



Licensing Committee

Mon 7 Mar
2016
7.00 pm

Committee Room 2
Town Hall
Redditch



www.redditchbc.gov.uk

If you have any queries on this Agenda please contact

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Licensing

Committee

Monday, 7th March, 2016

7.00 pm

Committee Room 2 Town Hall

Agenda

Membership:

Cllrs: Pat Witherspoon (Chair) Gay Hopkins
 Andrew Fry (Vice-Chair) Wanda King
 Tom Baker-Price Antonia Pulsford
 Roger Bennett Rachael Smith
 Natalie Brookes Jennifer Wheeler
 Anita Clayton

<p>1. Apologies</p>	<p>To receive the apologies of any Member who is unable to attend this meeting.</p>
<p>2. Declarations of Interest</p>	<p>To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.</p>
<p>3. Minutes (Pages 1 - 8)</p>	<p>To confirm as a correct record the minutes of the meeting of the Licensing Committee held on 2nd November 2016. (Minutes attached)</p>
<p>4. Hackney Carriage and Private Hire Liaison Meetings (Pages 9 - 10)</p>	<p>To consider the feedback from the Hackney Carriage and Private Hire liaison meetings held on 18th January 2016.</p>
<p>5. Hackney Carriage and Private Hire Vehicle Age Policies (Pages 11 - 16)</p>	<p>To consider information received from a licensed private hire operator that consideration is given to relaxing the Council's vehicle age policy in relation to private hire vehicles that are wheelchair accessible and fitted with hydraulic lifting equipment.</p>
<p>6. Hackney Carriage and Private Hire Penalty Points Scheme (Pages 17 - 24)</p>	<p>To consider a report on a penalty point scheme as a tool to assist in relation to ensuring the holders of hackney carriage and private hire licences are compliant with the requirements they have upon them as licence holders.</p>

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**7. Licensing Committee
Work Programme
2015/2016**

(Pages 25 - 26)

To consider the Committee's Work Programme for the current municipal year 2015/2016.



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Licensing Committee

2nd November 2015

MINUTES

Present:

Councillor Pat Witherspoon (Chair), Councillor Andrew Fry (Vice-Chair) and Councillors Tom Baker-Price, Roger Bennett, Natalie Brookes, Anita Clayton (during Minute No's 31 to 36), Gay Hopkins, Antonia Pulsford, Rachael Smith and Jennifer Wheeler

Officers:

Kevin Barnett, Sheena Jones and Dave Etheridge

Committee Officers:

Pauline Ross

29. APOLOGIES

No apologies for absence were received.

30. DECLARATIONS OF INTEREST

There were no declarations of interest.

31. MINUTES

Licensing Annual Report – paragraph 8.

In response to a question from Councillor R. Bennett, the Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), informed the Committee that he had contacted Gloucester City Council licensing authority with regard to scrap metal mobile collectors licences being displayed. They had informed him that they used a similar sized disc as issued by WRS on behalf of Redditch Borough Council. The use of a larger plate, at the rear of the vehicle, was not seen as practical, as some scrap metal mobile collectors were licensed by a number of different authorities. The Senior Licensing Practitioner further informed the Committee that he had a meeting scheduled with West Mercia Police and he would raise this with them. He was happy to take any suggestions from Licensing Committee Members to that meeting.

.....
Chair

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RESOLVED that

the minutes of the meeting of the Licensing Committee held on 20th July 2015 be confirmed as a correct record and signed by the Chair.

32. COMPOSITION OF LICENSING SUB-COMMITTEES

The Committee received a report detailing a review carried out on the composition and terms of reference of the Licensing Sub-Committees.

The Democratic Services Manager introduced the report and in doing so highlighted that there had been some confusion as to the confirmed appointments to the Licensing Sub-Committees this municipal year, which had now been clarified.

The Democratic Services Manager expressed her thanks to the Licensing Committee Members who had given her feedback and was in agreement that paragraph 3.4 of the report should read 'trained' members and not 'experienced' members.

The report highlighted that by currently restricting the membership of Licensing Sub-Committees there was a restricted pool of trained members from whom to select. There could be occasions where members may not be able to sit on a Sub-Committee, if it was their ward area or if they were known to an applicant. Currently seeking availability of five members for a Sub-Committee was difficult as meetings were held during the day, due to the service being customer led.

