

LICENSING COMMITTEE

Date: Tuesday 31 January 2023

Time: 5.30 pm

Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Democratic Services Officer (Committees) on 01392 265115 or email sharon.sissons@exeter.gov.uk

Entry to the Civic Centre can be gained through the rear entrance, located at the back of the Customer Service Centre, Paris Street.

Membership -

Councillors Foale (Chair), Warwick (Deputy Chair), Asvachin, Ellis-Jones, Holland, Mitchell, K, Newby, Oliver, Parkhouse, Rees, Snow, Vizard, Wood and Wright

Agenda

Part I: Items suggested for discussion with the press and public present

1 **Apologies**

To receive apologies from Committee members.

2 **Minutes**

To approve and sign the minutes of the meeting held on 24 October 2022.

(Pages 3 -
4)

3 **Declarations of Interest**

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should wish to do so, then the following resolution should be passed: -

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the

grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

5 Licensing Fees and Charges for 2023/24

To consider the report of the Service Lead - Environmental Health & Community Safety (Pages 5 - 20)

6 Introduction of Taxi Penalty Points Scheme

To consider the report of the Service Lead - Environmental Health & Community Safety. (Pages 21 - 36)

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265115.

LICENSING COMMITTEE

24 October 2022

Present:

Councillor Bob Foale (Chair)

Councillors Warwick, Asvachin, Ellis-Jones, Holland, Mitchell, K, Parkhouse, Rees, Snow and Wood

Apologies:

Councillors Newby, Oliver, Vizard and Wright

Also present:

Legal Advisor, Principal Licensing Officer and Democratic Services Officer (SLS)

5 **Minutes**

The minutes of the meeting held on 1 February 2022 were taken as read, approved and signed by the Chair as correct.

6 **Declarations of Interest**

No declarations of interest were made by Members.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

7 **Request for a variation of Hackney Carriage Fares**

The Licensing Committee received the report on the request for an increase to the Hackney Carriage Fare Tariff. Setting taxi fares was an Executive function and the report had been presented at the Executive Committee on 4 October 2022. The Executive approved the commencement of a four week public consultation and in line with best practice, the Executive report had been brought to the Licensing Committee for information.

Particular reference was made to the proposal being presented to and welcomed by representatives of the Hackney Carriage Associations at the Taxi Forum meeting on 2 August 2022. The Associations were asked to consult their members on the proposal. Following their Annual General Meeting (AGM) a response was received which indicated that 100% of the 59 respondents' were in favour of the proposed tariff.

Members noted that there had not been an increase in Hackney Carriage taxi fares since 2013, and that the proposal put forward was based on the Guildford model which had stood up to legal challenges in the courts and was based on local information to consider the cost of living in the city. Following consultation, a report would be taken to Executive on 29 November and Council on 13 December for approval. If the fare increase was approved by Council, it would put Exeter at the top of the Devon Tariff charts and 54th in the national list.

The Principal Licensing Officer invited Members to comment before the matter was due to be brought back to the Executive for determination. The Taxi Forum were also due to meet in November and would have the opportunity for further discussion. A

small number of responses had been received with comments ranging from concern over fare increases and the challenges to the cost of living, but also comments supporting a rise in the salary of Exeter's Hackney Carriage drivers. The Taxi Association were still to make their views known.

The Chair welcomed the opportunity to review the Hackney Carriage Fare tariff and gave a commitment to ensure that there would be further discussion and liaison between the trade and the Licensing team through regular meetings of the Taxi Forum. The Principal Licensing Officer stated that the Trade were supportive of the proposals and following the end of the consultation period, all of the responses would be collated and included in the report to the Executive. It was hoped that following determination by the Executive, that a new taxi tariff could be in place by the end of the year.

In response to questions by Members, the Principal Licensing Officer explained:-

- that the number of hackney carriage saloon vehicles plates would be static until the policy of ensuring 50% of the vehicles were wheelchair accessible were met.
- there were currently 85 hackney carriage plates.
- an increase in the annual salary of Hackney Carriage drivers might prove more of an incentive to join or re-join the trade. There had been an increase in the level of applications from drivers, which might help to improve taxi availability.
- a number of drivers had left the trade particularly during the Covid pandemic as demand for taxis had changed, to work as delivery drivers, but they were beginning to return with an exponential increase in applications seen across the country.
- that trade had not been affected at the John Lewis rank on Sidwell Street.
- he would contact the Chair of the Exeter St David's Hackney Carriage Association to discuss a percentage figure quoted recently.

Members welcomed the report.

RESOLVED that the report be noted.

The meeting commenced at 5.30 pm and closed at 5.45 pm

Chair

REPORT TO LICENSING COMMITTEE AND COUNCIL

Date of Meeting: 31 January 2023 and 21 February 2023

Report of: Service Lead - Environmental Health & Community Safety

Title: Licensing Fees and Charges for 2023/24

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 The purpose of this report is to establish the licensing fees and charges that should apply for 2023/24 for those activities where the Council has discretion to do so.

2. Recommendations:

- 2.1 That Licensing Committee recommends and Council approves the following:

For the period from 1 April 2023 to 31 March 2024 the fees and charges are set as contained in Appendix B to this report.

3. Reasons for the recommendation:

- 3.1 The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals.
- 3.2 The recommendation is made in order to comply with the provisions of the European Services Directive (2006/123/EC) which was incorporated into UK law by the Provision of Services Regulations 2009. The legal requirements were considered by the Supreme Court in the case of R (on the application of Hemming and others) v Westminster City Council [2015] UKSC 25 and [2017] UKSC 50.

4. What are the resource implications including non financial resources.

- 4.1 If there is no increase in fees there is a risk that the Council will not recover all of the costs for services or activities for which it is permitted to charge and will increase the burden on the Council's general fund.
- 4.2 There will be a cost in adoption of fees and charges as some will require public notice to be given. However this cost will be met from the existing budgetary provision.

