

# Public Document Pack

NOTICE

OF

MEETING

## LICENSING PANEL

will meet on

**TUESDAY, 4TH APRIL, 2017**

**At 6.00 pm**

in the

**COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD**

TO: MEMBERS OF THE LICENSING PANEL

COUNCILLORS JESSE GREY (CHAIRMAN), DAVID BURBAGE (VICE-CHAIRMAN), MALCOLM ALEXANDER, HASHIM BHATTI, PHILLIP BICKNELL, JOHN BOWDEN, DAVID HILTON, CHARLES HOLLINGSWORTH, 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](http://www.rbwm.gov.uk) or contact the Panel Administrator

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## 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.	3 - 4
3.	<u>MINUTES</u>  To confirm the Part I Minutes of the meeting held on 16 January 2017.	5 - 8
4.	<u>CONSULTATION RESULTS AND FINAL RECOMMENDATIONS - AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY AND CONDITIONS - PENALTY POINTS</u>  To receive the report from Steve Johnson, Enforcement Principal.	9 - 32
5.	<u>CONSULTATION RESULTS AND FINAL RECOMMENDATIONS - DEALING WITH NON-USE OF TAXIMETERS BY HACKNEY CARRIAGE DRIVERS</u>  To receive the report from Steve Johnson, Enforcement Principal.	33 - 52
6.	<u>DATES OF FUTURE MEETINGS</u>  Dates of future meetings are:  Tuesday 11 July 2017 – Council Chamber, Town Hall, Maidenhead Tuesday 10 October 2017 – Council Chamber, Town Hall, Maidenhead Tuesday 23 January 2018 – Ascot and Bray, Town Hall, Maidenhead Tuesday 10 April 2018 – Council Chamber, Town Hall, Maidenhead	

## MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

### Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they 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' means a discussion by the members of meeting. In order to avoid any accusations of taking part in the discussion or vote, Members should move to the public area or leave the room once they have made any representations. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

### Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) 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.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

*Or, if making representations on the item: 'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'*

### Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

*Or, if making representations in the item: 'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'*

### Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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# Agenda Item 3

## LICENSING PANEL

MONDAY, 16 JANUARY 2017

PRESENT: Councillors Jesse Grey (Chairman), John Bowden, John Collins, David Hilton, Maureen Hunt, Derek Sharp, Julian Sharpe, Adam Smith and Derek Wilson

Also in attendance:

Officers: Shilpa Manek and Greg Nelson

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Alexander, Bhatti, Burbage, Hollingsworth and Richards. Councillor Derek Wilson was substituting.

### DECLARATIONS OF INTEREST

No Declarations of Interest received.

### MINUTES

Minutes of the last meeting, **Unanimously Agreed.**

### DEPOSIT PAYMENTS FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE - APPLICATION AND RENEWAL APPOINTMENTS

Greg Nelson, Trading Standards & Licensing Lead, introduced the report explaining that a number of pre-booked appointments are not completed due to either the driver failing to attend, is late or fails to present the correct documentation.

The recommendation is to introduce a deposit payment scheme for appointments so as to raise the percentage of appointments attended and completed.

The Chairman highlighted that no show of drivers for pre-booked appointments was wasting officer time.

Mr Yasin, representative of the taxi association explained that the process was dated and the officers did not need to see the driver, all processes should be carried out online, this would save time.

Greg Nelson explained that the onus was on the driver to complete the paperwork, officers were always on hand to assist, and that there was a need to see the drivers in person to confirm their identity and see the originals of their paperwork. There was a high number of drivers and the high turnover in the borough so officers always want to meet the drivers and keep a line of communication.

Councillor Hunt thought the suggested scheme was excellent and was very supportive of the proposal.

Councillor Sharp was generally supportive of paperwork submitted before the meeting, however, Greg Nelson explained officers did not want to have the additional task of

holding the paperwork and checking it. This could be checked at the meeting and immediately returned to the driver. Councillor Sharp asked for clarity on the latest time a driver could cancel an appointment without losing their deposit and what documents were required. Greg Nelson suggested that 48 hours notice was a reasonable time to cancel without the driver losing the deposit but this would be discussed with the drivers. The documents included the drivers licence, mot certificate, insurance details and a compliance certificate.

Councillor Hilton suggested that the Chairman review the document that is sent to drivers which list the documents to ensure that it is clear. Councillor Hilton asked if it was necessary for the driver to attend the town hall to meet officers. Councillor Hilton also felt that a 50% deposit was too high and suggested a tariff system.

**ACTION: Chairman to review the document sent to drivers.**

Councillor Bowden was supportive of the suggestion of the deposit but felt that 50% was too high. Councillor Bowden suggested a trial period for six months.

Councillor Wilson felt it was important for the driver to attend meeting with the officers as the borough could validate any changes since the original appointment, especially as the paper version of the drivers licence was no longer issued. Councillor Wilson was supportive of the report but felt that the 50% fee element was too high and suggested a fee between 30 – 50%. If the fee was too low, the drivers would continue not to turn up for the meetings.

Councillor Smith suggested that there was an explicit reference to the refund of the deposit to make it very clear for drivers.

**Councillor Hilton proposed that the introduction of a deposit payment system amounting to 30% 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. For any charges that were below £50.00, the deposit would stay at 50%. And the documentation to include the 48 hours reference. This was seconded by Councillor Hunt and unanimously agreed by the Panel.**

## AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY AND CONDITIONS - PENALTY POINTS

Greg Nelson, Trading Standards & Licensing Lead, introduced the report explaining that licensing officers have the power to impose penalty points on private hire vehicle (PHV) and hackney carriage drivers for a range of infringements. 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.

Councillor Sharpe commented on the impressive list at appendix A and asked how many penalty points were actually imposed. Greg Nelson responded that zero had been imposed in the last year, since he had been responsible as informal ways to inform drivers had been used previously. However, Greg Nelson felt that this needed to change as residents were complaining about irresponsible parking by taxis.

Other points discussed included:

- Licensed drivers only to drive hackney carriage vehicles.
- Complaints only actioned with evidence.
- Sometimes complaints out of the borough's jurisdiction so police to be alerted to take action.
- Taxi's stopping at bus stops and disabled bays.
- After 12 points, driver could lose their licence, however, drivers could appeal.

**Councillor Bowden proposed to go ahead with the officers recommendation that 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. A report on the results of the consultation would come before the next Licensing Panel in April 2017. This was seconded by Councillor Sharp. The Licensing Panel unanimously agreed.**

#### DEALING WITH NON-USE OF TAXIMETERS BY HACKNEY CARRIAGE DRIVERS

Greg Nelson, Trading Standards & Licensing Lead, introduced the report explaining that 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. 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.

Complaints have been received indicating that some hackney carriage drivers are going "off meter" within the Borough to deliberately overcharge the customer. Licensing officers have the power to impose penalty points on a hackney carriage driver for a range of infringements. 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.

Mr Yasin, representative of the taxi association explained that these issues mainly came about at times of events, especially at Ascot Racecourse.

Councillor Bowden suggested having a taxi marshal present on during Ascot Race days. Councillor Sharpe asked how does the passenger know what the fare would have been if the meter is off.

Mr Jaffri, professional driver, said there are two issues that are of concern, passengers want the meter off at the end of an evening out and get aggressive if the meter is kept on. Another issue is non payment, at night, drivers ask for the fare up front as passengers flee without paying. This is very difficult at times.

Councillor Hilton asked if a passenger could insist that a meter be put on and was advised that they could.

The Chairman summed up the discussion, advising Members that legal advice had been taken and the advice was that making it compulsory to use the meter would be open to legal challenge as this would be more stringent than national law.

