

Public Document Pack

NOTICE OF MEETING



LICENSING PANEL

will meet on

MONDAY, 16TH JANUARY, 2017

At 6.00 pm

in the

COUNCIL CHAMBER - TOWN HALL,

TO: MEMBERS OF THE LICENSING PANEL

COUNCILLORS JESSE GREY (CHAIRMAN), DAVID BURBAGE (VICE-CHAIRMAN), MALCOLM ALEXANDER, HASHIM BHATTI, PHILLIP BICKNELL, JOHN BOWDEN, JOHN COLLINS, CHARLES HOLLINGSWORTH, DAVID HILTON, MAUREEN HUNT, SAYONARA LUXTON, WESLEY RICHARDS, DEREK SHARP, JULIAN SHARPE AND ADAM SMITH

SUBSTITUTE MEMBERS

COUNCILLORS NATASHA AIREY, CHRISTINE BATESON, DR LILLY EVANS, GEOFF HILL, JOHN LENTON, MARION MILLS, GARY MUIR, NICOLA PRYER, SAMANTHA RAYNER, HARI SHARMA, SHAMSUL SHELMIM, JOHN STORY, DEREK WILSON AND LYNDA YONG

Karen Shepherd - Democratic Services Manager - Issued: Date Not Specified

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator

Fire Alarm - In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

Recording of Meetings – The Council allows the filming, recording and photography of public Council meetings. This may be undertaken by the Council itself, or any person attending the meeting. By entering the meeting room you are acknowledging that you may be audio or video recorded and that this recording will be available for public viewing on the RBWM website. If you have any questions regarding the council's policy, please speak to the Democratic Services or Legal representative at the meeting.

AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence.	
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.	5 - 6
3.	<u>MINUTES</u> To confirm the Part I Minutes of the meeting held on 11 October 2016.	7 - 10
4.	<u>DEPOSIT PAYMENTS FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE - APPLICATION AND RENEWAL APPOINTMENTS</u> Greg Nelson, Trading Standards & Licensing Lead to report.	11 - 16
5.	<u>AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY AND CONDITIONS - PENALTY POINTS</u> Greg Nelson, Trading Standards & Licensing Lead to report.	17 - 24
6.	<u>DEALING WITH NON-USE OF TAXIMETERS BY HACKNEY CARRIAGE DRIVERS</u> Greg Nelson, Trading Standards & Licensing Lead to report.	25 - 32
7.	<u>DATES OF FUTURE MEETINGS</u> Members to note the date of the next Licensing Panel is Tuesday 4 April 2017 at 6.00pm in the Council Chamber, Town Hall, Maidenhead.	

This page is intentionally left blank

MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

This page is intentionally left blank

Agenda Item 3

LICENSING PANEL

TUESDAY, 11 OCTOBER 2016

PRESENT: Councillors Jesse Grey (Chairman), David Burbage (Vice-Chairman), Malcolm Alexander, Phillip Bicknell, John Bowden, John Collins, David Hilton, Maureen Hunt, Wesley Richards, Derek Sharp, Julian Sharpe, Shamsul Shelim and Derek Wilson

Officers: Sarah Conquest, Steve Johnson, Shilpa Manek and Greg Nelson

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bhatti, Hollingsworth and Smith.

DECLARATIONS OF INTEREST

No Declarations of interest were noted.

MINUTES

The minutes of the last meeting on Wednesday 13 July 2016 were unanimously agreed.

PROPOSED INCREASE TO HACKNEY CARRIAGE FARES

Steve Johnson, Enforcement Principal, introduced the report on Proposed increase to Hackney Carriage Fares. The report had been presented at the July 2016 Licensing Panel and Members had deferred the report to the next Licensing Panel as Members wanted further information on what the proposed increase would actually look like and as a result of the uncertain economic environment.

Steve Johnson went through the report and all the appendices and explained that it was up to Members to discuss and agree the way forward. Steve Johnson advised that if an increase of fares was agreed then a consultation period would be required of 14 days.

