

East Herts Council Report

Licensing Committee

Date of meeting: 13 October 2021

Report by: Oliver Rawlings, Service Manager – Licensing and Enforcement

Report title: Consideration of the revised draft Licensing Records Points Scheme following consultation

Ward(s) affected: All

Summary

- The Licensing Records Points Scheme (LRPS) has formed part of East Herts Council's taxi policies for many years. It has allowed Officers to issue Licensing Record Points (LRP) to drivers who have fallen below expected standards and failed to comply with certain requirements.
- Over the years there have been a number of changes to the legislation and guidance that the Government has issued to local authorities so as part of this review those matters have been considered.

RECOMMENDATION FOR Licensing Committee: that

- A) A final version of the Licensing Records Points Scheme be endorsed for presentation to the Executive for consideration of a recommendation to Council for adoption.**

1.0 Proposal(s)

- 1.1 That the revised wording of the proposed Licensing Records Points Scheme be considered in light of any consultation responses.

2.0 Background

- 2.1 East Herts Council is responsible for the regulation of the Hackney Carriage and Private Hire trade within the boundaries of the district of East Herts.
- 2.2 The relevant legislation gives the council the power to implement its own policies, conditions and schemes to ensure that the public are kept safe.
- 2.3 The policies, conditions and schemes should be reviewed regularly and updated as and when necessary to ensure that they remain effective.
- 2.4 The introduction of the LRPS was to enable a wider range of enforcement options to be available to Officers, providing a formalised stepped enforcement plan. The provisions of the scheme allow for further information to be added to the record of a licence holder's behaviour and conduct which can be drawn upon should the council need to reconsider whether they are a fit and proper person to continue to hold a licence with East Herts Council.
- 2.5 An eight week consultation was proposed to take place between 19th July 2021 and 10th September 2021. During the early part of the consultation one member of the licence trade identified that they had not received the initial email at the start of the consultation. So as to maximise the opportunities for consultees to raise issues, the consultation closing date was consequently extended to 22nd September 2021.

2.6 The Licensing Team contacted the trade to communicate this change and audited their systems to ensure that they were able to evidence sufficient notification of the consultation and subsequent reminders.

3.0 Reason(s)

3.1 As the Licensing Authority, East Herts Council has operated a points based system to aid compliance within the Hackney Carriage and Private Hire Trade.

3.2 The revision of the current scheme aims to ensure that it remains up-to-date and fit for purpose.

3.3 Section 9.3 of the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards (July 2020) relates to 'Setting expectations and monitoring' and states:

Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

3.4 During the consultation two responses were received. Both were from longstanding Dual Drivers' Licence holders within East Herts.

3.5 Both responses can be found with **Appendix A** of this report. Whilst a number of issues were raised neither response suggested any amendments to the draft scheme.

3.6 The points raised within the responses that were unrelated to the consultation were dealt with separately.

3.7 In addition, during the consultation period the Licensing Team were contacted by Julie Marson MP with an enquiry on behalf of a holder of an East Herts Dual Drivers' Licence whose response was received on 2nd September 2021. In the email to the MP, the driver raised similar issues to his direct response to the Licensing Team and stated:

I am writing to you today to make you aware of a proposed change in the East Herts taxi private hire points scheme. The said scheme was put in place as a safeguard for the people of East Hertfordshire. As a licensed hackney carriage driver of thirty years experience I have no issues with the change .

3.8 The points raised within that email were responded to fully and the MP's support in seeking up-to-date primary legislation for this sector was requested.

3.9 Officers are therefore proposing no amendments to the draft scheme as consulted upon which is attached at **Appendix B**.

4.0 Options

4.1 Endorse the draft Licensing Records Points Scheme as consulted upon without amendment.

4.2 Propose amendments for consideration by Executive Member for Planning and Growth.

4.3 Do not endorse the draft Licensing Records Points Scheme – not recommended as the current scheme is in need of updating and no negative views on the draft were expressed during the consultation with the taxi trade.

5.0 Risks

- 5.1 Policies, conditions and schemes that are not reviewed regularly or updated as-and-when necessary so as to remain effective risk leaving the authority open to legal challenges should the council rely on an out-dated policy.
- 5.2 Failure to address gaps within the current scheme could be detrimental to the authority's defence of any legal challenge.
- 5.3 If the authority does not have robust policies and procedures in place then it is unable to limit, *as far as is possible*, risks to the public.

6.0 Implications/Consultations

Community Safety

The primary purpose of Hackney Carriage and Private Hire regulation is the protection of the public. The continued use of a points-based system will allow for minor breaches to be recorded and considered in context while referring those with persistent or serious breaches for more formal action.

Therefore Community Safety has been considered when drafting the Policy.

Data Protection

No changes are proposed to how data will be held or handled so no additional implications.

Equalities

Consideration has been given to the Equality Act 2010 and the Public Sector Equality Duty whilst drafting the Policy.

Environmental Sustainability

None

Financial

None as implementing any changes will be possible within existing budgets or fees can be adjusted to balance any shortfall.

Health and Safety

None

Human Resources

None

Human Rights

As with all policies and council functions, the Human Rights Act 1998 has been considered when drafting this Policy.

Legal

All statutory requirements and obligations have been considered in preparing this report.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 **Appendix A** – Licensing Record Point Scheme

7.2 **Appendix B** – Department for Transport, Statutory Taxi and Private Hire Vehicle Standards -
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

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