**Councillor Hilton moved the officers recommendation that 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. This was seconded by Councillor Hunt and agreed unanimously by the Panel.**

**Councillor Hilton also suggested that officers look to having fixed, visible tariffs for Ascot. Members agreed this unanimously.**

DATES OF FUTURE MEETINGS

Members noted the next meeting of the Licensing Panel would be 4 April 2017.

The meeting, which began at 6.00 pm, finished at 8.00 pm

CHAIRMAN.....

DATE.....



Report Title:	Consultation Results and Final Recommendations - 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:	Licensing Panel 04 April 2017
Responsible Officer(s):	Andy Jeffs - Interim Strategic Director of Operations and Customer Services  Craig Miller, Head of Community Protection & Enforcement Services
Wards affected:	All

## REPORT SUMMARY

1. At the Licensing Panel on 16 January 2017 Members authorised consultation with the trade on proposed additions to the list of infringements already included in the penalty points systems for the council's licenced hackney carriage and private hire drivers. This report details the responses received and asks Members to approve the additional infringements.
2. Adopting the additional infringements will benefit residents and visitors by tackling a range of illegal and antisocial driving practices. There are no cost implications beyond existing resources deployed to enforce hackney carriage and private hire vehicle licensing legislation

## 1. DETAILS OF RECOMMENDATION

**RECOMMENDATION:** That the Licensing Panel notes the report and:

**i) Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, Including Parking to formally add to the existing list of infringements in the penalty points systems in the council's Hackney Carriage Driver and Vehicle Policy and Conditions and the council's Private Hire Driver and Vehicle Policy and Conditions those infringements listed in Appendix A.**

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

- 2.1 Following the Licensing Panel of 16 January 2017 a four week consultation exercise was carried out with the council's licenced hackney carriage (taxi) and private hire (PHV) drivers. This was achieved by writing directly to all 1472

licenced drivers (161 taxi, 131 combined, 1180 private hire). The letter sent is attached as Appendix B.

- 2.2 There were 4 individual and joint responses and these are attached as Appendix C. There were two petitions and these are attached as Appendices D and E respectively.
- 2.3 There were two responses from taxi representatives, one from Mr Yasin, representing largely Maidenhead based taxi drivers and one from Mr Jaffri representing largely Windsor based taxi drivers.
- 2.4 Mr Yasin requested a meeting with the Trading Standards & Licensing Lead and that meeting took place on 28 February 2017. At that meeting assurances were given to Mr Yasin and his colleagues that the use of penalty points would be evidence based, only given where a warning had been ignored (when applicable), and were subject to an appeals process. It was made clear that this is not an attempt to pick on taxi drivers but a means of addressing illegal and anti-social driving practices which were detrimental to residents, businesses and visitors to the Borough.
- 2.5 Mr Yasin and most of his colleagues were reasonably accepting of the proposals but pointed out that, whilst action was being taken against taxi drivers, no action was being taken by council officers against other road users who were infringing parking restrictions late in the evening, including parking in taxi ranks. Such enforcement is not carried out by licensing officers but this matter is being brought to the attention of the relevant services within the authority to ensure that there is a level playing field for all road users
- 2.6 A number of other issues were raised by Mr Yasin and his colleagues which did not relate to this consultation and they will be addressed outside of this process.
- 2.7 Mr Jaffri also attended the meeting on 28 February and took part in the discussions. At the end he presented a petition headed Petition Against Penalty points signed by 21 drivers with another 33 names added. This is produced as Appendix D.
- 2.8 Despite the discussions which took place and the explanations and assurances given at the meeting on 28 February, Mr Jaffri has confirmed that his petition stands and the signatories are against all of the proposed additional penalty points infringements.
- 2.9 The petition produced as Appendix E is against all of the proposed additional penalty points infringements.
- 2.10 In conclusion, with respect to taxi drivers it is fair to say that some agree with the proposed new penalty points because drivers who commit the infringements covered give all of the drivers a bad name, so they wish to work with the council to crack down on such infringements. However there are others who do not take this approach and believe they are being unfairly targeted by licensing officers.
- 2.11 Members are now invited to consider the response to the consultation and to approve the additional penalty points infringements which are set out in Appendix A

2.12 Options for approval are set out in Table 1, below.

**Table 1: Options for Licensing Panel Members**

<b>Option</b>	<b>Comments</b>
<p>1. Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the Penalty Points System in the council's Hackney Carriage Driver and Vehicle Policy and Conditions and the council's Private Hire Driver and Vehicle Policy and Conditions those infringements listed in Appendix A</p> <p><b>This is the recommended option</b></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 hackney carriage and private hire vehicle drivers, each of which has been highlighted by complaints made to the Borough</p>
<p>2. Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the Penalty Points System in the council's Hackney Carriage Driver and Vehicle Policy and Conditions and the council's Private Hire Driver and Vehicle Policy and Conditions those infringements listed in Appendix A with amendments as agreed by the Members at this Panel meeting</p>	<p>Members may wish to give authority to some, rather than all of the infringements listed in Appendix A.</p> <p>Members may wish to consider the number of points proposed for each infringement.</p>
<p>3. Members do not give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the Penalty Points System in the council's Hackney Carriage Driver and Vehicle Policy and Conditions and the council's Private Hire Driver and Vehicle Policy and Conditions those infringements listed in Appendix A</p>	<p>This will mean that no quick and effective action can be taken against drivers who wilfully indulge in the specific illegal or anti-social practices identified. This will be to the detriment of those residents, businesses and visitors.</p>

### 3. KEY IMPLICATIONS

- 3.1 Adopting the proposed additional infringements to the current list in the penalty points system will mean that complaints received about these practices can be properly addressed, when there is sufficient evidence to do so, whereas at present there is no action that can be taken.

**Table 2: Expected Levels of Enforcement Action**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Percentage of complaints about identified practices where action taken	<90%	90%	90% – 95%	>95%	From 01 May 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:**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
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	Low

## 7. POTENTIAL IMPACTS

7.1 No EQIA is anticipated at this stage.

## 8. CONSULTATION

8.1 Consultation has now been completed and the results set out in this report

## 9. TIMETABLE FOR IMPLEMENTATION

9.1 As described in Table 5, below

**Table 5:**

<b>Date</b>	<b>Details</b>
04 April 2017	Panel gives give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add the proposed infringements to the existing Penalty Points System
01 May 2017	The new infringements come into force.

## 10. APPENDICES

- 10.1 Appendix A – Proposed New Penalty Points
- 10.2 Appendix B – Consultation Letter
- 10.3 Appendix C – Consultation Responses from Individuals
- 10.4 Appendix D – Consultation Response Petition 1
- 10.5 Appendix E - Consultation Response Petition 2

## 11. BACKGROUND DOCUMENTS

11.1 None

## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr Cox	Lead Member for Environmental Services, Including Parking	17/03/17	20/03/2017
Cllr Grey	Chair of the Licensing Panel	17/03/17	22/03/17
Alison Alexander	Managing Director	20/03/17	21/03/17
Andy Jeffs	Interim Strategic Director of Operations and Customer Services	17/03/17	21/03/17
Craig Miller	Head of Community Protection & Enforcement Services	17/03/17	
Neil Allen	Shared Legal Solutions	17/03/17	

## REPORT HISTORY

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

## Appendix A - 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

## **Appendix B – Consultation Letter**

### **Consultation**

#### **Penalty Points for Hackney Carriage and Private Hire Drivers Additional Infringements**

At the Licencing Panel meeting on 16 January 2017 two items were discussed relating to amendments to RBWM's Penalty Points System under which licensing officers can give penalty points to hackney carriage and private hire vehicle drivers.

Both items were agreed in principle but are now required to go out to consultation with the trade and other interested parties.

The results of this consultation and proposals to amend the current list of penalty point infringements are to be reported to the next meeting of the Licensing Panel on Tuesday 4 April 2017.