For the vast majority of functions the requirement was to have a minimum of three members of a Sub-Committee, but for Licensing Act 2003 matters, it was specifically 'three members'. There was no requirement for these members to be drawn from a separate sub-group of the Licensing Committee. If all members of the Licensing Committee have received appropriate training there was no reason why the pool of members drawn from should be limited to a separate, smaller group within that Committee.

Further discussion followed, whereby the Council's Legal Advisor responded to Members' questions with regard to the terms of reference as detailed on the appendices to the report. The Council's Legal Advisor highlighted that there was no statutory requirement in respect of the special provisions as to the Chair of Licensing Sub-Committee B, it was seen as good practice and tradition for the Chair of the parent committee to Chair these Hearings.

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Members expressed their concerns that the Chair for Licensing Sub-Committee A, for premises hearings, was not elected until the day of the Hearing. Members would be more comfortable if they were notified prior to the Hearing of the possibility that they may be elected to Chair the Hearing.

It was agreed that the Democratic Services Officer would advise members of the requirement to Chair any future meetings when canvassing members for their availability; and confirm with those members if they would be comfortable if elected to Chair the Hearing.

Members were in agreement that it was important to review processes to make them simpler and to ensure that a good service was offered to the customer and all those involved.

RECOMMENDED that

(a) the composition and terms of reference of the Licensing Sub-Committees as set out at Appendix 1A and 1B to the report be approved; and

(b) the Head of Legal, Equalities and Democratic Services be authorised to make any consequential changes to the Constitution.

33. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES - CONSULTATION RESULTS

Following on from the Licensing Committee meeting held on 20th July 2015 where Members approved, for the purpose of consultation, the draft Statement of Principles. Members were asked to consider the responses received to the consultation and the changes incorporated into the draft Statement of Principles as a result of those responses.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), presented the report and in doing so drew Members' attention to the responses received from the Gambling Commission, Hereford and Worcester Fire and Rescue Service and Coral Racing Limited, as detailed at Appendices 1, 2 and 3 to the report.

Several productive meetings had taken place with WRS and the Gambling Commission. The Gambling Commission were more than happy with their input and their suggested changes being incorporated into the draft Statement of Principles.

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Members were further informed that the suggestions made by the Gambling Commission had been incorporated into the draft Statement of Principles, as detailed at Appendix 4 to the report. These included:-

- A new section that set out the Council's intention to develop a 'Local Area Profile', as detailed in section 3.0 of the draft Statement of Principles.
- Guidance for operators on the matters that the Council believed they should consider when compiling their own local risk assessments. This will be a requirement from 6th April 2016, as detailed in section 9.0 of the draft Statement of Principles.
- Further detail in relation to the way the Council would approach its enforcement and compliance role under the Gambling Act 2005, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles

In response to the Chair, the Senior Licensing Practitioner, WRS, informed the Committee that, with regard to the development of a 'Local Area Profile', WRS would work with other authorities within Worcestershire, the West Midlands conurbation and nationally to see what other partners were doing and to share ideas in order to develop a 'Local Area Profile'.

Section 9.2 of the draft Statement of Principles highlighted the areas that the Council would expect operators to consider in their local risk assessments.

In order to ensure compliance with the law the Council would prepare a risk based Inspection Programme and would carry out regular 'routine' day time programmed inspections, as detailed in sections 19.6 and 19.7 of the draft Statement of Principles.

The Senior Licensing Practitioner, WRS, responded to Members' questions and informed the Committee that all relevant trade organisations had been consulted with and that only Coral Racing Limited had responded.

The Senior Licensing Practitioner, WRS, noted Members comments and suggestions with regard to:-

- Proof reading the draft Statement of Principles, as there were some inconsistencies.
- Remove the word 'villages' in the introduction section.
- Check the map, as detailed at Appendix A to the report, which showed Oakenshaw North and Oakenshaw South, as the ward area was Oakenshaw.

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Councillor A Fry stated that WRS officers had done a really good job with the report presented and the work carried out on the draft Statement of Principles.

RECOMMENDED that

the amendments as detailed in the preamble above be incorporated into the draft Statement of Principles and that Council approve and publish the amended Statement of Principles by 31st January 2016.

34. DEREGULATION ACT 2015 - POLICY ON DURATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES

Following on from previous meetings, where Members were provided with update reports on the implications of the Deregulation Act 2015, the Committee considered a report which detailed the changes, as from 1st October 2015, to the standard duration of hackney carriage and private hire driver licences and private hire operator licences; as a result of section 10 of the Deregulation Act 2015.