There were three speakers present at the meeting, Mr Yasin, Mr Jarral and Mr Garelick.

Mr Yasin, Chairman of RBWM taxi association, highlighted that the Hackney Carriages mainly covered local journey's and an increase of less than 5% would not even move the meter and therefore there would need to be at least a 5% rise especially for local journey's. Mr Yasin was in favour for an additional passenger increase of 20p. The Hackney Carriages currently charge 20p per extra passenger and would like this to be increased to 40p per extra passenger.

Mr Jarral explained that Hackney Carriage drivers worked a minimum of 35 hours which was equivalent of £6.04 per hour. The RBWM fares were equivalent to fares in the Midlands whereas the living standards were much higher in the south.

Mr Garelick highlighted all the advantages of the Hackney Carriage. These included the average cost of £31K, the disability access function, the public safety aspect and all drivers were trained to a professional level. Currently all drivers were earning below the living wage and Hackney Carriages were losing out to business as a result of cross boundary drivers.

Points discussed by Members included:

- Members were not clear on what increase the Hackney Carriage drivers wanted.

- The last fare rise was in 2014 of only 3% with a 20p increase per additional passenger for fares of more than two passengers.
- Members were not clear on the average journey's that were done and the number of addition drivers. Officers explained that average journey data was not collected and there were not many increases of Hackney Carriage drivers.
- Increased fares having an effect on use of Hackney Carriages.
- A 10% increase of fares was discussed with no increase in additional passenger charge.
- Private cars were used more for door to door services and Hackney Carriages were used more from taxi ranks, such as at train stations.
- Petrol prices were discussed, insurance and taxes were discussed.
- A premium Hackney Carriage service was provided by the drivers who were always professional.
- A 15% increase of fares was discussed with no increase in additional passenger charge.
- The possibility of a discount for advantage card holders was proposed.

Councillor Hunt proposed a 10% increase in fares with additional passenger charge staying at 20p. This was seconded by Councillor Bowden. This fell.

Councillor Bicknell proposed a 15% increase in fares with the additional passenger charge staying at 20p. This was seconded by Councillor Richards. This was passed.

A named vote was taken and the 15% increase in fares with the additional passenger charge staying at 20p was passed. Councillors Alexander, Collins, Bicknell, Shelim and Grey voted for this and Councillors Hunt, Bowden, Hilton, Sharpe and Wilson voted against and Councillors Sharp and Burbage abstained from voting. This was passed.

Steve Johnson advised that a statutory process of advertising would need to take place. A notice must be published in at least one of the local papers specifying a period of 14 days from the date of the first publication for objections. Should there be no objections during the period then the revised table of fares would come into effect the day after the last date of objections.

The Chairman asked officers to look into the benefits for advantage card holders.

HACKNEY CARRIAGE LIVERY

Steve Johnson, Enforcement Principal, introduced the report on Hackney Carriage Livery. The report summarised the current conditions and what the Hackney Carriage trade had requested. Steve Johnson highlighted that the current conditions were only agreed in 2012. The purpose of the report was to allow the Panel to consider the issue and to decide the way forward.

The Hackney Carriage trade had raised the following issues:

- An all white vehicle would be better.
- A smaller logo on the vehicle which was straight and removable would be better.
- Allow advertising on the vehicles.

Sarah Conquest, Licensing Assistant explained that the main difference between a Hackney Carriage and a private hire car was that a Hackney Carriage vehicle could be hailed within the borough and private hire vehicle could only be pre booked. Outside the borough, the Hackney Carriage vehicle could not be hailed.

There were two speakers present at the meeting, Mr Jarral and Mr Garelick.

Mr Jarral expressed that the main reason for suggesting the changes were because the cars could not be used for private work with the current livery.

