



NOTTINGHAM CITY COUNCIL
REGULATORY AND APPEALS COMMITTEE

Date: Tuesday, 29 November 2016

Time: 10.30 am

Place: Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Corporate Director for Strategy and Resources

Governance Officer: Zena West **Direct Dial:** 0115 876 4305

- 1 APOLOGIES FOR ABSENCE**
- 2 DECLARATIONS OF INTEREST**
- 3 MINUTES** 3 - 4
Last meeting held on 18 October 2016 (for confirmation)
- 4 INTRODUCTION OF DRIVER IMPROVEMENT PENALTY POINTS SCHEME** 5 - 18
Report of the Director for Community Protection

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ON THE AGENDA, PLEASE CONTACT THE GOVERNANCE OFFICER SHOWN ABOVE, IF POSSIBLE BEFORE THE DAY OF THE MEETING

CITIZENS ATTENDING MEETINGS ARE ASKED TO ARRIVE AT LEAST 15 MINUTES BEFORE THE START OF THE MEETING TO BE ISSUED WITH VISITOR BADGES

CITIZENS ARE ADVISED THAT THIS MEETING MAY BE RECORDED BY MEMBERS OF THE PUBLIC. ANY RECORDING OR REPORTING ON THIS MEETING SHOULD TAKE PLACE IN ACCORDANCE WITH THE COUNCIL'S POLICY ON RECORDING AND REPORTING ON PUBLIC MEETINGS, WHICH IS AVAILABLE AT WWW.NOTTINGHAMCITY.GOV.UK. INDIVIDUALS INTENDING TO RECORD THE MEETING ARE ASKED TO NOTIFY THE GOVERNANCE OFFICER SHOWN ABOVE IN ADVANCE.

NOTTINGHAM CITY COUNCIL

REGULATORY AND APPEALS COMMITTEE

MINUTES of the meeting held at LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG on 18 October 2016

Membership

Present

Councillor Brian Grocock (Chair)
Councillor David Smith (Vice Chair)
Councillor Liaqat Ali
Councillor Glyn Jenkins
Councillor Gul Nawaz Khan
Councillor Sally Longford
Councillor Michael Wildgust

Absent

Councillor Jim Armstrong
Councillor Rosemary Healy
Councillor Mohammed Ibrahim
Councillor Sue Johnson
Councillor Dave Liversidge
Councillor Carole McCulloch
Councillor Linda Woodings

Colleagues, partners and others in attendance:

Ann Barrett - Team Leader, Legal Services
John Hancock - Citizen / Observer
Rebecca Hillebrandt - Trainee Solicitor
David Lucas - Solicitor for the Applicant, minute 25
Angela Rawson - Licensing Manager
Shannon Richardson - Apprentice Licensing Support Officer / Observer
Zena West - Governance Officer

22 APOLOGIES FOR ABSENCE

Councillor Jim Armstrong
Councillor Rosemary Healy
Councillor Sue Johnson – other Council business
Councillor Carole McCulloch – work commitments

23 DECLARATIONS OF INTERESTS

None.

24 MINUTES

The minutes of the last meeting held on 6 September 2016 were agreed as a true record and signed by the Chair.

25 FLIRTZ, 26A FRIARY CHAMBERS, FRIAR LANE, NG1 6DQ - APPLICATION FOR RENEWAL AND VARIATION OF A SEX ESTABLISHMENT LICENCE

The Committee considered a report of the Director for Community Protection.

Angela Rawson, Licensing Manager, provided an introduction to the item.

Regulatory and Appeals Committee - 18.10.16

David Lucas, Solicitor acting on behalf of Flirtz, gave detail of the proposed renewal and variation. The variation requests a change in the operating hours of the license (9pm to 4am Monday to Friday, 12 noon to 4am Saturday and Sunday) to bring this in line with the premises license. This is only 1 hour more than the current license.

The Committee noted that the establishment has been operating for a number of years in a proper manner without complaint.

RESOLVED to agree the renewal and variation of the Sex Establishment license subject to the existing special and standard conditions.