The Senior Licensing Practitioner, Worcestershire Regulatory Services (WRS), introduced the report and in doing so informed the Committee that, with effect from 1st October 2015 and as a result of section 10 of the Deregulation Act 2015; the standard duration of hackney carriage and private hire driver licenses and private hire operator licenses was now three years and five years respectively. In particular circumstances the Council could, if thought appropriate, grant a licence for a lesser period of time.

The fees charged by the Council for hackney carriage and private hire driver licenses and for private hire operator licenses had been reviewed in light of the changes. The fees charged for three year driver licences and five year operator licenses were inevitably higher than the cost of a one year licence, as the Council's enforcement and compliance costs, for the three year and five year periods would have to be covered within the licence fee.

Members were further informed that there could be many reasons why an applicant wanted to remain on a one year licence. Inevitably the cost of applying for a three or five year licence would be higher; therefore applicants may prefer to avoid having to pay a more substantial licence fee and prefer to continue to pay a lower fee each year. Applicants could also be unsure if they intended to remain in the taxi trade for a further three year period. This could

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apply to older applicants considering retirement within the three year period.

The Senior Licensing Practitioner, WRS, responded to the concerns raised by Members with regard to safeguarding, with the licence period being extended to three years for hackney carriage and private hire driver licences, in relation to what checks would be in place to ensure that WRS were notified if a driver committed a criminal or motoring offence.

Members were informed that all licensed hackney carriage and private hire drivers had an obligation to inform WRS within seven days of any conviction or caution imposed. Also hackney carriage and private hire drivers were still regarded as a 'Notifiable Occupation' although this particular concept had been recently overhauled. Under the new Home Office Guidance, Common Law Police Disclosure (CLPD), which had replaced the Notifiable Occupations Scheme; a system existed to ensure that, where there was a potential risk to the public, the police would pass information to the licensing authority to allow them to act swiftly to put in measures to mitigate any danger. The new CLPD scheme provided robust safeguarding arrangements. With regard to motoring offences, WRS were currently able to carry out on-line driver checks with the Driver and Vehicle Licensing Agency (DVLA) and would continue to check driver licences on the anniversary of their application.

At the suggestion of the Chair and in agreement with Licensing Committee Members, the Senior Licensing Practitioner was tasked to organise a meeting in January 2016 with the taxi trade; to fully inform them of the implications of the Deregulation Act 2015 and for their feedback on a review of the Private Hire Vehicle Licensing Policy (Age Limits for Vehicles with Hydraulic Tail Lifts).

RESOLVED that

the policy on the duration of hackney carriage and private hire driver licences and private hire operator licences, as detailed at Appendix 1 to the report, be approved with immediate effect.

35. UBER INFORMATION REPORT

As requested at the previous meeting of the Committee, Members had requested an update from the Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), on the company that trades as Uber.

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The Senior Licensing Practitioner, Worcestershire Regulatory Services, (WRS), provided information to the Committee and informed Members that Uber was growing rapidly and now operated in Birmingham, under a private hire operator's licence granted by the City Council.

Uber Technologies Inc. was an American international transportation network company, with its headquarters in San Francisco, California. The company developed, marketed and operated the Uber mobile application (app), which allowed consumers with smartphones to submit a trip request which was then routed to Uber drivers. Essentially it was an online booking service for private hire vehicles.

Members were further informed that Uber was not the only smartphone app developed to help connect passengers and taxi / private hire service providers. There were other operations in the United Kingdom (UK) which included Hailo, Addison Lee, Bounce, Kabbee and Gett.

The activities of Uber had provoked controversy in some countries. Questions were raised about the legalities of their operating model. However, it should be stressed that in the UK, Uber appeared to be operating entirely lawfully within the private hire licensing regimes provided for in London by the Private Hire Vehicles (London) Act 1988 and in the rest of England and Wales under the Local Government (Miscellaneous Provisions) Act 1976.

The controversy surrounding Uber's operation in London related to the way that fares were calculated and charged to passengers who used the Uber app; and the fact that the fares were generally cheaper than those charged by London's world famous 'Black Cabs'. The fares charged by Uber were calculated via a Global Positioning System (GPS) and in London it had been argued that this was basically the same as using a taximeter. In London only licensed hackney carriages could use taximeters, under section 11 of the Private Hire Vehicles (London) Act 1988. Recently the transport regulator Transport for London (TfL) had brought a case to the high court following pressure from the city's black-cab and minicab drivers. But the high court ruled that Uber's app was legal in London.