5. Section 151 Officer comments:

- 5.1 The proposed fees have been built into the Council's provisional 2023-24 budget that will be considered at Council in February 2023.
- 5.2 Any surplus or deficit arising, will be placed in an earmarked reserve, where appropriate, as it is a requirement for the income to be ring-fenced for the service for certain licence fees.

6. What are the legal aspects?

- 6.1 The Licensing Committee's responsibilities are set out in the Council's Constitution and include setting and reviewing licensing fees other than those set by statute.
- 6.2 The power to charge a fee is contained in Schedule 3 Paragraph 19 of the Local Government (Miscellaneous Provisions) Act 1982 which provides local authorities with a wide discretion to set a 'reasonable fee'. Paragraph 19 provides that:

'An applicant for the grant, variation, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.'

In accordance with this provision, it was established over 30 years ago by the Court of Appeal in the case of *R v Westminster, ex parte Hutton (1985)* that a fee could be charged under paragraph 19 in order to reflect the costs, not only of processing applications, but also of '...inspecting premises after the grant of licences and for what might be called vigilant policing... in order to detect and prosecute those who operated sex establishments without licences'. The Supreme Court has subsequently held in the Hemming case (cited below) that it is open to a licensing authority to require an applicant for the grant or renewal of a licence to pay a fee to cover the running and enforcement costs of a licensing scheme.

- 6.3 Since December 2009, this power has been subject to the provisions of the European Services Directive (2006/123/EC) which was incorporated into UK law by the Provision of Services Regulations 2009. The Regulations state that charges incurred by applicants under an authorisation scheme "must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities" (effectively the costs to administer the process). In the case of *R (on the application of Hemming and others) v Westminster City Council [2015] UKSC 25*, the Supreme Court held that it remains the case that local authorities can include not only administrative costs, but additionally the costs of regulatory and enforcement costs in the fees charged to licensed operators provided that such costs are reasonable and proportionate.

The licence fee will consist of two parts, A and B as follows:

Part A is to cover the costs of processing the application, namely the costs of the authorisation procedures and formalities. The Part A fee is payable in full on submission of the application and is non-refundable.

Part B is to cover the costs associated with running and enforcing the licensing scheme. The Part B fee would only become payable if a licence is granted, and would need to be paid by the operator before the licence becomes operational.

7. Monitoring Officer's comments:

- 7.1 The Provision of Services Regulations 2009 remain in force following the United Kingdom's departure from the European Union. Accordingly, the principles set out in the Regulations must continue to be followed and as set out in this report.

Simon Copper – Deputy Monitoring Officer.

8. Report details:

- 8.1 Exeter City Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion thereof) of the administration of those licence types. In some cases, costs are also permitted to cover other aspects of providing the regulatory scheme.
- 8.2 The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits may be carried forward to future years to be redistributed (within the ring-fenced licensing budget), or recouped, as applicable.
- 8.3 Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must "*be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities*". This principle was affirmed by the courts in *R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.
- 8.4 Appendix A summarises the Council's powers to set its fees in respect of licensing applications, and any limitations on those powers.
- 8.5 A notice of any variation to vehicles and operator's licence fees will be advertised in a local paper and will be deposited at the council offices for a period of 28 days. Any objections received within 28 days of publication of the notice and not withdrawn will

be considered at a meeting of the Licensing Committee on 21 March 2023. If there are no objections to the variation in fees they will come into effect on 1 April 2023.

- 8.6 One change to this year's fee structure is the addition of charges relating to the classification of films by the Licensing Authority. Under the Licensing Act 2003 the definition of film has been expanded to mean any exhibition of moving pictures, including feature films, adverts and trailers. This definition also now covers the showing of a video and other visual image media, including non-live digital exhibitions of plays, operas and pop concerts.
- 8.7 Where a licensed premise intends to show films, the Licensing Act 2003 requires a mandatory condition to be placed on the Premises Licences or Club Premises Certificates which restricts the admission of children (persons aged under 18) to the exhibition of any film/s in accordance with either the British Board of Film Classification (BBFC) or any recommendation made by this Licensing Authority.
- 8.8 The licensing authority considers the classification system process used by the BBFC and its guidance to be nationally understood. It will therefore use the general principles of their guidance and their processes as its benchmark for determining its recommendation on the restriction of access of children to the film(s).

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 The appropriate setting of Licensing Fees will contribute to a healthy and safe city, and lend support to a robust, business friendly economy.

10. What risks are there and how can they be reduced?

- 10.1 The proposed fees have been calculated on a cost recovery basis, and projections show that if the revised fees are adopted the costs of administering licensing schemes should be recovered.

11. Equality Act 2010 (The Act)

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
 - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.
- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant

women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

- 11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

12. Carbon Footprint (Environmental) Implications:

- 12.1 No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

- 13.1 The Licensing Committee could decide to maintain fees and charges at the 2022/23 levels, however the service would not be recovering the full cost incurred to the authority for delivering the individual licence areas.

Report of: Simon Lane - Service Lead Environmental Health and Community Safety

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

The Gambling Act 2005.
Guidance issued under Section 25 of the Gambling Act 2005
The Police Reform and Social Responsibility Act 2011
The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1982
Local Government (Miscellaneous Provisions) Act 1976
Scrap Metal Dealers Act 2013

Contact for enquires:
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Appendix A - Summary of powers to set application fees

