



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 23RD SEPTEMBER 2019
AT 6.00 P.M.

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

MEMBERS: Councillors H. J. Jones (Chairman), P. J. Whittaker (Vice-Chairman), A. B. L. English, M. Glass, C.A. Hotham, S. A. Hughes, H. D. N. Rone-Clarke, M. A. Sherrey, C. J. Spencer, M. Thompson and J. Till

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 15th July 2019 (Pages 1 - 6)
4. Amendments to Hackney Carriage and Private Hire Penalty Points Scheme - Results of Consultation (Pages 7 - 30)
5. The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019 (Pages 31 - 34)
6. Licensing Committee Work Programme 2019/2020 (Pages 35 - 36)

7. 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

9th September 2019

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 15TH JULY 2019, AT 6.03 P.M.

PRESENT: Councillors H. J. Jones (Chairman), P. J. Whittaker (Vice-Chairman), A. B. L. English, C.A. Hotham, S. A. Hughes, A. D. Kriss (substituting for Councillor C. J. Spencer), H. D. N. Rone-Clarke, M. A. Sherrey, M. Thompson, J. Till and S. A. Webb (substituting for Councillor M. Glass)

Invitees: Mr. P. Cooper and Mr. J. Wyllie, Worcestershire County Council

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

1/19 **ELECTION OF CHAIRMAN**

A nomination for Chairman was received in respect of Councillor H. J. Jones.

RESOLVED that Councillor H. J. Jones be elected as Chairman for the ensuing municipal year.

2/19 **ELECTION OF VICE-CHAIRMAN**

A nomination for Vice-Chairman was received in respect of Councillor P.J. Whittaker.

RESOLVED that Councillor P. J. Whittaker be elected as Vice-Chairman for the ensuing municipal year.

3/19 **APOLOGIES**

Apologies for absence were received from Councillors M. Glass and C. J. Spencer.

The Committee were informed that Councillor S. A. Webb was in attendance as the substitute Member for Councillor M. Glass and that Councillor A. D. Kriss was in attendance as the substitute member for Councillor C. J. Spencer.

4/19 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

5/19 **MINUTES**

The minutes of the Licensing Committee held on 17th April 2019 were submitted.

It was noted that Councillors M. A. Sherrey and S. A. Webb, were present at that meeting and they consecutively proposed and seconded the approval of the minutes.

RESOLVED that the minutes of the Licensing Committee held on 17th April 2019, be approved as a correct record.

6/19

HACKNEY CARRIAGE STAND IN MARKET STREET SERVICE ROAD

Following on from the Licensing Committee meeting held on 17th April 2019, whereby Members approved for the purposes of consultation; a proposal to relocate the current appointed hackney carriage stand in Market Street service road. The Committee were asked to consider a further report which detailed the response received to that consultation.

The Chairman welcomed Mr. P. Cooper and Mr. J. Wyllie, Worcestershire County Council (WCC) officers to the meeting.

The Senior Practitioner (Licensing), Worcestershire Regulatory Services (WRS) reminded the Committee that, the County Council's £3.4 million project aimed to reduce congestion in Bromsgrove by providing alternative travel choices to local residents to reduce short journeys made by car.

The improvements would form part of a wider transport and highways plan for the area and would see an additional six recognised walking and cycling paths being introduced over the next two years. The work would also include improvements to other recognised cycle ways across Bromsgrove.

One aspect of the proposed improvements would impact on the existing hackney carriage stand appointed by Bromsgrove District Council in the Market Street service road (the bus station). It was anticipated that the proposed works at this location would take place in summer 2019.

The Senior Practitioner (Licensing), WRS, highlighted that Licensing officers had some concerns about the proposals raised verbally by some licence holders both on the phone and at licensing surgeries, with regard to the consultation. Some licence holders had verbally suggested alternatives to the location being proposed. Officers did remind licence holders of the opportunity to respond in writing to the formal consultation, however, despite being reminded no written responses were received from any licence holders.

The Senior Practitioner (Licensing), WRS drew Members' attention to Appendix 2, the response received from Councillor R. L. Dent, County Councillor, Bromsgrove Central Division.

In response to Councillor M. Thompson, Councillor S. A. Hughes stated that the area in question was not in her ward area, however, she had as

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Ward Member for Bromsgrove Central, spoken with people who worked at premises on the high street and they were not happy about the proposal. There had been issues with delivery drivers being unable to access the rear of shop premises due to taxis over-ranking on the Market Street hackney carriage stand.