Mr Garelick advised Members that the current livery cost £1000 per vehicle. The livery made it more costly to sell or purchase a vehicle. The choice of a plain white, silver or black vehicle would allow flexibility and allow drivers to take private bookings.

Members discussed the following points:

- Removing or altering the branding would be detrimental.
- The residents recognise the RBWM branding.
- RBWM branding provides a safety feeling for residents and represents quality.

It was unanimously agreed that the livery should stay as it currently is and no need to bring a report to a future meeting.

DATES OF FUTURE MEETINGS

Members noted the next meeting of the Licensing Panel.

The meeting, which began at 6.00 pm, finished at 7.45 pm

CHAIRMAN.....

DATE.....

This page is intentionally left blank

Title: Deposit Payments for Hackney Carriage / Private Hire Vehicle Application and Renewal Appointments
Contains Confidential or Exempt Information?: NO - Part I
Member reporting: Councillor Grey, Licensing Panel Chair
Meeting and Date: Licencing Panel 16 January 2017
Responsible Officer(s): Simon Fletcher, Strategic Director of Operations & Customer Services. Craig Miller, Head of Community Protection & Enforcement Services
Wards affected: All

REPORT SUMMARY

1. Hackney Carriage and Private Hire Vehicle (PHV) drivers and operators are required to attend appointments in person when applying for or renewing their licences. These appointments are pre-booked
2. A high proportion of appointments are not completed because the driver either fails to attend, is late or fails to present the correct documentation.
3. This report seeks to introduce a deposit payment system for appointments so as to raise the percentage of appointments attended and completed, reduce waiting times for appointments, and make better use of RBWM staff and resources

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i) **Members approve the introduction of a deposit payment system amounting to 50% of the cost of the licence being applied for, for licence application and renewal appointments for hackney carriage and private hire drivers, vehicles and operators.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 When a hackney carriage or private hire driver or operator applies for or renews their licence (an annual or three yearly process) they have to make an appointment to see a member of RBWM staff in person. This is required to verify the identity of the applicant and to see originals of documentation.

- 2.2 No charge is currently made for this appointment although there is the power to charge for knowledge tests required to be taken by new applicants.
- 2.3 Existing licence holders are advised in writing six weeks before their licence expires of the need to make a renewal appointment. This notification includes a list of the documentation that the driver will be required to present at the appointment
- 2.4 Despite this notification some drivers leave it until the last moment to try and book an appointment. Whilst the onus is on them to make an appointment in good time it does not stop them complaining if they cannot get an appointment at very short notice. Waiting times for appointments are currently 2 weeks for a licence renewal and 6 to 8 weeks for a new licence.
- 2.6 A high percentage (27%) of appointments are wasted for a number of reasons, for example;
- the applicant fails to turn up
 - the applicant is late which has a knock on effect on subsequent appointments
 - the applicant fails to have the correct documentation with them
 - the documentation has not been completed
 - the documentation has not been properly countersigned (when required).
- See statistics in Appendix A
- 2.7 RBWM staff make every effort to ensure that appointments are not wasted, for example by phoning drivers who have not turned up and assisting with the completion of paperwork where possible. However this is not an efficient use of RBWM staff and resources. The onus is 100% on the applicant to attend the appointment on time with the correct documentation.
- 2.8 The fees currently charged for licences is set out at Appendix B
- 2.9 It is proposed that a deposit amounting to 50% of the cost of the licence being applied for be charged when the appointment is made. If the appointment then goes ahead on time and with all of the correct documentation, this charge will then be deducted from cost of licence. This means that overall there is no extra cost to the driver
- 2.10 If (unless there are extenuating circumstances) the appointment is not kept by the driver, or the documentation is not complete and correct, the charge for the appointment would be retained to cover the cost of the appointment (staffing and administration).
- 2.11 This proposal should encourage the drivers to attend their appointments on time and with the correct documentation.
- 2.12 This in turn should reduce waiting times, allow more flexibility for fitting in emergency appointments (for example where a vehicle has been damaged and the plate needs to be transferred), and make the most efficient use of RBWM staff and resources.