Members were asked to note that the legal challenges to the way Uber operated in London were not replicated in the rest of England and Wales, as private hire vehicles were allowed to utilise taximeters outside of London as there was no equivalent provision to section 11 of the Private Hire Vehicles (London) Act 1998 in the Local Government (Miscellaneous Provisions) Act 1976.

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The Senior Licensing Practitioner, WRS, responded to Members' questions and explained that fares were calculated via GPS and that passengers were notified prior to the journey as to the fare payable. Fares were cheaper due to the number of taxis available. The journey was tracked and passengers were given a booking reference. Passengers were also asked to rate their journey. This rating system had encouraged a higher level of driver standards. Uber was very streamlined. There was no need for an operator to take the bookings. The Uber app calculated the nearest available driver and allocated the job to that driver. Drivers paid a rental fee to Uber.

As with all licensed private hire operators, Uber could dispatch vehicles and drivers to carry out work anywhere in the country; provided that the vehicle and driver allocated the booking were licensed with the local authority that had issued the relevant private hire operator licence. Due to the relaxation on sub-contracting rules for private hire vehicles, which came into effect on 1st October 2015, Uber could also sub-contract bookings to other licensed private hire operators in other local authority areas so that, that operator could then dispatch an appropriately licensed vehicle and driver.

The Chair thanked the Senior Licensing Practitioner, WRS, for his comprehensive update report on Uber.

RESOLVED that

the Uber update report be noted.

36. LICENSING COMMITTEE WORK PROGRAMME 2015/2016

The Committee considered the Licensing Committee Work Programme for the remainder of the 2015/16 Municipal Year.

RESOLVED that

the Licensing Committee Work Programme 2015/16 be updated to include the items discussed and agreed during the course of the meeting.

**LICENSING
COMMITTEE**7th March 2016**HACKNEY CARRIAGE AND PRIVATE HIRE LIAISON MEETING**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

At the request of Members two liaison meetings were organised for hackney carriage and private hire licence holders.

This report updates the Licensing Committee on the matters discussed at these meetings and of the actions that have arisen as a result of them.

2. RECOMMENDATIONS

Members are asked to note the contents of the report.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs involved in organising and conducting the liaison meetings with licence holders were met from existing budgets held by the Council and Worcestershire Regulatory Services.

Legal Implications

- 3.2 None

Service / Operational Implications

- 3.3 At the Licensing Committee meeting on 2nd November 2015, Members considered a report on the implications of the Deregulation Act 2015 on hackney carriage and private hire licence holders.

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- 3.4 During the course of discussions about this matter it was suggested by the Chair and agreed by Members of the Committee that two liaison meetings be arranged with hackney carriage and private hire licence holders in order to communicate with them about the changes resulting from the Deregulation Act 2015, the Council's vehicle age policies and any other relevant matters that were raised either by officers or licence holders themselves.
- 3.5 The two meetings were arranged to take place on the evening of Monday 18th January 2016. All hackney carriage and private hire operators and drivers were sent an invitation to attend one or other of the meetings alongside a newsletter which was sent out in November 2015.
- 3.6 Following the meetings officers have entered into dialogue with the bus station owners to see if any of the issues raised by Members and licence holders about the bus station rank can be resolved. These discussions are on-going.
- 3.7 Additionally reports will be presented at this and other future Licensing Committee meetings to enable Members to consider taking forwards some of the other matters that were raised during the meetings.
- 3.8 One particularly promising outcome of the meetings was that licence holders have indicated their intention to form a new association. A functioning hackney carriage / private hire association would be very beneficial in improving communication between the Council and licence holders and would enable better consultation to take place with the trade on matters of policy that directly affect them.

4. RISK MANAGEMENT

- 4.1 None.

5. APPENDICES

None

AUTHOR OF REPORT

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**LICENSING
COMMITTEE**7th March 2016**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE AGE POLICIES**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

A licensed private hire operator has written to the Council to ask that consideration is given to relaxing the Council's vehicle age policy in relation to private hire vehicles that are wheelchair accessible and fitted with hydraulic lifting equipment.

Furthermore, at the recent hackney carriage and private hire liaison meetings, vehicle age policies were discussed and a number of licence holders asked if consideration could be given to relaxing the existing vehicle age policies for both hackney carriage and private hire vehicles.

