

**Body:** General Licensing

**Date:** 8<sup>th</sup> January 2018

**Subject:** Hackney Carriage and Private Hire Penalty Points Scheme

**Report Of:** Ed Hele, Functional Lead - Quality Environment

**Ward(s)** All

**Purpose:** To seek Committee's approval for the introduction of a Penalty Points Scheme for all Hackney Carriage and Private Hire Drivers; Private Hire Operators and licensed vehicle owners to operate from 1<sup>st</sup> May 2018.

**Recommendation:**

1. **Members are invited to note the feedback received during the consultation period and the information set out in this report and agree one of the following options:**
  - 1.1. **Adopt scheme 1 as contained in the report.**
  - 1.2. **Adopt scheme 2 as contained in the report.**
  - 1.3. **Authorise officers to develop scheme 3, an enforcement framework to be brought back to Committee.**
  - 1.4. **Reject the introduction of a scheme.**

**Contact:** Telephone 01323 415014

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## **1.0 Introduction**

- 1.1 On 9<sup>th</sup> January 2017 the Licensing Committee considered adopting a penalty point scheme. Members discussed the scheme and requested that a report be brought back to a future meeting following the consultation process. This report details the consultation responses and options available to the committee.
- 1.2 Penalty Point Schemes have been in existence around the country since the early 1990's. They stand as a Council's policy on how the council will deal with the behaviour of licensees; be that drivers, operators or proprietors.
- 1.3 A Penalty Points Scheme enables the Council to monitor the behaviour of licence holders to evidence suitability to hold licences. Furthermore, the Magistrates Courts are very supportive of Councils use of the schemes since they demonstrate that drivers are given opportunities to improve behaviour prior to Court actions.

1.4 A Penalty Point Scheme offers a transparent, proportionate and reasoned response to on-going standards of poor behaviour by licence holders by use of an effective, efficient and fair process.

## **2.0 Background**

2.1 Hackney Carriage and Private Hire Operators, Drivers and Vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council Byelaws and the rules, regulations and licence conditions set by the Council.

2.2 Members will be aware that currently when Officers have sufficient evidence to penalise Operators, Drivers or Proprietors of Vehicles for breaches of licensing legislation and conditions, these matters are usually dealt with by either advice (verbal or written), written warning, an official caution, proceedings before the Court or the General Sub Licensing Committee.

2.3 To assist the Council in improving standards, Officers could introduce a penalty point's scheme. The aim of a penalty point scheme is to provide a formalised stepped enforcement plan which is easy for licence holders. The purpose of the scheme is to record misdemeanours and to act as a record of the licence holders behaviour and conduct. The operation of the scheme ensures that the most serious cases are referred to Members for a decision to be taken as to the fitness and properness of licence holders.

2.4 Following initial feedback the Functional Lead - Quality Environment has had discussions with various members of the trade including the main private hire operators and independent hackney carriage drivers on 28<sup>th</sup> November 2017. Following this meeting two additional options have been identified which are both covered at para 4.5 and 4.7 of this report.

2.5 Table 1 show's neighbouring authorities position with regards to adoption of a penalty point scheme. The Committee should note that the proposed scheme in Appendix 1 is based on schemes at neighbouring authorities and Appendix 2 is a more streamlined version.

Table 1

<b>Authority</b>	<b>Scheme in operation</b>
Lewes	Planned in 2018
Rother	Yes
Wealden	Yes
Hastings	Yes
Mid-Sussex	Yes
Horsham	No
Crawley	Yes
Brighton & Hove	No
Arun	Yes
Worthing	Yes
Chichester	No
Adur	No

2.6 Members are advised that 7 out of the other 12 Local Authorities in Sussex have adopted a similar penalty point scheme and 1 is currently considering it. It is estimated that about 65% of Local Authorities in the country are operating similar schemes.

### 3.0 **Consultation**

3.1 Consultation in relation to the introduction of the Penalty Point Scheme commenced on 1<sup>st</sup> February 2017 and concluded on 1st May 2017.

3.2 Letters were sent to all Drivers, Vehicle Proprietors and Private Hire Operators licensed by Eastbourne Borough Council. Emails were sent to local councillors and special interest groups and the consultation was also placed on the consultation section of Eastbourne Borough Council website.