**This letter seeks your views on the two items as set out below.**

#### 1. Penalty Points System - Additions to the Current List of Infringements.

The RBWM Hackney Carriage Driver and Vehicle Policy and Conditions and the RBWM Private Hire Driver and Vehicle Policy and Conditions each contain a list of infringements for which a licensing officer can impose penalty points on a driver. The current lists of infringements are set out at Appendix A.

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

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.

The imposition of penalty points can be appealed by a driver.

The list of infringements in Appendix A does not include a number of illegal and anti-social practices about which complaints are regularly received by licensing officers, specifically taxis waiting in disabled bays and bus stops (preventing buses from stopping on several occasions); taxis blocking driveways to residences, businesses and public buildings; hackney drivers apparently driving without due care and attention.



Imposing penalty points for these activities will provide a quick, efficient and proportionate enforcement tool for dealing with illegal and anti-social practices by hackney carriage and PHV drivers. **It will also protect the good reputation of the large majority of drivers who do not act in this manner.**

It is proposed to add to the list of infringements the following ;

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

The existing right of appeal against penalty points would apply to any new infringements agreed by the Panel as a result of this consultation. Points would only ever be imposed where there was the evidence to do so.

**Your views are sought on the following questions**

- 1. Should these items be added to the existing list of infringements?**
- 2. If not, could you say why?**
- 3. Is the number of points for each infringement appropriate and proportionate to the infringement? Should they be higher or lower for each infringement?**
- 4. Are there any other activities for which penalty points should be considered?**
- 5. Do you have any other comments?**

Your replies to items 1 and 2 should be sent by Friday 10 March ;

By e-mail to [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk)

By post to Consultation Reply, Trading Standards & Licensing  
York House Sheet Street Windsor SL4 1DD

## Appendix C – Consultation Responses from Individuals

The list of infringements in Appendix A does not include a number of illegal and anti-social practices about which complaints are regularly received by licensing officers, specifically taxis waiting in disabled bays and bus stops (preventing buses from stopping on several occasions); taxis blocking driveways to residences, businesses and public buildings; hackney drivers apparently driving without due care and attention.

Imposing penalty points for these activities will provide a quick, efficient and proportionate enforcement tool for dealing with illegal and anti-social practices by hackney carriage and PHV drivers. **It will also protect the good reputation of the large majority of drivers who do not act in this manner.**

It is proposed to add to the list of infringements the following;

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

The existing right of appeal against penalty points would apply to any new infringements agreed by the Panel as a result of this consultation. Points would only ever be imposed where there was the evidence to do so.

Your views are sought on the following questions

1. Should these items be added to the existing list of infringements? *NO*
2. If not, could you say why? *EVERY CASE IS DIFFERENT.*
3. Is the number of points for each infringement appropriate and proportionate to the infringement? Should they be higher or lower for each infringement? *LOWER*
4. Are there any other activities for which penalty points should be considered?
5. Do you have any other comments? *I THINK ITS FAIR IF A PHV DRIVER OR HACKNEY DRIVER NOT GATTY HAVE HIS DOCUMENTS IN HIS CAB. OR PARK ON DISABLE BAY OR BLOCKING DRIVEWAYS SCHOOL PUBLIC BUILDINGS HAVE PENALTY POINTS.*

The list of infringements in Appendix A does not include a number of illegal and anti-social practices about which complaints are regularly received by licensing officers, specifically taxis waiting in disabled bays and bus stops (preventing buses from stopping on several occasions); taxis blocking driveways to residences, businesses and public buildings; hackney drivers apparently driving without due care and attention.

Imposing penalty points for these activities will provide a quick, efficient and proportionate enforcement tool for dealing with illegal and anti-social practices by hackney carriage and PHV drivers. **It will also protect the good reputation of the large majority of drivers who do not act in this manner.**

It is proposed to add to the list of infringements the following;

Private Hire Driver or Hackney Carriage Driver waiting in a marked disabled bay	6 Points -	0
Private Hire Driver or Hackney Carriage Driver waiting in a bus stop	6 Points -	0
Private Hire Driver or Hackney Carriage Driver waiting in any other restricted space	3 Points -	0
Private Hire Driver or Hackney Carriage Driver driving erratically and / or without due care and attention to pedestrians or other road users	6 Points - 1st Warning	0
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 - 1st Warning	0

The existing right of appeal against penalty points would apply to any new infringements agreed by the Panel as a result of this consultation. Points would only ever be imposed where there was the evidence to do so.

**Your views are sought on the following questions**

- Should these items be added to the existing list of infringements? **NO**
- If not, could you say why? **Too Many Traffic Loaders on high Alert, Limited Space for PHV Drivers too Park in town centre (Station)**
- Is the number of points for each infringement appropriate and proportionate to the infringement? Should they be higher or lower for each infringement? **LOWER POINTS NOT FARE FOR PHV DRIVERS (0)**
- Are there any other activities for which penalty points should be considered?
- Do you have any other comments?  
**THERE SHOULD BE NO POINTS SCHEME FOR PARKING NEARBY TOWN CENTRE. THERE SHOULD BE A MARKED BAY FOR 2 VEHICLES MARKED ON ANY BUS STOP (PHV DRIVERS ONLY)?**

The list of infringements in Appendix A does not include a number of illegal and anti-social practices about which complaints are regularly received by licensing officers, specifically taxis waiting in disabled bays and bus stops (preventing buses from stopping on several occasions); taxis blocking driveways to residences, businesses and public buildings; hackney drivers apparently driving without due care and attention.

Imposing penalty points for these activities will provide a quick, efficient and proportionate enforcement tool for dealing with illegal and anti-social practices by hackney carriage and PHV drivers. **It will also protect the good reputation of the large majority of drivers who do not act in this manner.**

It is proposed to add to the list of infringements the following;

Private Hire Driver or Hackney Carriage Driver waiting in a marked disabled bay	6 Points <b>(3)</b>
Private Hire Driver or Hackney Carriage Driver waiting in a bus stop	6 Points <b>(3)</b>
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 <b>3 OR 6 DEPENDS ON EXACT CIRCUMSTANCES.</b>
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 <b>PHOTO EVIDENCE MUST BE SUPPLIED.</b>

The existing right of appeal against penalty points would apply to any new infringements agreed by the Panel as a result of this consultation. Points would only ever be imposed where there was the evidence to do so.

**Your views are sought on the following questions**

- Should these items be added to the existing list of infringements? **YES (PLEASE SEE ATTACHED LETTER)**
- If not, could you say why?
- Is the number of points for each infringement appropriate and proportionate to the infringement? Should they be higher or lower for each infringement? **NOT APPROPRIATE SEE MY ADVISED POINTS**
- Are there any other activities for which penalty points should be considered? **NO**
- Do you have any other comments? **SEE ATTACHED SHEET.**

TO: CONSULTATION REPLY  
TRADING STANDARDS & LICENSING  
YORK HOUSE, SHEET STREET,  
WINDSOR, SL4 1DD

FROM:



DATE 5th MARCH 2017.

DEAR TRADING STANDARDS,

I WOULD LIKE TO POINT OUT THAT WITHIN MAIDENHEAD THERE ARE SOME BUS STOPS HAVE A CLEARLY DISPLAYED PLATE WHICH SHOWS THE TIMES WITHIN WHICH WAITING IS NOT ALLOWED BUT OUTSIDE THE RESTRICTED TIMES DRIVERS SHOULD BE ALLOWED TO WAIT AS THEY ARE NOT IN CONTRAVENTION OF THE RULES.

