

Explanatory Notes

Where there are options or alternatives, they are highlighted in yellow and the explanation is detailed in footnotes. Once the decision has been made and the document altered, the footnote can be deleted.

PENALTY POINTS SCHEME

Index

1. Penalty Points Scheme
2. List of Offences/Breach of Vehicle Licence Conditions
3. List of Offences/Breach of Driver Code of Conduct
4. List of Offences/Breach of Operator Licence Conditions
5. . . . District/Borough Council Byelaws relating to Hackney Carriages

Penalty Points Scheme

- 2.1 Hackney carriage and private hire operators, drivers and vehicles are principally governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Council Byelaws (in respect of hackney carriages) and the policy and conditions set by the Council.
- 2.2 The primary objective of the penalty points scheme is to improve the levels of compliance and to help improve the standards, safety and protection of the travelling public.
- 2.3 The penalty points scheme works 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 licensees' behaviour and conduct so as to ascertain whether they remain a safe and suitable person to be a vehicle driver or operator and/or suitable to hold a vehicle licence. It does not prejudice the Council's ability to take other action.
- 2.4 The scheme will be used where operators, drivers or proprietors of vehicles fail to comply with any legislative requirement, commit a criminal offence (under legislation or byelaws) or breach conditions of licence, and following complaints from the public.
- 2.5 Licensees involved will be asked to attend an interview. Once the investigation is completed, letters will be sent out detailing the outcome and a permanent record will be kept on the person's file. The outcome of the investigation may result in officers determining that: no further action be taken; penalty points be imposed; a formal warning be issued, and/or prosecution.

- 2.6 If a licensee wishes to challenge the imposition of penalty points, an appeal will be referred to the Regulatory Committee. At that hearing the Committee can remove the penalty points, uphold the penalty points, increase the penalty points (and this includes imposing more points than displayed on the tariff), suspend or revoke the licence, or recommend prosecution. Drivers must appeal any points issued by Officers to the Regulatory Committee within 21 days. Details of the appeal mechanism will be contained in the letter confirming the imposition of points.
- 2.7 Penalty points remain live or current for twelve months from the date the penalty points were imposed. If the decision was appealed to the Regulatory Committee, and the Committee uphold an imposition of points, those points will remain live for 12 months from the date of the Committee’s decision. The 12 month 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.
- 2.8 Where a licensee accumulates more than 12 penalty points in any 12 month period, the matter will be referred to the Regulatory Committee for the Committee to decide whether the driver remains a safe and suitable ~~fit and proper~~ person. The Regulatory Committee may then suspend or revoke a licence, or issue a warning to the Licensee, depending upon the circumstances. Periods of suspension of a licence by a Committee will be dependent on the nature of the breaches of the legislation, conditions, behaviour and the compliance history of the individual. Suspension periods will normally vary between 7 to 31 days.
- 2.9 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 conditions.
- 2.10 If points are issued to a proprietor or driver for a matter which is also a criminal offence which the council could prosecute for e.g. not wearing a driver’s badge, failure to maintain operator records, those person(s) will not then be the subject of a prosecution by the Council.

List of Offences / Breach of Vehicle Licence Conditions

<u>Offence / Breach</u>	<i>Code</i>	<i>Points</i>
Failure to supply interim MOT test when vehicle is over 5 years of age	V1	4
Failure to have or maintain illuminated markings at entrances and exits	V2	2
Failure to have/maintain grab handles	V3	2
Failure to have a means of loading wheelchairs into the vehicle available at all times.	V4	2
Failure to supply a current mechanical tail lift safety certificate to the Licensing Authority	V5	4

