

APPENDIX D - PENALTY POINTS SCHEME

Guidance Notes

The Penalty Points Scheme will operate as follows:

The Council's Enforcement Policy will be fully considered by the enforcing officer when determining the way any breach of legislation or the requirements of this Policy are dealt with. Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this Appendix. If this appendix allows a range of points for the incident, the enforcing officer will determine the appropriate number of points proportionate to the offence.

Before penalty points are issued, there must be sufficient evidence to prove, on the balance of probabilities, the offence or breach of licensing requirements. The issuing of penalty points is not a formal sanction in its own right; it is merely an open and transparent method of how a driver will be assessed in terms of the 'fit and proper person' test. The points system is predominately an internal management tool for ensuring that drivers who repeatedly contravene regulations and/or this Policy are assessed by the Licensing Manager.

Issuing Process

Points issued to either a proprietor or driver (includes both Hackney Carriage and Private Hire) will be confirmed in writing within ten (10) working days from the discovery of the contravention or the conclusion of an investigation into a complaint, whichever is the later.

When issued, the penalty points will remain "live" for a period of twelve (12) months from the date they are imposed so that only points accumulated in a rolling twelve (12) month period will be considered.

If a driver, proprietor or operator accumulates twelve (12) or more points within a period of one (1) year from the date they are imposed, they will be required to attend a Licensing hearing with the Licensing Sub-Committee, where the appropriate action to be taken in accordance with this Policy.

Once the matter has been dealt with, the points will be removed if a suspension or revocation is imposed. If the "live" period is extended or a written warning given, however, the points will remain "live" for the normal one-year period.

Even though penalty points have been issued by an Authorised Officer of the Council, if it is subsequently found that the driver has previously been issued with penalty points, or has been formally cautioned, for similar

offences, the Council reserve the right to cancel the penalty points and deal with the matter in accordance with the Enforcement Policy and the provisions of Part 6 of this Policy. The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this Policy.

Appeal Process

There is no right of appeal against the award of penalty points by an Authorised Officer of the Council as this is not a formal sanction.

Table of Offences

The penalty points are issued in conjunction with the level of fine that could be issued by the courts should the applicant be prosecuted for the offence.

The following abbreviations are used.

TPCA – Town Police Clauses Act 1847

LGMPA – Local Government (Miscellaneous Provisions) Act 1976

EA – Equality Act 2010

TA – Transport Act 1980

HC – Hackney Carriage

PH – Private Hire

Levels of Fines.

Level 1 £250, Level 2 £500, Level 3 £1,000 Level 4 £2,500 Level 5 £5,000

HACKNEY CARRIAGE VEHICLE PROPRIETORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.40 TPCA	H01	Giving false information on an application for HC proprietors licence	Level 1	2
s. 44 TPCA	H02	Failure to notify change of address of HC proprietor	Level 1	2
s. 45 TPCA	H03	Plying for hire without a HC proprietor's licence	Level 4	8
s.47 TPCA	H04	Driving a HC without a HC driver's licence	Level 3	6
s.47 TPCA	H05	Lending or parting with a HC driver's licence	Level 3	6
s.47 TPCA	H06	HC proprietor employing an unlicensed driver	Level 3	6
s.48 TPCA	H07	Failure by HC proprietor to hold a HC driver's licence	Level 1	2
s.48 TPCA	H08	Failure by HC proprietor to produce HC driver's licence	Level 1	2
s.52 TPCA	H09	Failure to display HC plate	Level 1	2

s.54 TPCA	H10	Demanding more than the agreed fare	Level 1	2
s.49 LGMPA	H11	Failure to notify transfer of HC proprietor's licence	Level 3	6
s.50(1) LGMPA	H12	Failure to present HC for inspection as required	Level 3	6
s.50(2) LGMPA	H13	Failure to inform local authority where HC is stored if requested	Level 3	6
s.50(3) LGMPA	H14	Failure to report an accident involving a HC to local authority within 72 hours	Level 3	6
s.50(4) LGMPA	H15	Failure to produce HC proprietors' licence or insurance certificate	Level 3	6
s.57 LGMPA	H16	Making false statement or withholding information to obtain HC vehicle's licence	Level 3	6
s.58(2) LGMPA	H17	Failure to return plate after notice given after expiry, revocation or suspension of HC proprietors licence	Level 3 plus daily fine of £10	6
s.71 LGMPA	H18	Interfering with a taximeter or allowing a vehicle to be used without an approved and tested taximeter	Level 3	6
s.73(1)(a) LGMPA	H19	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	H20	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c) LGMP A	H21	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	H22	Making a false statement to authorised persons	Level 3	6