ALSO IF A DRIVER CLEARS IN THE TOWN AND THEN NEEDS TO WAIT FOR THE NEXT JOB HE HAS NO WHERE TO WAIT AS MOST OF THE 1 HOUR WAITING SPACES ARE OCCUPIED. THE DRIVER SHOULDN'T BE EXPECTED TO WASTE FUEL TO FIND SPACE OUTSIDE OF TOWN CENTRE AND TO WAIT IN RESIDENTIAL AREAS WHERE THERE ARE NO YELLOW LINES. THE PANEL NEEDS TO ALLOCATE SPACES IN THE TOWN CENTRE FOR PRIVATE HIRE DRIVERS ONLY, WHERE THE DRIVERS MUST REMAIN IN THE CAR WHILST WAITING FOR NEXT JOB.

MANY THANKS. ALI AKHTAR

A handwritten signature in black ink, appearing to be 'Ali Akhtar'.

This on behalf of the following Hackney Carriage Drivers from which these points have been discussed in detail. From which we agreed on a neutral basis how these points should be taken into consideration and part of the consultation process. The names are as follows: -

Wednesday 8 March 2017  
Mr Mohammed Naeem Sabir

Sabir Hussain

Sawraj Singh Atwal

Manazar Hussain

Mohammad Mushtaq

Janghir Ali

Jehanghir Mehrban

Consultation Reply  
Trading Standards and Licencing  
York House  
Sheet Street  
Windsor  
SL4 1DD

**1.Should these Items be added to the existing list of Infringements?**

Yes and No

**2. If not, could you say why?**

To give an example on your first point which is

**Private Hire Driver or Hackney Carriage Driver waiting in a marked Bay.**

I strongly feel that if I had to pick up a wheelchair customer and only the disabled bay was available then I feel that I have no alternative but to use it. Otherwise I will need to block the traffic which will be considered inconsiderate. The same reason would be applied to the private hire driver who is picking up an old and frail passenger and cannot walk in such that the closes place to park would be Disabled Bay.

If the driver is waiting in a marked disabled bay for no reason at all then this should be applied and 6 points is too much as 3 points is sufficient

**The second point is**

**Private Hire Driver or Hackney Carriage Driver waiting in a bus stop?**

You really need to define the definition of waiting which is the first point. To what I can read from this is waiting for no reason at all then this should be applied and 3 points is sufficient apart from picking up or dropping of Passengers.

**The Third point is:-**

**Private Hire Driver or Hackney Carriage Driver waiting in any other restricted space?**

If the driver is waiting in a restricted space for no reason at all then this should be applied and 3 points is sufficient. But if he is waiting for the customer then this should not be applied.

**The Fourth Point is: -**

**Private Hire Driver or Hackney Carriage Driver driving erratically and / or without due care and attention to pedestrians or other road users.**

This is the only point that I could agree with yourselves as Taxi Drivers we are looked and regarded as professional drivers and this sort of driving is totally wrong. But 6 points is too much for a driver and it should be 3 points.

**The Fifth point is: -**

**Private Hire Driver or Hackney Carriage Driver blocking the driveway or entrance of any residence, business, school or any other public building or space.**

This point is reasonable and again if they are waiting for no reason at all then this should be applied. And 3 points is sufficient for this. But if he is waiting for the customer then this should not be applied.

**3. Is the number of points for each infringement appropriate and proportionate to the infringement? Should they be higher or lower for each infringement?**

I have clarified this and feel where you would like to issue 6 points should be 3 points.

**4. Are there another activity for which penalty points should be considered?**

No

**5 Do you have any other comments?**

I could say the same with the remaining points but the main question is? What is the main reason Hackney Carriage and Private Hire Driver do this? It is because either they are waiting for a customer to arrive into the vehicle or waiting for them to come out from a place. If this is the reason, then applying these points and restrictions is pointless and unmanageable. My other point is that the council has issued limitless amount of Hackney Carriage vehicles to start with. In the Royal Borough of Windsor and Maidenhead they have issued far too many taxis with no spaces at all. In maidenhead station, there are 40 taxis working throughout and we have to queue and interrupt the daily lives of residents. In Windsor, there are cars off the rank which effect traffic flow. The responsibility should lie with the council as they are the root cause of the problem and have done nothing to address this since they have de-regulated the hackney carriage and increased the flow of taxis without any consideration for space. I must also stress we are not **“London Black Hackney Carriage vehicles that by driving round and round we are going to get a job or someone will hail us down this does not happen in RBWM.”**

Moving onto Private Hire Drivers that are taking bookings via PDA booking system which tells them when they have their next job. As you are well aware that they need to park somewhere where they are closer to the base. The nearest place for the majority of private hire drivers to park aside from places that are marked double yellow lines would be residential places to park. However, this will be evidently obstruct local residents and cause further inconvenience. This can only be rectified if the council could allocate places in which they can park their vehicles, while they are waiting for the job to come through.

From:  
Sent: 22 February 2017 16:38  
To: Licensing  
Subject: Consultation

Hi i agree on proposed infringements:

Phv / hackney driver 6 points for waiting in disabled bay, & waiting in a bus stop.

Other restricted space, only if it is for emergency vehicles & emergency exits or access.  
Otherwise no, i do not agree with this.

Phv / hackney drivers- driving erratically, yes i agree.

Phv / hackney drivers nlocking driveway or entrance of any residence, business, school or any other space/public building. I think penalty points on this is excessive, unless vehicle is left unattended.

Hackney carriage drivers not using meter wholly within borough should be option 3. Referral to licensing panel to consider revocation of licence.

1. Should the non use of taxi meter within rbwm....

I think this should be added to list of infringements. It should be referred straight away to the licensing panel.

Pls keep my name confidential, thanks.  
Regards



## Appendix D - Consultation Response Petition 1

PETITION AGAINST PENALTY Point  
(G56 Professional DRIVERS Union)

①	Plate No 878	M. Hussain
②	plate No 927	Plat No
③	Plate No 918	Tauheed Durrani
④	Plate no 918	Alid Khan
⑤	plate no 956	G. HUSSAIN
⑥	Plate 882	<del>Signature</del>
⑦	Plate 888	B.S. PUNJ
⑧	PLATE 875	SHAMAL
⑨	Plate 878	M. Hussain
⑩	plate 989	Mansoor R.
⑪	Plate 983	Imran Singh
⑫	Plate 862	M. <del>Signature</del>
⑬	Plate 977	<del>Signature</del>
⑭	11 854 <del>986</del>	<del>Signature</del>
⑮	11 928	M. Arif
⑯	11 846	Amjid ALI
⑰	11 955	Kurran
⑱	11 906	<del>Signature</del>
⑲	11 973	<del>Signature</del>
⑳	11 916	<del>Signature</del>
㉑	11 990 <del>980</del>	K. HUSSAIN

- (22) ABDAS (SL) 2 WEEK
- (23) ABID A
- (24) AFSA
- (25) AHAZ
- (26) ATICE
- (27) BAIG
- (28) BASERT
- (29) HASSAN
- (30) BUTT
- (31) NAWAZ
- (32) SHAID
- (33) DILAHANN
- (34) DRANNY
- (35) GAFARAI
- (36) GHAFUR
- (37) GULZARJ
- (38) IRFAN
- (39) JANG
- (40) KHURAM RAZA
- (41) MAJEEB
- (42) MAUSUM
- (43) MR SOHAIL
- (44) MUSTAFIK
- (45) MR SHAH
- (46) MR PUNKAS
- (47) RASALAI
- (48) SAF
- (49) SAJID
- (50) SHAH GMB
- (51) SUNNY
- (52) SYED HAROON
- (53) ZAHHEER

## Appendix E - Consultation Response Petition 2

Monday 27<sup>th</sup> February 2017

Dear Chairman of the licensing panel of RBWM,

This letter is in relation to the consultation letter regarding whether additional infringements for penalty points for hackney carriage and private hire drivers should be added.