Table 1: Options for Licensing Panel Members

Option	Comments
<p>1. Introduce a deposit payment system for appointments for licence applications and renewals with the charge being 50% of the licence fee. This will be deducted from the cost of the licence if the appointment is concluded on time</p> <p>This is the recommended option</p>	<p>This will reduce waiting times and make best use of RBWM staff and resources</p>
<p>2. No deposit payment system is introduced for licence appointments.</p>	<p>The current situation with missed and incomplete appointments will continue, as will the resulting inefficiency, wasted staff resources and waiting times</p>

3. KEY IMPLICATIONS

3.1 The reduction in wasted appointment (as set out in Table 2) and better use of staff resources.

Table 2:

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
The number of missed or incomplete licence appointments is reduced	The number of missed or incomplete licence appointments is reduced by <20%	The number of missed or incomplete licence appointments is reduced by 40%	The number of missed or incomplete licence appointments is reduced by 50%	The number of missed or incomplete licence appointments is reduced by >50%	From 01 May 2017

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 None

5. LEGAL IMPLICATIONS

5.1 None

6. RISK MANAGEMENT

6.1 As described in Table 4, below

Table 4:

Risks	Uncontrolled Risk	Controls	Controlled Risk
PHV and hackney carriage drivers may argue that charging for appointments is unfair or unreasonable, and that they may fail to attend an appointment for reasons beyond their control	LOW	Officers will have discretion to waive a charge if they are satisfied that the applicant has a reasonable explanation for non attendance, lateness of incomplete documentation	LOW

7. POTENTIAL IMPACTS

7.1 No EQIA is anticipated at this stage.

8. CONSULTATION

8.1 None

9. TIMETABLE FOR IMPLEMENTATION

9.1 As described ion Table 5, below

Table 5:

Date	Details
01/02/2017	The PHV and hackney carriage trade are notified that the new deposit payment system will come into force on 01 April 2017
01/04/2017	New system comes into force

10. APPENDICES

10.1 Appendix A - Figures for appointments 17 October 2016 to 01December 2016 showing the percentage of appointments not completed

Appendix B - Fees currently charged for licences

11. **BACKGROUND DOCUMENTS**

11.1 None

12. **CONSULTATION (MANDATORY)**

Name of consultee	Post held	Date sent	Commented & returned
Cllr Cox / Cllr Grey	Lead Member/ Chair of the Licensing Panel		
Alison Alexander	Managing Director		
Simon Fletcher	Strategic Director of Operations & Customer Services		
Craig Miller	Head of Community Enforcement & Protection Services		
Neil Allen	SLS Legal Solutions		

REPORT HISTORY

Decision type: Non-key decision	Urgency item? No
Report Author: Greg Nelson, Trading Standards & Licensing Lead 01628 683561	

Appendix A

Figures for appointments 17 October 2016 to 01December 2016

Number of appointments booked	274
Number/percentage of no-shows	49 / 18%
Number/percentage late or incomplete	24 / 9%

Appendix B - Fees currently charged for licences

Hackney Carriage Vehicle Licence

Fees	£
Grant of vehicle licence (includes cost of Graphics)	500.00
Renewal of vehicle licence	315.00
Transfer of licence to new vehicle and/or change of ownership (bill/receipt of sale is required)	37.00
Transfer of licence to personalised registration plate	37.00

Private Hire Vehicle Licence

Fees	£
Renewal or grant of vehicle licence	255.00
Transfer of licence to new vehicle and/or change of ownership (bill/receipt of sale is required)	37.00
Transfer of licence to personalised registration plate	37.00
Replacement plate	10.00
Transfer of plate from permanent vehicle to short term temporary vehicle	120.00
Dispensation fee	10.00

Hackney Carriage, Private Hire or Combined Driver's badge

Single (either hackney carriage OR PHV)	£100
Combined (both hackney carriage AND PHV)	£160

