



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 18TH MARCH 2019
AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,
WORCESTERSHIRE, B61 8DA

MEMBERS: Councillors R. L. Dent (Chairman), C. J. Spencer (Vice-Chairman),
M. T. Buxton, M. Glass, H. J. Jones, L. J. Turner, C. M. McDonald,
S. R. Peters, S. P. Shannon, M. A. Sherrey and S. A. Webb

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 12th November 2018 (Pages 1 - 4)
4. Hackney Carriage Stand in Market Street Service Road (Pages 5 - 10)
5. Hackney Carriage and Private Hire Vehicle Licensing Policy - acceptable level of tint on windows (Pages 11 - 24)
6. Amendments to Hackney Carriage and Private Hire Penalty Points Scheme - Consultation (Pages 25 - 36)
7. Licensing Committee Work Programme (Pages 37 - 38)

8. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

8th March 2019



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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 12TH NOVEMBER 2018, AT 6.00 P.M.

PRESENT: Councillors R. L. Dent (Chairman), M. T. Buxton, M. Glass, C. M. McDonald, P. M. McDonald (Substitute), S. R. Peters, L. J. Turner and S. A. Webb

Officers: Mrs. V. Brown, Mr. D. Etheridge and Ms F. Mughal

16/18 **APOLOGIES**

Apologies for absence were received on behalf of Councillors H. Jones, M.A. Sherry, C.J. Spencer and S.P. Shannon. The Committee was advised that Councillor P. M. McDonald was in attendance as the substitute Member for Councillor S.P. Shannon.

17/18 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

18/18 **MINUTES**

The minutes of the Licensing Committee held on 11th September 2018 were submitted.

RESOLVED that the minutes of the Licensing Committee held on 11th September 2018, be approved as a correct record.

19/18 **LICENSING ACT 2003 - REVIEW OF STATEMENT OF LICENSING POLICY**

Members considered a report in relation to the review of the Statement of Licensing Policy following consultation with relevant authorities and interested parties.

In presenting the report, the Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS) highlighted that in accordance with the provisions of the Act 2003, the Council was required to review its Statement of Licensing Policy at least every five years. The policy was last reviewed in 2014. Therefore a revised Statement of Licensing Policy was required to be published by 1st April, 2019.

Members were circulated comments that had been received arising from the consultation on the matter. It was reported that a total of five responses had been received.

The Director of Public Health requested that a section be added to the Statement of Licensing Policy in all districts recognising the contribution of public health to the licensing process. Such a section has been added into the draft revised Statement of Licensing Policy between paragraphs 7.21 and 7.23.

Dodford and Grafton Parish Council felt paragraph 21.4 was too vague and that a specific number should be provided. As a result, the draft revised Statement of Principles had been amended and a new paragraph inserted (at 21.5) to make clear the restrictions placed on the serving of “late” temporary event notices by personal licence holders and others.

A representative of the Musician’s Union raised a number of concerns. The amendments proposed and subsequently agreed were set out in the report.

The Senior Licensing Practitioner, WRS, informed the Committee that the Licensing Authority would investigate any complaints made against licensed premises. However, the complainants would be advised to raise the complaint directly with the licensee or business concerned, in the first instance.

RECOMMENDED that the Council be recommended to approve the revised Statement of Licensing Policy, subject to amendments, and published to take effect on 1st April, 2019

20/18

HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME - REVIEW OF THE SCHEME

The Committee was presented with a report on the review of the Hackney Carriage and Private Hire Penalty Points Scheme. The scheme had been in operation since November 2017. The report provided Members with an update on the operation of the scheme.

All drivers, operators and vehicle proprietors were required to agree to be bound by the scheme upon grant and renewal of their licence. Since the implementation of the scheme, nine penalty point notices had been issued to drivers licensed by the Council, these included:

- Incorrect display of taxi licence plates;
- Smoking in a licensed vehicle;
- Failing to display a roof sign;
- Dangerous parking; and
- Failing to behave in a civil and orderly manner.

