

Eastbourne Borough 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 so 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 are 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 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 is a fit and proper person.
8. The Sub Committee may then suspend or revoke a licence, or issue a warning to the Licensee, 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 31 days.

10. Disputes regarding the issuing of penalty points by Officers will be referred to the Licensing Sub Committee. They will have discretion to award a greater 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 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.

Appendix 7 Penalty Points Scheme

	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
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 VCT	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 VCT 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	✓	
	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
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	✓	
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	Evidence of food or drink in Vehicle	3	✓	✓
32	Displaying any feature on private hire vehicle that may suggest that it is a Hackney Carriage	6		✓
33	Using a vehicle, the appearance of which suggests that it is a Taxi	6		✓
34	Failure to carry an assistance dog without requisite medical exemption certificate	12	✓	✓
35	Driver not holding a current DVLA licence	12	✓	✓

36	Failure to have the driver's badge clearly displayed	4	✓	
37	Failure to notify, in writing, a change in medical circumstances	6	✓	✓
38	Unsatisfactory appearance of driver	4	✓	
39	Failure to observe rank discipline (HC)	3	✓	
40	Failure to maintain proper records of private hire vehicles	3		✓
	Details of the misconduct	Points Applicable	Driver	Vehicle Owner or Operator
41	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced	6		✓
42	Misleading use of the words 'Taxi' or 'Cab' on advertising materials	3		✓
43	Failure to issue receipt on request.	6	✓	✓
44	Using a licensed vehicle in a dangerous condition	9	✓	✓
45	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspensions of such licence	4		✓
46	Unsatisfactory behaviour or conduct of a driver.	1-12*	✓	
47	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	✓	✓
48	Failure to behave in a civil and orderly manner or bringing the trade into disrepute.	1-12*	✓	✓
49	Failure to provide reasonable assistance to a passenger	1-12*	✓	✓
50	Failure to display a correct up to date fare card (HC)	3	✓	✓
51	Carrying two or more separate fares without the appropriate consent	9	✓	
52	Failure to carry a legal spare wheel (or appropriate alternative) and the necessary tools to fit the spare wheel	4	✓	✓
53	Failure to attend punctually at appointed time and place without sufficient cause	4	✓	✓
54	A licensed vehicle with a bald or dangerous or defective tyre	4 per tyre	✓	✓
55	Failure to submit licence renewal application including documents and attendance at a vehicle inspection	6	✓	✓

56	Failure to display an applicable fare card AND the Councils valid fare card together	3	✓	✓
57	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	✓	
58	Motoring Convictions	3-12*	✓	✓
59	Driving whilst using a mobile phone	9	✓	
60	Appeal of points by way of Licensing Sub-Committee	4-12*	✓	✓

*- discretionary 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 Panel

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

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.