Section	Area	Power arises from
	General principle	Reg 18(4), Provision of Services Regulations 2009 Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.
2.1 – 2.5	Alcohol, entertainment, etc	Prescribed in regulations made by the Secretary of State under the Licensing Act 2003. Section 197A of that Act will allow licensing authorities to set fees locally on a cost-recovery basis, but is yet to be commenced.
3.1	Animal boarding	s.1(2), Animal Boarding Establishments Act 1963 Fee as may be determined by LA. s 13 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 A local authority may charge such fees as it considers necessary
3.2	Dangerous wild animals	s.1(2)(e), Dangerous Wild Animals Act 1976 Sufficient to meet direct and indirect costs incurred
3.3	Dog breeding	s.3A(2), Breeding of Dogs Act 1973 Reasonable costs incurred in administration and enforcement. s 13 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 A local authority may charge such fees as it considers necessary
3.4	Pet shops	s.1(2), Pet Animals Act 1951 Fee as may be determined by LA. s 13 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 A local authority may charge such fees as it considers necessary
3.5	Riding establishments	s.1(2), Riding Establishments Act 1964 Fee as may be determined by LA. Cost of veterinary inspection. s 13 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 A local authority may charge such fees as it considers necessary
3.6	Zoos	s.15(1), Zoo Licensing Act 1981 Sufficient to cover the reasonable expenditure incurred by the authority. Special provisions for inspections, closures, and direction making.
4.1, 4.3	Gambling notices, premises licences	Set on a cost recovery basis by the authority, up to maximum amounts prescribed in regulations made under the Gambling Act 2005. No fee chargeable for OUN's
4.2, 4.4	Gaming permits, lotteries	Prescribed in regulations made by the Secretary of State under the Gambling Act 2005
5.1, 5.2	Charity collections	No fees chargeable

6.1	HC/PH drivers	s.53(2), Local Gov't (Misc. Provisions) Act 1976 Recovering the costs of issue and administration. Refundable if licence not granted.
6.2, 6.3	HC/PH vehicles, PH operators	s.70(1), Local Gov't (Misc. Provisions) Act 1976 Sufficient to cover the cost of: inspection of vehicle for licensing purposes, providing hackney carriage stands, or other costs for administration and control/supervision of vehicles. Refundable if licence not granted. <i>Maximum fees must be advertised.</i>
7.1	Hypnosis	No fees chargeable (except by London boroughs)
8.1	Scrap metal	Sch 1 para 6, Scrap Metal Dealers Act 2013 Fee set by the authority, with regard to guidance FEE-SETTING IS AN EXECUTIVE FUNCTION
9.1	Sex establishments	Sch 3, para 19, Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee
10.1	Skin piercing, etc	s.14(6), 15(6) , Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee

2022/23 Current Fees & ChargesProposed for 2023-24

	<u>2022/23 Current Fees & Charges</u>				<u>Proposed for 2023-24</u>			
	Fee £ p	VAT @ 20% £ p	Total £ p	VAT Code	Fee £ p	VAT @ 20% £ p	Total £ p	VAT CODE
T LICENSING FEES - GENERAL								
A NON RETURNABLE ADMINISTRATION FEE OF £50 INCLUDING VAT AT THE CURRENT RATE IS PAYABLE WITH ALL NEW APPLICATIONS (INCLUDES KNOWLEDGE TEST)								
(1) Hackney carriage								
Vehicle Licence	380.00	-	380.00	9	395.00	-	395.00	9
(Incl Plate & Survey Charge)								
(2) Hackney Carriage								
Driver's Licence and Identity card - 1 year	115.00	-	115.00	9	130.00	-	130.00	9
Driver's Licence and Identity card - 3 year	270.00	-	270.00	9	295.00	-	295.00	9
(3) Private Hire Operators Licence								
per annum	140.00	-	140.00	9	160.00	-	160.00	9
5 year licence	570.00	-	570.00	9	600.00	-	600.00	9
(4) Private Hire Vehicle Licence								
(Incl. Plate)	295.00	-	295.00	9	310.00	-	310.00	9
(5) Private Hire Drivers								
Driver's Licence and Identity card - 1 year	115.00	-	115.00	9	130.00	-	130.00	9
Driver's Licence and Identity card - 3 year	270.00	-	270.00	9	295.00	-	295.00	9
(6) Vehicle Licences and Plate - Transfer Fees								
	70.00	-	70.00	9	75.00	-	75.00	9
(7) Additional Knowledge Test								
	40.00	8.00	48.00	3	44.00	11.00	55.00	3
(8) Miscellaneous fees								
Replacement plate	34.00	-	34.00	9	35.00	-	35.00	9
Missed appointments	40.00	8.00	48.00	3	44.00	11.00	55.00	3