HACKNEY CARRIAGE DRIVERS' PROVISIONS

Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.47 TPCA	D01	Driving a HC without a HC driver's licence	Level 3	6
s.52 TPCA	D02	Driver refusing to carry the prescribed number	Level 1	2
s.53 TPCA	D03	Refusal (without reasonable excuse) to take a fare	Level 2	4
s.54 TPCA	D04	Charging more than the agreed fare	Level 1	2

s.55 TPCA	D05	Obtaining more than the legal fare	Level 3- and 1- months imprisonment until the excess is re- funded	6
s.56 TPCA	D06	Travelling less than the lawful distance for an agreed fare	Level 1	2
s.57 TPCA	D07	Failing to wait after a deposit to wait has been paid	Level 1	2
s.58 TPCA	D08	Charging more than the legal fare	Level 3	6
s.59 TPCA	D09	Carrying any other person than the hirer without consent	Level 1	2
s.60 TPCA	D10	Driving a HC without proprietors' consent	Level 1	2
s.60 TPCA	D11	Person allowing another to drive HC without proprietor's consent	Level 1	2
s.61 TPCA	D12	Drunken driving of a HC	Level 1	2
s.61 TPCA	D13	Wanton or furious driving or wilful misconduct leading to injury or danger	Level 1	2
s.62 TPCA	D14	Driver leaving HC unattended	Level 1	2
s.64 TPCA	D15	HC driver obstructing other HC drivers	Level 1	2
s.53(3) LGMPA	D16	Failure to produce HC driver's licence	Level 3	6
s.54 LGMPA	D17	Failing to wear driver's badge when acting in accordance with a hackney carriage driver's licence	Level 3	6
s.57 LGMPA	D18	Making false statement or withholding information to obtain HC driver's licence	Level 3	6
s.61(2) LGMPA	D19	Failure to surrender drivers' licence after suspension, revocation or refusal to renew	Level 3	6
s.66 LGMPA	D20	Charging more than the meter fare for a journey ending outside the district, without prior agreement	Level 3	6
s.67 LGMPA	D21	Charging more than the meter fare when HC used as a private hire vehicle	Level 3	6
s.69 LGMPA	D22	Unnecessarily prolonging a journey	Level 3	6
s.71 LGMPA	D23	Interfering with a taximeter.	Level 3	6
s.73(1)(a) LGMPA	D24	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	D25	Failure to comply with requirement of authorised officer or constable	Level 3	6

s.73(1)(c) LGMP A	D26	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	D27	Making a false statement to authorised persons	Level 3	6

PRIVATE HIRE VEHICLE PROPRIETORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.46(1)(a) LGMPA	P01	Using an unlicensed PH vehicle	Level 3	6
s.46(1)(c) LGMP A	P02	Proprietor of a PH vehicle using an unlicensed driver	Level 3	6
s.48(6) LGMPA	P03	Failure to display PH vehicle plate in prescribed manner	Level 3	6
s.49 LGMPA	P04	Failure to notify transfer of PH vehicle licence within 14 days	Level 3	6
s.50(1) LGMPA	P05	Failure to present PH vehicle for inspection as required	Level 3	6
s.50(2) LGMPA	P06	Failure to inform local authority where PH vehicle is stored if requested	Level 3	6
s.50(3) LGMPA	P07	Failure to report an accident involving a PH vehicle to local authority within 72 hours	Level 3	6
s.50(4) LGMPA	P08	Failure to produce PH vehicle licence and insurance certificate	Level 3	6
s.57 LGMPA	P09	Making false statement or withholding information to obtain private hire vehicle's licence	Level 3	6
s.58(2) LGMPA	P10	Failure to return plate after notice given after expiry, revocation or suspension of PH vehicle licence	Level 3 plus daily fine of £10 per day	6
s.71 LGMPA	P11	Interfering with a taximeter	Level 3	6
s.73(1)(a) LGMPA	P12	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	P13	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	P14	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	P15	Making a false statement to authorised persons	Level 3	6