REGULATORY & APPEALS COMMITTEE - 29 NOVEMBER 2016

Title of paper:	Introduction of a Driver Improvement Penalty Points Scheme	
Director(s)/ Corporate Director(s):	Andrew Errington Director for Community Protection	Wards affected: ALL
Report author(s) and contact details:	Angela Rawson – Licensing Manager 0115 8761749 Angela.rawson@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Richard Antcliff – Chief ASB, Licensing & Trading Standards Officer 101 Richard.antcliff@nottinghamshire.pnn.police.uk Ann Barrett – Team Leader, Legal Services 0115 8764411 Ann.barrett@nottinghamcity.gov.uk	
Date of consultation with Portfolio Holder(s) (if relevant)	N/A	
Relevant Council Plan Key Theme:		
Strategic Regeneration and Development		<input type="checkbox"/>
Schools		<input type="checkbox"/>
Planning and Housing		<input type="checkbox"/>
Community Services		<input checked="" type="checkbox"/>
Energy, Sustainability and Customer		<input type="checkbox"/>
Jobs, Growth and Transport		<input checked="" type="checkbox"/>
Adults, Health and Community Sector		<input type="checkbox"/>
Children, Early Intervention and Early Years		<input type="checkbox"/>
Leisure and Culture		<input type="checkbox"/>
Resources and Neighbourhood Regeneration		<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
The report asks members to consider the proposal for the introduction of a Driver Improvement Penalty Points Scheme (DIPPS) culminating in an improved service to users and supportive of the Councils duty to public safety		
Recommendation(s):		
1	To approve the introduction of the Driver Improvement Penalty Points Scheme (DIPPS) as detailed in Appendix 1 to this report.	
2	To allow changes to be made to the scheme by the Director of Community Protection, Chief ASB, Trading Standards & Licensing Officer, together with the Licensing Manager in consultation with the Chair of the Regulatory & Appeals Committee and the Opposition spokesperson.	

1 REASONS FOR RECOMMENDATIONS

- 1.1 The purpose of the scheme is the increase the offer to the citizens and visitor alike by raising standards of service in relation to transportation whilst also increasing the awareness of drivers to their responsibilities and the standards expected of a Nottingham City Council licensed driver.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Nottingham City Council (The Council) has a responsibility to ensure that all drivers of Nottingham City Council licensed vehicles adhere to minimum standards and to apply these in a consistent and transparent manner. The standards concerned are defined by legislation, licence conditions, byelaws adopted by the Council and in this Scheme. Together they identify what is expected and required of the trade and help to ensure a consistent approach is taken to reach those expectations.
- 2.2 This matter was last before the Regulatory & Appeals Committee on 6 September 2016 when it was resolved that the matter be '*deferred for 6-8 weeks so that further discussions and input from the trade could take place on the issue of penalty points*'. The report to the 6 September 2016 is available here:
<http://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=255&MId=6146&Ver=4>
- 2.3 A letter was subsequently sent to approximately 1900 licensed drivers inviting them to a roadshow event at the Council House on 18 October 2016 for a presentation by Richard Antcliff on the effects of the pending Taxi Strategy followed by a presentation on the proposed DIPPS scheme and its operational impact.
- 2.4 Over 200 drivers attended the roadshow together with trade representatives from UNITE and NTLODA. There were also some Private Hire Operators in attendance.
- 2.5 Between 18 October 2016 and 7 November 2016, inclusive a total of 15 responses were received. On 15 November 2016 a further meeting was held with UNITE and NTLODA to discuss the submissions made on behalf of their members. All of these submissions and a response thereto are summarised on the attached table at Appendix 2. All responses were considered and evaluated thoroughly following which it was not considered necessary to make any amendment to the proposed scheme as appended to this report
- 2.6 During week commencing 7 November 2016 a letter was provided to all councillors outlining the steps taken to engage with both the Hackney Carriage and Private Hire trades by Richard Antcliff regarding the proposed scheme

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 No other options considered

4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 There are no specific financial implications however there will be an impact on staffing requirements to administer the scheme. The effect of this will undergo continuous monitoring.

5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 The proposal is within the Council's power and appears to be reasonable.

- 5.2 Any person aggrieved by the issue of a penalty notice will have the right to complain through the Nottingham City Council 'Have Your Say' process within 21 days of issue.

6 EQUALITY IMPACT ASSESSMENT

- 6.1 The proposal if introduced would be applied to all drivers and would not directly affect the user.

7 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- 7.1 Consultation responses.