### 3.3 **Overview of the feedback**

3.4 The Authority has received 5 responses. One of which represents 77 drivers from Eastbourne & County Taxis Ltd. Full copies of the feedback is included at Appendix 3 & 4, however a summary for each appears below.

3.5 Feedback 1: (Appendix 3)

I think this is an excellent idea. It gives the public reassurance and some scope for reporting poor behaviour such as refusing to take an assistance dog when there is no evidence that the driver has a medical reason not to take the dog etc. I would gladly see it implemented in Eastbourne.

3.6 Feedback 2: (Appendix 3)

Re point 6: Private hire drivers should be permitted to pick up/drop off pre-booked customers on the taxi ranks outside Sainsbury's Ashford Rd, Waitrose Church St, Hyde Gardens and Bolton Rd otherwise we will have to use unsafe areas and double yellow lines in contravention of Point 56.

3.7 Feedback 3: (Appendix 3)

I agree with the principals of the scheme and think it will enhance the professionalism and duty of care of these companies and their drivers. I do not agree with the parts that are subjective, these are open to interpretation with a risk of inconsistent application of a given category.

3.8 Feedback 4: (Appendix 3)

I support the introduction of the penalty point scheme in principle however I would like to make the following comments on several of the items: Number 4 - That amounts to fraud and is illegal therefore the number of points awarded should rise to 12. Number 51 - This should be removed. It is not a legal requirement and most new cars don't have a spare wheel any more. Number 56 - Sometimes you have to wait for your pick up on a double yellow. This is already enforced by ESCC. Number 57 - This is illegal and therefore the number of points awarded should rise to 12.

### 3.9 Feedback 5: (Appendix 4)

77 signatories feel that this proposal is totally unnecessary, unlawful, no evidential support and suspension of drivers is only meant to protect the public not to be used as a method of punishment. They feel that there are enough rules and regulation in force already to supervise the Trade.

The feedback draws the committee's attention to the law regarding the powers of a District Council to suspend or revoke a licence. The feedback provides an enforcement table which highlights the provisions already in place.

### **4.0 Penalty Points Scheme 1 (Appendix 1)**

4.1 The primary objective of implementing a penalty point scheme must clearly be to improve the levels of compliance within the trade which would subsequently help improve the standards, safety and protection for the travelling public.

4.2 Where a licensee accumulates more than 12 penalty points in any 12 month period the matter will be referred to the Council's Licensing Sub-Committee. This triggers an opportunity for the Licensing Sub Committee to consider if any actions should be taken about the licence. These powers include suspension, revocation or refusal to renew the licence.

4.3 Penalty Points remain effective for 12 months from the date the penalty points were issued. After 12 month they will lapse for the purpose of the scheme. Points issued to either the proprietor of a vehicle, a driver or an operator will be confirmed in writing normally within 10 working days from the discovery of the contravention.

4.4 Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Sub-Committee who will have the discretion to award a greater number of points if the complaint is upheld. There is no right of appeal to the magistrate's court on the issue of points.

### **4.5 Amended Penalty Points Scheme 2 (Appendix 2)**

4.6 The amended Penalty point scheme is a streamlined version concentrating on Public Safety to improve the levels of compliance within the trade which would subsequently help improve the standards, safety and protection for the travelling public. The amended scheme is shown at Appendix 2 and reduces the number of offences listed from 57 to 40. The ones that remain are considered essential for public safety and to uphold professional standards.

### **4.7 Enforcement Framework Scheme 3**

4.8 A third option for members is to consider producing an enforcement framework which will provide officers with a formalised method of applying verbal and written warnings.

4.9 A taxi licensing policy incorporating an enforcement framework could be developed that stipulates what offences or actions will result in a verbal warning, a written warning or a caution. The full details need to be developed but an example

could be that 3 or more written warnings or 2 official cautions within a 12 month period will result in a licence holder being taken to the Licensing Sub Committee. The policy would also prescribe what actions would result in a stop notice being issued. This policy would be prepared and brought to the Licensing Committee at a later date.