	Fee	VAT @ 20%	Total	VAT	Fee	VAT @ 20%	Total	VAT CODE
(9) Consents to Street Trade								
For up to 3 months	800.00	-	800.00	9	830.00	-	830.00	9
For up to 6 months	1,125.00	-	1,125.00	9	1,185.00	-	1,185.00	9
For up to 9 months	1,690.00	-	1,690.00	9	1,780.00	-	1,780.00	9
For up to 12 months	1,940.00	-	1,940.00	9	2,060.00	-	2,060.00	9
Animal Welfare								
(10) Animal Boarding Establishment Licence								
(a) New, 1 & 2 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(b) 3, 4 and 5 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(11) Pet Animals Licence								
(a) New, 1 and 2 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(b) 3, 4 and 5 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(12) Riding Establishments Licence								
(a) New, 1 and 2 star Licence (inclusive of vets fees)								
Part A	750.00	-	750.00	9	790.00	-	790.00	9
Part B	370.00	-	370.00	9	390.00	-	390.00	9
(b) 3, 4 and 5 star Licence (inclusive of vets fees)								
Part A	750.00	-	750.00	9	790.00	-	790.00	9
Part B	270.00	-	270.00	9	285.00	-	285.00	9
Per horse in excess of 10	15.50	-	15.50	9	16.00	-	16.00	9
(13) Dog Breeding Establishments Licence								
(a) New, 1 and 2 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(b) 3, 4 and 5 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(14) Dangerous Wild Animals Act								
Licence Fee (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(15) Dog Day Care Centres								
(a) New, 1 and 2 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
(b) 3, 4 and 5 star Licence (inclusive of vets fees)								
Part A	485.00	-	485.00	9	510.00	-	510.00	9
Part B	195.00	-	195.00	9	210.00	-	210.00	9
Per dog in excess of 10	3.50	-	3.50	9	3.70	-	3.70	9
Per dog in excess of 20	4.50	-	4.50	9	4.70	-	4.70	9
(16) Sex Establishments Licence								
Licence Fee								
Part A	3,482.00	-	3,482.00	9	3,500.00	-	3,500.00	9
Part B	795.00	-	795.00	9	820.00	-	820.00	9
(17) Small Lotteries								
Statutory Charges								
(a) Registration	40.00	-	40.00	9	40.00	-	40.00	9
(b) Renewal	20.00	-	20.00	9	20.00	-	20.00	9
(18) Gambling Act 2005 - Statutory charges:								
(i) Bingo								
- Provisional statement	2,745.00	-	2,745.00	9	2,745.00	-	2,745.00	9
- New premises following provisional statement	1,060.00	-	1,060.00	9	1,060.00	-	1,060.00	9
- New premises without provisional statement	3,215.00	-	3,215.00	9	3,215.00	-	3,215.00	9
- Annual fee - First year only following fast track conversion	590.00	-	590.00	9	590.00	-	590.00	9
- Annual fee - other than above	765.00	-	765.00	9	765.00	-	765.00	9
- Variation	1,380.00	-	1,380.00	9	1,380.00	-	1,380.00	9
- Transfer	945.00	-	945.00	9	945.00	-	945.00	9
- Reinstatement	945.00	-	945.00	9	945.00	-	945.00	9
(ii) Adult Gaming Centre								
- Provisional statement	1,530.00	-	1,530.00	9	1,530.00	-	1,530.00	9
- New premises following provisional statement	1,178.00	-	1,178.00	9	1,178.00	-	1,178.00	9
- New premises without provisional statement	2,000.00	-	2,000.00	9	2,000.00	-	2,000.00	9
- Annual fee - First year only following fast track conversion	590.00	-	590.00	9	590.00	-	590.00	9
- Annual fee - other than above	765.00	-	765.00	9	765.00	-	765.00	9
- Variation	765.00	-	765.00	9	765.00	-	765.00	9
- Transfer	945.00	-	945.00	9	945.00	-	945.00	9
- Reinstatement	945.00	-	945.00	9	945.00	-	945.00	9
(iii) Family Entertainment Centre								
- Provisional statement	765.00	-	765.00	9	765.00	-	765.00	9
- New premises following provisional statement	1,120.00	-	1,120.00	9	1,120.00	-	1,120.00	9
- New premises without provisional statement	1,768.00	-	1,768.00	9	1,768.00	-	1,768.00	9
- Annual fee - First year only following fast track conversion	415.00	-	415.00	9	415.00	-	415.00	9
- Annual fee - other than above	590.00	-	590.00	9	590.00	-	590.00	9
- Variation	790.00	-	790.00	9	790.00	-	790.00	9
- Transfer	765.00	-	765.00	9	765.00	-	765.00	9
- Reinstatement	765.00	-	765.00	9	765.00	-	765.00	9
(iv) Betting Track								
- Provisional statement	710.00	-	710.00	9	710.00	-	710.00	9
- New premises following provisional statement	2,060.00	-	2,060.00	9	2,060.00	-	2,060.00	9
- New premises without provisional statement	2,060.00	-	2,060.00	9	2,060.00	-	2,060.00	9
- Annual fee - other than above	736.00	-	736.00	9	736.00	-	736.00	9
- Variation	1,000.00	-	1,000.00	9	1,000.00	-	1,000.00	9
- Transfer	710.00	-	710.00	9	710.00	-	710.00	9
- Reinstatement	710.00	-	710.00	9	710.00	-	710.00	9
(v) Betting Other								
- Provisional statement	2,142.00	-	2,142.00	9	2,142.00	-	2,142.00	9
- New premises following provisional statement	1,200.00	-	1,200.00	9	1,200.00	-	1,200.00	9
- New premises without provisional statement	3,000.00	-	3,000.00	9	3,000.00	-	3,000.00	9
- Annual fee - other than above	600.00	-	600.00	9	600.00	-	600.00	9
- Variation	1,075.00	-	1,075.00	9	1,075.00	-	1,075.00	9
- Transfer	860.00	-	860.00	9	860.00	-	860.00	9
- Reinstatement	860.00	-	860.00	9	860.00	-	860.00	9

