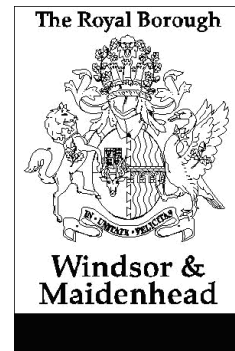


Report for: ACTION
Item Number:



<b>Contains Confidential or Exempt Information</b>	<b>No - Part 1</b>
<b>Title</b>	Amending RBWM's Hackney Carriage and Private Hire Penalty Points System
<b>Responsible Officer(s)</b>	Craig Miller - Community Protection and Enforcement Lead
<b>Contact officer, job title and phone number</b>	Steve Johnson - Enforcement Principal 01628 683555
<b>Member reporting</b>	Cllr Asghar Majeed
<b>For Consideration By</b>	Licensing Panel
<b>Date to be Considered</b>	9 <sup>th</sup> October 2014
<b>Implementation Date if Not Called In</b>	1 <sup>st</sup> November 2014
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Taxi; Hackney Carriage; Private Hire; Penalty Points

**Report Summary**

This report is concerned with a proposed amendment to RBWM's Penalty Points System for Hackney Carriage and Private Hire drivers.

<b>If recommendations are adopted, how will residents benefit?</b>	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
If adopted, the proposed amendment would increase the safety and wellbeing of the public, as well as improving the 'street scene' environment and transport flow across the Borough.	November 2014 - if the proposed amendment is approved.

## 1. Details of Recommendations

### RECOMMENDATION:

**That members resolve to adopt the amended penalty points system with effect from 1<sup>st</sup> November after giving due consideration to the representations made.**

**2. Reason for Recommendation and Options Considered**

- 2.1 At the July 2014 Panel Members resolved to authorise consultation with the trade about proposed amendments to the taxi and private hire penalty points system. The existing penalty points system is attached as Appendix A and the proposed new system, agreed by Members at the July Panel for consultation purposes, is attached as Appendix B.
- 2.2 The proposed amendments add parking breaches to the existing sanctions and would allow licensing enforcement staff to give penalty points to drivers parking illegally. This is a particular issue in Windsor and complaints have been received about too many taxis parking in Thames Street on double yellow lines.
- 2.3 The proposed amendments also adopt some general recommendations made in legal advice given to the council that Members reviewed at the July Panel – as well as including a suggestion put forward by Members at that Panel that the penalty for “failing to notify the Licensing Officer of any points or convictions being imposed by the Courts” be increased from 3 to 6 points.
- 2.4 Consultation was carried out with the taxi trade via the regular newsletter sent to all drivers, proprietors and operators. Only one response has been received - from a taxi driver who represents other drivers on behalf of the GMB trade union. That response is attached as Appendix C.
- 2.5 Members are respectfully requested to take this representation into account as part of the decision-making process. However, it is suggested that Members should not accept the recommendation in the response that certain offences under the penalty points system should result in automatic suspension or revocation. The legal advice reviewed by Members at the July Panel made it clear that automatic suspension or revocation falls foul of current case law and could lead to the system being struck down as unlawful.

<b>Option</b>	<b>Comments</b>
1. Carry out the Recommendation	This will give Licensing Officers an additional tool by which to ensure that Hackney Carriage and Private Hire vehicles within the Borough do not park illegally or without care.
2. Do nothing	This would leave matters as they currently are, with Licensing Officers having no real ability to deal with the issue of illegally or carelessly parked Hackney Carriage or Private Hire vehicles.

### 3. Key Implications

What does success look like, how is it measured, what are the stretch targets

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
A reduction in the number of complaints regarding incidences of unlawful parking by taxi and private hire vehicles.	6+ complaints per month.	3-5 complaints per month.	1-2 complaints per month.	No complaints.	From 1 <sup>st</sup> December 2014.

### 4. Financial Details

None

### 5. Legal Implications

Conditions can be attached to vehicle licenses by virtue of Sections 47 & 48 Local Government (Miscellaneous Provisions) Act 1976. Hackney Carriage drivers have special bylaws to govern their behaviour and Private Hire drivers can have conditions imposed under Section 51.

### 6. Value for Money

Not relevant at this stage.

### 7. Sustainability Impact Appraisal

None

### 8. Risk Management

Identify any potential risks associated with the options and the proposed course of action. If none, say so.

Risks	Uncontrolled Risk	Controls	Controlled Risk
Judicial Review or appeal conditions	The proposed policy could be judicially reviewed or challenged by way of individual appeals to the magistrates court	The process in determining the policies is considered fair and reasonable and balances the needs of the applicants with the duty to protect the public	Medium

## **9. Links to Strategic Objectives**

This links to work for safer and stronger communities. Having clear, strong and fair conditions means that the travelling public will be safe and secure, and that transport flow across the Borough will be improved.