8 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 8.1 Local Government (Miscellaneous Provision) Act 1976 (as amended).
- 8.2 Town & Police Clauses Act 1847 (as amended).
- 8.3 Report to Regulatory and Appeals Committee, 6 September 2016, : "Driver Improvement Penalty Point Scheme" - <http://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=255&MId=6146&Ver=4>

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APPENDIX 1

Nottingham City Council

Hackney Carriage and Private Hire

Driver Improvement Penalty Points Scheme (DIPPS)

1. Introduction

1.1 Nottingham City Council (The Council) has a responsibility to ensure that all drivers of Nottingham City Council licensed vehicles adhere to minimum standards and to apply this in a consistent and transparent manner. The standards concerned are defined by legislation, licence conditions, byelaws adopted by the Council and in this Scheme. Together they identify what is expected and required of the trade and help to ensure a consistent approach is taken to reach those expectations.

1.2 The Driver Improvement Penalty Points Scheme (DIPPS) is a new non-statutory enforcement tool designed to enable Authorised Officers of Nottingham City Council to issue penalty points to those drivers licensed by the Council who knowingly and persistently fail to meet the required standards, and acts as a first step in ensuring compliance with conditions and legislation. It also serves as an early warning system to drivers who see fit to ignore their responsibilities or fail to meet the requirements of their licence.

2. Definitions

Under this Scheme, unless the context otherwise requires:

- a) “Driver” means the person who holds a combined drivers licence issued by the Council
- b) “Council” means Nottingham City Council
- c) “Authorised Officer” means any Officer (including Nottingham City Council Community Protection Officers) authorised by this, or any other council, in writing, for the purpose of this Scheme and/or any statutory requirements relating to hackney carriage/private hire drivers.
- d) “Scheme” means the Driver Improvement Penalty Points Scheme

3. Responsibilities and Aims

3.1 The Council is the Licensing Authority responsible for the licensing of hackney carriage and private hire driver, vehicle and operator licenses within its boundaries. It is the statutory duty of the Council to ensure that all drivers are ‘fit and proper persons’ and carry out their trade in accordance with licensing legislation and locally prescribed conditions.

3.2 The aim of the Scheme is to improve overall driver compliance with legislation and licence conditions in order to secure overall improvements in driver behaviour, customer service and passenger safety.

3.3 The Scheme will achieve this by providing drivers with a transparent incremental enforcement approach for repeated breaches of conditions and other defined standards. The scheme will also enable Authorised Officers to give cumulative consideration for repeated breaches.

3.4 The Scheme will not preclude the Council from taking alternative enforcement action if it is more appropriate to the circumstances of the individual case.

4. Scheme Overview

4.1 Penalty Points

4.2 Penalty points will be a formal reprimand endorsed on a Nottingham City Council combined drivers record to show that a breach of standards has occurred. The schedule of standards to which this Scheme applies, and the relevant penalty points that may be imposed, can be found at **Appendix A** to this document.

4.3 Drivers may receive a maximum of twelve points per three year rolling period before their licence will be reviewed. This means that points will lapse after three years. Drivers will be able to check the number of points on their licence by contacting the Licensing Team details of which are available on the Nottingham City Council [website](#).

4.4 Points Imposition

4.5 A Penalty Points Notice (PPN) (**See Appendix B**) will only be issued where an Authorised Officer of Nottingham City Council has reasonable grounds to believe a driver is persistently and knowingly breaching a standard identified in the Scheme and has sufficient evidence to support such a breach.

4.6 Right to Challenge

4.7 Licence holders will be able to challenge the issue of a PPN. Drivers will have 21 days from the issue of the PPN to submit a written complaint by way of the Nottingham City Council's 'Have Your Say' complaints procedure available at www.nottinghamcity.gov.uk.

4.8 The content of such a complaint will be considered and written notification sent to the driver advising the outcome. Such result will be full and final and no further recourse is available.

4.9 Breaching Points Threshold

4.10 Where a driver has exceeded the 12 point limit within a three year period they will be requested to attend an Officer Review Meeting (ORM). The driver may be accompanied at the meeting by a representative or solicitor if desired.

