

## **Appendix 7: Penalty Points Scheme**

### **Lewes District Council Taxi and Private Hire Licensing, Penalty Points Scheme**

#### **Introduction**

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's Byelaws and the Guidance set by the Licensing Committee.
2. The aim of the 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 driver's behaviour and conduct as to ascertain whether they are a fit and proper person.
3. It does not prejudice the Council's ability to take other actions.

#### **How will it work?**

4. If Operators, Drivers or Proprietors of Vehicles commit an offence or breach rules, regulations or conditions of a licence, the persons involved may be asked to attend the Council offices for an interview. Once investigations are completed, letters are sent out detailing the outcome and a permanent record kept on the persons' file. The outcome may result in no further action being taken, penalty points being awarded, a formal warning, referral to the Licensing Sub Committee and/or prosecution.
5. Penalty Points will remain current for 12 months from the date the penalty points are issued. The period is on 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.
6. Points issued to either the proprietor of a vehicle or a driver and/or operator will be confirmed in writing, normally within 10 working days from the discovery of the contravention.
7. Where a licensee accumulates 12 penalty points in any 12-month period, the matter will be referred to the Council's Licensing Sub Committee for it to consider whether the driver/operator/proprietor is fit and proper.
8. The Sub Committee may then suspend or revoke a licence, or issue a warning to the Licensee, or choose to vary further penalty points depending upon the circumstances. Periods of suspension by the Committee will be dependent on the nature of the breaches of the legislation/conditions and the compliance history of the individual.

9. Suspension periods will normally vary between 7 to 90 days or the maximum until the licence expiry date
  
10. Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Sub Committee. They will have discretion to vary the number of points than displayed on the tariff, if the complaint is upheld. Drivers must appeal any points issued by Officers to the Licensing Sub Committee within 21 days.
  
11. 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. If points are issued to a proprietor/driver/operator for a matter which is also a criminal offence, e.g. bald tyres, no badge, those person(s) will not then be the subject of a prosecution by the Council.
  
12. Potential recipients of points for infringements 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.

	<b>Details of the misconduct for a Driver</b>	<b>Points Applicable</b>
1	Inappropriate behaviour at a taxi rank	1-12*
2	Unsatisfactory behaviour or conduct of a driver.	1-12*
3	Failure to observe rank discipline. (HC only)	3
4	Waiting or stopping on a double yellow area, bus stop, disabled bay or private land (without the owner's permission) unless requested by a paying customer present in the vehicle or Obstruction of a highway without reasonable cause	4
5	Failure to use authorised roof light (HC only)	4
6	Failure to have the driver's badge clearly displayed	4
7	Unsatisfactory appearance of driver or/and vehicle	1-6*
8	Leaving a taxi unattended at a rank	4
9	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6

10	Refusal to accept hiring without reasonable cause	6
11	Failure to provide proof of insurance cover when requested by an authorised officer	6
12	Carrying more passengers than stated on the vehicle licence	12
13	Carrying two or more separate fares without the appropriate consent	9
14	Driving whilst using any handheld mobile device e.g. mobile phone or PDA	9
15	Carrying an offensive weapon in the vehicle without lawful authority or reasonable cause	1-12*
16	Failure to accept payment by credit or debit card Any payments paid for via credit or debit cards must not have a minimum charge	1-12*
	<b>Details of the misconduct for Vehicle Owner or Operator</b>	
17	Misleading use of the words 'Taxi' or 'Cab' on advertising materials in line with the licensing guidance	3
18	Failure to maintain proper records of private hire vehicles and drivers for a minimum of 12 months	3
19	Failure to carry first aid kit and the required contents.	3
20	Failure to carry an in-date fire extinguisher (Dry powder)	3
21	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle- In line with the Licensing Guidance	3
22	Failure to produce Hackney Carriage or Private Hire vehicle for re-testing when required	4
23	Failure to notify a transfer of Private Hire or Hackney Carriage vehicle licence within 14 days of transfer	4
24	Failure to maintain records in a suitable form of the start and end of work of each driver's day	6
25	Failure to produce, on request, records of drivers' work activity.	6
26	Failure to return vehicle licence plate within 7 days after due notice.	4

27	Displaying/Using a vehicle in which its appearance/features may suggest that it is a Hackney Carriage when it is not licensed as one.	6
28	Private hire vehicle parking or waiting on an official taxi rank	*4-12
	<b>Details of the misconduct for a Driver or Vehicle Owner or Operator</b>	
29	Failure to behave in a civil and orderly manner or bringing the trade into disrepute.	1-12*
30	Failure to provide reasonable assistance to a passenger without reasonable cause	1-12*
31	Receiving DVLA points for a Motoring offence	3-12*
32	Failure to display a correct up to date fare card (HC)	3
33	Evidence of smoking in vehicle	3
34	Failure to notify, in writing, the Council of any change of personal details within 7 calendar days	3
35	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4
36	Failure to attend punctually at appointed time and place without sufficient cause	4
37	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre
38	Failure to produce relevant documents within timescales when requested by an Authorised Officer	4
39	Unsatisfactory condition of vehicle, interior or exterior	4
40	Failure to report, in writing, within 72 hours, accident or damage to licensed vehicle, which would cause the vehicle to breach licence conditions	4
41	Providing false or misleading information on licence application form / failing to provide relevant information or pay the relevant fee (including dishonoured cheques)	6
42	Failure to notify the Council in writing, of any motoring or criminal convictions within 48 hours or conviction or cautions during period of current licence	6
43	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6
44	Failure to notify, in writing, a change in medical circumstances	6
45	Failure to issue a receipt on request.	3

46	Failure to display external/internal licence plate in a fixed position or failure to display appropriate door signs	6
47	Using a non-approved or non-calibrated taximeter (HC)	6
48	Using a licensed vehicle in a dangerous condition	9
49	Plying for hire by Private hire drivers outside the district	9
50	Using a vehicle subject to a Driver Licence suspension order issued by an Authorised Officer or a police officer	12
51	Using a vehicle for which the Vehicle licence has been suspended or revoked	12
52	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle	12
53	Using an unlicensed vehicle, or using a licensed vehicle without insurance or without a valid VST	12
54	Failure to carry an assistance dog without requisite medical exemption certificate, or making an additional charge for taking an assistance dog	12
55	Failure to comply with duties under section 164A (5) Equality Act 2010, including the failure to provide mobility assistance, without the requisite medical exemption certificate or a relevant legal defence, or by making an additional charge	12
56	Driver not holding a valid current DVLA licence	12
57	Appeal of points by way of Licensing Sub-Committee You have the right to appeal penalty points in which the sub-committee have the right to issue more or less penalty points	1-12*
58	Sending/writing abusive posts about Council Officers and/or Elected Council Members on any social media platform	1-12

\*Officers may refer any mandatory award of points to Members where there are aggravating features to a case.