Failure to keep a wheelchair access vehicle available without modification at all times	V6	2
Failure to provide an annual LPG safety compliance Certificate	V7	4
Failure to maintain seat belts in a safe condition	V8	4
Undertaking alterations to equipment, dimensions or other specification to a licensed vehicle without consent	V9	4
Failure to display approved roof sign	V10	2
Failure to maintain roof sign in working order	V11	2
Failure to display roof sign on the front part of the roof, unless the vehicle type does not facilitate this, in which case it must be as near to the front as possible.	V12	2
Failure to display front door signs.	V13	4
Displaying incorrect signs i.e., wrong wording or magnetic	V14	4
Displaying other sign on front door	V15	4
Private hire vehicles advertising incorrectly	V16	4
Display sign that does not comply	V17	4
Display web site address large lettering than permitted	V18	4
Failure to display a three or more “no smoking/no vaping” sign(s) in the vehicle	V19	4
Private hire displaying the word “taxi”	V20	4
Incorrectly displaying licence plate	V21	4
Failure to return plate on expiry of licence if requested to do so by Licensing Staff	V22	4
Failure to report loss or damage of a vehicle plate, following discovery of loss or damage.	V23	2
Failure to surrender vehicle licence and plate if proprietor does not wish to retain vehicle licence	V24	2
Advertising on vehicle without written authorisation from the Licensing Authority	V25	4
Failure to submit taximeter for testing when requested to do so by Licensing Authority	V26	2
Tampering or allowing an unauthorised person to tamper with taximeter	V27	4

Failure to display a table of fares inside the HCV	V28	2
Wilfully or neglectfully causing letters or figures in the table of fares to be obscured	V29	2
Failure to deposit copy of table of fares which differ from the approved fares	V30	2
Failure to notify Licensing of accidents or damage affecting the safety, performance or appearance of the vehicle	V31	2
Failure to supply steering geometry and alignment reports following an accident if required	V32	2
Failure to get authorisation for a temporary transfer vehicle or leaving the vehicle on for more than two weeks	V33	2
Failure to have insurance for the licensed vehicle	V34	12
Failure to provide evidence of insurance prior to expiry	V35	6
Failure to keep copy of insurance/cover note in the vehicle	V36	2
Failure to notify Licensing Authority of change of insurer or particulars within 2 working days.	V37	2
Failure to produce details to the Licensing Authority of drivers permitted to drive	V38	2
Failure to notify change of drivers	V39	2
Failure to notify Licensing Authority of change of address or other contact details	V40	2
Failure to carry a suitably marked approved fire extinguisher within the vehicle	V41	2
Failure to carry marked first aid equipment as specified in conditions	V42	2
Failure to obtain written permission to use trailers on Licensed vehicles	V43	12
Failure to present vehicle and trailer for inspection	V44	4
Using a driver without the appropriate DVLA category code to tow a trailer	V45	6
Failure to maintain radio equipment in safe condition which poses a risk of injury to passengers	V46	2
Driver allowing a greater number of persons to be conveyed than is specified on the licence	V47	2

Failure to maintain a reasonable standard of behaviour	V48	2
Failure to provide information requested by an authorised officer	V49	4
Failure to provide assistance to an authorised officer	V50	4
Failure to provide evidence of insurance or interim MOT/compliance test prior to expiry (1 st instance)	V51	6
Failure to provide evidence of insurance or interim MOT/compliance test prior to expiry (2 nd instance)	V52	12
Failure to show evidence of continuous MOT, interim MOT or insurance.	V53	12
Using CCTV equipment not in accordance with the provisions of the conditions and the data protection act	V54	4
Fail to have 3 CCTV signs	V55	2
Fail to check CCTV weekly	V56	2
Disconnecting CCTV system	V57	4
Obstructing CCTV Camera	V58	4
Providing alcoholic drinks not in accordance with the sale or supply of alcohol legislation	V59	12

List of Offences/Breaches of Driver Code of Conduct

<u>Offence / Breach</u>	<u>Code</u>	<u>Points</u>
Driver not clean and respectable in their dress	D1	2
Driver not complying with the Driver Dress Code	D2	2
Driver not behaving in a civil and orderly manner	D3	3
Driver allowing noise from radio or other similar equipment to be a source of nuisance or annoyance to any person inside or outside the vehicle	D4	2
Driver smoking/vaping/similar whilst in the vehicle	D5	6
PH drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre booking	D6	3
Driver of PH vehicle plying for hire	D7	4