The Senior Practitioner (Licensing), WRS highlighted that there were double yellow lines where the taxis were over-ranking and it was down to the civil enforcement officers and the police to manage this. The police had been consulted with on the proposed changes to the hackney carriage stand; however, no comments had been received. There was no official 'feeder rank' for the current or proposed hackney carriage stand, drivers were fully aware that if the hackney carriage stand was full then they should drive to the next available hackney carriage stand.

Officers from WCC informed the Committee that the proposal would see vehicles (taxis) parked on the left hand side and that would enable passengers to enter vehicles, more safely, from the near side without having to walk out into the road.

They had consulted with the bus transport companies and they were happy that they could operate with one less bus stand. The bus companies had also suggested that bus drivers would be asked to report any issues with taxis over-ranking at the proposed new location.

Currently there was some pinch points with mobile scooters blocking pedestrians, the existing wooden bridge would be removed to allow for a wider pathway.

Bromsgrove had a very limited infrastructure to support walking and cycling, forcing some local people to drive short distances. The plan was to make the transport network more efficient, particularly at peak times and to help reduce congestion, by providing new and improved links between the town centre and residential areas.

Further discussion took place on the potential for electric charging points, which would not be practical on a hackney carriage stand.

Members commented that they still had concerns with regard to over-ranking at the proposed new location; as they had witnessed over-ranking at the existing location on many occasions.

The Senior Practitioner (Licensing), WRS, explained that over-ranking usually occurred during the daytime. Licensing officers, WRS and civil enforcement officers could deal with over-ranking. He would ensure that it was made very clear to licensed drivers, that there would be serious implications if they were caught over-ranking at the proposed new location and that over-ranking would not be tolerated.

Licensing officers would ensure that robust enforcement was carried out and that this message was highlighted to licensed drivers, in order to

ensure that there was no potential for over-ranking at the proposed new location.

RESOLVED that

- a) the relocation of the hackney carriage stand as proposed and shown at Appendix 1, to proceed; and
- b) officers carry out the legal process required in consultation with officers delivering the Worcestershire County Council project in order to make improvements to walking and cycling routes around Bromsgrove.

7/19

LICENSING ANNUAL REPORT 2018/2019

The Committee considered the Licensing Annual Report 2018/2019.

The report provided an overall view of the activities, under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing, and informed the Committee of any issues anticipated in the ensuing year, as required under the Council's Licensing Act 2003 and Gambling Act 2005.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing explained that the report provided the Committee with information on the work undertaken by WRS on behalf of Bromsgrove District Council; and that he was happy to take any questions on the contents of the report.

The Senior Licensing Practitioner, WRS, responded to questions from Members with regard to the new Animal Licensing Implementation. Members were informed that an enormous amount of work had been carried out over the last twelve months in implementing the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, which came into force on 1st October 2018. Interim inspections would still need to be carried out.

Two WRS officers had attended the required training course and were now in a position to assist the Licensing Officer, WRS, who had been responsible for the intensive work schedule over the last twelve months.

The Senior Licensing Practitioner, WRS, further informed the Committee that with regard to Scrap Metal Dealers; mobile collectors could take their scrap metal to any licensed site, but were required to hold a licence for every area they actually collected from.

RESOLVED that the Licensing Annual Report 2018/2019 be noted.

8/19

LICENSING COMMITTEE WORK PROGRAMME

The Committee considered the Work Programme for 2019/2020.

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The Chairman questioned the potential timescale for a review of the Council's policy on the Guidance Relating to the Relevance of Convictions and Cautions for Hackney Carriage and Private Hire Drivers – consultation.

The Senior Licensing Practitioner, WRS, informed the Committee that, as detailed in the main agenda pack; Section 177 of the Policing and Crime 2017 had given the Secretary of State for Transport the power to publish statutory guidance to taxi and private hire licensing authorities on how their licensing powers could be exercised in order to safeguard children and vulnerable adults.

In February 2019, the Department for Transport launched a 10 week consultation on a draft of the statutory guidance. The consultation period ended on 22nd April 2019. It was anticipated that the final version of this statutory guidance would be published later this year. Officers would need to have regard to this guidance when reviewing and revising the Council's policies on the licensing of taxi and private hire vehicles.

