

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

19 SEPTEMBER 2018
ALL WARDS

**PENALTY POINTS SYSTEM FOR LICENSED DRIVERS AND VEHICLE
PROPRIETORS**

1. Summary

- 1.1 Following a report to this committee in February 2018 proposing the introduction of a penalty point scheme in respect of all Birmingham City Council licensed vehicles (Appendix 1).
- 1.2 Committee approved the introduction of the scheme in principal subject to consultation with the trade and the wider public.
- 1.3 The proposed scheme was consulted on in May and June of this year and this report outlines the results of that consultation and makes recommendations regarding the introduction of any such scheme.

2. Recommendation

- 2.1 That Committee approves the introduction of a penalty points system attached at Appendix 1 for licensed drivers and vehicle proprietors.
- 2.2 That the administration of the scheme be delegated to Licensing Enforcement Officers and above as described in 5.4 – 5.8.

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3.0 Background

- 3.1 The scheme was originally proposed because during on-going road side compliance checks Licensing Enforcement continues to identify high levels of non-compliance with conditions of vehicle licences particularly regarding required signage and safety issues with licensed vehicles.
- 3.2 The primary objective of the penalty points system is to improve the levels of compliance and help improve standards, safety and ultimately the protection of the travelling public. It is intended to work in conjunction with other enforcement options and provides a formalised stepped enforcement plan.
- 3.3 Other matters identified may significantly impact on the safety of a vehicle and indicate the driver is failing to regularly inspect or maintain a vehicle.
- 3.4 As Licensing Authority the Council need to reinforce compliance with the conditions attached to the licences it issues and to promote the high standards expected of licence holders. We want residents and visitors to the City to feel safe when they use a hackney carriages or private hire vehicles so it is crucial that standards of licensed drivers and vehicles are consistently high.
- 3.5 The proposed penalty points system is intended as a means of recording repeated non-compliance, or activity that is other than in accordance with the standards expected of licensed hackney carriage and private hire drivers.

4. Consultation

- 4.1 The initial draft of the proposed scheme was subject to a consultation for 6 weeks from 14/05/2018 – 24/06/2018 by way of a survey on the Birmingham Be Heard website.
- 4.2 There were a total of 46 respondents to the survey; 23 identified as licensed drivers, 6 as vehicle owners and 14 as members of the public. A summary of their responses are attached at Appendix 2 and where a written response to questions were required these are attached at Appendix 3 including where appropriate our responses to those comments.
- 4.3 A separate response was also received from the RMT (Appendix4) and although this was after the deadline it has been considered as part of this report.
- 4.4 A response to points raised by the RMT is included at the end of Appendix 3.
- 4.5 In response to the two questions regarding whether the proposed scheme would drive up vehicle standards and assist in ensuring public safety the results gave an exact 50:50 split on the impact of the proposed scheme.
- 4.6 Those responses in support of the scheme included improvement of the environment and driver standards as well as the need to have high standards

as they represent the City.

- 4.7 Those responses that were against the introduction of the scheme in the main (10 of 18) focused on the fact that this scheme cannot be applied to the large number of out of town drivers that currently operate in the City and could deter drivers from applying to Birmingham and possibly drive them elsewhere.
- 4.8 The RMT letter objects strongly to the introduction of the scheme on behalf of its members; quoting the introduction of double jeopardy, lack of enforcement against out of town drivers and lack of protection of the trade, as well as the introduction of the current emissions policy.
- 4.9 There were also various responses to questions regarding the introduction, removal or amendment of conditions although the majority of the issues raised revolved around Council Policies rather than being condition specific; such as rear loading vehicles; credit card payments; and the use of the front seat for passengers.
- 4.10 There was however a large number of responses again referring to out of town drivers and the lack of enforcement against plying for hire.
- 4.11 Where possible these responses have been addressed by way of further reports to come before this committee; directly to the person on the survey or accommodated where possible.

5. Implications for Resources

- 5.1 There is likely to be an initial additional cost resulting from the change to inspection forms and the creation of a recording system.
- 5.2 It is expected that this will be included in the new computer recording system due to be introduced to replace Sopra and so additional costs can be met within the current budget.
- 5.3 It is likely, at least initially, that this scheme will result in more drivers needing to appear before committee and this will have an additional burden on the number and/or frequency of sub-committees and officers that deal with the processing of reports to those committees.
- 5.4 In order to avoid this burden that committee considers delegating the duties under this scheme to Licensing Enforcement Officers and above.
- 5.5 Where a driver has exceeded their points limit within a three year period they will be requested to attend an Officer Review Meeting (ORM). The driver will may be accompanied at the meeting by a representative or solicitor if desired.
- 5.6 At the meeting, the driver will be able to explain and comment upon the matters being considered by the Reviewing Officer in relation to breaches of the Scheme. The Reviewing Officer may also wish to discuss any other relevant information e.g. passenger complaints

5.7 Depending on the individual circumstances of each case the Reviewing Officer will be able to choose from the following actions:

- Take No Action
- Issue a Recorded Warning
- Suspend Licence

With the following recommended penalties

- First breach – 7 days minimum suspension
- Second breach – 14 days minimum suspension
- Third breach – Refer to sub-committee recommending revocation of drivers licence, on the grounds of no longer constituting a fit and proper person

5.8 The driver will be notified in writing of the result of the meeting. Any driver aggrieved by a decision of the Reviewing Officer to suspend, a driver's licence will have the right to appeal to the Magistrates' Court.

6. Implications for Policy Priorities

6.1 The contents of this report are consistent with the Regulation and Enforcement Mission Statement - locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors.

7. Public Sector Equality Duty

7.1 The scheme proposed in this report seeks to improve the standards of vehicles that are used for the transport of the public and it will be applied to all drivers and vehicle proprietors licensed by Birmingham City Council.

7.2 It is however recognized that this may have financial implications on drivers at a time when pressure is being put on them by the introduction of the vehicle emissions policy, the proposed clean air zone and the number of foreign drivers in the City.

7.3 It will not be applied to drivers that are licensed by other local authorities and they will continue to operate in the City.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: None