Title: Amendments to Hackney Carriage and Private Hire Policy & Conditions - Penalty Points
Contains Confidential or Exempt Information?: NO - Part I
Member reporting: Councillor Grey, Licensing Panel Chair
Meeting and Date: Licencing Panel 16 January 2017
Responsible Officer(s): Simon Fletcher, Strategic Director of Operations & Customer Services. Craig Miller, Head of Community Protection & Enforcement Services
Wards affected: All

REPORT SUMMARY

1. Licensing officers have the power to impose penalty points on private hire vehicle (PHV) and hackney carriage drivers for a range of infringements.
2. This report seeks to add to this list of infringements so that several illegal and anti-social parking and waiting activities can be dealt with quickly and effectively

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i) Members give authority to the Head of Consumer Protection and Enforcement Services to consult with the trade and other interested parties about adding the infringements listed in Appendix B to the Penalty Points System in the RBWM Hackney Carriage Driver and Vehicle Policy and Conditions and the RBWM Private Hire Driver and Vehicle Policy and Conditions**
- ii) A report on the results of the consultation will come before the next Licensing Panel in April 2017**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The RBWM Hackney Carriage Driver and Vehicle Policy and Conditions and the RBWM Private Hire Driver and Vehicle Policy and Conditions both include a regime of penalty points that can be imposed on a driver by a licensing officer for a range of infringements from not having a fire extinguisher / first aid kit to carrying too many passengers.
- 2.2 The number of points imposed can either be 3 points or 6 points, and if 12 unspent points are accumulated (points are spent 12 month from being imposed) the driver is automatically referred to the Licensing Panel to decide, what, if any, further action is required
- 2.3 For the most serious infringements an immediate referral to the Licensing Panel can be imposed for the Panel to consider the revocation of the licence.
- 2.4 A full list of current penalty point infringements is found at Appendix A
- 2.5 Some additions to the list of infringements are suggested to make sure they are up to date and comprehensive, and will act as a deterrent to drivers from causing inconvenience and distress to residents and businesses. These cover
 - Waiting in a marked disabled bay
 - Waiting in a bus stop
 - Waiting in any other restricted space
 - Driving erratically and / or without due care and attention to pedestrians or other road users
 - Blocking the driveway or entrance of any residence, business, school or any other public building or space
- 2.6 The suggested additional infringements are found at Appendix B.
- 2.7 The imposition of penalty points can be appealed by a driver. This right of appeal would apply to any new infringements agreed by the Panel as a result of this report.
- 2.8 The penalty points system was last updated in 2014. Legal advice obtained as part of that process recommended that any proposed revisions should be consulted upon before adoption as drivers have a reasonable expectation of being asked for their views. Members are asked to give authority for consultation only at this stage.

Table 1: Options for Licensing Panel Members

Option	Comments
1. Agree to a consultation on the proposed additional infringements for which penalty points can be imposed on PHV and hackney carriage drivers. This is the recommended option	Complaints have been received about taxis waiting in a disabled bay and at bus stops (apparently preventing a bus from stopping on several occasions). Residents and businesses in some areas have complained about taxis blocking their

Option	Comments
	<p>driveways.</p> <p>Imposing penalty points for these activities will provide a quick, efficient and proportionate enforcement tool for dealing with illegal and anti-social practices by PHV and hackney carriage drivers</p>
2. Do not agree to a consultation on some or all of the suggested additions to the list of infringements	This will mean that no quick and effective action can be taken against drivers who wilfully indulge in illegal or anti-social practices.