s.46(1)(b) LGMPA	D28	Driving a PH vehicle without a PH driver's licence	Level 3	6
s.48(6) LGMPA	D29	Failure to display PH vehicle plate in prescribed manner	Level 3	6
s.53(3) LGMPA	D30	Failure to produce PH driver's licence	Level 3	6
s.54(2) LGMPA	D31	Failure to wear PH driver's badge	Level 3	6
s.57 LGMPA	D32	Making a false statement or withholding information to obtain a PH driver's licence	Level 3	6
s.61(2) LGMPA	D33	Failure to surrender driver's licence after suspension, revocation or refusal to renew	Level 3	6
s.64 LGMPA	D34	Permitting any vehicle other than a HC to wait on a HC stand	Level 3	6
s.69 LGMPA	D35	Unnecessarily prolonging a journey	Level 3	6

s.71 LGMPA	D36	Interfering with a taximeter	Level 3	6
s.73(1)(a) LGMPA	D37	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	D38	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	D39	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	D40	Making a false statement to authorised persons	Level 3	6

PRIVATE HIRE OPERATORS' PROVISIONS				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.46(1)(d) LGMPA	O01	Operating a PH vehicle without a PH operator's licence	Level 3	6
s.46(1)(e) LGMPA	O02	Operating a vehicle as a PH vehicle when the vehicle or driver is not licensed as a PH vehicle or PH driver	Level 3	6
s.56(2) LGMPA	O03	Failure by PH operator to keep a record of bookings	Level 3	6
s.56(3) LGMPA	O04	Failure by PH operator to keep records of PH vehicles operated by him	Level 3	6
s.56(4) LGMPA	O05	Failure to produce PH operator's licence on request	Level 3	6
s.57 LGMPA	O06	Making a false statement or withholding information to obtain a PH operator's	Level 3	6

		licence		
s.73(1)(a) LGMPA	O07	Obstruction of authorised officer or constable	Level 3	6
s.73(1)(b) LGMPA	O08	Failure to comply with requirement of authorised officer or constable	Level 3	6
s.73(1)(c)	O09	Failure to give information or assistance to authorised officer or constable	Level 3	6
s.73(2) LGMPA	O10	Making a false statement to authorised persons	Level 3	6

EQUALITY ACT 2010				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s. 168 (2)(a) EA 2010	EA1	Refusal by HC driver to carry an assistance dog unless in possession of an exemption certificate	Level 3	6
s. 168 (2)(b) EA 2010	EA2	HC driver making an additional charge for carrying an assistance dog accompanying a disabled passenger	Level 3	6
s. 170 (1)(a) EA 2010	EA3	Refusal by PH operator to accept booking if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person	Level 3	6
s. 170 (2) EA 2010	EA4	PH operator making an additional charge for carrying an assistance dog accompanying a disabled passenger	Level 3	6
s. 170 (3)(a) EA 2010	EA5	PH driver failing or refusing to carry out a booking accepted by the operator if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person,	Level 3	6
s. 170 (3)(b) EA 2010	EA6	PH driver failing or refusing to carry out a booking accepted by the operator if the booking is that the disabled person is accompanied by an assistance dog.	Level 3	6

Transport Act 1980				
Legislation	Code	Offence	Maximum Penalty	Penalty Points
s.64(2)(a) TA 1980	TR1	Driving a Private Hire vehicle with a roof sign that contravenes section 64(1) of the Act	Level 3	6
s.64(2)(a)	TR2	Causing or permitting a Private Hire vehicle to be driven with a roof sign that contravenes section 64(2)(b)	Level 3	6
Fenland District Council Hackney Carriage and Private Hire Driver Conditions				
Code	Offence		Max Penalty	Penalty Points
Fenland District Council Hackney Carriage and Private Hire Driver Conditions				
FDC01	Failure to comply with Hackney Carriage/Private Hire Vehicle Drivers Conditions of Licence			4
Fenland District Council Hackney Carriage and Private Hire Vehicle Licence Conditions				
FDC02	Failure to comply with Hackney Carriage/Private Hire Vehicle Conditions of Licence			4
Fenland District Council Operator Licence Conditions				
FDC03	Failure to comply with Private Hire Vehicle Operator Conditions of Licence			4