In relation to the additional infringement points relating to waiting in: restricted areas, marked disabled bay, bus stops and blocking driveway entrances. These infringements are already monitored and penalised by traffic wardens, so we don't believe that there is any need and nor should there be additional penalisation through points for these infringements. As the large majority of drivers do not act in this manner. This added power that the licensing officer will gain, will penalise the drivers further given the traffic warden already have the power of issuing parking fines. So we don't understand the need of this extra power.




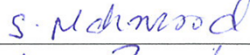
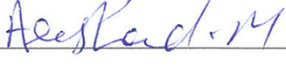

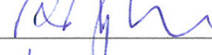
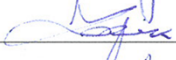
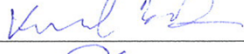
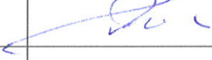







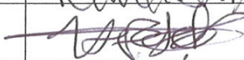
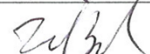


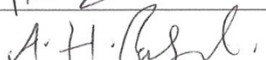
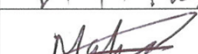
Regarding the infringement relating to drivers driving erratically and without due care, again we don't understand why the licensing officer needs this, given that the Police already have this power and use it in terms of issuing 3 to 6 fixed penalty points. This is already an offense in relation to all drivers, so why does the licensing officer need to issue further points relating to this.

Furthermore the infringements relating to the non use of a taxi meters in the RBWM, in principle we agree with this, drivers **must** use the meter if the journey is in the RBWM. But in terms of the penalties listed for non use, they are too harsh for a first offense. We believe a 3 strike system should be implemented, after an initial first written warning, then progress with 3 license points if the driver chooses to ignore the written warning.




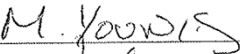
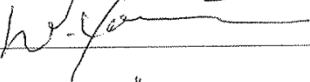

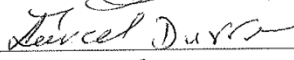

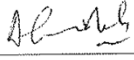
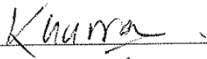

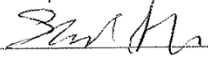

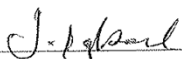


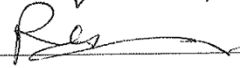
So these are the views of all the named drivers below, with their license number.

Kind regards

	Driver Name	License number	Signature
1	MOHAMMAD YASIN	CD 7110	
2	Sajjad Nazir	HD 6890	
3	MOHAMMAD Y. HUSSAIN	CD 7128	
4	SHAUKAT KIANI	CD <del>7128</del> 6726	S. Kiani
5	MANOIT SINGH	HD 7000	Manoj Singh
6	NASEER AHMED	HD 7010	Naseer -
7	IMRAN TARIQ	HD 7037	
8	SAURAJ SINGH	HD <del>829</del> 141	Sauraj
9	M. ARIF	HD 829	M. Arif
10	Waqar Malik	HD 6953	W
11	ASHRAQ NAZIR	HD 6883	AS
12	ZULFIKAR ALI	HD 0165	ZAF
13	KAMRAN HUSSAIN	HD 7120	K. HUSSAIN.
14	MATLOOB HUSSAIN	CD 7086	
15	JILALI AFAILAL	HD 974	
16	SAGHIR AHMED	CD 5746	
17	M. MAJID .	507089. M.	
18	SAEED . BARKIR	HD 6943	Saeed
19	M. LATIF	CD 7066	
20	Amir mehmood	HD 6981	Amir
21	M. RAFIQ	HD 0268	M.R
22	M. RAZUL	CD 7424	Mohammad RAZUL
23	ABDUL SATTAR	991	Sattar

	Driver Name	License number	Signature
24	Sajid Akub	HD 6796	
25	A. Nasar	CD 5179	
26	M. SALIMUREED	HD 6971	
27	Sajid Mahmood	HD 6978	
28	ARSHAD. MAHYOOD	CD 7100	
29	M. Munir	CD 5990	
30	A.MJAD NAZIR	PD 6239	
31	Zarman Ali	CD 6307	
32	Kamran Busfir	HD 7031	
33	A. ASGAR	HD 0281	
34	A. Hussam	CD 7031	
35	B. A. Rasib	HD 6886	
36	Saqib Mahmood	HD 6685	
37	MOHAMMED SULAMAN	CD 7012	
38	SIFAMS SOLAMAN	HD 7077	
39	JEHANGIR WETHEBAN	CD 6910	
40	Munear Shabbir	HD 7034	
41	Zafher Iqbal	HD 0343	
42	ZAHID MALIK	HD 6974	
43	M. Rashid	HD 148	
44	M PERVAIZ	Plate NO 841	
45	A. H. RASIB	Plate No 0814	
46	Matik Fagraz	HD 7016	

	Driver Name	License number	Signature
47	Sajid Mahmood	904	Sajid
48	M. Ashfaq	HD 0448	M. Ashfaq
49	M. AZHAR	948	M. Ashfaq
50	SHAHID ALI	HD 5665	Shahid Ali
51	M. SAEBT	HD 7018	M. Saebt
52	MANJINDER	CD 7060	Manjinder
53	Mohammad Ali	HD 6946	M. Ali
54	PARVAZ AKHTAR	HD 0211	Parvez
55	ASHFAQ MAHMUD	874	Ashfaq
56	M. MUNIR	145	M. Munir
57	JAVED	895	Javed
58	Sharafat Anayat	930	S. Anayat
59	PARVEZ Akhtar.	889	Parvez
60	A-HUSSAIN	871	A-HUSSAIN
61	BASHARAT MEHMOOD	877	Basharat Mehmood
62	Ali Asghar	HD 6983	Ali Asghar
62	MANAZIR	839	Manazir
64	M ANSAR	893	M. Ansar
55	HASSAN KHAN.	858	Hassan Khan
66	JANGHIR ALI	820	Janghir Ali
67	AMANAT ALI	HD 0155	Amanat Ali
68	JARIQ MAHMUD	HD 0346	Jariq Mahmud
59	MUHAMMAD AZAM	HD 0160	M. Azam

	Driver Name	License number	Signature
70	FAYYAZ HUSSAIN	HD 704	
71	SYED H. BUKHARI	HD 6879	
72	ABDUL WAHID	HD <del>0033</del>	A. WAHID 
73	MOHAMMED SHAKHEEL	HD 0013	
74	M. YOUNIS	HD 0272	M. YOUNIS 
75	M. W. YOUNIS	878	W. Younis 
76	A. ALAM	HD 6880	
77	JAVED DURRANI	HD 7014	Javed Durrani 
78	ABID KHAN	HD 7013	Abid Khan 
79	ASIM ASGHAR	HD 927	Asim 
80	KHAMAM RAZA	HD 955	Khamam 
81	Amjid Ali	846	A. ALI 
82	Sajeed Ali	851	Sajeed 
83	S. Khan	945	S. Khan 
84	Javed Iqbal	943	J. Iqbal 
85	Faiz Ali	808	Faiz 
86	Aqsaad Ali	939	Aqsaad 
87	Razwan	981	Razwan 

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Report Title:	Consultation Results and Final Recommendations - 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:	Licensing Panel 04 April 2017
Responsible Officer(s):	Andy Jeffs - Interim Strategic Director of Operations and Customer Services  Craig Miller, Head of Community Protection & Enforcement Services
Wards affected:	All

## REPORT SUMMARY

1. At the Licensing Panel on 16 January 2017 Members authorised consultation with the trade on adding to the council's 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 the borough, where the purpose of not using the taximeter can be shown to be to overcharge the customer. This report details the responses received and asks Members to approve this additional infringement.
2. Adopting this additional infringement will benefit residents and visitors by ensuring that they are not overcharged when using a hackney carriage within the borough. There are no cost implications beyond existing resources deployed to enforce hackney carriage vehicle and driver licensing legislation