Members raised concerns about vehicle engines left running whilst stationery and therefore proposed that this could be included in the Penalty Points Scheme, ensuring that there was no contravention to the Air Quality Law and Policy. The Senior Licensing Practitioner, WRS, commented that the scheme would be reviewed in the future in order to meet the Members' views. He further advised that the Act was enforced in the Highway Code under the Road Traffic (Vehicle Emissions) Regulations 2002, which stated "you must not leave a vehicle's engine running unnecessarily whilst the vehicle was stationery on a public road, doing this could incur a fixed penalty fine".

The Council's Legal Advisor, advised that a breach of this condition could be applied to offence 27 stated in the report, which stated 'failing to comply with a requirement properly made by an authorised officer or constable'.

It was noted that failure to proceed to another hackney carriage stand on finding a hackney carriage stand full (over-ranking) was also included in the breach of condition.

Members requested that an update of the scheme be provided at the next meeting of the Licensing Committee.

RESOLVED that Hackney Carriage and Private Hire Penalty Points Scheme be noted.

21/18

VERBAL UPDATE - IMPLEMENTATION OF ANIMAL ACTIVITY LICENSING REGULATIONS

Members would be aware that the Government had published the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 under section 13 of the Animal Welfare Act 2006. The regulations came into effect on 1st October, 2018 and introduced a new licensing regime to replace the licensing and registration regimes currently in place.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS) gave a verbal update on the implementation of Animal Activity Licensing Regulations.

Members were informed that all businesses had been contacted in writing and been advised that they needed to apply for a licence under the new regulations by 31st December, 2018.

In respect of the current licence holders, around 173 licence applications were anticipated across the County and to date 20 licence applications had been received from businesses in Bromsgrove. A vast number of businesses were still operating under the previous licence. Members were informed that this was due to further amendments made to the document and that all licence holders had to have an inspection prior to the licence being issued and as well as being star rated.

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Members were advised that recruitment for an additional licensing officer was ongoing and that current officers were working extremely hard to process the applications. In addition, vets were also helping out with the inspections.

With regards to the backlog and without prejudice, businesses would be given authority to operate under the old licence pending determination of their application under the revised regime. It was anticipated that all businesses would be issued a new licence by the 1st April, 2019.

Members were further informed that there was an appeal process to the First-tier Tribunal if any licence was not granted.

The Senior Licensing Practitioner, WRS, concluded his update and advised Members if they had any enquiries from businesses in relation to the licence, to contact the Licensing Office for further assistance.

22/18

LICENSING COMMITTEE WORK PROGRAMME 2018/2019

The Committee considered the Work Programme for 2018/19. It was agreed that the Hackney Carriage and Private Hire Penalty Points Scheme update would be included in the Work Programme for March 2019.

RESOLVED that the Licensing Committee Work Programme for 2018/19 be noted.

The meeting closed at 6.33 p.m.

Chairman

HACKNEY CARRIAGE STAND IN MARKET STREET SERVICE ROAD

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	St Johns (directly) All Wards (indirectly)
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 To advise members of a proposal to relocate the current appointed hackney carriage stand in the Market Street service road and to request that Officers conduct a 28 days public consultation on the proposals; any objections received will be brought back before the Licensing Committee for consideration before a decision is taken about whether to proceed with the relocation of the hackney carriage stand.

2. RECOMMENDATIONS

Members are asked to RESOLVE that:

Officers be instructed to conduct a 28 day public consultation process on the proposed relocation of the hackney carriage stand; and,

That any objections received will then be brought back before the Licensing Committee for consideration before a decision is taken about whether to proceed with the relocation of the hackney carriage stand.

3. KEY ISSUES

Financial Implications

- 3.1 The cost of the public notice and other administrative costs will be met from existing budgets held by Worcestershire Regulatory Services.
- 3.2 In the event that the proposed stand is appointed the cost of any additional signage and road markings required would need to be met by Worcestershire County Council as part of their budget for the walking and cycle route improvements

