to reflect:
- The seriousness of the defect or non-compliance; and,
  - In relation to some non-critical safety vehicle defects, to take account of the reasonableness that a licensee who has adhered to recommended vehicle servicing intervals may have been able, without detailed mechanical examination of the vehicle, to have detected the defect. For example: whereas it may not be reasonable for a vehicle proprietor/operator to be aware of excessive ball-joint wear, or brake-pipe corrosion, he should be fully aware of, and be able to avoid, such things are dangerously inadequate brake performance; tyre damage; tyres beyond minimum tread depth requirements, etc.
- 3.6 A defect reporting mechanism will be agreed with the Council's mechanics with reference made to the Vehicle and Operator Services Agency's published "Categorisation of Defects" manual allowing for the straightforward allocation of penalty points by the Licensing Enforcement Officers on this basis.
- 3.7 When the number of points allocated to a proprietor's vehicle licence reaches 20, the licence shall be suspended for a period of 21 days. If a proprietor's licence is suspended for 2 periods of 21 days the vehicle licence held by that proprietor would be revoked.

#### **4.0 CONSULTATION**

Once the development of a system has been completed a full 3 month consultation process will be undertaken.

## **5.0 NEXT STEP**

- 5.1 Further work is required to finalise and implement a penalty points system. Before this work is undertaken, Members views are sought on the proposed scheme.