Therefore, a review of the Council's policy on the Guidance Relating to the Relevance of Convictions and Cautions for Hackney Carriage and Private Hire Drivers would be carried out as soon as the Department for Transport, statutory guidance was published. Officers were hoping that the guidance would be issued during the next few months.

RESOLVED that the Licensing Committee Work Programme for 2019/2020, be noted.

The meeting closed at 6.57 p.m.

Chairman

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

Relevant Portfolio Holder	Councillor A. Kent
Portfolio Holder Consulted	No
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 March 2019, the Licensing Committee resolved to instruct officers to carry out consultation on a revised Hackney Carriage and Private Hire Penalty Points Scheme. This consultation has now taken place and Members are asked to consider the results.

2. RECOMMENDATIONS

That Members **RESOLVE** to approve the implementation of the revised Hackney Carriage and Private Hire Penalty Points Scheme shown at **Appendix 4**.

3. KEY ISSUES

Financial Implications

- 3.1 The costs of carrying out the consultation were 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 On 12th November 2018, the Licensing Committee received a report to provide an update on the operation of the scheme.
- 3.10 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.
- 3.11 On 18th March 2019, Members were provided with the requested report and following consideration of it, resolves to instruct officers to carry out consultation on a draft revised Hackney Carriage and Private Hire Penalty Points Scheme.

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- 3.12 The Licensing Committee also resolved that following consultation with licence holders, other relevant organisations and more widely, the consultation results be presented to a future meeting of the Licensing Committee.
- 3.13 The consultation was commenced in May 2019 and concluded on 26th July 2019. A consultation survey was used to facilitate the consultation and a copy of this is at **Appendix 1**. The consultation survey included a copy of the draft revised penalty points scheme.
- 3.14 The consultation survey was sent to all licence holders and also:
- West Mercia Police
 - National Taxi Association
 - National Private Hire Association
 - West Mercia Safer Road Partnership
 - Worcestershire County Council (Driver Training)
 - Worcestershire County Council (Equality Manager)
 - Guide Dogs for the Blind Association
 - Parish Councils
 - Bromsgrove District Councillors
 - Land & Air Quality Team (Worcestershire Regulatory Services)
- 3.15 In addition the consultation was available to view and respond to via an online version hosted on the Council's website with publicity provided via the local press and social media channels.
- 3.16 There were six responses to the consultation in total.
- 3.17 The Land & Air Quality Team at Worcestershire Regulatory Services agreed with the proposed amendment and made further comments via the online survey. Their comments can be seen at **Appendix 2**.
- 3.18 Another respondent to the online survey also agreed with the proposal giving the reason(s) that:
- “Bromsgrove currently has three air quality management areas attributable to emissions from vehicular traffic. Leaving an engine running unnecessarily adds to increased emissions and poor air quality”*
- 3.19 Dodford with Grafton Parish Council responded to make suggestions for amendments to the existing scheme. Their suggestions are shown at **Appendix 3**. However no explanation or rationale for the suggestions has been provided by the Parish Council.

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23rd September 2019

- 3.20 Catshill and North Marlbrook Parish Council responded to say they agreed with the proposed amendment on the basis that:

“Taxi’s should be subject to the same rules as all other drivers and this should be enforceable in instances when engines are left running whilst waiting for passengers.”

- 3.21 Cllr Adrian Kriss responded to agree with the proposed amendment and to suggest that greater publicity be given to the scheme to make the general public aware of its existence.

- 3.22 One of the Licensing Technical Officers at Worcestershire Regulatory Services has suggested the inclusion of the offence of “using a vehicle with defective tyres” with the issue of 6 points per tyre.

- 3.23 This is consistent with the penalty points scheme operated by Redditch Borough Council and the officer believes such an amendment is justified as:

“tyres are a very significant safety element of the safety of the vehicle, and there is no excuse for licensed drivers to be carrying passengers with defective tyres. There are heavy penalties issued by the Police / Courts for the same offence so I feel the scheme should reflect that.”

- 3.24 In light of the consultation responses, officers believe that the proposed amendment to the penalty points scheme relating to drivers leaving vehicle engines running unnecessarily whilst the vehicles are stationary on a public road should be made.