Legal Implications

- 3.3 Licensing Authorities have power under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to create, amend and revoke hackney carriage stands (ranks). This allows district councils to “appoint stands for Hackney Carriages” either on public highways or private land and the stands can be for either continual or part-time use.
- 3.4 Under the Local Government (Miscellaneous Provisions) Act 1976 s63 a district council is required to publish a notice in a local newspaper and wait 28 days from publication, after which Members will need to consider any written representations of objections made.
- 3.5 Before appointing any stand for hackney carriages or varying the number of hackney carriages to be at each stand a district council is required to give notice to the chief officer of police.
- 3.6 Additionally a district council cannot create a hackney carriage stand:
- (a) so as unreasonably to prevent access to any premises;
 - (b) so as to impede the use of any points authorised to be used in connection with a local service within the meaning of the Transport Act 1985 or PSV operator’s licence granted under the Public Passenger Vehicles Act 1981, as points for the taking up or setting down of passengers, or in such a position as to interfere unreasonably with access to any station or depot of any passenger road transport operators, except with the consent of those operators;
 - (c) on any highway except with the consent of the highway authority; the maximum number of permissible points has been reached, is taken at the appropriate level, based on the merits of each individual case.

Service / Operational Implications

- 3.7 Officers were recently made aware of some upcoming improvements being made by Worcestershire County Council to walking and cycle routes around Bromsgrove.
- 3.8 The County Council’s £3.4 million project aims to reduce congestion in Bromsgrove by providing alternative travel choices to local residents to reduce short journeys made by car.

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- 3.9 The improvements form part of the wider transport and highways plan for the area and will see an additional six recognised walking and cycling pathways being introduced over the next two years. The work will also include improving other recognised cycleways across Bromsgrove.
- 3.10 One aspect of the proposed improvements impacts on the existing hackney carriage stand appointed by Bromsgrove District Council in the Market Street service road (the bus station). The proposed works at this location are anticipated to take place in Summer 2019.
- 3.11 The highway improvements planned at this location mean that two of the five spaces currently provided for hackney carriages to stand for hire would be lost, reducing the number of available spaces to three.
- 3.12 Officers made clear that this particular hackney carriage stand is already prone to overcrowding in the daytime and that any proposal to reduce the number of spaces available for hackney carriages to stand for hire at the location would exacerbate the situation.
- 3.13 Following further dialogue with officers from the County Council, a proposed solution has been put forwards that would see the hackney carriage stand retained for five vehicles, but being relocated across the road from its current position.
- 3.14 A drawing showing the proposed location for the new hackney carriage stand is provided at **Appendix 1**.
- 3.15 Officers consider this solution to be the best available option for retaining five spaces for hackney carriages to stand for hire at this particular location. There are also some benefits to the relocation, with hackney carriages no longer standing spaced out between entrances to properties that need to be kept clear. Also passengers would be able to enter vehicles from the near side without having to walk out into the road.
- 3.16 In order to implement the proposed relocation, it is necessary for the Council to undertake the required legal process to appoint a new hackney carriage stand and revoke the appointment of the existing hackney carriage stand at this location.
- 3.17 The first stage of this process is to consult on the proposals with the chief officer of police and via a public notice that needs to be published in a local newspaper.
- 3.18 Members are asked to instruct officers to carry out the required consultation with any objections received being brought back to the Licensing Committee for consideration later in the year.

4. RISK MANAGEMENT

- 4.1 Failure to carry out the legal process to appoint a newly located hackney carriage stand could lead to a reduction in the number of spaces available for hackney carriages to stand for hire at this location. This would exacerbate existing problems with “over-ranking” at the location and provide an additional risk to public safety.

5. APPENDICES

Appendix 1 – Drawing showing proposed location of hackney carriage stand.

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcestershire.gov.uk

Tel: (01905) 822799



KEY:

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Rev	By	Chkd	Apprvd	Date	Description

worcestershire

highways

Project

NPIF
BROMSGROVE

Drawing

CONCEPT PLAN
MARKET STREET

Drawn by: AJH

Checked by: -

Approved by: -

Drawing No.

NPIF - WCC - C003c

Date: 11.02.19

Date: -

Date: -

Revision

-

Drawing Scale: 1/500 @ A1

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**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING
POLICY – ACCEPTABLE LEVEL OF TINT ON WINDOWS**

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Licensing Committee has previously consulted upon and considered a number of options in relation to a requirement contained in the Council's Hackney Carriage and Private Hire Licensing Policies about the level of tint permitted on the windows of licensed Hackney Carriage and Private Hire Vehicles.

Members have previously deferred making a decision on this matter and asked officers to conduct further research. Further research has now been undertaken and therefore Members are asked to give further consideration to this matter.