## 1. DETAILS OF RECOMMENDATION

**RECOMMENDATION:** That the Licensing Panel notes the report and:

- i) **Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, Including Parking to formally add to the existing list of infringements in the penalty points system in the council's Hackney Carriage Driver and Vehicle Policy and Conditions the non-use of the taximeter by a hackney carriage driver for journeys within the borough, where the purpose of not using the taximeter can be shown to be to overcharge the customer.**

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

- 2.1 Following the Licensing Panel of 16 January 2017 a four week consultation exercise was carried out with the borough's licenced hackney carriage (taxi) drivers. This was achieved by writing directly to all 161 licenced taxi drivers. The letter sent is attached as Appendix A.
- 2.2 There were 4 individual responses and one joint response and these are attached as Appendix B. There were two petitions and these are attached as Appendices C and D respectively.
- 2.3 There were two responses from taxi representatives, one from Mr Yasin, representing largely Maidenhead based taxi drivers and one from Mr Jaffri representing largely Windsor based taxi drivers.
- 2.4 Mr Yasin requested a meeting with the Trading Standards & Licensing Lead and that meeting took place on 28 February 2017. At that meeting several drivers made it clear that sometimes their customers demand a fixed fare rather than use the meter. On other occasions customers leave without paying or only pay a lesser amount than required and there is no action taken against those customers by the local authority.
- 2.5 Assurances were given to Mr Yasin and his colleagues that the proposed use of penalty points in this instance was targeted at those drivers who are deliberately setting out to overcharge their customers. Action would only be taken where there was sufficient evidence and it was appropriate to do so. The drivers were also reminded that all points are subject to appeal and are considered spent after 12 months.
- 2.6 This addressed most of the concerns raised but it was suggested that a letter of warning would be more appropriate than penalty points. It was pointed out that the non use of the meter within the borough for the purposes of overcharging is a criminal offence so the use of penalty points is, in effect, a warning by comparison with action that could potentially be taken.
- 2.7 A number of other issues were raised by Mr Yasin and his colleagues which did not relate to this consultation and they will be addressed outside of this process.
- 2.8 Mr Jaffri also attended the meeting on 28 February 2017 and took part in the discussions. At the end he presented a petition headed Petition Against Penalty points signed by 21 drivers with another 33 names added. This is produced as Appendix C.
- 2.9 Despite the discussions which took place and the explanations and assurances given at the meeting on 28 February, Mr Jaffri has confirmed that his petition stands and the signatories are against the proposed penalty points for going off meter within the borough with the intention of overcharging the customer.
- 2.10 The petition produced as Appendix D is generally accepting of this addition to the list of infringements for which penalty points can be given although the number of points recommended is questioned.

2.11 Members are now invited to consider the response to the consultation and to approve the addition to the existing penalty points infringements “Hackney carriage drivers not using their taximeter for a journey wholly within the borough so as to inflate the cost of the journey”

2.12 Options for approval are set out in Table 1, below.

**Table 1: Options for Licensing Panel Members**

<b>Option</b>	<b>Comments</b>
<p>1. Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the Penalty Points System in the council’s Hackney Carriage Driver and Vehicle Policy and Conditions ;            “Hackney carriage drivers not using their taximeter for a journey wholly within the borough so as to inflate the cost of the journey”            - 6 Points  <b>This is the recommended option</b></p>	<p>Imposing 6 penalty points for this infringement reflects the seriousness and deliberate nature of the offence (a driver accumulating 12 points in 12 months will be referred to the Licensing Panel to consider the fitness of the driver to have a licence).</p>
<p>2. Members give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the Penalty Points System in the council’s Hackney Carriage Driver and Vehicle Policy and Conditions ;            “Hackney carriage drivers not using their taximeter for a journey wholly within the borough so as to inflate the cost of the journey”            - Points to be decided by the Panel</p>	<p>Members may wish to consider the number of points proposed for this infringement.</p>
<p>3. Members do not give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add to the existing list of infringements in the</p>	<p>This will mean that no quick and effective action can be taken against drivers who knowingly and deliberately overcharge their customers.</p>

Option	Comments
Penalty Points System in the council's Hackney Carriage Driver and Vehicle Policy and Conditions; "Hackney carriage drivers not using their taximeter for a journey wholly within the borough so as to inflate the cost of the journey"	

### 3. KEY IMPLICATIONS

- 3.1 Adopting the proposed penalty points will mean that complaints received about the non use of the meter and subsequent overcharging can be immediately and effectively addressed.

**Table 2: Expected Levels of Enforcement Action**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Percentage of complaints about this practice where action taken	<90%	90%	90% – 95%	>95%	From 01 May 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.
- 5.2 The existence of this provision could result in a challenge to penalty points being imposed where the law already provides a means for dealing with this illegal activity. 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 purpose in this report is 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.

### 6. RISK MANAGEMENT

- 6.1 As described in Table 4, below

**Table 4:**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
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 policy is considered fair and reasonable and balances the needs of licenced drivers and the duty to protect the public	Low

## 7. POTENTIAL IMPACTS

7.1 No EQIA is anticipated at this stage.

## 8. CONSULTATION

8.1 Consultation has now been completed and the results set out in this report.

## 9. TIMETABLE FOR IMPLEMENTATION

9.1 As described in Table 5, below:

**Table 5:**

<b>Date</b>	<b>Details</b>
04 April 2017	Panel gives give authority to the Interim Strategic Director of Operations and Customer Services, and the Lead Member for Environmental Services, including Parking to formally add this infringements to the existing Penalty Points System.
01 May 2017	The new infringements come into force.

## 10. APPENDICES

10.1 Appendix A - Consultation Letter

10.2 Appendix B - Consultation Responses from Individuals

10.3 Appendix C - Consultation Response Petition 1

10.4 Appendix D - Consultation Response Petition 2

## 11. BACKGROUND DOCUMENTS

11.1 None

## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr Cox	Lead Member for Environmental Services,	17/03/17	20/03/2017

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
	Including Parking		
Cllr Grey	Chair of the Licensing Panel	17/03/17	22/03/17
Alison Alexander	Managing Director	20/03/17	21/03/17
Andy Jeffs	Interim Strategic Director of Operations and Customer Services	17/03/17	21/03/17
Craig Miller	Head of Community Protection and Enforcement	17/03/17	
Neil Allen	Shared Legal Solutions	17/03/17	

## **REPORT HISTORY**

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

# Appendix A – Consultation Letter

## Consultation

### Penalty Points for Hackney Carriage and Private Hire Drivers Additional Infringements

At the Licencing Panel meeting on 16 January 2017 two items were discussed relating to amendments to RBWM's Penalty Points System under which licensing officers can give penalty points to hackney carriage and private hire vehicle drivers.

Both items were agreed in principle but are now required to go out to consultation with the trade and other interested parties.

The results of this consultation and proposals to amend the current list of penalty point infringements are to be reported to the next meeting of the Licensing Panel on Tuesday 4 April 2017.

**This letter seeks your views on the two items as set out below.**

- 1. Penalty Points System - Additions to the Current List of Infringements.*
2. Penalty Points System - Non-Use of Taximeters by Hackney Carriage Drivers

Ideally all RBWM hackney carriage journeys should be carried out using the taximeter. This is expected by the vast majority of passengers and avoids any misunderstanding as to what the fare should be.

However it is recognised that under certain circumstances RBWM hackney carriage drivers are legally permitted to take a fare without using the taximeter.

Complaints have been received indicating that some hackney carriage drivers are taking fares within the Borough without using their taximeter for the purpose of deliberately overcharging the customer (ie charging more than the meter would have shown, had it been used). Such an action is a criminal offence.