3. KEY IMPLICATIONS

- 3.1 If Members agree to a consultation on the proposed addition to the existing Penalty Points System, the trade will be encouraged to respond, either individually or via their representatives. The consultation will be considered a success based on the targets in Table 2, below.
- 3.2 Any other interested parties will also be encouraged to respond

Table 2:

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
A sufficient level of feedback received from the Hackney Carriage and Private Hire trade	0% - 24% of Hackney Carriage and Private Hire traders respond to the consultation	25% - 49% of Hackney Carriage and Private Hire traders respond to the consultation	50 – 90% of Hackney Carriage and Private Hire traders respond to the consultation	91% – 100% of Hackney Carriage and Private Hire traders respond to the consultation	April 2017 – the matter will be reported back to the next Licensing panel in April 2017

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 None

5. LEGAL IMPLICATIONS

- 5.1 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 PHV drivers can have conditions imposed under Section 51

6. RISK MANAGEMENT

6.1 As described in Table 4, below

Table 4:

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

7. POTENTIAL IMPACTS

7.1 No EQIA is anticipated at this stage.

8. CONSULTATION

8.1 Authority for consultation is being sought at this stage.

9. TIMETABLE FOR IMPLEMENTATION

9.1 As described ion Table 5, below

Table 5:

Date	Details
April 2017	It is envisaged that the results of the consultation will be reported back to the April 2017 Licensing Panel for Members to consider

10. APPENDICES

10.1 Appendix A - List of current penalty point infringements
 Appendix B - List of suggested additional infringements

11. BACKGROUND DOCUMENTS

11.1 None

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Cox / Cllr Grey	Lead Member/ Chair of the Licensing Panel		
Alison Alexander	Managing Director		
Simon Fletcher	Strategic Director of Operations & Customer Services		
Craig Miller	Head of Community Enforcement & Protection Services		
Neil Allen	SLS Legal Solutions		

REPORT HISTORY

Decision type: Non-key decision	Urgency item? No
Report Author: Greg Nelson, Trading Standards & Licensing Lead 01628 683561	

Appendix A - List of current penalty point infringements

1) Private Hire Driver & Vehicle Policy & Conditions

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 driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
Unlawfully plying for hire in Private Hire Vehicle	Referral to Licensing Panel to consider revocation of Licence
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
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	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
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

2) Hackney Carriage Driver & Vehicle Policy & Conditions

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 driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
Unlawfully plying for hire in Private Hire Vehicle	Referral to Licensing Panel to consider revocation of Licence
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
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 applying 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 B - List of Suggested Additional Infringements

Private Hire Driver or Hackney Carriage Driver waiting in a marked disabled bay	6 Points
Private Hire Driver or Hackney Carriage Driver waiting in a bus stop	6 Points
Private Hire Driver or Hackney Carriage Driver waiting in any other restricted space	3 Points
Private Hire Driver or Hackney Carriage Driver driving erratically and / or without due care and attention to pedestrians or other road users	6 Points
Private Hire Driver or Hackney Carriage Driver blocking the driveway or entrance of any residence, business, school or any other public building or space	3 Points

Title: Dealing with Non-Use of Taximeters by Hackney Carriage Drivers
Contains Confidential or Exempt Information?: NO - Part I
Member reporting: Councillor Grey, Licensing Panel Chair
Meeting and Date: Licencing Panel 16 January 2017
Responsible Officer(s): Simon Fletcher, Strategic Director of Operations & Customer Services. Craig Miller, Head of Community Protection & Enforcement Services
Wards affected: All

REPORT SUMMARY

1. RBWM hackney carriage drivers are legally permitted to take a fare starting within but ending outside the Borough without using the taximeter as long as a set fee is agreed with the customer at the start of the journey.
2. Fares starting and ending within RBWM can also be conducted without using the taximeter, but in these cases it is illegal for the driver to charge more than would have been charged had the meter have been used.
3. Complaints have been received indicating that some hackney carriage drivers are going “off meter” within the Borough to deliberately overcharge the customer
4. Licensing officers have the power to impose penalty points on a hackney carriage driver for a range of infringements.
5. This report seeks to add to this list of infringements the non-use of taximeters by hackney carriage drivers within RBWM where there is evidence to believe that this has been done for the deliberate purpose of overcharging the customer