2. RECOMMENDATIONS

That Members consider the content of the report and RESOLVE which of the five options set out at paragraph 3.X they would like to proceed with.

3. KEY ISSUES

Financial Implications

- 3.1 The cost of carrying out the original consultation and additional research have been met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council's current policies in relation to the operation of Private Hire Licences and Hackney Carriage Licences are set out in the Taxi Handbook and associated guidance issued by the Council.

- 3.3 Whilst there are no scheduled reviews due to be undertaken in relation to the Council's policies, the specific matter under consideration has arisen as a matter directly brought to the attention of the Licensing Committee. Any proposed changes to the council's policy should take account of the responses to the consultation.

Service / Operational Implications

- 3.4 Between December 2017 and February 2018 the Council consulted on some proposed amendments to the Council's policies on the licensing of Hackney Carriage and Private Hire vehicles and drivers, which are contained in the Council's Hackney Carriage and Private Hire Handbook.
- 3.5 The proposals related to two areas within the policies that have caused some difficulty since the Hackney Carriage and Private Hire Handbook had last been updated in March 2016.
- 3.6 One of these areas of difficulty was the requirement in relation to vehicles licensed as Hackney Carriage or Private Hire Vehicles that states:

"Any vehicle to be licensed for the first time, with the exception of special event vehicles, is NOT permitted to have a tint where they conceal the identity of the passenger inside. The Licensing Officer will examine a vehicle prior to test to ensure that the level of tint on the windows does not conceal the identity of passengers inside the vehicle."

- 3.7 The consultation set out five potential options and asked respondents to list the options in order of preference. The five options consulted upon were:

Option A	Remove the requirement from the handbook altogether. This would mean that, provided that the glass complies with the Construction and Use Regulations, the vehicle would be acceptable for licensing as a hackney carriage or private hire vehicle
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Option B	To remove the requirement from the handbook and replace it with a requirement that the windows of the vehicle allow a defined amount of visible light to be transmitted through the glass. The precise amount of visible light to be transmitted would be set following further research and consultation.
Option C	To remove the requirement from the handbook and replace it with a requirement that the vehicle windows cannot be fitted with privacy glass (entirely black or reflective glass).
Option D	To remove the requirement from the handbook and replace it with a requirement that the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification.
Option E	Leave the wording in the handbook as it is currently

3.8 On 12th March 2018, the Licensing Committee considered the results of the consultation. The responses received can be seen at **Appendix 1**.

3.9 The Committee debated all five options in some depth and raised a number of questions on the use of the window tint meter purchased by WRS; which measured the total amount of visual light transmission through a window and any coatings on a window. At the conclusion of the debate Members resolved:

- that a decision on the acceptable level of tint on windows of licensed hackney carriages and private hire vehicles be deferred; and
- that officers be tasked to conduct further research in respect of the precise amount of visible light to be transmitted, to include testing those vehicles that have been presented to licensing Sub- Committees; and

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- that the research information be brought back to a future meeting of the Licensing Committee for consideration, together with the options as detailed in the report.
- 3.10 Since the Licensing Committee on 12th March 2018, officers have been attempting to gather information to try and assist Member to reach a decision on this matter. Officers have been attempting to gather the following information:
- Information from vehicle manufacturers as to the amount of visible light that is transmitted through standard factory fitted windows on models of vehicles that are commonly licensed as Hackney Carriage and Private Hire vehicles.
 - How much visible light is transmitted through the rear windows of vehicles that have been accepted for licensing at Licensing Sub-Committees in the past year.
 - What policies other licensing authorities have adopted in relation to this issue.
 - Any relevant guidance from the Department for Transport
- 3.11 Officers wrote to a number of vehicle manufacturers, but unfortunately have not received any responses.
- 3.12 Officers have used equipment to measure the amount of visible light transmitted through the rear windows of vehicles that have been accepted for licensing by Licensing Sub-Committees in recent years.
- 3.13 In total 9 licensed vehicles have been tested and the amount of visible light transmitted through the rear windows of each vehicle was as follows:
- 3%, 14%, 14%, 16%, 21%, 24%, 34%, 36%, 74%
- 3.14 The results of the research into the policies in place in other local authority areas is summarised at **Appendix 2**.
- 3.15 The Department for Transport's publication "*Taxi and Private Hire Vehicle Licensing: Best Practice Guidance*" says on the following in relation to tinted windows on licensed vehicles:

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“Tinted Windows

The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations.”

