

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 15th September 2022
Report for: Decision
Report of: Head of Public Protection

Report Title

TRAFFORD'S PENALTY POINT SYSTEM FOR PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS/VEHICLE OWNERS AND OPERATORS – REVISED POINTS

Summary

Trafford Council has operated a penalty point system since 1992. The system was devised to give officers and the Sub-committee additional options where a licence holder breached conditions but it was not considered appropriate to revoke the licence.

This report is to ask the Sub-committee to consider the proposed penalty points' policy which has been revised to reflect the new driver/vehicle and operator conditions which were adopted by the Council on the 13th October 2021.

Recommendation(s)

The Sub-Committee is being asked to consider the report and reaffirm the procedure for issuing penalty points and approve the revised penalty points.

Contact person for access to background papers and further information:

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1. BACKGROUND

- 1.1 The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a licence holder will be assessed in terms of the 'fit and proper person' test. The points system is predominantly an internal management tool for ensuring that licence holders who repeatedly contravene regulation and/or policy are assessed.
- 1.2 The aim is to encourage licence holders to comply with all legislation, licence conditions and behave in an acceptable manner at all times, thereby improving the professionalism and reputation of the licensed vehicle trade. The points system operates in addition to all existing enforcement options open to the Authority.
- 1.3 Points issued to a licence holder are confirmed in writing within 10 working days from the discovery of the contravention or the conclusion of an investigation into a complaint.
- 1.4 When issued, the penalty points remain "live" for a period of three years from the date they were imposed so that only points accumulated in a rolling thirty-six month period will be taken into account.
- 1.5 If a licence holder accumulates 150 or more points within a three years period from the date they were imposed, they are required to attend a Sub-committee hearing which will decide if the driver remains 'fit and proper' to continue to hold a hackney carriage or private hire driver's /vehicle or operator's licence.
- 1.6 Where the licence holder is brought before the Sub-committee the options available to it will include suspension or revocation of the licence, where appropriate. If the Sub-committee does not feel that the matter warrants suspension or revocation of the licence, other options may include, but are not limited to, extending the period for which the points are to remain "live" or to issue a written warning to the licence holder as to their future conduct.
- 1.7 The length of the period of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of policy and the compliance history of the licence holder.
- 1.8 More than one accumulation of penalty points in excess of the 150 point threshold in any three year period will normally result in the Sub-committee revoking a licence where they believe the person not to be 'fit and proper'.
- 1.9 Once the matter has been dealt with:
 - Points are removed if a suspension or revocation is imposed;
 - If a written warning is given the points remain live for the remainder of the three year period from the date the points were given;
 - If the live period is extended the points remain live for the time determined by the Sub-committee.

- 1.10 If a licence holder receives a Penalty Points Notice which he feels was not warranted, he may appeal. In such a case, the licence holder may, within 21 days of the date of receipt of the points, write to the Licensing Authority stating why he considers the points are not appropriate. The matter will then be put to a senior officer for a decision.
- 1.11 A licence holder retains the statutory right of appeal to the magistrates' court when a licence is revoked.
- 1.12 Following a revocation due to the accumulation of penalty points, should the driver wish to make an application for a new drivers licence, the application would be referred to the Public Protection Sub-committee for consideration. The Public Protection Sub-Committee would usually refuse to grant an application for a minimum of 12 months following revocation of a licence.

2. RECOMMENDATION

- 2.1 The Sub-committee is being asked to consider the report and reaffirm the procedure for issuing points and approve the revised penalty points.

ATTACHED

APPENDIX A – PENALTY POINTS

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Penalty Points – Operators		
	Breach	Points
	Failure to provide 6 months complaints report	100
	Failure to keep accurate records of all individuals working for the business	100
	Failure to comply with any conditions relating to the premises and equipment used by the operator in accordance with section 2 of the conditions	75
	Failure to keep accurate records of hiring in accordance with the conditions	75
	Failure to keep accurate driver and vehicle records in accordance with the conditions	75
	Failure to ensure that drivers and vehicles are not operated when their licence or insurance has expired	75
	Failure to notify the Authority of any complaints of a serious nature in accordance with the conditions	75
	Failure to obtain a standard DBS certificate before employing any individual in the business	75
	Failure to check DBS compliance with the Authority's Suitability Policy before employing an individual	75
	Failure to renew DBS certificates every three years	75
	Failure to assist and Authorised Officer or Police officer in the investigation involving current or former drivers and vehicles	75
	Failure to provide records upon the request of an Authorised Officer or police officer	50
	Failure to notify the Authority of any general unresolved complaints against a driver in accordance with the conditions	50
	Failure to provide contact at the operator in relation to enforcement /compliance matters	50
	Failure to notify the Authority of offences against the operator in accordance with the conditions	50
	Use of the words 'Taxi' or 'Cab' or the words 'For Hire' in breach of the licence conditions	50
	Failure to notify change of address	50
	Failure to provide any of the operator policies in accordance with the conditions of licence	50
	Failure of the operator or their staff to attend the Authority's licensing training	50
	Failure to notify the hirer when the booking will be sub-contracted to another operator	25
	Failure to provide documentary evidence of staff training in accordance with the conditions of licence	25
	Failure to inform the hirer when the vehicle dispatched is not licensed by Trafford Authority	25