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i) Members give authority to the Head of Consumer Protection and Enforcement Services to consult with the trade and other interested parties about adding to the RBWM Hackney Carriage Driver and Vehicle Policy and Conditions Penalty Points System the non-use of the taximeter by a hackney carriage driver for journeys within RBWM, where the purpose of not using the taximeter can be shown to be to overcharge the customer**

- ii) **A report on the results of the consultation will come before the next Licensing Panel in April 2017**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The Non-use of taximeters by RBWM hackney carriage drivers for journeys that begin within the Borough is not illegal, but the fare that can be charged is affected by whether the journey ends within or outside of the Borough.
- 2.2 When a journey begins within but ends outside of RBWM it is permissible for the driver to go "off-meter" as long as the passenger agrees to this, and the fare to be paid is agreed at the start of the journey. This fare may be more or less than would have been charged had the taximeter have been used.
- 2.3 When a journey begins and ends within the Borough it is permissible to go "off meter" but in this case it is illegal for the driver to charge more than would have been charged had the meter been used.
- 2.4 Around 10 complaints have been received since 1 April 2016 from people who have used a hackney carriage within the Borough, gone "off-meter" at the suggestion of the driver, and believe that they have been overcharged. By this they meant that they believed that they had been charged more than they would have paid had the meter been used.

(Note that a taxi cannot refuse to take someone who hails it, whether from the road or a stand, and the journey ends within RBWM).

- 2.5 This type of overcharging by hackney carriage drivers can be dealt with by way of a prosecution under the Town Police Clauses Act 1847. However any such alleged offence would be difficult to prove because the evidence would usually be verbal and one person's word against another. It would also be overly costly and time consuming, and subject to the RBWM Enforcement & Prosecution Policy which may lead to a decision not to prosecute for a first offence, meaning that in effect no action would be taken.
- 2.6 There may also be implications under trading standards legislation for deliberate overcharging by a hackney driver but this would be subject to the same evidential and other difficulties as mentioned in 2.5
- 2.7 A quicker and more effective means of dealing with this issue would be to add the non-use of the taximeter for journeys within the Borough for the purpose of overcharging to the list of infringements for which penalty points can be imposed by a licensing officer under the RBWM Hackney Carriage Driver and Vehicle Policy and Conditions.

- 2.8 This method of enforcement is currently used by Bracknell Forest Borough Council who impose 6 penalty points to drivers found to have overcharged by going “off meter“ within their borough.
- 2.9 If Members agree to add this type of overcharging to the list of infringements in the RBWM Penalty Points System, then the number of points needs to be decided upon.
- 2.10 We currently impose 3 points for lesser infringements of a technical nature and 6 points for more serious acts, and some are considered serious enough to warrant an immediate referral to the Licensing Panel to consider the revocation of the licence. A full list of penalty point infringements is found at Appendix A.
- 2.11 Where 12 unspent penalty points are accumulated this will result in an automatic referral to the Licensing Panel. The Panel will then decide what, if any, further action should be taken (points are spent after 12 months).
- 2.12 Any imposition of penalty points would be subject to usual appeal options open to the driver receiving the points.
- 2.13 The penalty points system was last updated in 2014. Legal advice obtained as part of that process recommended that any proposed revisions should be consulted upon before adoption as drivers have a reasonable expectation of being asked for their views. Members are asked to give authority for consultation only at this stage.