- 3.16 Members are asked to consider the additional information gathered by officers and resolve which of the five options set out at paragraph 3.X they would like to proceed with.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

Appendix 1 – Consultation Responses

Appendix 2 – Policies in place in other areas

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799

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Part B

Order of Preference					Capacity of Respondent
1 st	2 nd	3 rd	4 th	5 th	
A	B	C	D	E	Licensed driver
A	D				Licensed private hire operator
A	B	C	D	E	Licensed driver

A lot of drivers will find this issue difficult as most new / used cars come with tinted windows / glass as a standard offer

Does option D mean that if a vehicle has factory fitted privacy glass this is acceptable? If so this would be my 2nd preference. Otherwise option A is the only one that gets my vote.

I have had difficulty buying a vehicle fit for purpose due to the level of tint. I had to go to the extremes of asking the garage dealer to drive the vehicle down to the licensing surgery. I have also had to try and get quotes for windows to be exchanged. The wording in the handbook is misleading, perhaps this could be addressed. I must thank Ann May for being so helpful with regards to the issues I have had. Thanks.

Order of Preference					Capacity of Respondent
1 st	2 nd	3 rd	4 th	5 th	
A	D	E	C	B	Licensed driver and private hire operator
A	D	B	C	E	Not specified
A					Licensed driver and private hire operator
D	A	B	E	C	Licensed driver and private hire operator
A	D	C	B	E	Licensed driver and private hire operator

The issue of window tints has caused hassle and expense for some drivers with no good reason. Why would a driver want to “conceal the identity of passengers”? Other Councils don’t have this rule and drivers find it confusing. The rule regarding minibus seats having to face each other should also be removed – again other Councils don’t have it and its more dangerous as passengers often don’t wear seat belts in the rear.

Order of Preference					Capacity of Respondent
1 st	2 nd	3 rd	4 th	5 th	
C					Alvechurch Parish Council
					Option C was our only preferred option. On the matter of tinted windows, Parish Councillors understood that this is covered by wider Government vehicle regulations, administered by the Police. If that's not the case, then private hire vehicles should not have tinted windows for passenger safety reasons.
A	D	E	C	B	Member of the Public
X					Catshill & North Marlbrook Parish Council
					Why has BDC not given the rationale for the original being imposed? Without this information it is hard to understand. If the requirement is that passengers should be visible then option A would appear to be the least prescriptive option to fulfill this requirement.

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Council Policies – Tinted Windows on Licensed Vehicles

Council	Details of Policy
Malvern Hills District Council	No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.
Redditch Borough Council	No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.
Worcester City Council	A Photo-optic Vehicle Tint Tester will be used to assess the level of tint to the rear side and rear windows of hackney carriages and private hire vehicles, setting the agreed level at 60%. This will be applied to any new application for a licensed hackney carriage or private hire vehicles. The front window and front side windows to be in accordance with current national and EU legislation.
Wychavon District Council	<p>Hackney Carriage – the rear passenger windows of the vehicle must not be fitted with “privacy glass.</p> <p>Private Hire - no restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.</p>
Wyre Forest District Council	No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.

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Birmingham City Council	Vehicles fitted with darker tints and privacy glass can be licensed where the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification.
Telford and Wrekin Council	<p>Any vehicle submitted for licence which is fitted with tinted windows must have windows which are factory fitted options at the time of the manufacture of the vehicle; and</p> <p>The vehicle shall be constructed and/or designed so as to enable passengers to be seen in the vehicle from any direction when observed from outside of the vehicle; and</p> <p>Glass shall have a minimum light transmittance of 75% for the front windscreen, 70% for the front side windows and 34% for all other vehicle window glass.</p>
Dudley MBC	<p>Minimum visual light transmission levels as follows:</p> <p>Front windscreen – 75% Windows to each side of driver's head – 75% Other exterior windows – 40% Special Events Vehicles – N/A</p>
Sandwell MBC	No "after market" tint film permitted – otherwise no restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.
Solihull MDC	Any vehicles with window tints that show a light transmission below 20%, or any additional tint film, will not be permitted.