Penalty Points - Drivers

	Breach	Points
	Failure to comply with the statutory duties of S165 of the Equality Act 2010 concerning providing reasonable assistance to a passenger who is a wheelchair user	150
	Conveying a greater number of passengers than permitted	100
	Refusal to carry a guide, hearing or other assistance animal in a licensed vehicle without a valid exemption certificate	150
	Charging an additional cost for the carrying of an assistance animal in a licensed vehicle	150
	Private Hire Driver standing or plying for hire	150
	Use of mobile phone or other electronic device whilst driving	100
	Smoking or use of an e-cigarette in vehicle	75
	Eating or drinking whilst driving	75
	Failure to notify convictions, cautions etc.	75
	Failure to notify arrest as per conditions	75
	Failure to notify fixed penalty(ies)	75
	Failure to notify of change of medical condition	75
	Smoking in a licensed vehicle at any time	75
	Failure to ensure the safety of passengers	75
	Failure to ensure vehicle is used lawfully and in accordance with the policies and conditions of the Authority	75
	Failure to give information or assistance to an authorised officer or police officer	75
	Failure to wear driver's badge as per condition	50
	Failure to behave in a civil, professional and responsible manner to an authorised officer or police officer	75
	Failure to behave in a civil, professional and responsible manner to passengers, members of the public and other private hire or hackney carriage drivers.	50
	Failure to drive with due care to passengers and other road users	50
	Failure to take the shortest route without reasonable cause	50
	Failure to report any incident of concern to the operator	50
	Concealing or defacing a vehicle licence plate and/or signage	50
	Conveying another person without the consent of the hirer	50
	Cancelling or concealing the taxi meter before passenger has seen the fare	50
	Charging more than the agreed fare	50
	Failure to report an accident as per conditions	50
	Failure to comply with a requirement of an authorised officer or police officer	50
	Failure to present vehicle for inspection by an authorised officer at a required time/location	50
	Failure to notify change of address as per conditions	25
	Failure to return driver's badge	25
	Failure to attend on time for a pre-arranged booking without reasonable cause	25
	Parking/stopping/waiting or picking up or dropping passengers on zig zags of a pedestrian crossing or school crossing	50
	Failure to park considerately and legally	25
	Failure to adhere to the Authority's standards on appearance, personal hygiene and dress code	25
	Sounding horn to attract customer attention	25

Penalty Points - Vehicles

	Breach		Points
	Failure to maintain the vehicle in good mechanical and structural condition at all times		75
	Varying the mechanical and structural specification of the vehicle without the Authority's consent		75
	Failure to notify the Authority of convictions etc. in accordance with the conditions		75
	Failure to display the plate in accordance with the conditions		50
	Failure to maintain the vehicle plate		50
	Failure to keep the vehicle wind and watertight		50
	Failure to provide the necessary windows and window openings		50
	Failure to maintain the interior of the vehicle to a suitable and comfortable standard		50
	Failure to provide two doors for the use of passengers		50
	Failure to notify the Authority of accident damage in accordance with the conditions		50
	Failure to display the mandatory bonnet sign and/or rear door signs in accordance with the conditions		50
	Failure to comply with conditions in respect of the use and maintenance of the taxi meter		50
	Failure to comply with the Authority's Compellable Area policy		50
	Failure to provide the insurance certificate upon request		50
	Failure to notify transfer of ownership		50
	Defective tyres (each)		75
	Failure to keep the vehicle clean		25
	Failure to provide facilities for the safe conveyance of luggage		25
	Displaying an advertisement/sign/notice without the consent of the Authority		25
	Failure to display a Fare Table in accordance with the conditions		25
	Failure to deposit a copy of the vehicle licence with the operator		25
	Failure to notify change of address		25
	Failure to notify who is driving the vehicle		25
	Failure to display compliance card		25
	Failure to display interior badge		25
	Failure to display No Smoking signs		25
	Defective lights		25

The Penalty Points System may be used in respect of the abuse of taxi ranks in the Borough. 25 penalty points may be awarded against the driver of any Hackney Carriage which is parked at a rank in excess of the permitted number.

The penalty points system may be used to deal with cases of gross misconduct by drivers, vehicle proprietors and operators. The system may also be used to deal with such other matters of a substantial nature as the Sub-Committee feels are detrimental to the reputation of the Trafford Hackney Carriage/Private Hire Service.