Table 1: Options for Licensing Panel Members

Option	Comments
1. Agree to a consultation on the proposed addition to the existing Penalty Points System; “Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey” - 3 Points	3 penalty points is for lesser infringements of a technical nature
2. Agree to a consultation on the proposed addition to the existing Penalty Points System; “Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey” - 6 Points This is the recommended option	6 penalty points would better reflect the deliberate act by the driver of knowingly inflating the cost of a journey
3. Agree to a consultation on the proposed addition to the existing Penalty Points System; “Hackney carriage drivers not using their taximeter for a journey wholly within	This may be considered to be a disproportionate response to the infringement

Option	Comments
RBWM so as to inflate the cost of the journey” - Referral to Licensing Panel to consider revocation of licence	
4. Do not agree to a consultation on amendments to the Policy in respect of the non-use of meters by hackney carriage drivers	This would deprive licensing officers of an effective and proportionate enforcement tool

3. KEY IMPLICATIONS

3.1 If Members agree to a consultation on the proposed addition to the existing Penalty Points System, the trade will be encouraged to respond, either individually or via their representatives. The consultation will be considered a success based on the targets in Table 2, below.

3.2 Any other interested parties will also be encouraged to respond

Table 2:

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
A sufficient level of feedback is received from the Hackney Carriage and Private Hire trade	0% - 24% response	25% - 49% response	50 – 90% of response	91% – 100% response	April 2017 – the matter will be reported back to the next Licensing panel in April 2017

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 None

5. LEGAL IMPLICATIONS

5.1 Section 58 of the Town Police Clauses Act 1847 contains the offence of overcharging by going “off –meter” within the Borough (see below).

5.2 The existence of this provision may result in a challenge to penalty points being imposed where the law already provides a means for dealing with this illegal activity.

5.3 However by virtue of sections 47 & 48 Local Government (Miscellaneous Provisions) Act 1976 a licensing authority is entitled to impose whatever

reasonable conditions it sees fit, and the imposition of penalty points for the purposes set out in this report are considered reasonable and proportionate.

5.3 Legal advice obtained when the Penalty Points System was updated in 2014 was that there is nothing unlawful about the Penalty Points System even if it encompasses misconduct that could also give rise to criminal proceedings.

5.4 Legal advice has been sought as to whether it is an offence for a hackney carriage driver to go “off meter” for the purpose of overcharging where the journey begins within but ends outside of the Borough. The advice is that this is not an offence.

“If Parliament has decided to allow a taxi driver and passenger to agree a set amount that may be greater than the metered fare (*when leaving the borough*) then RBWM cannot interfere with that.”

*Section 58 of the Town Police Clauses Act 1847
Overcharge by hackney coachmen, &c..*

Every proprietor or driver of any such hackney carriage who is convicted of taking as a fare a greater sum than is authorized by any byelaw made under this or the special Act shall be liable to a penalty not exceeding [F1level 3 on the standard scale],

6. RISK MANAGEMENT

6.1 As described in Table 4, below

Table 4:

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

7. POTENTIAL IMPACTS

7.1 No EQIA is anticipated at this stage.

8. CONSULTATION

8.1 Authority for consultation is being sought at this stage.

9. TIMETABLE FOR IMPLEMENTATION

9.1 As described ion Table 5, below

Table 5:

Date	Details
April 2017	It is envisaged that the results of the consultation will be reported back to the April 2017 Licensing Panel for Members to consider

10. APPENDICES

10.1 Appendix A - List of current penalty points infringements for hackney carriage drivers

11. BACKGROUND DOCUMENTS

11.1 None

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Cox / Cllr Grey	Lead Member/ Chair of the Licensing Panel		
Alison Alexander	Managing Director		
Simon Fletcher	Strategic Director of Operations & Customer Services		
Craig Miller	Head of Community Enforcement & Protection Services		
Neil Allen	SLS Legal Solutions		

REPORT HISTORY

Decision type: Non-key decision	Urgency item? No
Report Author: Greg Nelson, Trading Standards & Licensing Lead 01628 683561	

Appendix A
List of Current Penalty Points Infringements for Hackney
Carriage Drivers

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 driver licence or vehicle licence within the correct time (unless extenuating circumstances apply)	3 Points
Unlawfully plying for hire in Private Hire Vehicle	Referral to Licensing Panel to consider revocation of Licence
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
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 applying 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

This page is intentionally left blank