### **Our Strategic Objectives are:**

#### **Residents First**

- Support Children and Young People
- Encourage Healthy People and Lifestyles
- Improve the Environment, Economy and Transport
- Work for safer and stronger communities

#### **Value for Money**

- Deliver Economic Services
- Improve the use of technology
- Increase non-Council Tax Revenue
- Invest in the future

#### **Delivering Together**

- Enhanced Customer Services
- Deliver Effective Services
- Strengthen Partnerships

#### **Equipping Ourselves for the Future**

- Equipping Our Workforce
- Developing Our systems and Structures
- Changing Our Culture

## **10. Equalities, Human Rights and Community Cohesion**

A full EQIA is not anticipated at this stage.

## **11. Staffing/Workforce and Accommodation implications:**

None

## **12. Property and Assets**

None

## **13. Any other implications:**

None

## **14. Consultation**

Consultation with the trade has taken place, as outlined above at paragraph 2.4

## **15. Timetable for Implementation**

If approved, the new penalty points system will be introduced with effect from 1<sup>st</sup> November 2014.

## **16. Appendices**

Appendix A	The current RBWM Penalty Points System
Appendix B	Proposed new RBWM Penalty Points System
Appendix C	Response to Consultation

## 17. Background Information

Sections 47, 48 & 51 Local Government (Miscellaneous Provisions) Act 1976

## 18. Consultation (Mandatory)

Name of Consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	01/10/2014	02/10/2014	
Cllr Cox	Lead Member	30/09/2014	03/10/2014	
Cllr Majeed	Licensing Panel Chairman	30/09/2014	01/10/2014	
Cathryn James	Strategic Director of Operations	30/09/2014		
Elaine Browne	Shared Legal Services	02/10/2014		

## Report History

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Steve Johnson	Enforcement Principal	01628 683555

# APPENDIX A

## PENALTY POINTS SYSTEM

The introduction of the Penalty Points System is to provide an effective enforcement process for Licensing Officers in respect of Hackney Carriage and Private Hire Driver and Vehicle Licence holders, as well as Private Hire Operators who are found to be in breach of local or national conditions and policies relating to the licensing functions.

The emphasis of the Penalty Points System is to increase and ensure the safety and wellbeing of members of the public as well as compliance with legal requirements.

The system is only intended to ensure compliance by those licence holders who it is **proved** have breached or are in breach of the rules and regulations that they should be complying with.

The system operates in line with penalty points endorsed on a driving licence and that where **12** unspent penalty points are accumulated this will result in automatic referral to the Licensing Panel.

Where a referral is made to the Licensing Panel, it will be that Panel's decision on what further action if any should be taken.

Where penalty points are administered by a Licensing Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to the Council's Appeals Panel.

Any licence holder has the right to appeal against a Licensing Panel decision to the Magistrates Court within **21** days of notification of the Panel's decision.

Failing to have a Private Hire Driver or Hackney Carriage Driver badge in his possession	3 Points
Not having a fire extinguisher and/or first aid kit	3 Points
A vehicle issued with Dispensation and not having the plate in the vehicle or the Dispensation Certificate in the vehicle	3 Points
Failing to notify the Licensing Officer of any points or conviction being imposed by the Courts	3 Points
Failing to notify a change of address within 7 days	3 Points
Driving an unlicensed vehicle as a Private Hire Vehicle	6 Points
Failing to renew Private Hire Driver Licence or Private Hire Vehicle Licence within the correct time	6 Points
Unlawfully plying for hire in a Private Hire Vehicle	3 Points
Failing to display an identity plate on the vehicle	3 Points
Failing to notify the Licensing Officer of being involved in an accident	3 Points
Private Hire Operators failing to notify the Licensing Officer of any complaints received	3 Points
Failing to attend the Town Hall when direct by the Licensing Officer	Licence to be suspended until licence holder attends as required
Allowing more passengers to be carried in the vehicle than authorised by the Private Hire Vehicle Licence	6 Points

## APPENDIX B

### PENALTY POINTS SYSTEM

The introduction of the Penalty Points System is to provide an effective enforcement process for Licensing Officers in respect of Hackney Carriage and Private Hire Driver and Vehicle Licence holders, as well as Private Hire Operators who are found to be in breach of local or national conditions and policies relating to the licensing functions.

The emphasis of the Penalty Points System is to increase and ensure the safety and wellbeing of members of the public as well as compliance with legal requirements.