- 3.25 Additionally officers believe that on the grounds of promoting the safety of the travelling public, the penalty points scheme should also be amended to include an ability to issue points to drivers found using vehicles with defective tyres with 6 penalty points being issued for each defective tyre found.

- 3.26 Members are therefore asked to resolve to approve the revised Hackney Carriage and Private Hire Penalty Points Scheme shown at **Appendix 4**, which reflects those changes.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

- Appendix 1 – Consultation Survey
- Appendix 2 – Response from the Land & Air Quality Team
- Appendix 3 – Response from Dodford and Grafton Parish Council
- Appendix 4 – Revised Hackney Carriage and Private Hire Penalty Points Scheme Following Consultation

AUTHOR OF REPORT

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Hackney Carriage and Private Hire Penalty Point Scheme

Consultation on Proposed Amendment

May 2019

Background to the Hackney Carriage and Private Hire Penalty Points Scheme

The vast majority of those individuals that Bromsgrove District Council licences to drive and operate hackney carriage and private hire vehicles comply with all of the rules and requirements rules that their status as a licensed driver places upon them.

However there are unfortunately a small minority of licensed drivers that fail to comply with some of these rules and requirements and this impacts on the vast majority of licence holders and can damage the reputation of the taxi and private hire services on offer in the Bromsgrove District.

In November 2017, Bromsgrove District Council implemented a penalty points scheme for hackney carriage and private hire licence holders.

The basic principle behind the 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.

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.

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.

A copy of the current Hackney Carriage and Private Hire Penalty Points Scheme is shown at **Annex 1** of this consultation document.

The Licensing Committee recently considered a report which provided an update of the operation of the scheme since its implementation. Further to that report, Councillors have decided to carry out consultation on amending the penalty points scheme to include reference to issuing penalty points to drivers leaving vehicle engines running unnecessarily whilst the vehicles are stationary on a public road.

Rationale Behind the Proposed Amendment

The Royal College of Physicians estimate that 40,000 deaths a year in the UK are linked to air pollution, with engine idling contributing to this.

Engine idling is the act of leaving a vehicle's engine running while it is stationary. While this is often the result of traffic, there are some instances, such as waiting for children outside of schools and in traffic jams/long traffic pauses, when idling is not necessary and should be avoided.

Engine idling increases the amount of exhaust fumes in the air. These fumes contain a number of harmful gasses including carbon dioxide, which is bad for the environment and contributes towards climate change, as well as a range of other harmful gasses including nitrogen dioxide, carbon monoxide and hydrocarbons which are linked to asthma and other lung diseases.

Children are particularly vulnerable to exhaust fumes as the harmful gasses contained in the fumes can impact on developmental growth.

Councillors on the Council's Licensing Committee are particularly concerned about the levels of air quality in the Bromsgrove District and there are current three areas within the District that have been declared as Air Quality Management Areas (AQMAS) as these areas have been identified as having levels of nitrogen dioxide that exceed or are expected to exceed objective levels set out in law.

As part of wider efforts being made to improve air quality in the District, Councillors would like to use the penalty points scheme as a means of discouraging drivers of licensed vehicles from leaving their engines idling.

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"*

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 it is considered that it would be reasonable to amend the penalty point scheme to enable officers to issue three penalty points for breaches of rule 123 of the Highway Code.

Consultation Questions

The Council is proposing to amend its Hackney Carriage and Private Hire Penalty Points Scheme to enable officers to issue three penalty points to drivers for breaching rule 123 of the Highway Code. Do you agree with this proposal?

YES

NO

Please provide your reasons for your answer above:

Are there any other amendments to the Hackney Carriage and Private Hire Penalty Points Scheme that you think the Council should consider? If so, please provide details below:

This consultation will remain open for responses until **26th July 2019**.

Once completed, please return your consultation response by post to:

Consultation on Penalty Points Scheme – Bromsgrove District Council
Worcestershire Regulatory Services
Wyre Forest House
Finepoint Way
Kidderminster
Worcestershire
DY11 7WF

Alternatively you can return your consultation response via email to enquiries@worcsregservices.gov.uk (please use the subject line “Bromsgrove Taxi Consultation Response”)

Finally you can submit your consultation response at the Reception Desk at the Customer Service Centre at Parkside, Market Street, Bromsgrove, B61 8DA in an envelope marked for the attention of “Licensing.”