4.11 At the meeting, the driver will be able to explain and comment upon the matters being considered by the Reviewing Officer in relation to breaches of the Scheme. The Reviewing Officer may also wish to discuss any other relevant information e.g. passenger complaints

4.12 Depending on the individual circumstances of each case the Reviewing Officer will be able to choose from the following actions:

- Take No Action
- Issue a Recorded Warning
- Refuse to Renew Licence
- Suspend Licence
- Revoke a Licence

It should be noted that breach of a Traffic Regulation Order (TRO), pedestrianised or restricted area will be dealt with through the Enforcement, Convictions and Fitness Policy and will receive one of the following minimum sanctions:

- First breach – 2 weeks minimum suspension
- Second breach – 4 weeks minimum suspension
- Third breach – Revocation of Hackney or Private Hire Drivers licence, on the grounds of no longer constituting a fit and proper person

4.13 The driver will be notified in writing of the result of the meeting. Any driver aggrieved by a decision of the Reviewing Officer to either suspend, revoke or refuse to renew a drivers licence will have the right to appeal to the Magistrates' Court.

5. Scheme Review

This Scheme will be subject to continual review. Minor amendments to the Scheme may be approved by the Chief Licensing, Trading Standards and Anti-Social Behaviour Officer and Licensing Manager in consultation with the Chair of the Regulatory and Appeals Committee. If the Chair deems the amendment(s) to not be minor, they will defer approval to Nottingham City Council's Regulatory & Appeals Committee.

Serious offences or breaches will remain liable to prosecution.

Appendix A: Driver Improvement Penalty Points Scheme

Schedule of Standards

Code	Breach of Required Standard	Points
V01	Fail to use Taxi Meter for journeys within prescribed distance	4
V02	Refuse to accept hiring without reasonable cause	4
V03	Failure to display driver badge and/or wear identification badge	4
V04	Driving a vehicle in an unroadworthy condition	6
V05	Parking a vehicle in contravention of parking restrictions	4
V06	Failure to display signs or plates correctly, or displaying unauthorised signs	4
V07	Obstruction/failure to comply with reasonable request made by Authorised Officers or Police Officers	6
V08	Failure to convey passengers in a safe and responsible manner	6
V09	Unacceptable behaviour towards members of public, Authorised Officers or Police Officers	6
V10	Failure to comply with any other Nottingham City Council combined drivers and vehicle licence condition not included above*	4

*Does not include combined driver licence condition 14 – 'Acceptance of Hiring'.

Appendix B: Driver Improvement Penalty Points Scheme

Draft Penalty Points Notice - Front

NOTTINGHAM CITY COUNCIL PENALTY POINT NOTICE					
PART 1 DRIVER DETAILS	Date:	Time:	Location:		
	Reg No:	Lic No:	Make/Model:		
	Drivers Name & Address:				
	Drivers Badge No:		Expiry Date:		
PART 2 BREACH	<p>Notice is hereby given that on the date specified above you were found to be in breach of the Driver Improvement Penalty Points Scheme (DIPPS) in respect of the offence code(s) detailed below: (see reverse of this form for full explanation of codes)</p>				
	INDICATE WITH AN X WHICH APPLY				
	VO1	VO2	VO3	VO4	VO5
VO6	VO7	VO8	VO9	VO10	
PART 3 OFFICER DETAILS	Officer:		Collar No:		
	Officer Signature:		Driver Signature:		
Serial Number: 00001					

Driver Improvement Penalty Points Scheme

Draft Penalty Points Notice – Back

NOTTINGHAM CITY COUNCIL PENALTY POINT NOTICE



Nottingham
City Council

The indicated points will be recorded on your Nottingham City Council combined drivers licence file and will be valid for a period of 3 years from the date this notice was issued. If you accumulate 12 or more points within any 3 year period your licence will be reviewed by the council.

You have a right to challenge this Penalty Point Notice within 21 days of this notice being issued. Please note that challenges must be made in writing to: Have Your Say, Nottingham City Council, Loxley House, Station Street, Nottingham NG2 3NG or by online form at: <http://www.nottinghamcity.gov.uk/abouthaveyoursay>.

For any further enquiries regarding the Driver Improvement Penalty Points Scheme (DIPPS), please telephone: 0115 915 6571 (Monday to Friday, 08:30—16:50) or email: taxi.licensing@nottinghamcity.gov.uk.