The system is only intended to ensure compliance by those licence holders who it is **proved** have breached or are in breach of the rules and regulations that they should be complying with.

The system operates in line with penalty points endorsed on a driving licence and that is where **12** unspent penalty points are accumulated this will result in referral to the Licensing Panel.

Penalty points become spent 12 months from the date of being administered.

Licensing Officers reserve the right to refer cases straight to a Licensing Panel, rather than imposing points, where they consider the seriousness of the case merits doing so.

Where a referral is made to the Licensing Panel, it will be that Panel's decision on what further action if any should be taken – such action could include the suspension or revocation of the licence.

The Licensing Panel will allow the licence holder the opportunity to challenge the imposition of individual sets of penalty points.

Where penalty points are administered by a Licensing Officer and the licence holder wishes to dispute the matter, the licence holder may request for the matter to be referred to the Council's Appeals Panel.

Such an appeal must be submitted to the Council in writing, stating the grounds for appeal, within 21 days of administration of the penalty points.

Any licence holder also has the right to appeal against a Licensing Panel or Appeals Panel decision to the Magistrates Court within 21 days of notification of the decision.

Failing to have a Private Hire driver or Hackney Carriage driver badge in his possession	3 Points
Not having a fire extinguisher and/or first aid kit in the vehicle	3 Points

A vehicle issued with dispensation and not having the plate in the vehicle or the dispensation certificate in the vehicle	3 points
Failing to notify the Licensing Officer of any points or convictions being imposed by the Courts	6 Points
Failing to notify a change of address within 7 days	3 Points
Driving an unlicensed vehicle as a Private Hire vehicle	6 Points
Allowing an unlicensed driver to drive a Private Hire vehicle	6 Points
Failing to renew a Hackney Carriage or Private Hire Vehicle drivers licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
Unlawfully plying for hire in a Private Hire Vehicle	Referral to Licensing Panel to consider revocation of licence
Failing to display an identify plate on the vehicle	3 Points
Failing to notify the Licensing Officer of being involved in an accident	3 Points
Private Hire operators failing to notify the Licensing Officer of any complaints received	3 Points
Private Hire operators failing to maintain their records in the correct format	3 Points
Failing to attend the Town Hall when directed by the Licensing Officer	Referral to Licensing Panel to consider revocation of licence
Allowing more passengers to be carried in the vehicle than authorised by the private hire vehicle licence	6 points
Causing or permitting a Hackney Carriage to wait on double yellow lines, other than to allow passengers to board or alight or other than plying for hire on a Hackney Carriage rank	3 points
Causing or permitting a Private Hire vehicle to wait on double yellow lines, other than to allow passengers to board or alight	3 points
Causing or permitting a Private Hire vehicle or Hackney Carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight	3 points



## APPENDIX C

To the Licensing Panel of RBWM  
We write on behalf of 180 Hackney drivers

Reference Newsletter / Consultation New Penalty points

1. Failing to have a Private hire driver or Hackney carriage Driver badge in his possession?

**A: This should carry at least 6 points this is the basic tool for the job,**

2. Not having a fire extinguisher and/ or First aid kit in the vehicle?

**A: we agree should carry 3 points**

3. A vehicle issued with dispensation and not having the plate in the vehicle or the dispensation certificate in the vehicle?

A: The use of Dispensation is not understood and used as per the law states, is there any law which explains this?

After 9pm at least 10 cars are driving around without plates and operator logo.

**Driving up and down the high street, and stopping where the members of the public are standing, Shouting out you want a "Taxi".**

**This is done by private Hire Drivers or at least we think that these are private hire vehicles because the vehicles have no identity plates or logos, of any sort.**

**This should be policed for safety of the general public and the police should be made aware about unlawfully plying for hire in a private hire vehicles.**

**"Royal borough Council should be concerned about the safety of the their residents,"**

4. Driving an unlicensed vehicle as a private hire vehicle

**A: This should have 12 points due to the seriousness of the issue and the safety of the Public should not be taken so lightly**

4. Allowing an unlicensed driver to drive a private hire vehicle

**A: This should carry serious punishment for sake of public safety and disregard for a responsibility as an operator.**

5. Unlawfully plying for hire in a private hire vehicle

**This should include the design and the colour of the vehicle so as to not look or be mistaken for hackney carriage.**

**Private hire driver queue up under the arches and the Barclays Bank and call to the public you want a "taxi" in fact they are doing this under the noses of the police.**

**This is common practice in the Royal borough "Windsor, Maidenhead, Ascot" the borough has created opportunities for Private Hire Drivers to openly PLY for Hire and put the residents at risk.**

### [Law Commission Recommendations](#)

#### **Recommendation 5**

We recommend that only the providers of licensed taxi services should be allowed to describe themselves using the term "taxi" on vehicles or in advertising materials.