Coventry City Council	<p>Light transmitted through the windscreen must be at least 75%.</p> <p>Light transmitted through the front side windows must be at least 70% (as required by law).</p> <p>With the addition that light transmitted through the main rear side windows must be at least 70%.</p> <p>Light transmitted through the rear window/screen and any other windows (e.g. small quarter lights) must be at least 40%.</p>
City of Wolverhampton Council	<p>Only factory fitted privacy (tinted) glass will be permitted.</p>
Shropshire Council	<p><u>Current Policy:</u></p> <p>Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986.</p> <p><u>Policy Proposed from 1 April 2019:</u></p> <p>Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986. The Council will not permit any form of additional film to darken or tint the glass on any part of the vehicle.</p>
Warwick District Council	<p>Hackney Carriage – Tinted windows must permit at least 75% light transmittance (for all new and vehicles to which a licence is transferred).</p> <p>Private Hire – The windscreen must permit 75% light transmittance, driver's and passenger windows must permit at least 70% light transmittance; the rear screen must permit 40% light transmittance (for all new and vehicles to which a licence is transferred).</p>

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Stratford-on-Avon District Council	Privacy glass is not permitted in hackney carriages. Private hire vehicles may have privacy glass.
North Warwickshire District Council	No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.
Herefordshire Council	No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.
South Staffordshire District Council	Tinted windows will only be permitted in accordance with the manufacturers or specialist coachbuilder's specification and must comply with the Road Vehicles (Construction & Use) Regulations 1986.
East Staffordshire District Council	No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.
Transport for London	<p>Hackney Carriage – Windows must permit maximum visibility into, and out of, the vehicle. They must have no more than 25% tint value.</p> <p>Private Hire - No restrictions beyond the requirements set out in the Road Vehicles (Construction and Use) Regulations 1986.</p>

AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME – CONSULTATION

Relevant Portfolio Holder	Councillor P J Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

In November 2017, following a decision taken by the Licensing Committee earlier in that year, the Council implemented a Hackney Carriage and Private Hire Penalty Points Scheme. On 12th November 2018, the Licensing Committee received a report to provide an update on the operation of this scheme.

Following consideration of the report, Members requested that a further report be provided at the next meeting of the Licensing Committee with a view to amending the penalty points scheme to include reference to a driver leaving a vehicle's engine running unnecessarily whilst the vehicle is stationary on a public road.

2. RECOMMENDATIONS

Members are asked to consider the content of the report and RESOLVE to instruct officers to carry out consultation on the revised Hackney Carriage and Private Hire Penalty Points Scheme shown at Appendix 2.

3. KEY ISSUES

Financial Implications

- 3.1 The costs of carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 Many authorities across the UK operate penalty point schemes and there have been a number of legal challenges to same. In order to avoid such challenges being successful it is necessary to have a mechanism in place to allow for appeals against the imposition of penalty points, and to ensure that any decision in respect of whether, or not, to revoke a licence, once the maximum number of permissible points has been reached, is taken at the appropriate level, based on the merits of each individual case.

Service / Operational Implications

- 3.3 In November 2017 a Hackney Carriage and Private Hire Penalty Points Scheme was implemented by the Council.
- 3.4 This followed a decision made earlier in the year by the Licensing Committee following consultation on a proposal to introduce such a scheme.
- 3.5 The basic principle of such a scheme is that individuals that are found to have committed relatively minor offences or acts of non-compliance have a number of penalty points logged against their licensing records held by the authority.
- 3.6 If an individual accumulates a given number of penalty points, within a defined period, this triggers an automatic referral of the licence holder to a Licensing Sub-Committee where consideration is given to whether the individual remains a fit and proper person to hold the relevant licence.
- 3.7 A penalty point scheme enables officers to deal quickly and efficiently with minor compliance issues and helps to identify those that are regularly not acting in compliance with their licensing requirements so that more serious action can be considered against these individuals in a targeted and proportionate way.
- 3.8 The introduction of the penalty point scheme does not affect the Council's ability to take formal enforcement action for any offence or act of non-compliance and every case will continue to be considered on its own merits.
- 3.9 A copy of the Hackney Carriage and Private Hire Penalty Points Scheme implemented can be seen at **Appendix 1**.
- 3.10 On 12th November 2018, the Licensing Committee received a report to provide an update on the on the operation of the scheme.