Code	Breach of Required Standard	Points
V01	Fail to use Taxi Meter for journeys within prescribed distance	4
V02	Refuse to accept hiring without reasonable cause	4
V03	Failure to display driver badge and/or wear identification badge	4
V04	Driving a vehicle in an unroadworthy condition	6
V05	Parking a vehicle in contravention of parking restrictions	4
V06	Failure to display signs or plates correctly, or displaying unauthorised signs	4
V07	Obstruction/failure to comply with reasonable request made by Authorised Officers or Police Officers	6
V08	Failure to convey passengers in a safe and responsible manner	6
V09	Unacceptable behaviour towards members of public, Authorised Officers or Police Officers	6
V10	Failure to comply with any other Nottingham City Council combined drivers and vehicle licence condition not included above*	4

Nottingham City Council

Responses to proposal to introduce Driver Improvement Penalty Points Scheme

Ref No.	Name of Respondent	Summary of Respondents Comments	Appraisal of Comments	Response with regard to DIPP's proposal
1	Mr M	Infringement of basic Human Rights to work	Referred to 'we' – AMR asked for clarification Proposed system allows drivers to work legally and applies to all licensed drivers	No alteration to proposed scheme
2	Mr A	Concerned regarding unfair use by officers Clarity of penalty codes examples Concerned impact of existing driving behaviour (parking tickets)	Consistent training to CPOs required Examples will be provided on implementation following officer training Each breach considered on merits and HYS option	No alteration to proposed scheme
3	Mr S	Concerns regarding small ranks and opportunity of CPOs to penalise Not enough rank space or bus stop usage Gedling & Rushcliffe cars	Monitoring of usage by CPOs will be implemented to ensure consistency Ranks – not relevant to DIPP's proposal	No alteration to proposed scheme
4	Mr K	Parking restrictions make it difficult to pick up customers	Traffic regulation controlled	No impact on proposed scheme
5	Mr C	Feels system extreme over three years & points too high No parking in city centre Magnetic Panels could be stolen	Points criteria delegation of points by RA Reference magnetic panels	Scoring criteria re-evaluated – no change Clarity re 'plates' meaning vehicle plates not magnetic panels
6	Mr Z	Magnetic Panels could be stolen Difficult to park in city Has MOT so why points for	Reference not to panels but plates Parking contraventions are in place Practicality of having clean/safe vehicle	Clarity re 'plates' and examples regarding examples of

		unroadworthy vehicle Unsure which drivers applies to and getting gedling on board	– not MOT equivalent Pending	unroadworthiness from officer training Partnership working with other boroughs ongoing No changes
7	Mr G	No parking facilities to pick up drunk/disabled people Magnetic plates being removed Allocation of points by CPOs	Parking contravention – can pick up disabled Reference to vehicle plates not magnetic plates Consistent training and monitored allocation	Clarity re ‘plates’ and examples regarding examples of unroadworthiness from officer training No changes
8	Mr H	Further justification required regarding necessity of scheme	Noted but widely communicated	No impact – information of implementation will be forwarded to each driver
9	Mr H	Against freedom of working rights	Not justified – system allows drivers to operate legally	No alteration to proposed scheme
10	Mr S	Unfair & unrealistic	Not justified – system allows all drivers to operate legally	No alteration to proposed scheme
11	Mr N	‘No points’	No other rationale	No alteration to proposed scheme
12	Mr S	Doesn’t want points on badge	No other rationale – system allows drivers to operate legally	No alteration to proposed scheme
13	Mr R	Waste of tax payers money and time. Doesn’t want point on badge	Serves public safety agenda System allows drivers to operate legally	No alteration to proposed scheme
14	Mr A	Unclear objection	Not justified – system allows all drivers to operate legally	No alteration to proposed scheme
15	UNITE & NLTODA Joint response	Joint objection – reference Reading Model 12 months DIPPs not 3 year Inclusion of neighbouring boroughs Operators should also be made accountable	Not relevant/different dynamics 3 year process to tie in with length of drivers licence where possible partnership working agreement in progress operators to be made aware of impact	Enforcement – to be dealt with outside DIPPs scheme No alteration to proposed scheme Ongoing Letter to notify operators

		Comments relating to individual proposed code	Noted individually – any contest against issue can be submitted through HYS	No alteration to proposed scheme HYS process for all and any complaints about DIPP's
16	Mr T	Support submission of Mr M at number 1	Proposed system allows drivers to work legally and applies to all licensed drivers	No alteration to proposed scheme

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