2. RECOMMENDATIONS

Members are asked to consider the contents of the letter, and the representations made by licence holders at the hackney carriage and private hire liaison meetings, and RESOLVE whether or not they would like officers to bring forward a report to the Committee at a future date in order to commence formal consultation on amending the current age policies for hackney carriage and private hire vehicles.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs involved in bringing forward any future reports to the Licensing Committee would be met from existing budgets held by the Council and Worcestershire Regulatory Services.

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Legal Implications

- 3.2 The Council are entitled to introduce, and vary, regulations in relation to the type and age of vehicles that they consider suitable for licensing as either hackney carriage or private hire vehicles. The purpose for

which such regulations are introduced, or varied, should be clearly identified, and appropriate consultation should be undertaken before any changes are made.

A balance should be maintained between the needs and desires of the trade itself, and what is deemed to be an appropriate age limit for the purpose of ensuring that vehicles on the taxi fleet are suitable, safe and presentable, particularly bearing in mind continuing advances in relation to vehicle safety and reliability as a whole.

Service / Operational Implications

- 3.3 The Council currently has a policy that it will licence vehicles to be used as private hire vehicles as long as they meet all other requirements and are not older than six years of age when first licensed. Such vehicles can then remain licensed until they are not older than nine years from the date of first registration of the vehicle.
- 3.4 In July 2013, the Council resolved to relax the vehicle age policy for private hire vehicles in relation to vehicles that are constructed or adapted to load and convey wheelchair users. These vehicles can now be licensed as private hire vehicles providing the vehicles meet all other requirements and are not older than six years of age when first licensed, and can then remain licensed until they are not older than twelve years from the date of first registration.
- 3.5 Vehicles up to the age of nine years of age are to be tested twice per year at the Council's testing station, with those over nine years of age being subject to three tests per year.
- 3.6 In November 2013 the same vehicle age policy was agreed in relation to hackney carriage vehicles.
- 3.7 Any vehicle proprietor who wishes to licence a vehicle that falls outside of the Council's policy can make application and ask for this to be determined by a Licensing Sub-Committee. A Licensing Sub-Committee may decide to grant an application to licence a vehicle that falls outside of the policy if there are exceptional circumstances that justify doing so.

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- 3.8 A letter has been received by Worcestershire Regulatory Services from a private hire operator licensed by Redditch Borough Council. The letter can be seen at **Appendix 1**.
- 3.9 The letter asks if consideration can be given to further relaxing the Council's vehicle age policies, specifically in respect of private hire vehicles that are fitted with hydraulic wheelchair lifting equipment.
- 3.10 Furthermore at the recent hackney carriage and private hire liaison meetings, vehicle age policies were discussed and a number of licence holders asked if consideration could be given to relaxing the existing vehicle age policies for both hackney carriage and private hire vehicles.
- 3.11 Members are asked to consider the contents of the letter and the representations made at the hackney carriage and private hire liaison meetings and decide whether or not they would like officers to bring forward a further report to the Committee at a future date in order to commence formal consultation on amending the current vehicle age policies.

4. RISK MANAGEMENT

- 4.1 None.

5. APPENDICES

Appendix 1 – Letter from licensed private hire operator.

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
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& CONTRACTS REDDITCH LIMITED



Dear Sir/Madam

As a local Private Hire Operator, operating in the Borough of Redditch and having successfully served the public of Redditch for the past 20 years, several issues have arisen in regards to Vehicle Licensing which I feel I must stress and put forward to yourself for deliberation.

As members of the committee you have the responsibility of making decisions and acting in the best interest of all parties involved. In this case, making the right decision will be in the interest of not only Redditch Borough Council, but also for the public of Redditch as well as the local private hire companies providing public transport. As a result I would like to think you will agree with my points and look to change existing legislation regarding the licensing for private hire vehicles.

Under the existing licensing rules governing vehicles with tail lift capabilities, it currently requires the operator to purchase a vehicle that is not more than 6 years old and to have this vehicle inspected on a 6 monthly basis at the cost of the operator. I feel this is possibly adequate for normal vehicles which do not operate tail lifts for the reason being that these types of vehicles are used regularly on a daily basis and as a result require more maintenance to be road worthy for public transport. However, applying this same rule to vehicles which operate tail lifts specifically for wheelchair access I feel is penalising not only the operator but also those who use the service. These types of vehicles only have a specific use which is to serve all those members of the public who are wheelchair bound. As a result these types of vehicles are not used on a regular basis and therefore have less wear and tear put on them.