## **5.0 Guidance**

- 5.1 Members are referred to the Local Government Association Taxi and PHV Licensing Councillors' Handbook (England and Wales), see Appendix 5. In particular the 'fit and proper' person test which starts on page 13 and the Monitoring complaint section on page 17 which states: "*All councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual drivers. Complaints about drivers should be taken seriously and drivers with a number of complaints made against them should be contacted by the Council and concerns raised with the driver and operator (if appropriate).*" Further highlighting that many other councils have introduced similar schemes and there has been a noticeable improvement in both standards of behaviour and standards of compliance.

## **6.0 Legal Implications**

- 6.1 A suggestion was made during the consultation process that a Penalty Point Scheme would be ultra vires. However the Council's Legal Section is content that such schemes are not ultra vires. It is simply an enforcement mechanism applied by the Council, which has power to suspend, revoke or refuse to renew any of the licences granted under either Town Police Clauses Act 1847 or Local Government (Miscellaneous Provisions) Act 1976. It is not unlawful provided the Council retains its discretion at the time at which the trigger number of points has been accumulated.
- 6.2 The legality of such Schemes was challenged in the leading case of R (app Singh) v Cardiff City Council [2012] EWHC 1852 (Admin) [2013] when HHJ Singh stated at para 64 "*.....In my judgement, what the Council sought to do and has done is to adopt a policy to govern the exercise of its undoubted discretion under S.61 of the 1976 Act. A public authority is perfectly entitled to adopt policies which will regulate the exercise of a given discretionary power. In my judgement there is nothing wrong in principle with a licensing authority such as the present, taking the view that the public interest justifies adopting a policy which would not lead to the suspension or revocation of driver's licence, for example, for a single incident. At para 65 added "In my view, there is nothing wrong in principle with the council; such as the present, adopting a policy, which seeks in both fairness to the driver potentially affected and also to protect the public interest, to have, as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgement of the local authority, a person is not a fit and proper person to continue to enjoy the relevant licence."*
- 6.3 It is noted that *Cardiff* failed in the judicial review case because it had developed a practice of suspending/revoking licences on the accumulation of points under its scheme. Rather the Court considered the accumulation of the required points should lead to a licence holder appearing before a Sub Committee for there to be a full consideration of their fit and properness with all options being open to

Members. It is noted that the Scheme proposed in this Report does not automatically lead to the loss of a licence but simply triggers a Sub Committee hearing.

- 6.4 When consulted on the value of having such a Scheme the acknowledged leading expert in this field James Button *stated* “*I am in favour of such schemes as I feel that they provide a graduated, proportionate and transparent method of dealing with low level transgressions which do not in themselves warrant action against a licence.*”
- 6.5 During the consultation process it was contested that there are existing powers available for the Council to prosecute for many matters under the 1847 and 1976 Acts, and therefore the scheme is unnecessary. Members are reminded that ‘fit and properness’ is a concept that is not solely reliant upon the criminal behaviour of an applicant. Members may take into consideration behaviour that demonstrates a lack of regard for conditions of licence, for poor standards of behaviour, and non-compliance with policies and standards set by the Council.
- 6.6 It was stated in the consultation process that suspension should be a final determination and not an interim measure. The Legal Section would accept that contention following *R (app Singh) v Cardiff City Council* para 105 “It is a power of final suspension, as an alternative to a power of final revocation.” It was also contended that suspension should not be used as a punishment following *Singh*. To quote the leading expert in this area James Button “suspension is a final decision and not the precursor to other action. Accordingly, it is clear that suspension can therefore be simply used as a punishment” at page 237 Button on Taxis (4<sup>th</sup> ed). It is accepted that this is a contested issue and Legal’s view is that sanction by way of suspension can be imposed with the aim of ensuring the conduct is not repeated and to ensure the public are protected. It will be a question for the Licensing Sub Committee considering the merits of each case before it as to the appropriate action to be taken. The process is to ask and then determine in the light of the evidence, whether the licence holder is a fit and proper person and if not what is the appropriate sanction.
- 6.7 The Legal Section has considered the contents of this Report (IKEN-6985-MW 19 December 2017).