	Fee	VAT @ 20%	Total	VAT	Fee	VAT @ 20%	Total	VAT CODE
(vi) Miscellaneous Premises Licence Fees:								
- Change of circumstances (statutory charge)	50.00	-	50.00	9	50.00	-	50.00	9
- Copy of Licence	27.50	-	27.50	9	27.50	-	27.50	9
(vii) Unlicensed FEC permits								
- Application fee	330.00	-	330.00	9	330.00	-	330.00	9
- Application fee - existing operator	110.00	-	110.00	9	110.00	-	110.00	9
- Renewal fee	330.00	-	330.00	9	330.00	-	330.00	9
- Change of name	27.50	-	27.50	9	27.50	-	27.50	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(viii) Automatic entitlement - Alcohol Licensed Premises								
- Notification of two machines	50.00	-	50.00	9	50.00	-	50.00	9
(ix) Permit for more than two machines - Alcohol Licensed Premises								
- Application fee - existing operator	100.00	-	100.00	9	100.00	-	100.00	9
- Application fee other than as above	150.00	-	150.00	9	150.00	-	150.00	9
- Permit variation fee	100.00	-	100.00	9	100.00	-	100.00	9
- Permit transfer fee	25.00	-	25.00	9	25.00	-	25.00	9
- Annual fee	50.00	-	50.00	9	50.00	-	50.00	9
- Change of name	25.00	-	25.00	9	25.00	-	25.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(x) Prize Gaming								
- Application fee	300.00	-	300.00	9	300.00	-	300.00	9
- Application fee - existing operator	100.00	-	100.00	9	100.00	-	100.00	9
- Renewal fee	300.00	-	300.00	9	300.00	-	300.00	9
- Change of name	25.00	-	25.00	9	25.00	-	25.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(xi) Club Gaming and Club Machine Permits								
- Application fee - existing operator	110.00	-	110.00	9	110.00	-	110.00	9
- Application fee other than as above	220.00	-	220.00	9	220.00	-	220.00	9
- Permit variation fee	110.00	-	110.00	9	110.00	-	110.00	9
- Permit fee - fast track	110.00	-	110.00	9	110.00	-	110.00	9
- Renewal fee - other	220.00	-	220.00	9	220.00	-	220.00	9
- Annual fee	50.00	-	50.00	9	50.00	-	50.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(xii) Scrap Metal Licences								
- New Scrap Metal Site Licence	300.00	-	300.00	9	325.00	-	325.00	9
- New Scrap Metal Collectors Licence	150.00	-	150.00	9	175.00	-	175.00	9
- Scrap Metal Site Licence Renewal	200.00	-	200.00	9	225.00	-	225.00	9
- Scrap Metal Collectors Licence Renewal	120.00	-	120.00	9	150.00	-	150.00	9
- Vary Licence Holders Details	25.00	-	25.00	9	30.00	-	30.00	9
- Vary Licensed Sites	75.00	-	75.00	9	0.00	-	0.00	9
- Vary Site Manager	45.00	-	45.00	9	50.00	-	50.00	9
- Vary Change from Site to Collector Licence	45.00	-	45.00	9	50.00	-	50.00	9
- Vary Change from Collector to Site	140.00	-	140.00	9	150.00	-	150.00	9
(xiii) Control of Skin Piercing etc								
Registration Fee - premises (inc one person)	100.00	-	100.00	9	120.00	-	120.00	9
- extra person	50.00	-	50.00	9	70.00	-	70.00	9
(xv) Film Classification								
Classification of films up to 30 minutes film duration					50.00	-	50.00	9
Each additional 20 minute film duration					23.00	-	23	9
U LICENSING FEES - LICENSING ACT 2003								
Statutory charges:								
(1) Premises Licence and Club Premises Certificates								
Grant or variation								
Band A - No rateable value up to £4,300	100.00	-	100.00	9	100.00	-	100.00	9
Band B - Rateable value £4,301 to £33,000	190.00	-	190.00	9	190.00	-	190.00	9
Band C - Rateable value £33,001 to £87,000	315.00	-	315.00	9	315.00	-	315.00	9
Band D - Rateable value £87,001 to £125,000	450.00	-	450.00	9	450.00	-	450.00	9
Band E - Rateable value £125,001 and above	635.00	-	635.00	9	635.00	-	635.00	9
Annual fee								
Band A - No rateable value up to £4,300	70.00	-	70.00	9	70.00	-	70.00	9
Band B - Rateable value £4,301 to £33,000	180.00	-	180.00	9	180.00	-	180.00	9
Band C - Rateable value £33,001 to £87,000	295.00	-	295.00	9	295.00	-	295.00	9
Band D - Rateable value £87,001 to £125,000	320.00	-	320.00	9	320.00	-	320.00	9
Band E - Rateable value £125,001 and above	350.00	-	350.00	9	350.00	-	350.00	9
Note: An additional fee is payable for premises exclusively or primarily carrying on the supply of alcohol for consumption on the premises for events of 5,000 or more persons.								
(2) Other charges								
Temporary event notice	21.00	-	21.00	9	21.00	-	21.00	9
Theft, loss etc of premises licence or summary	10.50	-	10.50	9	10.50	-	10.50	9
Application for provisional statement	315.00	-	315.00	9	315.00	-	315.00	9
Notification of change of name and address	10.50	-	10.50	9	10.50	-	10.50	9
Variation to specify individual as premises supervisor	23.00	-	23.00	9	23.00	-	23.00	9
Transfer of premises licence	23.00	-	23.00	9	23.00	-	23.00	9
Interim authority notice	23.00	-	23.00	9	23.00	-	23.00	9
Theft, loss etc of certificate or summary	10.50	-	10.50	9	10.50	-	10.50	9
Notification of change of name or alteration of club rules	10.50	-	10.50	9	10.50	-	10.50	9
Change of relevant registered address of club	10.50	-	10.50	9	10.50	-	10.50	9
Theft, loss etc of temporary event notice	10.50	-	10.50	9	10.50	-	10.50	9
Grant or renewal of personal licence	34.00	-	34.00	9	34.00	-	34.00	9
Theft, loss etc of personal licence	10.50	-	10.50	9	10.50	-	10.50	9
Duty to notify change of name or address	10.50	-	10.50	9	10.50	-	10.50	9
Right of freeholder to be notified	21.00	-	21.00	9	21.00	-	21.00	9

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Equality Impact Assessment: Licensing Fees and Charges

The Equality Act 2010 includes a general duty which requires public authorities, in the exercise of their functions, to have due regard to the need to:

- **Eliminate discrimination**, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- **Advance equality of opportunity** between people who share a relevant protected characteristic and people who do not share it.
- **Foster good relations** between people who share a relevant protected characteristic and those who do not

In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

Authorities which fail to carry out equality impact assessments risk making poor and unfair decisions which may discriminate against particular groups and worsen inequality.

Committee name and date:	Report Title	Decisions being recommended:	People with protected characteristics potentially impacted by the decisions to be made:
Licensing Committee 31 January 2023	Licensing Fees & Charges	For the period from 1 April 2023 to 31 March 2024 it is recommended that the Licensing Committee set the fees as contained in Appendix A of the report.	