Annex 1 – Current Penalty Points Scheme



Bromsgrove
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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.

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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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Response from Land & Air Quality Team (Worcestershire Regulatory Services)

The Council is proposing to amend it's Hackney Carriage and Private Hire Penalty Points Scheme to enable officers to issue three penalty points to drivers for breaching rule 123 of the Highway Code. Do you agree with this proposal?

Yes

Please provide the reason(s) for your answer:

Thank you for consulting the Land and Air Quality Team, Worcestershire Regulatory Services (WRS) on the proposed amendment to taxi penalty points scheme in respect of drivers leaving engines running unnecessarily when vehicles are stationary on public roads.

The Bromsgrove district currently has three air quality management areas (AQMAs) declared because of exceedances of the annual mean objective for nitrogen dioxide (NO₂). These AQMAs are located at Lickey End, Redditch Road and Worcester Road, Bromsgrove. All of the AQMAs are attributable to emissions generated from road traffic. A fourth AQMA at Kidderminster Road, Hagley was recently revoked although the area remains closely monitored. Air quality is a concern throughout the district and any action taken to help reduce emissions is welcomed.

WRS would generally support the proposals especially where it would restrict unnecessary idling over longer periods of time. It is considered that the scheme represents positive intent and sends the right message in terms of air quality and it may be something that can be carried over into other areas where Bromsgrove District Council has influence.

It should be noted however that there are some uncertainties associated with the emissions produced when switching an engine off and back on again in a short period of time, particularly relevant to older vehicles. This process may actually increase the amount of emissions produced. Results would be variable depending on a number of factors including age, make and model of vehicle, fuel type, duration between switching the engine off and on again etc. Conclusive studies in this area appear to be quite limited and impacts would vary from vehicle to vehicle. The Licensing Department may wish to consider the makeup of the taxi fleet in Bromsgrove to consider whether age of the vehicles would be relevant in this respect. If the fleet is predominantly made up of newer vehicles this would be much less of a concern.

Overall the proposal is considered to represent a positive step in a bid to help reduce emissions in the district.

Are there any other amendments to the Hackney Carriage and Private Hire Penalty Points Scheme you think the Council should consider? If yes, please provide details below

Anything that can help increase uptake of more sustainable, low emission vehicles in the district. The Penalty Points Scheme may not be the correct forum for this but anything that would incentivize uptake of these type of vehicles would be welcomed.

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Agenda Item 4

From: Kay Stone

Sent: 26 June 2019 17:50

To: WRS Enquiries

Subject: Consultation on Amendment to Bromsgrove District Council Hackney Carriage and Private Hire Penalty Points Scheme

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sirs

The consultation was discussed at the recent Dodford with Grafton Parish Council and these are the suggestions from them:

- 7. Failure to provide fire extinguisher – Increase points from 3 to 4
- 17. Failing to keep appropriate records of bookings – Increase points from 4 to 6
- 18. Failing to notify the Council of a change of name or address – Increase points from 3 to 4
- 21. Failing to produce insurance certificate to officer on request – Increase points from 4 to 6
- 22. Failing to produce vehicle for inspection on request – Increase points from 4 to 6
- 24. Causing or permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand – Decrease points from 4 to 3
- 26. Obstructing an authorised officer or constable – Increase points from 3 to 4
- 27. Failing to comply with a requirement properly made by an authorised officer or constable – Increase points from 3 to 4
- 29. Using vehicle horn otherwise than in accordance with the rule 112 of the Highway Code – Decrease points from 3 to 2
- 30. Allowing smoking in a licensed vehicle – Increase points from 3 to 6
- 31. Smoking in a licensed vehicle – Increase points from 3 to 6
- 32. Parking a vehicle in an illegal or dangerous position – Increase points from 3 to 4

Many thanks.

Best wishes

Kay

*Kay Stone (Mrs)
Clerk to Dodford with Grafton Parish Council*

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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.

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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		
33	Leaving a vehicle engine running unnecessarily while that vehicle is stationary on a public road (Highway Code Rule 123)	3	X		
34	Using a vehicle with defective tyres	6 (per tyre)	X	X	

THE AIR QUALITY (TAXI AND PRIVATE HIRE VEHICLES DATABASE)(ENGLAND AND WALES) REGULATIONS 2019

Relevant Portfolio Holder	Councillor A. Kent
Portfolio Holder Consulted	No
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 Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 took effect on 1st May 2019 and the Council will shortly be required to provide relevant information in accordance with the regulations. This report is being prepared to provide information to Members on the implications of the regulations.