## **7.0 Recommendations**

- 7.1 Members are invited to note the feedback received during the consultation period and the information set out in this report and agree one of the following options:
- 8.1.1 Adopt scheme 1 as contained in the report.
  - 8.1.2 Adopt scheme 2 as contained in this report.
  - 8.1.3 Adopt an enforcement framework scheme 3 and request officers present this to a future Committee.
  - 8.1.4 Reject the introduction of a scheme.
- 7.2 If members choose to adopt either scheme, either 8.1.1, or 8.1.2 the scheme will operate from 1<sup>st</sup> May 2018. Scheme 3 will be subject to another report being presented to Committee.

## **8.0 Financial Implications**

- 8.1 Holding Sub-Committee meetings does involve the authority in additional costs. However, it is not anticipated that there will be more than three or four a year. There are minimal administrative costs associated with issuing penalty point notices.
- 8.2 These will be factored into the overall costs of running the service, with the objective of the service to balance income against expenditure over the course of a 3 year period.

## **9.0 Human Rights**

- 9.1 The provisions of the Human Rights Act 1998, must be borne in mind by the Committee when taking licensing decisions. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property, and Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

### **Background Papers:**

The Background Papers used in compiling this report were as follows:

Local Government Association – Taxi and PHV licensing Councillors' handbook (England and Wales)

### **Appendices:**

Appendix 1 – Eastbourne Borough Council Proposed Penalty Point Scheme 1

Appendix 2 – Eastbourne Borough Council Proposed Penalty Point Scheme 2

Appendix 3 – Consultation feedback via web consultation

Appendix 4 – Consultation feedback from Eastbourne & County Taxis Ltd.

Appendix 5 – Local Government Association – Taxi and PHV licensing Councillors' handbook (England and Wales)

**Appendix 1**  
**Eastbourne Borough Council - Penalty Points Scheme 1**

	<b>Details of the misconduct</b>	<b>Points Applicable</b>	<b>Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator</b>
1	Providing false or misleading information on licence application form / failing to provide relevant information or pay the relevant fee (including dishonoured cheques)	6	✓	✓	
2	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓	
3	Refusal to accept hiring without reasonable cause	6	✓		✓
4	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓		
5	Plying for hire by Private hire drivers or Hackney Carriage drivers plying for hire outside the district	9	✓	✓	
6	Private hire vehicle parking or waiting on a taxi rank	9	✓	✓	
7	Inappropriate behaviour at a taxi rank,	1-12*	✓		
8	Leaving a taxi unattended at a rank	4	✓		
9	Using unlicensed vehicle or using a licensed vehicle without insurance or without a valid VST	12	✓	✓	
10	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4	✓	✓	
11	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓	
12	Failure to undergo the 6 monthly VST on time	6		✓	
13	Failure to provide proof of insurance cover when requested	6	✓		
14	Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required	4		✓	
15	Using a vehicle subject to a suspension order issued by an Authorised Officer or a police officer	12	✓	✓	
16	Using a vehicle for which the licence has been suspended or revoked	12	✓	✓	
17	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4	✓	✓	
18	Carrying more passengers than stated on the vehicle licence	6	✓		
19	Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs	6	✓	✓	
20	Carrying an offensive weapon in the vehicle	12	✓		



	<b>Details of the misconduct</b>	<b>Maximum* Points Applicable</b>	<b>Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator</b>
21	Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer	4		✓	
22	Failure to carry fire extinguisher	4		✓	
23	Failure to carry first aid kit	3		✓	
24	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3		✓	
25	Failure to use authorised roof light	4	✓		
26	Failure to maintain records in a suitable form of the commence and cessation of work of each driver each day	4			✓
27	Failure to produce on request records of drivers' work activity	4			✓
28	Using a non-approved or non-calibrated taximeter (HC)	6	✓	✓	
29	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12	✓	✓	
30	Evidence of smoking in vehicle	3	✓	✓	
31	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6		✓	
32	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓	
33	Driver not holding a current DVLA licence	12	✓	✓	
34	Failure to have the driver's badge clearly displayed	4	✓		
35	Failure to notify, in writing, a change in medical circumstances	6	✓	✓	
36	Unsatisfactory appearance of driver	4	✓		
37	Failure to observe rank discipline (HC)	3	✓		
38	Failure to maintain proper records of private hire vehicles	3			✓
39	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6			✓
40	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		✓	✓
41	Failure to issue receipt on request.	6	✓	✓	
42	Using a licensed vehicle in a dangerous condition	9	✓	✓	
43	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓	