Factors to consider in the assessment: For each of the groups below, an assessment has been made on whether the proposed

decision will have a **positive, negative or neutral impact**. This is must be noted in the table below alongside brief details of why this conclusion has been reached and notes of any mitigation proposed. Where the impact is negative, a **high, medium or low assessment** is given. The assessment rates the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

High impact – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

Medium impact –some potential impact exists, some mitigating measures are in place, poor evidence

Low impact – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
Race and ethnicity (including Gypsies and Travellers; migrant workers; asylum seekers).	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Disability: as defined by the Equality Act – a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities.	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Sex/Gender	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Gender reassignment	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Religion and belief (includes no belief, some philosophical beliefs such as Buddhism and sects within religions).	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Sexual orientation (including heterosexual, lesbian, gay, bisexual).	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Age (children and young people aged 0-24; adults aged 25-50; younger	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
older people aged 51-75/80; older people 81+; frail older people; people living with age related conditions. The age categories are for illustration only as overriding consideration should be given to needs).			
Pregnancy and maternity including new and breast feeding mothers	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.
Marriage and civil partnership status	neutral	low	There is no evidence to suggest that the proposed fees and charges would have a potential impact on this characteristic.

Actions identified that will mitigate any negative impacts and/or promote inclusion

- **None.** The proposed Fees and Charges 2023/2024 would apply equally to all of the groups identified above, and are considered to have a neutral impact in all cases.

Officer: Simon Lane
Date: 06 December 2022

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REPORT TO LICENSING COMMITTEE

Date of Meeting: 31 January 2023

Report of: Service Lead - Environmental Health & Community Safety

Title: Introduction of Taxi Penalty Points Scheme

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 The purpose of this report is to seek Licensing Committee's views on the introduction of a Taxi Penalty Points Policy for Exeter City Council.
- 1.2 In July 2020, the Government issued Statutory Taxi and private Hire Vehicle Standards. On 27 October 2020, the Licensing Committee resolved to set up a working group to consider a number of elements of the guidance, including whether to introduce a points based disciplinary system. The working group has been discussing the merits of introducing such a system, which has led to the proposals being put forward in this report.

2. Recommendations:

- 2.1 Licensing Committee approve the draft proposed Penalty Points Policy as contained in Appendix A
- 2.2 Licensing Committee endorse and authorise that the proposals are put out to public consultation to run from 20 February 2023 until 30 April 2023 (10 weeks).

3. Reasons for the recommendation:

- 3.1 The aim of this policy is to improve the levels of compliance with licensing regulations and requirements and to help raise standards, improve safety and enhance the protection of members of the public affected by the actions of licensed drivers, operators and vehicle proprietors.
- 3.2. The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers, operators and vehicle proprietors.
- 3.3. The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

4 What are the resource implications including non-financial resources.

- 4.1 There are no quantifiable financial implications arising as a result of this report, although the impact upon staffing requirements of administering the new scheme would need to be monitored.

5 Section 151 Officer comments:

- 5.1 There are no immediate financial implications contained in this report. Members should note that any additional resourcing issues requiring funding would have to be funded through the licensing regime and would not therefore impact on the Council Taxpayer.

6 What are the legal aspects?

- 6.1 Two statutes create offences relating respectively to hackney carriages and private hire vehicles:

The Town Police Clauses Act 1847 (as amended)

The Local Government (Miscellaneous Provisions) Act 1976 (as amended)

- 6.2 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 - Suspension and revocation of drivers' licences.

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or

(b) any other reasonable cause.

- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

(b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

- (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

- (2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

- (3) Any driver aggrieved by a decision of a district council under subsection (1) of this section may appeal to a magistrates' court.

7 Monitoring Officer's comments:

- 7.1 The Deputy Monitoring Officer has no additional comments.

Simon Copper – Deputy Monitoring Officer

8 Report details:

- 8.1 The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators or vehicle proprietors 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.
- 8.2. The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence, or the prosecution of a licence holder where they commit an offence under the above legislation. Therefore there is no system in place to deal with minor breaches or infringements, which in isolation are not serious enough to warrant prosecution, suspension or revocation of a licence.
- 8.3 Penalty points may be awarded against anyone holding a hackney carriage licence; a private hire driver licence; a private hire operator licence or a vehicle proprietor.
- 8.4 A detailed explanation and breakdown of how the policy will be administered and is operated is contained in the policy at appendix Ai1 .
- 8.5 Provided that Licensing Committee agree the draft policy, it will be put out to public consultation for a ten week period. This will include press and social media releases, direct e-mails to drivers, operators and vehicle proprietors a meeting of the taxi forum and at least one public meeting. The results of the public consultation will then be considered before a final draft policy is put before Licensing Committee for final consideration and approval.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 The appropriate and robust enforcement of Hackney Carriage and Private Hire licensing will contribute to a healthy and safe city, and lend support to a robust, business friendly economy.

10. What risks are there and how can they be reduced?

- 10.1 There are no risks identified with this proposal.

11. Equality Act 2010 (The Act)

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;

- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
 - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.
- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

12. Carbon Footprint (Environmental) Implications:

- 12.1 No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

- 13.1 The Licensing Committee could decide to just rely on the enforcement of the statutory legislation in relation to Hackney Carriages and Private Hire. However due to the age and prescriptive nature of this legislation this would be resource intensive and it is suggested should only be used in the most serious cases.

Report of: Simon Lane - Service Lead Environmental Health and Community Safety

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

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

Contact for enquires:
Democratic Services (Committees)
Room 4.36
01392 265275

1. Introduction

- 1.1. This document details the Penalty Point procedure proposed by Exeter City Council to deal with minor breaches, infringements of legislation or unacceptable behaviour committed by those licensed as drivers and operators and vehicle proprietors in much the same way that points can be attached to a DVLA driving licence.

2. Policy statement

- 2.1. The aim of this policy is to improve the levels of compliance with licensing regulations and requirements and to help raise standards, improve safety and enhance the protection of members of the public affected by the actions of licensed drivers, operators and vehicle proprietors.
- 2.2. The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers, operators and vehicle proprietors.
- 2.3. The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

3. Purpose of the procedure

- 3.1. The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators and vehicle proprietors 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.
- 3.2. The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence or the prosecution of a licence holder where they commit an offence under the above legislation. There is no system in place to deal with minor breaches or infringements which in isolation are not serious enough to warrant prosecution suspension or revocation of a licence.