- 3.11 Following consideration of the report, Members requested that a further report be provided at the next meeting of the Licensing Committee with a view to amending the penalty points scheme to include reference to drivers leaving vehicle engines running unnecessarily whilst the vehicles are stationary on a public road.

- 3.12 Rule 123 of the Highway Code states:

*“You **MUST NOT** leave a parked vehicle unattended with the engine running or leave a vehicle engine running unnecessarily while that vehicle is stationary on a public road. Generally, if the vehicle is stationary and is likely to remain so for more than a couple of minutes, you should apply the parking brake and switch off the engine to reduce emissions and noise pollution. However it is permissible to leave the engine running if the vehicle is stationary in traffic or for diagnosing faults”*

- 3.13 The penalty points scheme already provides officers with the power to issue penalty points for breaching rule 112 of the Highway Code in relation to the inappropriate use of a vehicle horn and so officers believe it would be reasonable to amend the penalty point scheme to enable officers to issue penalty points for breaches of rule 123 of the Highway Code.
- 3.14 Members are therefore asked to resolve to instruct officers to carry out consultation on the draft revised Hackney Carriage and Private Hire Penalty Points Scheme shown at **Appendix 2**.
- 3.15 The consultation will also provide an opportunity to invite comments more widely on the existing scheme and whether other matters should be removed or added to it.
- 3.16 Consultation will take place with licence holders and other relevant organisations and the results of the consultation exercise will be reported back to Members later in the year.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

- Appendix 1 – Current Hackney Carriage and Private Hire
Penalty Points Scheme
- Appendix 2 – Draft revised Hackney Carriage and Private Hire
Penalty Points Scheme

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799



BROMSGROVE DISTRICT COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SYSTEM

The penalty points system for recording non-compliance with Hackney Carriage or Private Hire requirements will operate as follows:-

1. Bromsgrove District Council's Enforcement Policies will be fully considered by the enforcing officer when determining the manner in which any breach of the legislation, byelaws or the requirements of this licence conditions are dealt with. Where it is decided that the use of penalty points is appropriate they will be issued in accordance with the rate in the attached schedule.
2. Before penalty points are issued, there must be sufficient evidence to prove the relevant offence(s) or breach of condition(s).
3. Each case will be considered on its own merits.
4. Penalty points may be issued regardless of the geographic location in which the act of non-compliance took place.
5. When points are issued, the relevant proprietor, driver or operator will be sent written confirmation within five working days.
6. Points may be issued to the driver, proprietor and/or operator of a vehicle in accordance with the table below depending on the circumstances of the case.
7. Where the driver of the vehicle is also the proprietor and/or operator of the vehicle, only one set of points will be issued in respect of each offence or breach of condition identified.
8. There is a right of appeal to the Licensing and Support Services Manager at Worcestershire Regulatory Services against any points that are issued.

9. Points issued will remain “live” for a rolling period of two years from the date of issue. Points will be considered “spent” once it is more two years from the date of issue.
10. Any driver, proprietor or operator accumulating 12 points in a two year period will be referred to a Licensing Sub-Committee for a review of whether the individual remains a fit and proper person to hold the relevant licence.
11. When a driver, proprietor or operator appears before a Licensing Sub-Committee, the following options are available to the Sub-Committee:
 - Take no further action
 - Issue a written warning
 - Extend the two year period for which the points remain live
 - Suspend the licence
 - Revoke the licence
 - Any other action that the Sub-Committee feels appropriate in the circumstances of the case
12. Any driver appearing before a Licensing Sub-Committee will have the right to make representations to the Sub-Committee and be legally represented at the hearing.
13. Any driver, proprietor or operator who has their licence suspended or revoked by a Licensing Sub-Committee will have the right to appeal against the decision to a Magistrates Court within 21 days unless in the interests of public safety, the Sub-Committee further resolves that the suspension or revocation should have immediate effect.
14. Once a Licensing Sub-Committee has considered a case involving accumulated points, the points will be treated as spent unless the Sub-Committee decides otherwise.
15. If the Sub-Committee decides that any points are to remain live, they must stipulate the date at which they will be considered spent.
16. Nothing in this penalty points system will prevent the Council from taking action under any appropriate legislation.
17. The penalty points scheme will be subject to review two years after implementation and as necessary thereafter.

