

9th May 2016

**Southampton Hackney's Association's Response
to the Fit and Proper Person Policy**

Penalty Points

We are concerned as an organisation representing our members that the Council is looking to put in penalties for taxi drivers that are above those currently imposed by the law. The current rules allow for a person to obtain up to 12 penalty points without losing their driving licence.

Indeed it is possible that in cases of exceptional hardship, more than 12 penalty points maybe applicable to an individual driving licence. It appears draconian that the Council have powers greater than that imposed by English Law in the event of the driver picking up penalty points. The disqualification for a further period should be removed to align with the current driving licence legislation. It seems entirely inappropriate that a driver who is allowed to drive has his licence suspended for a further period by the Local Authority, when legally there is no difficulty, insurance or otherwise, with them being back on the road.

Furthermore, an automatic disqualification for 12 penalty points does not allow a discretion for exceptional hardship, and this should be built into a review.

We are also concerned as a body concerning the possible suspension for 'careless driving' offences, again it appears entirely appropriate that in the case of minor accidents which can give rise to a charge of driving without due care and attention, the circumstances of the offences are looked into and examined before any form of decision with regard to potential suspension of the licence is reached. We as a body consider that there must be the possibility for a hearing in front of the licensing officer to put forward special reasons as to why penalties seemingly upon the list should not be imposed on the individual driver as a fall back, we also do not see that any greater sanction should apply to a taxi driver that currently applies to their licence under English Law.

Turning to the question of the amendments to the regime, we and our members were concerned to find out on the 15th December 2015, the scheme of delegation, had changed to allow one licensing officer to be judge, jury and executioner in the event of a complaint levied to the Local Authority.

The fact that one person is responsible for gathering evidence, and determining an outcome is in a view against the principles of natural justice long enshrined under English Law, at the very least, we would suggest that if the matter is duly delegated, then the person gathering evidence or even collating the same cannot be the person who reaches a decision as to the outcome of any particular complaint.

We as a body would rather return to the system where there was a right to a hearing in front of the panel, and at the very least, we would hope that there would be an independent person to sit and pass judgement. We are aware of occasions in the past where personal views have come into play, causing individuals to be repeatedly taken in front of panels, even though they have been exonerated. We would confirm that this has not applied to the current licensing regime, but whilst we have faith in things as they stand at the current time, this may not be the case in the future if those powers are granted.

We also note that it is intended to suspend a private hire driver for applying for hire or touting by a suspension for two weeks. We believe that this is appropriate for a first occasion, but should not apply to repeat offenders.

We consider that a repeat offender should get an incremental doubling of the ban on each occasion, should they be caught on three or more occasions then we consider that the operator of the private hire driver should also receive some form of penalty, be it financial or otherwise. On the occasion that a private hire driver has taken either a specific booking from a Hackney Carriage licence, or indeed generally, then the monies received by that private hire driver, should either be returned to the individual Hackney Carriage driver, or made payable into a general fund to be dealt with at a specific date in the future by way of a fine.

This we believe will act as an additional method to encourage those operators employing such drivers to properly regulate them and also ensure that where no profit whatsoever is made by the private hire individual, then that could be a remedy toward stopping future breaches.

Added Extra Items

Under the title of Offences, the words, 'committed in the course of employment as a taxi driver', surely the word employment describes the state of being employed or having a job, we are not employed by Southampton City Council (SCC) We are self-employed, working for oneself as a freelancer or the owner of s business, rather than an employee, who is a person employed by another in return for wages.

If we are supposed to be employed by SCC, the Health and Safety Executive state that you as our employers should provide us with access to toilets and other welfare facilities. Exactly the same as if Wimpy that has a building site, has self employed personnel working on the site, Wimpy has to provide these facilities.

Also under Offences, you have mentioned the word 'harassment'. Harassment is to worry or to annoy continually. I would like to broaden this and use the word 'defamation', which could be written or posted through social media. This should come under the Fit and Proper Persons Test.

Finally, the background checks on drivers from other Countries needs to be significantly tightened up. EU Rules are somewhat lax, certainly when it comes to convicted foreign rapists. With open borders, and the fact that some European Countries allow convictions for rape/sexual assault to be expunged after just three years, this would mean that SCC would have to be more vigilant. I have mentioned this when we used to attend consultation talks but to no avail.

Ian Hall

Ian Hall Chairman of Southampton Hackney Association (SHA) for and on behalf of our committee.

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