4. Who is covered by the procedure?

- 4.1. Penalty points may be awarded against anyone holding a hackney carriage licence, a private hire driver licence, a private hire operator licence or a vehicle proprietor.

5. How will the scheme operate?

- 5.1. Before penalty points are issued there must be sufficient evidence to prove on the balance of probabilities the offence or breach of licensing requirements.
- 5.2. If there is evidence the offence or breach and it is considered appropriate to do so the licence holder will be issued with a penalty point notice.
- 5.3. The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.
- 5.4. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of dealing with unsatisfactory conduct, thereby improving driving standards. The scheme would act as a record of driver's behaviour and conduct, so as to ascertain fitness and propriety.

- 5.5. The Council’s taxi policies will be fully considered by an authorised officer when determining the manner in which any breach of legislation or the requirements of this policy are dealt with.
- 5.6. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. It is to be noted that whilst the appendix shows the recommended amount of points, officers will have discretion to decide on the points given based on circumstances. If more than one offence takes place the points will be added consecutively to the individual’s file.
- 5.7. The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the officer opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.
- 5.8. Once the decision to issue penalty points is made, letters will be sent to all persons / organisations involved in the allegation(s) detailing the findings and decision of the Investigation officer. A record of the decision and any copies of associated documents will be kept on file (usually in secure electronic format) and retained for record in line with the retention of the licence.
- 5.9. A maximum of twelve penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points, a licence holder has committed more than one offence or breach of licence conditions, no more than twelve points will be imposed.
- 5.10. The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However, the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 5.11. Any penalty points incurred under this procedure are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the courts, through convictions to DVLA driving licences.
- 5.12. When issued, the penalty points will remain ‘live’ for a rolling period of 36 months from the date they were imposed.
- 5.13. Points issued to a licence holder will be confirmed in writing within ten working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- 5.14. There is no financial penalty associated with the system, and the licensee may continue to work.
- 5.15. Confirmed infringements or breaches resulting in the award of penalty points will act as an ongoing record of a licensee’s behaviour and conduct and may be used in determining whether they are a fit and proper person to hold a licence.
- 5.16. If 12 penalty points are imposed on an individual licence in any one 36-month rolling period, the driver will appear in front of the Licensing Sub Committee where appropriate action will be taken in accordance with this policy.

- 5.17. Where a licence holder is brought before the Committee, the Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
 - i. Take no action
 - ii. Issue a warning
 - iii. Issue additional penalty points
 - iv. Suspend a licence as a punitive sanction
 - v. Suspend a licence to correct a fault, defect, or breach
 - vi. Revoke or refuse to renew a licence
- 5.18. A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
- 5.19. The length of the period of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder. A determination will also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.
- 5.20. More than one accumulation of penalty points in excess of the twelve point threshold in any three year period will normally result in the Committee revoking a licence where they believe the person not to be a 'fit and proper' person.
- 5.21. Once the matter has been dealt with:
 - i. points will be removed if a suspension or revocation is imposed;
 - ii. If a written warning is given the points will remain live for the normal two year period;
 - iii. If the live period is extended the points will remain live for the time determined by the Committee.
- 5.22. Any driver, vehicle, proprietor or operator subject to suspension has the right of appeal to the Magistrates Court against the suspension. Suspensions will normally be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process, except where the relevant legislation allows for a suspension to take place with immediate effect.
- 5.23. Any driver, vehicle, proprietor or operator subject to revocation has the right of appeal to the Magistrates' Court against the revocation.
- 5.24. The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- 5.25. The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.

6. Appeals

- 6.1. If a licensee wishes to appeal against the issue of a 'penalty points notice' he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of

such a notice, to the Environmental Health and Community Safety Manager or in his/her absence the Service Lead – Environmental Health and Community Safety, who, will have the discretion to:

- i. uphold the Council Officer’s decision – retain the number points on the ‘penalty points notice; or
 - ii. cancel the issue of the “penalty points notice” to the licensee.
- 6.2. The Environmental Health and Community Safety Manager or, as the case may be, the Service Lead- Environmental Health and Community Safety will write to the licensee informing them of the outcome within 10 working days of receiving the appeal.
 - 6.3. If no appeal is lodged within 10 days from the date of issue of the notice, then the Council will take the view that the licence holder has accepted the penalty points.
 - 6.4. There is no appeal beyond the decision made by the Environmental Health and Community Safety Manager or, as the case may be, the Service Lead- Environmental Health and Community Safety.

7. Reapplying for a licence

- 7.1. If a licence holder has had their licence revoked, they may apply for a new licence, but its Council policy that such an application under the Penalty Point Scheme will not be entertained until a suitable period from the date of revocation has elapsed, as detailed below:
 - i. where the penalty points which resulted in the revocation included any infringements that attracted 10 or more points, then this period will be 24 months
 - ii. where none of the infringements individually attracted more than 10 points, then this is reduced to twelve months
- 7.2. should not be assumed that an application for a new licence, following revocation under this scheme, will automatically be granted. Any application will be subject to the Council’s normal application process and consideration of whether the applicant is a fit and proper person to hold a licence.

