

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

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