Taking a criminal prosecution is a lengthy and time consuming process. It is therefore proposed that the following be added to the existing list of infringements for which a licensing officer can impose penalty points;

**“Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey”.**

If this is agreed then the number of points needs to be set. There are the following options ;

Option	Comments
<p>1. Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey</p> <p style="text-align: center;"><b>3 Points</b></p>	<p>3 penalty points is for lesser infringements of a technical nature</p>
<p>2. Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey</p> <p style="text-align: center;"><b>6 Points</b></p> <p style="text-align: center;">(This is the recommended option)</p>	<p>6 penalty points would better reflect the deliberate act by the driver of knowingly inflating the cost of a journey</p>
<p>3. Hackney carriage drivers not using their taximeter for a journey wholly within RBWM so as to inflate the cost of the journey”</p> <p style="text-align: center;"><b>Referral to Licensing Panel to consider revocation of licence</b></p>	<p>This may be considered to be a disproportionate response to the infringement</p>

The existing right of appeal against penalty points would apply to any new infringements agreed by the Panel as a result of this consultation. Points would only ever be imposed where there was the evidence to do so.

**Your views are sought on the following questions**

1. **Should the non use of the taxi meter within RBWM for the purposes of overcharging be added to the existing list of infringements?**
2. **If the answer is “yes”, then how many points should be imposed, or should the matter be referred to the Licensing Panel immediately?**
3. **If the answer is “no” could you say why?**
4. **Do you have any other comments?**

**Your replies to items 1 and 2 should be sent by Friday 10 March ;**

**By e-mail to [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk)**

**By post to   Consultation Reply**  
**Trading Standards & Licensing**  
**York House**  
**Sheet Street**  
**Windsor**  
**SL4 1DD**



## Appendix B – Consultation Responses from Individuals

**From:** ]  
**Sent:** 15 February 2017 17:15  
**To:** Licensing  
**Subject:** Consultation Reply

Regarding the consultation

1. I do not think the non use of taxi meter should be added to the existing list of infringements

3. I as a Hackney carriage driver have had many occasions where people have not wanted to sit in the car with the meter on so you have no choice but to take them on a fixed price. Other occasions people have refused to pay at the end of the journey and you call the police and there reply is we don't have enough resources and it's a civil matter. By this time people have left and A) you have wasted time B) you have not been paid. This is on top of the time you have been sitting around waiting for a pick up then this happens who will pay for this? Should it be the council who we pay our licensing fees too?

Kind Regards

**From:**  
**Sent:** 22 February 2017 16:38  
**To:** Licensing  
**Subject:** Consultation

Hackney carriage drivers not using meter wholly within borough should be option 3. Referral to licensing panel to consider revocation of licence.

1. Should the non use of taxi meter within rbwm....

I think this should be added to list of infringements. It should be referred straight away to the licensing panel.

Pls keep my name confidential, thanks.  
Regards

Your views are sought on the following questions

1. Should the non use of the taxi meter within RBWM for the purposes of overcharging be added to the existing list of infringements? *No*

2. If the answer is "yes", then how many points should be imposed, or should the matter be referred to the Licensing Panel immediately?

3. If the answer is "no" could you say why?

*MANY CUSTOMER PAY THE SAME AMOUNT PREFER METER OFF*

4. Do you have any other comments?

*MANY DRIVERS ARE NOT HAPPY POINT SYSTEM. AS HACKNEY DRIVERS WE SHOULD GET HELP FROM COUNCIL. STOP ILLEGAL TOUTING. BLACK CABS CAN PARK*

Your replies to items 1 and 2 should be sent by Friday 10 March ;

*ON BUS STOP  
DOUBLE LINES  
RED ROUTE.*

By e-mail to [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk)

By post to Consultation Reply

Trading Standards & Licensing  
York House  
Sheet Street  
Windsor  
SL4 1DD

Your views are sought on the following questions

1. Should the non use of the taxi meter within RBWM for the purposes of overcharging be added to the existing list of infringements?

YES

2. If the answer is "yes", then how many points should be imposed, or should the matter be referred to the Licensing Panel immediately?

6 POINTS.

3. If the answer is "no" could you say why?

4. Do you have any other comments?

PRIOR RECORD SHOULD BE TAKEN INTO ACCOUNT  
IF THIS LEADS TO LOSS OF LICENCE - BE AWARDED ONLY POINTS SHOULD  
Your replies to items 1 and 2 should be sent by Friday 10 March ; IF INTENTIONAL AND INFLATION IN PRICE.

By e-mail to [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk)

By post to Consultation Reply  
Trading Standards & Licensing  
York House  
Sheet Street  
Windsor  
SL4 1DD

(Anonymous)

This on behalf of the following Hackney Carriage Drivers from which these points have been discussed in detail. From which we agreed on a neutral basis how these points should be taken into consideration and part of the consultation process. The names are as follows: -

Wednesday 8 March 2017  
Mr Mohammed Naeem Sabir

Sabir Hussain

Sawraj Singh Atwal

Manazar Hussain

Mohammad Mushtaq

Janghir Ali

Jehanghir Mehrban

Consultation Reply  
Trading Standards and Licencing  
York House  
Sheet Street  
Windsor  
SL4 1DD

## 2. Penalty Points System – Non-Use of Taximeters by Hackney Carriage Drivers

**Option 1 Hackney carriage drivers not using their taximeter for a journey wholly within the RBWM so as to inflate the cost of the Journey.**

**1-Should the non-use of the taxi meter within RBWM for the purpose within RBWM for the purpose of overcharging be added to the existing list of infringements?**

Yes

**2- If the answer is yes then how many points should be imposed, or should the matter be referred to the licensing Panel immediately?**

3 points is enough to use as a deterrent and no more.

**Do you have any other comments?**

I do strongly feel that inflating the cost of the journey and not putting the meter on is wrong and unacceptable behaviour by Hackney Carriages within the RBWM. The 3 points would be enough to facilitate this and will be a caution to the driver as to not do this again. The other 2 options are too much and do not warrant the 6 points or Referral to Licensing Panel to consider revocation of licence.

The reason that I feel the council is doing this is justified but we have to say to ourselves why is this happening? The reason is Too many taxis issued, long waiting times for job and not enough taxi ranks issued from the council as it was promised. This has ultimately led to this situation of drivers overcharging. I have been working for 8 years as an Hackney Carriage Driver and this is the worst and the most testing times for Hackney Carriages. The council need to review its own status and see whether to issue more Hackney Carriages is still a viable option.

:- The council is more interested in making more money from Hackney Carriages that it has lost its way in improving public and Hackney Carriage Driver Safety

:-The time has come to do a survey because this tells me the council has lost control of the numbers coming in which has ultimately led to this situation.