2. RECOMMENDATIONS

That Members note the contents of the report.

3. KEY ISSUES

Financial Implications

3.1 The costs of complying with the requirements of the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 will be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

3.2 The legal implications are set out in the main body of the report.

Service / Operational Implications

3.3 In 2017, the government published the UK plan for tackling roadside nitrogen dioxide concentrations followed by a supplement in 2018 (together “the plan”).

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23rd September 2019

- 3.4 The plan identified 61 local authorities in England showing exceedances which have been required to carry out feasibility studies and if necessary, develop bespoke plans to bring roadside concentrations of nitrogen dioxide within legal limits in the shortest possible time. The Welsh Government is taking the same approach with two local authorities in Wales.
- 3.5 Clean Air Zones (“CAZs”) will have a key role to play in delivery of a number of these local plans. The Clean Air Zone Framework sets out the minimum requirements for a CAZ and the expected approach to be taken by local authorities when implementing and operating these zones.
- 3.6 CAZs are not required to include a charging element. However, where there are no other viable options to reduce air pollution to legally permissible levels in the shortest possible time, some local authorities may decide to introduce zones where vehicle owners are required to pay a charge to enter, or move within, a zone if they are driving a vehicle that does not meet the particular minimum emission standard for their vehicle type in that zone.
- 3.7 The Framework sets out four classes of charging CAZ:
- Class A - Buses, coaches, taxis and private hire vehicles (PHVs)
- Class B - Buses, coaches, taxis, PHVs and heavy goods vehicles (HGVs)
- Class C - Buses, coaches, taxis, PHVs, HGVs and light goods vehicles (LGVs)
- Class D - Buses, coaches, taxis, PHVs, HGVs, LGVs, cars (motorcycles and mopeds are optional).
- 3.8 Each vehicle type is expected to reach the following minimum standards:
- Euro 4 for petrol driven vehicles (Euro IV for larger vehicles)
 - Euro 6 for diesel driven vehicles (Euro VI for larger vehicles)
- 3.9 Ultra-low emission vehicles with significant zero emission range will never be charged for entering or moving through a CAZ.
- 3.10 Leeds and Birmingham will be introducing charging CAZs in 2020 (class B and D respectively). A number of other authorities have also consulted on the introduction of a charging CAZ.

- 3.11 To implement these schemes, local authorities may need to differentiate between taxis/PHVs and private vehicles. This is because in some cases local authorities will implement CAZs that apply charges to taxis and PHVs and not to private vehicles, or they may wish to set a different level of charge for these vehicles.
- 3.12 Licensing authorities only hold information on taxis and PHVs licensed within their own area so are not able to clearly identify and charge a taxi/PHV entering or moving around their charging CAZ which has been licensed by another authority (also known as 'out of area vehicles').
- 3.13 If local authorities cannot identify all out of area vehicles then this would undermine their ability to effectively operate CAZs where charging of these vehicles has been determined to be necessary.
- 3.14 The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 therefore require all licensing authorities in England and Wales to submit certain information about their licensed taxis/PHVs to a national database to be overseen by the Department for Food, Environment and Rural Affairs (DEFRA) .
- 3.15 Licensing authorities are responsible for ensuring that the data which they provide is accurate, legitimate and up to date.
- 3.16 It is also for licensing authorities to ensure that they have complied with any data protection legislation when implementing their obligations under the Regulations. The Council has signed a Memorandum of Understanding (MoU) with DEFRA with respect to the data that the Council has to provide under the Regulations.
- 3.17 It is anticipated that the Council will be required to begin supplying the required data towards the end of October 2019. In preparation for this all vehicle proprietors will be notified in writing of the obligation placed on the Council to provide the relevant data to DEFRA and the Council's vehicle licence application forms will also be updated to make reference to the Regulations.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

None

AUTHOR OF REPORT

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LICENSING COMMITTEE

23rd Sept 2019

23rd September 2019

Penalty Points Scheme – responses received to the consultation on the proposed amendments to the scheme

Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 – Information Report

18th November 2019

Review of Street Collection Policy and Regulations

Animal Activity Licensing Update – Information Report

9th March 2020

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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