Driver calling out or influencing person to travel in the vehicle for gain without a prior appointment	D8	3
Fail to have in possession driver badge whilst driving a licensed vehicle	D9	2
Not wearing driver badge on the upper left arm in the vehicle which is visible to passengers being conveyed in the vehicle	D10	2
Failure to surrender driver badge to the Licensing Authority upon expiry, revocation or suspension of their licence when requested by Licensing Staff	D11	6
Failure to supply annual self-declaration and fee (1 st Occasion)	D12	6
Failure to supply annual self-declaration and fee (2 nd occasion)	D13	12
Failure to carry evidence of insurance cover, this can be a cover note, in the vehicle whilst on duty	D14	2
Failure of driver to check vehicle proprietor has insurance on the vehicle	D15	2
Driver carrying greater number of persons than the number specified on the licence	D16	12
Carrying other persons in the vehicle without the consent of the hirer	D17	2
Carry a member of family/friend in a licensed vehicle when it is for hire/hired	D18	2
Failing to carry passenger luggage	D19	4
Failing to ensure the safety of passenger luggage	D19a	4
Failing to offer reasonable assistance with luggage	D20	2
Failing to take steps to ensure passenger safety	D21	6
Failing to ensure passengers are dropped off safely, at the correct destination	D22	2
Fail to search vehicle after journey	D23	2
Fail to hand found property to the police	D24	2
Fail to operate taxi meter correctly (HC)	D25	4
Fail to use taximeter on pre booked journey or fail to charge fee less than meter fee	D26	2

Charging more than the metered fare	D27	4
Tampering or allowing tampering of a taximeter	D28	4
cancelling the fare or concealing the fare on meter before the hirer has agreed the fare	D29	2
Demanding more than the previously agreed fare	D30	4
Demanding more than the fare shown on the taxi meter or scale of charges on the table of fares	D31	4
Starting the fare before the hirer enters the vehicle unless specified in the tariff sheet	D32	4
Failure to notify proprietor of complaints made by the passengers	D33	2
Failure to notify passengers of their right to refer their complaint to the Licensing Authority	D34	2
Failure to attend at appointed time or place without sufficient cause	D35	2
Unnecessarily prolonging journey in distance or time	D36	4
Failure to provide copy of driver licence to operator	D37	2
Failure to ensure insurance cover for licensed drivers to drive vehicle	D38	6
Failure to ensure vehicle is licensed by Licensing Authority for the purpose used	D39	13
Failure to notify Licensing Authority of change of address/telephone number within 7 days	D40	4
Failure to notify Licensing Authority of motoring offences and/or penalty points, criminal convictions or any other penalty as defined by policy during the period of licence	D41	12
Failure to notify Licensing Authority of motoring convictions up to 3 penalty points during the period of licence	D42	6
Failure to notify Licensing Authority of involvement in incidents which the Police are involved and may lead to a caution/conviction	D43	12
Failure to notify Licensing Authority in writing within 7 days of serious injury or illness	D44	12
Failure to notify the Licensing Authority of a DVLA notifiable condition	D45	12

Failure to carry assistance dog without exemption	D46	4
Making additional charge for carrying assistance dog	D47	4
Failure to apply for or provide an exemption certificate on medical grounds for not being medically fit to carry an assistance dog	D48	4
Not using mobile phone in accordance with The Road Vehicle (construction and use) (Amendment) (No.4) Regulation 2003	D49	6
Failure to keep vehicle reasonably clean	D50	4
Failure to notify Licensing Authority of vehicle damage within 72 hours or present vehicle if requested to do so	D51	4
Failure to provide a written receipt for the fare paid if requested to do so by the passenger	D52	2
Failure to co-operate with any authorised officer of the Licensing Authority, Constable or any other clearly identifiable person nominated by the Licensing Authority	D53	4
Failure to keep a record of bookings in the Private Hire Vehicle. This can be computerised/electronic or written	D54	2
Failure to comply the regulations governing the wearing of seat belts	D55	4

Offences / Breaches of Operator Licence Conditions - Private Hire

<u>Offence</u>	<u>Code</u>	<u>Points</u>
Operating more vehicles than stated on licence	O1	2
Failure to obtain and maintain insurance on vehicle	O2	12
Failure to produce evidence of insurance cover to the Licensing Authority	O3	6
Fail to provide valid insurance on expiry for any premises where the public have access	O4	6
Failure to notify the Licensing Authority of change of insurer within 2 days	O5	2
Fail to provide evidence of public liability insurance for premises	O6	2

