

# Licensed Driver Penalty Points Schemes

# Fit & Proper Test

Would you (as a member of the licensing committee or other person charged with the ability to grant a licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle, alone with this person?

# Suspension and Revocation

**S.61 LG(MP)A 76** - (1) Notwithstanding anything in the Act of 1847 or in this part of the Act, a district council may suspend or revoke...or refuse to renew the licence of a driver of a hackney carriage or a private hire on any of the following grounds:

- a) that he has since the grant of the licence –
  - (i) been convicted of an offence involving dishonesty, indecency or violence; or
  - (ii) been convicted of an offence under, or has failed to comply with, the provisions of the Act of 1847 or this part of the Act; or
- b) Any other reasonable cause**

# What is Reasonable Cause ?

- A bald tyre
- Missing fire extinguisher
- Another bald tyre – have you a record of the first
- No tax disc
- Failure to notify changes in details – how often?
- Unsatisfactory behaviour

# Wednesbury Reasonableness

Wednesbury unreasonableness has been expressed by the Courts in the following ways:

- ‘so absurd that no sensible person could ever dream that it lay within the powers of the authority’ Wednesbury 1948
- ‘outrageous in its defiance of logic or accepted moral standards’ Lord Diplock in civil service union case 1985
- ‘taking leave of one’s senses’ Lord Scarman in the Nottingham CC case 1986
- unreasonableness verging on an absurdity’ Lord Brightman in the Puhlhofer case

# Suspension and Revocation

When considering action you have 3 options:

- **Revoke** – is that proportionate ?
- **Suspend** – To give time to correct something (ie medical) or punitive sanction
- **Do nothing** (or maybe a warning – but is that a verbal, written, final or last final warning ??)

What if there was a another option...

# Penalty Points Scheme

- Designed as an evidence gathering tool rather than a punishment scheme
- Allows a driver to carry a specified number of points for a specified period without loss of the licence
- Upon reaching the limit of allowed points the driver is reported to Committee for Members to ask 'is he still a fit and proper person' – it's not a mandatory revocation (fettering discretion)

# Implementing a Scheme

- Consult with the trade
- Get Committee approval for the scheme, with full council approval if necessary.
- Scheme of delegation amended to allow officers to issue the relevant points
- Have a pre-printed duplicate book of Penalty Notices printed for officers
- Send a copy of the scheme to all drivers and vehicle owners



# Fettering Discretion

Remember you cannot fetter your discretion on decision making, so despite having attained the requisite number of points you still have to consider the case on its own merit

# Penalty Points Scheme

In conclusion:

- Reasonably simple to introduce
- Trade generally support it – it helps the compliant drivers
- Allows Members to base decisions on a clear history of the drivers record
- Significantly assists evidence needed to defend appeals
- Leads to better compliance and standards