	<b>Details of the misconduct</b>	<b>Maximum* Points Applicable</b>	<b>Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator</b>
44	Unsatisfactory behaviour or conduct of a driver.	1-12*	✓		
45	Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or conviction or cautions during period of current licence	6	✓	✓	
46	Failure to behave in a civil and orderly manner, or bringing the trade into disrepute.	1-12*	✓	✓	
47	Failure to provide reasonable assistance to a passenger	1-12*	✓	✓	
48	Failure to display a correct up to date fare card (HC)	3	✓	✓	
49	Carrying two or more separate fares without the appropriate consent	9	✓		
50	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓	
51	Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓	
52	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre	✓	✓	
53	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓	
54	Failure to display an applicable fare card AND the Councils valid fare card together	3	✓	✓	
55	Waiting or stopping on a double yellow area, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle	3	✓		
56	Driving whilst using a mobile phone	9	✓		

**Notes:**

\*- points up to a maximum of 6 points can be issued by officers, but greater awards of points can only be issued by the Licensing Sub-Committee. Officers may refer any award of points to Members where there are aggravating features to any case.

The Maximum points applicable refers to points issued by Officers. If the matter is referred to the Licensing Sub-Committee the Sub-Committee may impose up to 12 points.

Ticks indicate potential recipients of points for infringements, but are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.

## **Penalty Point Scheme**

### **Introduction**

- 1.0 Hackney Carriage and Private Hire Operators, drivers and vehicles are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Councils Byelaws and the Rules, Regulations and Conditions set by the Licensing Committee.
- 2.0 Should operators, drivers or proprietors of vehicles commit an offence or breach those rules, regulations or conditions of licence, persons involved are asked to attend the offices for an interview and then once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome of investigations may result in no further action being taken, penalty points being awarded, a formal warning, referral to the Licensing Panel and /or prosecution.
- 3.0 The aim of a penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of drivers, vehicle proprietors and operator's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.
- 4.0 The primary objective of the penalty point's scheme is to improve levels of compliance and help improve the standards, safety and protection of the travelling public.
- 5.0 Penalty points remain on the licensee's record for twelve months. The period is a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.

### **Issue of Penalty Points**

- 6.0 Complaints from the public concerning significant breaches of conduct will be subject to investigation by officers and may be reported to the Licensing Sub-Committee for the issue of discretionary points.
- 7.0 Where a licensee accumulates 12 or more penalty points in any 12 month period, the matter will be referred to the Council's Licensing Sub-Committee for the members to decide whether the licensee remains a fit and proper person. The Licensing Sub-Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending on the circumstances. Periods of suspension of a licence by a Sub-Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.
- 8.0 Penalty Points will remain current for 12 months from the date the penalty points were issued. Points issued to either the proprietor of a vehicle, operator or a driver will be confirmed in writing normally within 10 working days of the conclusion of the investigation into the contravention.

- 9.0 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 10.0 Any disputes regarding the issuing of penalty points will be referred to the Licensing Sub-Committee who will have the discretion to award a greater number of points than displayed on the tariff, if the complaint is upheld. Drivers or Operators must appeal against points awarded by officers to the Licensing Sub-Committee within 21 days of them being issued.
- 11.0 If points are issued to a proprietor/driver or operator by the Council for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not be the subject of a prosecution for that offence by the Council.

**Appendix 2**  
**Eastbourne Borough Council - Penalty Points Scheme 2 (Amended)**

	<b>Details of the misconduct</b>	<b>Points Applicable</b>	<b>Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator</b>
1	Failure to notify, in writing, the Council of a change of address within 7 calendar days	3	✓	✓	
2	Refusal to accept hiring without reasonable cause	6	✓		✓
3	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6	✓		
4	Inappropriate behaviour at a taxi rank,	1-12*	✓		
5	Leaving a taxi unattended at a rank	4	✓		
6	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4	✓	✓	
7	Unsatisfactory condition of vehicle, interior or exterior	4	✓	✓	
8	Failure to provide proof of insurance cover when requested	6	✓		
9	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4	✓	✓	
10	Carrying more passengers than stated on the vehicle licence	6	✓		
11	Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs	6	✓	✓	
12	Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer	4		✓	
13	Failure to carry fire extinguisher	4		✓	
14	Failure to carry first aid kit	3		✓	
15	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle	3		✓	
16	Failure to use authorised roof light	4	✓		
17	Using a non-approved or non-calibrated taximeter (HC)	6	✓	✓	
18	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12	✓	✓	
19	Evidence of smoking in vehicle	3	✓	✓	
20	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6		✓	