Failure to operate the business in a manner which does not cause nuisance to the public or to persons in nearby premises	O7	2
Failure to provide a prompt, efficient or reliable service	O8	2
Failure to attend a booking at appointed time or place without sufficient cause	O9	2
Knowingly allowing a greater number of persons in the licensed vehicle than is prescribed on the licence	O10	12
Fail to have necessary documents and equipment	O11	2
Operating the business from a premises outside the district	O12	12
Failure to keep booking or waiting areas which the public have access, clean, adequately heated, ventilated and lit	O13	2
Failure to provide seating facilities in waiting areas	O14	2
Failure to have in place planning permission if required at operators address	O15	2
Failure to comply with planning permission or licence conditions for number of vehicles permitted	O15	2
Failure to supply written confirmation within seven days of changes to the particulars shown on the application form relating to the licence	O16	4
Fail to notify Licensing Authority of change of address	O17	2
Failure to notify the Licensing Authority within seven days of any convictions imposed on them, during the period of the licence	O18	6
Failure to keep proper records for a period of not less than six months	O19	3
Failure to keep proper records	O20	2
Fail to keep entries correctly	O21	2
Fail to notify details of security arrangements	O22	2
Fail to keep records of private hire vehicles operated	O23	2
Displaying the word Taxi or Cab on a private hire vehicle	O24	2

Failure to keep records of all drivers employed or failure to produce details of the drivers	O25	2
Failure to notify Licensing Authority within seven days of the particulars of any driver who is no longer employed by the operator	O26	2
Failure to maintain telephone or radio equipment in sound condition or failure to repair defects promptly	O27	2
Failure to have or produce evidence of a Licence issued by the Department of Trade and Industry licence for all radio equipment	O28	2
Using unlicensed drivers to drive a Cumberland Council Licensing Authority licensed vehicle	O29	12
Failure to keep a written record of all complaints or failure to make available to the Licensing Authority	O30	2
Late to provide evidence of insurance or interim MOT (1 st Occasion)	O31	6
Late to provide evidence of insurance or interim MOT (2 nd Occasion)	O32	12
Failure to carry out or provide the required DBS checks on dispatch staff	O33	12
Failure to record, maintain or provide details of checks on dispatch staff in a register	O34	12
Failure to make appropriate checks of any operator for which work is outsourced	O35	12
Failure to establish, maintain or provide a policy on employing ex-offenders to the licensing authority	O36	12
Failure to require notification of convictions as part of the contract of employment	O37	12
Failure to notify licensing authority of any conviction information relating to booking and dispatch staff in accordance with condition	O38	12

Breaches of . . . District/Borough Council Byelaws Relating To Hackney Carriages¹

<u>Byelaw number</u>	<u>Offence</u>	<u>Code</u>	<u>Points</u>
2 (b) (i)	Wilfully or negligently causing licence number to be concealed from public view while the carriage is standing or plying for hire	B1	2
2 (b) (ii)	Causing or permitting the carriage to stand or ply for hire with an illegible plate	B2	2
3	Failure to furnish the hackney carriage in accordance with requirements of the Byelaw	B3	2
4.	Failure to provide a taximeter in accordance with the requirements of the Byelaw	B4	2
5.	Failure to operate taximeter in accordance with requirements of the Byelaw.	B5	2
6.	Driver or proprietor tampering with meter or permitting any unauthorised person to tamper with meter	B6	4
7. (b)	Failure to proceed to another rank when at the time of arrival rank is full	B7	2
7. (c) (d)	Failure to station or move the carriage immediately behind the carriage or carriages in front on the rank	B8	2
8.	A proprietor or driver using the services of a person to importune a person to hire the vehicle	B9	2
10.	Failure by driver to take reasonable precautions to ensure the safety of passengers	B10	4
11.	Driver or proprietor allowing more persons to be conveyed than the licence allows	B11	12
12.	Failure by driver to carry the badge provided by the Licensing Authority when plying for hire	B12	2
13.	Failure to provide when requested reasonable assistance with luggage	B13	2
15.	Failure to display statement of fares inside the carriage in a legible state	B14	2

¹ If the council does not have hackney carriage byelaws, this section must be deleted. If the council does have hackney carriage byelaws ensure that all byelaws are covered by this table and the numbering is correct.

17.	Failure to notify lost property to the Police within 48 hours of discovery	B15	2
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