8. Review of the scheme

- 8.1. the first three years of the implementation of the scheme, it will be reviewed on an annual basis. On the third year of reviewing the licence, the Licensing Committee will ascertain whether annual reviews are still a requirement or whether it can be extended to a triennial time frame (i.e reviewed once every three years).
- 8.2. Notwithstanding this, the policy will continue to be evaluated and may be updated at any time

	Details of the Misconduct	Points Applicable	Driver	Vehicle Owner or Operator
1	Providing false or misleading information on licence application form / failing to provide relevant information or pay the relevant fee	6	✓	✓
2	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓
3	Refusal to accept hiring without reasonable cause	6	✓	
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓	
5	Plying for hire by Private hire drivers or Hackney Carriage drivers plying for hire outside the district	9	✓	✓
6	Private hire vehicle parking or waiting on a taxi rank	9	✓	✓
7	Inappropriate behaviour at a taxi rank	1-12	✓	
8	Leaving a taxi unattended at a rank	4	✓	
9	Using unlicensed vehicle or using a licensed vehicle without insurance or without a valid MOT	12	✓	✓
10	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4	✓	✓
11	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓
12	Failure to undergo the MOT on time	6		✓
13	Failure to provide proof of insurance cover when requested	6		✓
14	Failure to produce Hackney Carriage or Private Hire vehicle for testing when required	4		✓
15	Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12	✓	✓
16	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓
17	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4	✓	✓
18	Carrying more passengers than stated on the vehicle licence	6	✓	
19	Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs	6	✓	✓
20	Carrying an offensive weapon in the vehicle	12	✓	
21	Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer	4		✓
22	Failure to carry fire extinguisher	4		✓

	Details of the Misconduct	Points Applicable	Driver	Vehicle Owner or Operator
23	Failure to carry first aid kit	3		✓
24	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3		✓
25	Failure to use authorised roof light	4	✓	
26	Failure to maintain records in a suitable form of the commence and cessation of work of each driver each day	4		✓
27	Failure to produce on request records of drivers' work activity	4		✓
28	Using a non-approved or non-calibrated taximeter	6	✓	✓
29	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12	✓	✓
30	Evidence of smoking in vehicle	3	✓	✓
31	Evidence of food or drink in Vehicle	3	✓	✓
32	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6		✓
33	Using a vehicle, the appearance of which suggests that it is a Taxi	6		✓
34	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓
35	Driver not holding a current DVLA licence	12	✓	✓
36	Failure to have the driver's badge clearly displayed	4	✓	
37	Failure to notify, in writing, a change in medical circumstances	6	✓	
38	Unsatisfactory appearance of driver	4	✓	
39	Failure to observe rank discipline	3	✓	
40	Failure to maintain proper records of private hire vehicles	3		✓
41	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
42	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		✓
43	Failure to issue receipt on request	6	✓	✓
44	Using a licensed vehicle in a dangerous condition	9	✓	✓
45	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓
46	Unsatisfactory behaviour or conduct of a driver	1-12	✓	
47	Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or conviction or cautions during period of current licence	6	✓	✓

	Details of the Misconduct	Points Applicable	Driver	Vehicle Owner or Operator
48	Failure to behave in a civil and orderly manner, or bringing the trade into disrepute	1-12	✓	✓
49	Failure to provide reasonable assistance to a passenger	1-12	✓	✓
50	Carrying two or more separate fares without the appropriate consent	9	✓	✓
51	Failure to display a correct up to date fare card	3	✓	✓
52	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓
53	Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓
54	A licensed vehicle with a bald or dangerous or defective tyre (4 points per tyre)	4	✓	✓
55	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓
56	Failure to display an applicable fare card AND the Councils valid fare card together	3	✓	✓
57	Waiting or stopping on a double yellow area, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle	3	✓	
58	Driving whilst using a mobile phone	12	✓	
59	Appeal of points by way of Licensing Sub-Committee	4-12	✓	✓

*- discretionary points up to a maximum of 6 points can be issued by officers, but greater awards of points can only be issued by the Licensing Panel.

Officers may refer any mandatory award of points to Members where there are aggravating features to any case.

Ticks indicate potential recipients of points for infringements, but are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.

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Equality Impact Assessment: Penalty Points Scheme

The Equality Act 2010 includes a general duty which requires public authorities, in the exercise of their functions, to have due regard to the need to:

- **Eliminate discrimination**, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- **Advance equality of opportunity** between people who share a relevant protected characteristic and people who do not share it.
- **Foster good relations** between people who share a relevant protected characteristic and those who do not

In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

Authorities which fail to carry out equality impact assessments risk making poor and unfair decisions which may discriminate against particular groups and worsen inequality.

Committee name and date:	Report Title	Decisions being recommended:	People with protected characteristics potentially impacted by the decisions to be made:
Licensing Committee 31 January 2023	Penalty Points Scheme	<p>Licensing Committee agree the proposed Penalty Points Policy as contained in Appendix A</p> <p>Licensing Committee endorse and authorise the proposals are put out to public consultation to run from 6 February 2023 until 17 March 2023 (6 weeks)</p>	

Factors to consider in the assessment: For each of the groups below, an assessment has been made on whether the proposed decision will have a **positive, negative or neutral impact**. This is must be noted in the table below alongside brief details of why this conclusion has been reached and notes of any mitigation proposed. Where the impact is negative, a **high, medium or low assessment** is given. The assessment rates the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

High impact – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

Medium impact –some potential impact exists, some mitigating measures are in place, poor evidence

Low impact – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
Race and ethnicity (including Gypsies and Travellers; migrant workers; asylum seekers).	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Disability: as defined by the Equality Act – a person has a disability if they have a physical or mental impairment	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
that has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities.			
Sex/Gender	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Gender reassignment	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Religion and belief (includes no belief, some philosophical beliefs such as Buddhism and sects within religions).	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Sexual orientation (including heterosexual, lesbian, gay, bisexual).	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Age (children and young people aged 0-24; adults aged 25-50; younger older people aged 51-75/80; older people 81+; frail older people; people living with age related conditions. The age categories are for illustration only as overriding consideration should be given to needs).	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Pregnancy and maternity including new and breast feeding mothers	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.
Marriage and civil partnership status	neutral	low	There is no evidence to suggest that the proposed policy would have a potential impact on this characteristic.

Actions identified that will mitigate any negative impacts and/or promote inclusion

- **None.** The proposed policy would apply equally to all of the groups identified above, and are considered to have a neutral impact in all cases.

Officer: Nigel Marston
Date: 29 December 2022