	<b>Details of the misconduct</b>	<b>Maximum* Points Applicable</b>	<b>Driver</b>	<b>Vehicle Proprietor</b>	<b>Operator</b>
21	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓	
22	Failure to have the driver's badge clearly displayed	4	✓		
23	Failure to notify, in writing, a change in medical circumstances	6	✓	✓	
24	Unsatisfactory appearance of driver	4	✓		
25	Failure to observe rank discipline (HC)	3	✓		
26	Failure to maintain proper records of private hire vehicles	3			✓
27	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6			✓
28	Failure to issue receipt on request	6	✓	✓	
29	Using a licensed vehicle in a dangerous condition	9	✓	✓	
30	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓	
31	Unsatisfactory behaviour or conduct of a driver.	1-12*	✓		
32	Failure to notify the Council in writing, of any motoring or criminal convictions within 21 days or conviction or cautions during period of current licence	6	✓	✓	
33	Failure to behave in a civil and orderly manner, or bringing the trade into disrepute.	1-12*	✓	✓	
34	Failure to provide reasonable assistance to a passenger	1-12*	✓	✓	
35	Failure to display a correct up to date fare card (HC)	3	✓	✓	
36	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓	
37	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre	✓	✓	
38	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓	
39	Failure to display an applicable fare card AND the Councils valid fare card together	3	✓	✓	
40	Driving whilst using a mobile phone	9	✓		

Notes:

\*- points up to a maximum of 6 points can be issued by officers, but greater awards of points can only be issued by the Licensing Sub-Committee. Officers may refer any award of points to Members where there are aggravating features to any case.

The Maximum points applicable refers to points issued by Officers. If the matter is referred to the Licensing Sub-Committee the Sub-Committee may impose up to 12 points. Ticks indicate potential recipients of points for infringements, but are not limited to those only. Certain cases may result in drivers and/or proprietors and/or operators receiving penalty points. Points may be awarded to one or several persons depending upon the circumstances of the case, but each case will be considered on its individual merits.

## **Penalty Point Scheme**

### **Introduction**

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- 3.0 The aim of a penalty point scheme is to work in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the scheme is to record misdemeanours and to act as a record of drivers, vehicle proprietors and operator's behaviour and conduct so as to ascertain whether they are a fit and proper person. It does not prejudice the Council's ability to take other actions.
- 4.0 The primary objective of the penalty point's scheme is to improve levels of compliance and help improve the standards, safety and protection of the travelling public.
- 5.0 Penalty points remain on the licensee's record for twelve months. The period is a roll forward basis, so as to allow any older points to be considered as spent and therefore excluded from the running total recorded against any individual licensee.

### **Issue of Penalty Points**

- 6.0 Complaints from the public concerning significant breaches of conduct will be subject to investigation by officers and may be reported to the Licensing Sub-Committee for the issue of discretionary points.
- 7.0 Where a licensee accumulates 12 or more penalty points in any 12 month period, the matter will be referred to the Council's Licensing Sub-Committee for the members to decide whether the licensee remains a fit and proper person. The Licensing Sub-Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending on the circumstances. Periods of suspension of a licence by a Sub-Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.
- 8.0 Penalty Points will remain current for 12 months from the date the penalty points were issued. Points issued to either the proprietor of a vehicle, operator or a driver will be confirmed in writing normally within 10 working days of the conclusion of the investigation into the contravention.



- 9.0 The system will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, byelaws and regulations.
- 10.0 Any disputes regarding the issuing of penalty points will be referred to the Licensing Sub-Committee who will have the discretion to award a greater number of points than displayed on the tariff, if the complaint is upheld. Drivers or Operators must appeal against points awarded by officers to the Licensing Sub-Committee within 21 days of them being issued.
- 11.0 If points are issued to a proprietor/driver or operator by the Council for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not be the subject of a prosecution for that offence by the Council.