

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO LICENSING COMMITTEE**

Agenda Item No.

meeting date: TUESDAY, 10 AUGUST 2006
title: PENALTY POINTS SCHEME
submitted by: SOLICITOR/LEGAL SERVICES MANAGER
principal author: DIANE RICE

1 PURPOSE

- 1.1 To consider the introduction of a scheme to record infringements by drivers, operators and vehicle proprietors.
- 1.2 Relevance to the Council's ambitions and priorities

Council Ambitions)	The Council has a responsibility to ensure that
Community Objectives)	licensed drivers operate in full compliance with
Corporate Priorities)	the regulations, legislation, bye laws, conditions
Other Considerations)	etc relevant to the licence they hold.

2 BACKGROUND

- 2.1 Before granting a licence the Council has to be satisfied that the applicant is a fit and proper person. However, problems can sometimes arise during the period of issue of the licence about the fitness of the licence holder. On occasions the concerns arise from serious or criminal activity which can, in itself, justify suspension or revocation of a licence. The Council has the power to consider revocation of a licence either following a criminal conviction or for "other reasonable cause".
- 2.2 Difficulty arises where licensed persons do not act in a way which leads to a conviction, but consistently commit minor infringements which (a) create a massive amount of unnecessary work for the licensing and enforcement staff – thereby preventing them from addressing other more significant issues and (b) demonstrates a casual disregard for their obligations arising from the licence and for the public who they serve.
- 2.3 Some of the most frequent complaints are made by drivers/operators against other drivers and operators. Those who abide by the rules feel aggrieved that others "get away with it" or bring down the standard of provision to the public in the Council's area.
- 2.4 During discussions at the annual taxi meeting there was general support for a penalty points scheme – which would give an even handed and transparent mechanism to record and take account of the cumulative effect of minor infringements.

3 ISSUES

- 3.1 Many Councils operate a penalty points scheme set within their more general enforcement policy.
- 3.2 The points scheme is intended to complement action taken by way of suspension, revocation and prosecution for more serious offences.

- 3.3 The key issues to decide are:
- (i) the types of infringements covered;
 - (ii) the points allocated;
 - (iii) the period over which points will be taken into account; and
 - (iv) the effect and/or mechanism for dealing with points.

Different Councils use different schemes and a suggested scheme is attached at Appendix 1.

- 3.4 The types of infringements covered in the scheme includes all aspects of taxi licensing, with the points relating to each infringement reflecting the seriousness of the infringements (ie a “rolling” period of two years).
- 3.5 The scheme sets the period over which the points would be taken into account as a period of two years from the points being incurred.
- 3.6 Imposition of a scheme will need to be carried out in a measured manner to allow operators, drivers and proprietors to develop a better awareness of their obligation.
- 3.7 The scheme includes the important safeguard of referral to a sub-Committee of Members of the Licensing Committee before revocation or suspension based on accumulated points.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
- Resources – Work will be carried out by existing staff.
 - Technical, Environmental and Legal – N/A
 - Political – N/A
 - Reputation – When the Council received complaints from members of the public the use of a points system will enable the Council to reassure the complainant that, where formal action is not possible, the complaint will still be taken into account.

5 **RECOMMENDED THAT COMMITTEE**

- 5.1 Agree to implement the penalty point scheme in the form attached with immediate effect.

LEGAL SERVICES MANAGER

For further information please ask for Diane Rice, extension 4418.

10080604 DER/JS

APPENDIX

PENALTY POINTS SYSTEM

The Penalty Points Scheme will operate as follows:-

1. The Council's Enforcement Policy will be fully considered when determining the manner in which any offence or breach of licence conditions is dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be recommended on a scale of 1 to 3 dependent upon the type of offence or breach of licence conditions by the Licensing and Electoral Registration Officer or Taxi Enforcement Officer. Prior to the issue of penalty points to a licensee, the contravention(s) will be reviewed by the Legal Services Manager so as to ensure that the appropriate action is being taken and then, if approved, the points will be issued by the Licensing and Electoral Registration Officer.
2. A maximum of twelve penalty points will be issued on any one occasion. This means that if on any occasion when it is proposed to impose penalty points, the licence holder has committed more than one offence or breach of licence conditions, no more than 12 points will be imposed.
3. Points issued to either a proprietor or driver will be confirmed in writing within 10 working days from the discovery of the contravention.
4. When issued, the penalty points will remain "live" for a period of two years from the date they are imposed so that only points accumulated in a rolling 24 months period will be taken into account. If a driver, proprietor or operator accumulates twelve or more points within a period of two years from the date they are imposed, he/she will be brought before a Sub Committee of the Council's Licensing Committee for appropriate action to be taken.
5. Where a driver is brought before the Committee, the options available to the Committee will be to suspend or revoke the driver's licence, where Members are satisfied that the driver had failed to comply with the provisions of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1846 or have a reasonable cause for believing so. If the members of the Committee do not feel that the matter warrants revocation or suspension of the licence, they may extend the period for which the points are to remain "live" or issue a warning the driver.
6. Periods of Suspension of a Licence will be dependant on the nature of the breaches of the legislation and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days. More than one accumulation of penalty points in excess of a personal threshold in any three year period will result in the Committee reviewing whether the individual is suitable to continue holding licences with the Authority
7. Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. However, if the period is extended or a warning given, the points will remain "live" for the normal two-year period.
8. A driver will retain the right to be represented at the hearing before the Licensing Committee either legally or otherwise and to put forward such evidence as he/she deems necessary.

9. Even though penalty points have been issued, if it is found that the driver has been issued with penalty points or has been formally cautioned for similar offences the Council retains the right to cancel the penalty points and deal with the matter in accordance with the Enforcement Policy.
10. Any person aggrieved by the issue of Penalty Points may appeal, in writing, within 14 days of the issue of the Penalty Points Notice, to the Council's Licensing Sub Committee, c/o The Licensing and Electoral Registration Officer.
12. The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, by-laws and regulations.