#### **Recommendation 9**

We recommend that local authority stopping officers should have a new enforcement power to require licensed vehicles to move on where the officer considers that:

- (a) There is a reasonable likelihood that the public may  
Believe the vehicle is available for immediate hire;
- (b) The vehicle is causing an obstruction to traffic flow; or
- (c) The driver is attempting to take work away from ranked taxis.

#### **Recommendation 10**

We recommend introducing a new offence which makes it unlawful for anyone other than a locally licensed taxi driver to accept a booking for a journey starting there and then.

#### **Recommendation 18**

It should be an offence, in the course of business, to dispatch an unlicensed vehicle or driver. It would also be an offence for a person to dispatch a private hire vehicle and driver unless that person holds a dispatcher's licence. It would be a defence if the driver and vehicle were reasonably believed to hold appropriate taxi licences.

#### **Should carry at least 9 points**

6. Failing to notify the Licensing officer of any points or convictions being imposed by the courts

**A. We agree**

7. Failing to notify a Change of address within 7 days

**A: We agree**

8. Driving an unlicensed vehicle as a private hire vehicle

**A: Should be instant ban, as no insurance and no checks would have been carried out on the driver and the vehicle.**

9. Allowing an unlicensed driver to drive a private hire vehicle

**A. This should carry a maximum punishment.**

10. Failing to renew a Hackney carriage or private hire vehicle driver license or vehicle license within the correct time (unless extenuating circumstances apply)

**A: This should have time and circumstances taken into account for instance if the person is out of the country or on holidays**

**We agree**

11. Unlawfully plying for hire in private hire vehicle

**A: This should carry a maximum punishment to make an example for others, so no one else should play with lives of the public.**

**More enforcement needs to be carried out for the safety of the residents; use of word "Taxi" either written or verbal should be restricted to Hackney Carriage use only. Law should be highlighted in relation to the use of word "Taxi"**

12. failing to display an identity plate on the vehicle

**A: This again falls in to public safety therefore should have at least 6 points.**

13. Failing to notify the licensing officer of being involved in an accident

**A: what type of accident eg where the vehicle of the road for few day/ weeks**

14. Private hire operators failing to notify the licensing officer of any complaints received

**A: We agree**

14. Private hire operators failing to maintain their records in the correct format

**A: Should carry at least 6 points since this is the job**

15. Failing to attend the Town hall when directed by the Licensing Officer

**A: This should have time and circumstances taken into account for instance if the person is out of the country**

16. Allowing more passengers to be carried in the vehicle than authorised by the private hire vehicle Licence

A: Tinted windows should be looked at as this is the sole reason to hide or over load, This put young and venerable residents at risk and for that matter the safety of the residents and the driver.

Over loading should carry serious punishment since overloading invalidates their insurance and puts the residents at risk.

In one instance a silver estate merc stopped by the rank and called over seven member of the public "you want a taxi" and put 3 passenger in the boot of the estate vehicle,

17. Causing or permitting a Hackney Carriage to wait on double yellow Lines, other than to allow passengers to board or alight or other than applying for hire on a Hackney carriage rank

A: This should be investigated more vigorously since it is private hire drivers more likely to wait on yellow lines and in unsafe place photo are enclosed

18. Causing or permitting a Private Hire Vehicle to wait on double yellow lines, other than to allow passengers to board or alight.

a: This is common in the royal borough where the private hire vehicles without any plates or marking queue up in Windsor, Maidenhead, ascot, in some cases in front of Hackney ranks or between Hackney carriages and pick up without fear of the police or any enforcement authority to stop them. In fact the private hire drivers have been heard on many occasions to call out to the member of public you want a "taxi", in fact the private hire call them self's "Taxi" if approached by any member of the public.

19. Causing or permitting a private hire vehicle or Hackney carriage to wait on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight

**This we disagree Hackney are not the cause of this problem**

A: Having carried out a survey of at least 5 councils around the borough their are no such condition placed on Hackney carriage, in fact these apply to private hire vehicles for safety of the public, and police and enforcement officers are trained to move private hire vehicles to stop "touting" and safe guard the public.

20. Parking on Hackney Carriage Ranks

A: This should carry a instant fine and 12 points for private hire, since they are not only breaking one law "parking in restricted place but with the intention of touting or "plying for hire".







More photos can be supplied if required  
N.Jarral