These types of vehicles, as logic tells us, are more expensive to purchase, operate and use for the simple rule that a lot of modification has to be done to make them fit for the purpose of use. As mentioned before these types of vehicles are not operating on a regular basis and therefore accumulate less mileage over a term compared to that of a normal private hire vehicle. My question to yourself is: As an operator of a private hire vehicle or a member of the public would you feel safe in operating/travelling in a vehicle which is less than 6 years old but because of its constant use has accumulated a lot more miles and therefore has a tendency to be less reliable or would you prefer to operate/travel in a vehicle which is that bit older but despite it being older than 6 years and because of the fact that it is not used constantly therefore has not accumulated much mileage and therefore requires less maintenance taking away the risk of breaking down regularly?

I feel the rule that all vehicles should be less than 6 years old should only apply to vehicles which do not operate tail lifts as for reasons stated above. As for vehicles fitted with tail lifts I feel this rule should be relaxed as these vehicles are expensive to purchase, maintain and operate as they are only used for a particular type of customer.

Having spoken to different vehicle maintenance engineers at various depots including the Councils cross-gate road depot, everybody shares the same view as I and I hope you will too. The fact that because a vehicle is younger than 6 years old but used regularly does not make it any better than a vehicle which is 10 or 12 years old and hasn't been used so regularly and as stated these are views shared by experts in vehicle maintenance. I ask what is the council requiring Quality or Quantity?

Simon Khan
Director

149 Ipsley Street
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B98 7AA

Surely, when putting a vehicle in front of a committee, the professional, independent opinion of a mechanic, if not your own at the Crossgate Depot, should be considered. How can a vehicle be judged **not** roadworthy based upon its age yet still pass the councils very own stringent MOT test with flying colours?

On this same note I am also aware that the Council operate its own vehicles within the borough. The Dial a Ride scheme is offered by the council for the elderly residents of Redditch. I understand that the Dial a Ride vehicles were recently replaced by a new fleet which has not resulted in better operations as these 'newer' vehicles to my knowledge have not been very reliable. In fact they have spent more time off the road in their short lifespan than the previous fleet. So newer is not always better, is it? Surely properly maintained vehicles, regardless of age are better than unreliable vehicles.

As a result I also feel that as the governing body of a local borough you are penalising the general public: specifically those who are disabled by such a ruling. Obviously these tail lifts are used only by wheelchair bound non ambulant customers. Considering the fact that these vehicles are considerably more expensive to purchase, maintain and operate, operators are showing a reluctance to purchase these vehicles as it is not feasible for them and as a result it is penalising its users. Is this what the council wants? I feel and share the same views as the council regarding safety as well as portraying a good image of Redditch transport but we as operators can only continue to do this if it is feasible for not only us but also the public.

Last but not least, I mentioned earlier that as committee members it is your duty to act in the best interest of all parties involved. I have pointed out how such a ruling affects the operator and the public and hopefully you will by now share the same view as me but there is another party this is also affecting, the Borough Council its self. Currently I can take any vehicle which operates a tail lift to a DVLA test centre and have that certified as a PCV (Passenger Carrying Vehicle) and have it licensed for a period of 12 months at a cost of £170 per year and operate it in the borough without any restrictions. However the borough council require you to have a vehicle inspection on a vehicle twice a year if the vehicle is younger than 6 years old and 3 times a year as it gets older all at the cost of approximately £400+ per year. My question to you is why is the borough council intent on losing revenue which it could help towards its cost cutting?

Finally, I would like to take this opportunity to sincerely thank you for taking the time to read my concerns and I sincerely hope you will deliberate on this with the view of changing existing legislation to make it fair and more beneficial to all parties involved.

Should you wish to discuss any points raised in more detail please do not hesitate to contact me and I would be happy to discuss further.

Yours Faithfully

**LICENSING
COMMITTEE**7th March 2016**HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME**

Relevant Portfolio Holder	Councillor Yvonne Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

A number of local authorities operate penalty point schemes as a tool to assist them in relation to ensuring the holders of hackney carriage and private hire licences are compliant with the requirements they have upon them as licence holders.

It is suggested that such a scheme is introduced in Redditch to deal with an increasing number of complaints regarding low-level breaches of regulations.

