

<b>Meeting Date</b>	20 <sup>th</sup> March 2011
<b>Report Title</b>	Hearing: Hackney Carriage Driver Penalty Points issued to Mr Duncan Braithwaite.
<b>Portfolio Holder</b>	Cllr John Morris
<b>SMT Lead</b>	Brian Planner
<b>Head of Service</b>	Brian Planner
<b>Lead Officer</b>	Ian Mackenzie
<b>Classification</b>	<b>Open</b>
<b>Recommendation</b>	That two week suspension is applied given the number of penalty points that have been accrued and the repeat nature of the contraventions.

## **1 Purpose of Report and Executive Summary**

- 1.1 This report provides details of a hackney carriage drivers penalty point record where they have accrued 12 or more penalty points in a three year period and are therefore required to attend a hearing before the Committee. The Committee are to consider the appropriate action to be taken against the driver in relation to their conduct.

## **2 Background**

- 2.1 The Penalty Point Scheme was introduced in July 2010 and a list of the current level of penalty points for various contraventions of the licensing conditions is attached as Annex 1. The scheme forms part of the Hackney Carriage and Private Hire Licensing Policy as set out below:

*Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instill confidence in the traveling public who wish to use the service.*

*The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, license conditions, codes or bye-laws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken, by Council Officers, in their application.*

*The Council have adopted a penalty points scheme as an effective means of applying the conditions at a local level. This acts as a first step in ensuring compliance with the conditions, and serves as an "early*

*warning” system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions. Points are accumulated on a sliding scale dependent upon the type of offence or breach of licence conditions. These penalty points then remain “live” for a period of three years from the date they are imposed so that only points accumulated in, for example, a rolling 36 months period are taken into account. If a driver, proprietor or operator accumulates, for example, twelve or more points within a period of three years from the date they are imposed, he/she would then be brought before the Licensing Committee who would have a range of penalty options open to them, depending on circumstances.*

### **3 Driver Penalties**

3.1 Mr Duncan Braithwaite (Badge No 2247) was first issued with a hackney carriage drivers licence on 8<sup>th</sup> March 2005. Over the past 13 months he has accrued 18 penalty points as set out below:

- 10/02/2011 – Failure to comply with the dress code (Wearing blue jeans) – 4 penalty points
- 07/06/2011 – Failure to display Badge (Not wearing badge) – 4 penalty points
- 07/06/2011 – Smoking in Vehicle – 6 penalty points
- 14/02/2012 – Failure to display Badge (Not wearing badge) – 4 penalty points

### **4 Options**

4.1 Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 the Council as the Licensing Authority may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any reasonable cause.

4.2 Members are asked to decide on the appropriate action to be taken in this case. Given the number of penalty points that have been accrued and the repeat nature of the contraventions a two week suspension is recommended.

4.3 Any driver aggrieved by the decision of the Council would have the right of appeal to a magistrates court within 21 days of the date of the decision.

### **5 Appendices**

5.1 The following documents are to be published with this report and form part of the report

- Appendix I: List of penalty points that can be issued for various breaches of the licensing conditions.

### **6 Background Papers**

6.1 None.

## Appendix I

<b>BREACHES</b>	<b>PENALTY POINTS</b>
False declaration on application/renewal of licence	<b>6</b>
Obstruction of authorised officer	<b>3</b>
Failure to display badge in such a position as is clearly visible	<b>4</b>
Failure to notify the Council of change of address within 7 days	<b>2</b>
Smoking or failing to prevent smoking in licensed vehicle	<b>6</b>
If a passenger	<b>3</b>
Interfering with a taximeter	<b>6</b>
Carrying more passengers than permitted by the vehicle licence	<b>4</b>
Refusal to carry passengers without reasonable excuse <b>(HC)</b>	<b>4</b>
Failure to convey or assist with carrying luggage	<b>3</b>
Unattended vehicle on taxi rank <b>(HC)</b>	<b>2</b>
Failure to move up on a taxi rank <b>(HC)</b>	<b>3</b>
Over ranking at a taxi rank <b>(HC)</b>	<b>3</b>
Overcharging <b>(HC)</b>	<b>4</b>
Unnecessarily prolonged journey	<b>4</b>
Illegally plying for hire	<b>6</b>
Handheld use of mobile phone while driving	<b>3</b>
Failure to comply with the dress code	<b>6</b>
Failure to set meter	<b>3</b>
Sounding horn while stationary	<b>3</b>
Display of flags and other promotional material	<b>3</b>

**(HC)** Hackney Carriage only  
Revised 01/02/2011