**Thank you and look forward to your response.**

**Mohammad Naeem Sabir**

# Appendix C - Consultation Response Petition 1

PETITION AGAINST PENALTY Point  
(G56 Professional DRIVERS UNION)

①	Plate No 818	M. Hussain
②	plate No 927	Plat No
③	Plate No 918	Tauheed Durrani
④	Plate no 918	Alid Khan
⑤	plate no 956	G. HUSSAIN
⑥	Plate 882	<del>Signature</del>
⑦	Plate 888	B.S. PUN
⑧	PLATE 875	SHAMAL
⑨	Plate 878	M. Hussain
⑩	plate 989	Mansoor R.
⑪	Plate 983	Imran Singh
⑫	Plate 862	M. <del>Signature</del>
⑬	Plate 977	<del>Signature</del>
⑭	11 854 <del>986</del>	<del>Signature</del>
⑮	11 928	M. Arif
⑯	11 846	Amjid ALI
⑰	11 955	Kurran
⑱	11 906	<del>Signature</del>
⑲	11 973	<del>Signature</del>
⑳	11 916	<del>Signature</del>
㉑	11 990 <del>980</del>	K. HUSSAIN

- (22) ABDAS (SL) 2ANEEL
- (23) ABID A
- (24) AFSA
- (25) AHAZ
- (26) ATICE
- (27) BAIG
- (28) BASERT
- (29) HASSAN
- (30) BUTT
- (31) NAWAZ
- (32) SHAID
- (33) DILAHANN
- (34) DRANNY
- (35) GAFARAT
- (36) GHAFUR
- (37) GULZARJ
- (38) IRFAN
- (39) JANG
- (40) KHURAM RAZA
- (41) MAJEEB
- (42) MAUSUM
- (43) MR SOHAIL
- (44) MUSTAFI
- (45) MR SHAH
- (46) MR PUNKAS
- (47) RASALAT
- (48) SAF
- (49) SAJID
- (50) SHAH GMB
- (51) SUNNY
- (52) SYED HAROON
- (53) ZAHHEER

## Appendix D - Consultation Response Petition 2

Monday 27<sup>th</sup> February 2017

Dear Chairman of the licensing panel of RBWM,

This letter is in relation to the consultation letter regarding whether additional infringements for penalty points for hackney carriage and private hire drivers should be added.

In relation to the additional infringement points relating to waiting in: restricted areas, marked disabled bay, bus stops and blocking driveway entrances. These infringements are already monitored and penalised by traffic wardens, so we don't believe that there is any need and nor should there be additional penalisation through points for these infringements. As the large majority of drivers do not act in this manner. This added power that the licensing officer will gain, will penalise the drivers further given the traffic warden already have the power of issuing parking fines. So we don't understand the need of this extra power.

Regarding the infringement relating to drivers driving erratically and without due care, again we don't understand why the licensing officer needs this, given that the Police already have this power and use it in terms of issuing 3 to 6 fixed penalty points. This is already an offense in relation to all drivers, so why does the licensing officer need to issue further points relating to this.

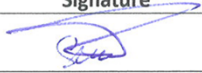



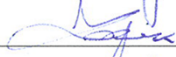
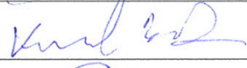
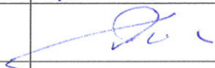



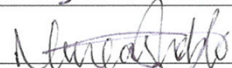
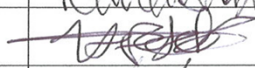

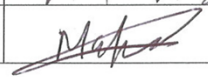
Furthermore the infringements relating to the non use of a taxi meters in the RBWM, in principle we agree with this, drivers **must** use the meter if the journey is in the RBWM. But in terms of the penalties listed for non use, they are too harsh for a first offense. We believe a 3 strike system should be implemented, after an initial first written warning, then progress with 3 license points if the driver chooses to ignore the written warning.

So these are the views of all the named drivers below, with their license number.

Kind regards



	Driver Name	License number	Signature
1	MOHAMMAD YASIN	CD 7110	
2	Sajjad Nazir	HD 6890	
3	MOHAMMAD Y. HUSSAIN	CD 7128	
4	SHAUKAT KIANI	CD <del>7128</del> 6726	S. Kiani
5	MANOIT SINGH	HD 7000	Mano Singh
6	NASEER AHMED	HD 7010	Naseer
7	Imran Tariq	HD 7037	
8	SAURAJ SINGH	HD <del>829</del> 141	Sauraj
9	M. ARIF	<sup>HD</sup> 829	M. Arif
10	Waqar Malik	HD 6953	W
11	ASHRAQ NAZIR	HD 6883	AS
12	ZULFIKAR ALI	HD 0165	ZAF
13	KAMRAN HUSSAIN	HD 7120	K. HUSSAIN.
14	MATLOOB HUSSAIN	CD 7086	
15	JILALI AFAILAL	HD 974	
16	SAGHIR AHMED	CD 5746	
17	M. MAJID .	507089. M.	
18	SAEED . BARKIR	HD 6943	Saeed
19	M. LATIF	CD . 7066	
20	Amir mehmood	HD 6981	Amir
21	M. RAFIQ	HD 0268	M.R
22	M. Nazir	CD 7424	Mohammad NAZIR
23	ABDUL SATTAR	991	Sattar

	Driver Name	License number	Signature
24	Sajid Akub	HD 6796	
25	A. Nasar	CD 5179	
26	M. SAJJID MUREED	HD 6971	S. Mureed
27	Sajid Mahmood	HD 6978	S. Mahmood
28	ARSHAD. MAHYMOOD	CD 7100	Aeeshaad. M
29	M. Munir	CD 5990	
30	A.MJAD NAZIR	PD 6239	
31	Zarman Ali	CD 6307	
32	Kamran Bushtir	HD 7031	
33	A. ASGAR	HD 0281	
34	A. Hussain	CD 7031	A. HUSSAIN
35	B. A. Rasib	HD 6886	B. A. Rasib
36	Saqib Mahmood	HD 6685	Saqib
37	MOHAMMED SULAMAN	CD 7012	
38	SIFAM SULLAMAN	HD 7077	
39	JEHANGIR WETHEBAN	CD 6910	
40	Munzar Shabbir	HD 7034	
41	Zafher Iqbal	HD 0343	
42	ZAHID MALIK	HD 6974	Zahid
43	M. Rashid	HD 148	
44	M PERVAIZ	Plate No 841	Perzad
45	A. H. RASIB	Plate No 0814	A. H. Rasib
46	Matik Fagraz	HD 7016	

	Driver Name	License number	Signature
47	Sajid Mahmood	904	Sajid
48	M. Ashfaq	HD 0448	M. Ashfaq
49	M. AZHAR	948	M. Ashfaq
50	SHAHID ALI	HD 5665	Shahid Ali
51	M. SAEBT	HD 7018	M. Saebt
52	MANJINDER	CD 7060	Manjinder
53	Mohammad Ali	HD 6946	M. Ali
54	PARVAZ AKHTAR	HD 0211	Parvez
55	ASHFAQ MAHMUD	<del>874</del> 874	Ashfaq
56	M. MUNIR	145	M. Munir
57	JAVED	895	Javed
58	Sharafat Anayat	930	S. Anayat
59	PARVEZ Akhtar.	889	Parvez
60	A-HUSSAIN	871	A-HUSSAIN
61	BASHARAT MEHMOOD	877	Basharat Mehmood
62	Ali Asghar	HD 6983	Ali Asghar
62	MANAZIR	839	Manazir
64	M ANSAR	893	M. Ansar
55	HASSAN KHAN.	858	Hassan Khan
66	JANGHIR ALI	820	Janghir Ali
67	AMANAT ALI	HD 0155	Amanat Ali
68	JARIQ MAHMUD	HD 0346	Jariq Mahmud
59	MUHAMMAD AZAM	HD 0160	M. Azam

	Driver Name	License number	Signature
70	FAYYAZ HUSSAIN	HD 704	
71	SYED H. BUKHARI	HD 6879	
72	ABDUL WAHID	HD <del>0033</del>	A. WAHID
73	MOHAMMED SHAKHEEL	HD 0013	
74	M. YOUNIS	HD 0272	M. YOUNIS
75	M. W. YOUNIS	878	W. Younis
76	A. ALAM	HD 6880	
77	JAVED DURRANI	HD 7014	Javed Durrani
78	ABID KHAN	HD 7013	Abid Khan
79	ASIM ASGHAR	HD 927	Asim
80	KHAMAM RAZA	HD 955	Khamam
81	Amjid Ali	846	A. ALI
82	Sajjad Ali	851	Sajjad
83	S. Khan	945	S. Khan
84	Javed Iqbal	943	J. Iqbal
85	Faiz Ali	808	Faiz
86	Aqsaad Ali	939	Aqsaad
87	Razwan	981	Razwan