2. RECOMMENDATIONS

Members are asked to approve the draft Redditch Borough Council Hackney Carriage and Private Hire Penalty Points Scheme for the purpose of consultation with licence holders and other relevant organisations.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs involved in carrying out the consultation exercise will be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 Many authorities across the UK operate penalty point schemes and there have been a number of legal challenges to same. In order to avoid such challenges being successful it is necessary to have a mechanism in place to allow for appeals against the imposition of penalty points, and to ensure that any decision in respect of whether, or not, to revoke a licence, once the maximum number of permissible points has been reached, is taken at the appropriate level, based on the merits of each individual case.

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Service / Operational Implications

- 3.3 The holders of hackney carriage and private hire licences issued by the Council are subject to a number of legal requirements and licence conditions which govern how they carry out their businesses.
- 3.4 Worcestershire Regulatory Services, acting on behalf of the Council, is responsible for ensuring licence holders comply with these requirements and for taking appropriate action to deal with any licence holders who commit offences or fail to comply with their requirements.
- 3.5 There are currently a number of various options available to officers when dealing with offences or acts of non-compliance, which can be summarised as follows:
- Verbal warnings
 - Written warnings
 - Formal cautions
 - Prosecution
 - Referral to Licensing Sub-Committee
- 3.6 The way in which offences and acts of non-compliance are dealt with by officers will depend on the circumstances of each individual case and appropriate regard is had to the Regulator's Code and relevant enforcement policies.
- 3.7 Some local authorities have introduced an additional mechanism for dealing with minor offences and acts of non-compliance with hackney carriage and private hire licensing requirements in the form of penalty points schemes for their licence holders.
- 3.8 The basic principle of such a scheme, is that individuals that are found to have committed relatively minor offences or acts of non-compliance have a number of penalty points logged against their licensing records held by the authority.
- 3.9 If an individual accumulates a given number of penalty points, within a defined period, this triggers an automatic referral of the licence holder to a Licensing Sub-Committee where consideration is given to whether the individual remains a fit and proper person to hold the relevant licence.

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- 3.10 A penalty points scheme enables officers to deal quickly and efficiently with minor compliance issues and helps to identify those that are regularly not acting in compliance with their licensing requirements so that more serious action can be considered against these individuals in a targeted and proportionate way.
- 3.11 The introduction of a penalty points scheme would not affect the Council's ability to take formal enforcement action for any offence or act of non-compliance and every case will continue to be considered on its own merits.
- 3.12 For example, a penalty points scheme would not be an appropriate mechanism for dealing with serious offences or acts of non-compliance such as employing unlicensed drivers, driving without appropriate insurance or plying for hire in a private hire vehicle.
- 3.13 A draft penalty point scheme for Redditch Borough Council has been produced by officers and can be seen at **Appendix 1**. Members are asked to approve the draft scheme for the purpose of consultation with licence holders and other relevant organisations.
- 3.14 The number of penalty points issued in respect of each proven act of non-compliance is intended to be proportionate to the seriousness of the non-compliance.
- 3.15 The results of the consultation exercise would be brought back before the Licensing Committee at a future meeting before a decision is taken as to whether to implement a penalty points scheme.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

Appendix 1 – Draft Penalty Points Scheme

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REDDITCH BOROUGH COUNCIL

HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SYSTEM

The penalty points system for recording non-compliance with Hackney Carriage or Private Hire requirements will operate as follows:-

1. Redditch Borough Council's Enforcement Policies will be fully considered by the enforcing officer when determining the manner in which any breach of the legislation, byelaws or the requirements of this licence conditions are dealt with. Where it is decided that the use of penalty points is appropriate they will be issued in accordance with the rate in the attached schedule.
2. Before penalty points are issued, there must be sufficient evidence to prove the relevant offence(s) or breach of condition(s).
3. Each case will be considered on its own merits.
4. When points are issued, the relevant proprietor, driver or operator will be sent written confirmation within five working days.
5. Points may be issued to the driver, proprietor and/or operator of a vehicle in accordance with the table below depending on the circumstances of the case.
6. Where the driver of the vehicle is also the proprietor and/or operator of the vehicle, only one set of points will be issued in respect of each offence or breach of condition identified.
7. There is a right of appeal to a Licensing Sub-Committee against any points that are issued. An administration fee must be paid to submit an appeal with this fee being refunded in full if the appeal is subsequently successful in having the points removed. If the appeal is unsuccessful the administration fee will not be refunded.
8. Points issued will remain "live" for a rolling period of two years from the date of issue. Points will be considered "spent" once it is more two years from the date of issue.