SCHEDULE – TARIFF OF POINTS ISSUED FOR OFFENCES / BREACHES

	Offence (s) / Breach of condition (s)	Points applicable	Vehicle Driver	Vehicle Proprietor	Operator (PH)
1	Failing to behave in a civil and orderly manner	4	X		
2	Failure to proceed to another hackney carriage stand on finding a hackney carriage stand full (over-ranking)	3	X		
3	Failing to wear drivers badge so it is plainly visible	3	X		
4	Failing to display vehicle licence plate on the outside rear of the vehicle	3	X	X	
5	Vehicle interior in unacceptable condition	3	X	X	
6	Vehicle exterior in unacceptable condition	3	X	X	
7	Failure to provide fire extinguisher	3	X	X	
8	Taximeter defective or not clearly visible	4	X	X	
9	Failing to afford reasonable assistance with loading and unloading luggage	3	X		
10	Failure to display table of fares	3	X	X	
11	Conveying more passengers in the vehicle than permitted by the licence	4	X		
12	Leaving hackney carriage unattended on a stand	3	X		
13	Charging more than the prescribed fare for a journey	4	X		
14	When hired to do so, failing to attend at the appointed time and place without reasonable cause	3	X	X	X
15	Failing to hand in property left in a licensed vehicle by a passenger	3	X	X	X
16	Failing to notify the Council of motoring or other convictions within 7 days	4	X	X	X
17	Failing to keep appropriate records of bookings	4			X
18	Failing to notify the Council of a change of name or address	3	X	X	X
19	Refusing a fare without reasonable cause	3	X		
20	Failing to report an accident to the Council within 72 hours	3	X	X	
21	Failing to produce insurance certificate to officer on request	4	X	X	
22	Failing to produce vehicle for inspection on request	4	X	X	
23	Failure to produce booking records upon request	4			X
24	Causing or permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand	4	X		
25	Unnecessarily prolonging a journey without reasonable cause	4	X		
26	Obstructing an authorised officer or constable	3	X	X	X

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27	Failing to comply with a requirement properly made by an authorised officer or constable	3	X	X	X
29	Using vehicle horn otherwise than in accordance with the rule 112 of the Highway Code.	3	X		
30	Allowing smoking in a licensing vehicle	3	X		
31	Smoking in a licensed vehicle	3	X		
32	Parking a vehicle in an illegal or dangerous position	3	X		



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6	Vehicle exterior in unacceptable condition	3	X	X	
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15	Failing to hand in property left in a licensed vehicle by a passenger	3	X	X	X
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17	Failing to keep appropriate records of bookings	4			X
18	Failing to notify the Council of a change of name or address	3	X	X	X
19	Refusing a fare without reasonable cause	3	X		
20	Failing to report an accident to the Council within 72 hours	3	X	X	
21	Failing to produce insurance certificate to officer on request	4	X	X	
22	Failing to produce vehicle for inspection on request	4	X	X	
23	Failure to produce booking records upon request	4			X
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Agenda Item 6

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30	Allowing smoking in a licensing vehicle	3	X		
31	Smoking in a licensed vehicle	3	X		
32	Parking a vehicle in an illegal or dangerous position	3	X		
33	Leaving a vehicle engine running unnecessarily while that vehicle is stationary on a public road (Highway Code Rule 123)	3	X		

LICENSING COMMITTEE

18th March 2019

18th MARCH 2019

Hackney Carriage Stand in Market Street Service Road - proposed WCC improvements to the cycle route

Hackney Carriage and Private Hire Vehicle Licensing Policy – acceptable level of tint on windows

Amendments to Hackney Carriage and Private Hire Penalty Points Scheme – Consultation

To Be Allocated To Suitable Available Dates in 2019/2020

Review of Council's policy on the Guidance Relating to the Relevance of Convictions and Cautions for Hackney Carriage and Private Hire Drivers – Approval to consultation

Guidance Relating to the Relevance of Convictions and Cautions for Hackney Carriage and Private Hire Drivers – To consider the results of the consultation

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