9. Any driver, proprietor or operator accumulating 12 points in a two year period will be referred to a Licensing Sub-Committee for a review of whether the individual remains a fit and proper person to hold the relevant licence.
10. When a driver, proprietor or operator appears before a Licensing Sub-Committee, the following options are available to the Sub-Committee:
 - Take no further action
 - Issue a written warning
 - Extend the two year period for which the points remain live
 - Suspend the licence
 - Revoke the licence
 - Any other action that the Sub-Committee feels appropriate in the circumstances of the case
11. Any driver appearing before a Licensing Sub-Committee will have the right to make representations to the Sub-Committee and be legally represented at the hearing.
12. Any driver, proprietor or operator who has their licence suspended or revoked by a Licensing Sub-Committee will have the right to appeal against the decision to a Magistrates Court within 21 days unless in the interests of public safety, the Sub-Committee further resolves that the suspension or revocation should have immediate effect.
13. Once a Licensing Sub-Committee has considered a case involving accumulated points, the points will be treated as spent unless the Sub-Committee decides otherwise.
14. If the Sub-Committee decides that any points are to remain live, they must stipulate the date at which they will be considered spent.
15. Nothing in this penalty points system will prevent the Council from taking action under any appropriate legislation.
16. The penalty points scheme will be subject to review two years after implementation and as necessary thereafter.

SCHEDULE – TARIFF OF POINTS ISSUED FOR OFFENCES / BREACHES

	Offence (s) / Breach of condition (s)	Points applicable	Vehicle Driver	Vehicle Proprietor	Operator (PH)
1	Failing to behave in a civil and orderly manner	4	X		
2	Failure to proceed to another hackney carriage stand on finding a hackney carriage stand full (over-ranking)	3	X		
3	Failing to wear drivers badge so it is plainly visible	3	X		
4	Failing to display vehicle licence plate on the outside rear of the vehicle	3	X	X	
5	Vehicle interior in unacceptable condition	3	X	X	
6	Vehicle exterior in unacceptable condition	3	X	X	
7	Failure to provide fire extinguisher	3	X	X	
8	Failure to provide adequate first aid kit	3	X	X	
9	Taximeter defective or not clearly visible	4	X	X	
10	Failing to afford reasonable assistance with loading and unloading luggage	3	X		
11	Failure to display table of fares	3	X	X	
12	Conveying more passengers in the vehicle than permitted by the licence	4	X		
13	Leaving hackney carriage unattended on a stand	3	X		
14	Charging more than the prescribed fare for a journey	4	X		
15	When hired to do so, failing to attend at the appointed time and place without reasonable cause	3	X	X	X
16	Failing to hand in property left in a licensed vehicle by a passenger	3	X	X	X
17	Failing to notify the Council of motoring or other convictions within 7 days	4	X	X	X
18	Failing to keep appropriate records of bookings	4			X
19	Failing to notify the Council of a change of name or address	3	X	X	X
20	Refusing a fare without reasonable cause	3	X		
21	Failing to report an accident to the Council within 72 hours	3	X	X	
22	Failing to produce insurance certificate to officer on request	4	X	X	
23	Failing to produce vehicle for inspection on request	4	X	X	
24	Failure to produce booking records upon request	4			X
25	Causing or permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand	4	X		
26	Unnecessarily prolonging a journey without reasonable cause	4	X		
27	Obstructing an authorised officer or constable	3	X	X	X

28	Failing to comply with a requirement properly made by an authorised officer or constable	3	X	X	X
29	Using vehicle horn otherwise than in accordance with the rule 112 of the Highway Code.	3	X		
30	Allowing smoking in a licensing vehicle	3	X		
31	Smoking in a licensed vehicle	3	X		
32	Parking a vehicle in an illegal or dangerous position	3	X		
33	Using a vehicle with defective lights	3 (per bulb)	X	X	
34	Using a vehicle with defective tyres	6 (per tyre)	X	X	

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- Feedback from the Hackney Carriage and Private Hire Taxi Liaison Meetings held on 18th January 2016
- Hackney Carriage and Private Hire Vehicles, to consider a consultation to review the Council's current vehicle age policies
- Consideration of a Penalty Points Scheme for Hackney Carriage and Private Hire Drivers

To Be Allocated To Suitable Available Dates in 2016/2017

- To consider the options of offering a 1 year, 3 year and 5 year private hire operator's licence
- Wheelchair Accessible Vehicles – Policy Consultation
- Hackney Carriage and Private Hire Vehicles Age Policies formal consultation
- Penalty Points Scheme for Hackney Carriage and Private Hire Drivers consultation results

