



HEREFORDSHIRE
COUNCIL

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

DRAFT PENALTY POINTS SCHEME

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1. Penalty Points Scheme

- 1.1 This scheme will be used where breaches of conditions are detected. The penalty points will be run in accordance with the Council's enforcement policy and follow the voluntary enforcement concordat. Copies are available at the Taxi Licensing Office. The penalty points scheme does not fetter the Licensing Authorities duty to consider other forms of enforcement and formal prosecutions should it be deemed proportionate to the offence(s).
- 1.2 The penalty points system outlined below identifies a number of breaches of Herefordshire Council conditions and byelaws. It then indicates the number of points to be invoked should the breach be proven. The implementation of points would take place as a matter of course whenever offences are noted.
- 1.3 The details of how the scheme will be operated are as follows:
- a) Penalty points will be applied by authorised officers of the Council whenever an offence is detected which breaches any of the Council's hackney carriage and private hire conditions.
 - b) Penalty points will be issued to the vehicle proprietor where the breach relates to the vehicle licence conditions and to the driver where the breach relates to the driver conditions.
 - c) Any penalty points issued will be confirmed in writing to the relevant Licence holder.
 - d) The number of penalty points issued will be in accordance with the attached tariff. (Appendix 1).
 - e) The Council retains the discretion to issue penalty points to driver, driver/proprietors and operators for a single contravention if the circumstances warrant it, i.e. the breach is one against all these licences and it is considered joint responsibility is held.
 - f) The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator.
 - g) Penalty points issued under this scheme will have a "life" of twelve months, and then will be deemed spent. The system is based upon a rolling twelve-month period.
 - h) There is no financial penalty associated with the system, and the licensee may continue to work. However, the licensee will be asked to attend a Licensing

Committee hearing if more than a certain number of points are imposed on an individual licence in any one 12 month period. The thresholds are as follows:

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| Dual Driver | 12 Points |
| Hackney Carriage Vehicle | 12 Points |
| Private Hire Vehicle | 12 Points |
| Private Hire Operator | 24 Points |

- i) If there are three repeat identical contraventions within a 6-month period the offender will automatically be referred to the Regulatory Committee.
- 1.4 For persons holding **more** than one vehicle licence the threshold for commencement of formal action will be increased by **1 point** per vehicle licence held

e.g. Person holding 6 Vehicle Licences = 6 Additional points are added to the single vehicle threshold of **12 points**

This will give an **18 points** threshold before formal action is considered by the Council.

2. Recommendations

- 2.1 On appearing before the Licensing Committee the following recommendations will generally be made by Officers.
- a) On the accumulation of 12 or more penalty points in a 12 month period a driver or a vehicle proprietor will be subject to a recommendation to suspend his/her licence for a period of 1 month and the requirement to sit and pass the Councils knowledge test.
 - b) On the accumulations of 24 or more penalty points in a 12 month period an Operator will be subject to a recommendation to suspend his/her licence for a period of 1 month.
 - c) Drivers, proprietors, or Operators who accumulate the necessary total of points in a rolling year on a second or subsequent occasion, will be asked to reappear before the Licensing Committee. The Committee will take into account previous cautions, suspensions or prosecutions when considering Officers recommendation for a longer period of suspension, or revocation of the relevant licence.
- 2.2 The above recommendations would not fetter the discretion of the Regulatory Committee who may always decide to take no further action, to suspend the licence for any period, or to revoke a licence.
- 2.3 Any driver or vehicle proprietor or Operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.

3. List Of Offences/Breach Of Licence Conditions/Byelaws

| <u>Condition number</u> | <u>Offence</u> | <u>Code</u> | <u>Points</u> |
|--------------------------------|---|--------------------|----------------------|
| 1.1 | Failure to replace licensed purpose built or adapted vehicle on reaching 15 years of age. Without consent from Regulatory Committee. | V1 | 2 |
| 2.1 | Failure to replace licensed vehicle on reaching 8 years of age. Without consent from Regulatory Committee. | V2 | 2 |
| 3.1 | Failure to replace licensed vehicle on reaching 8 years of age or fifteen years for disabled access vehicle. Without consent from Regulatory Committee. | V3 | 2 |
| 3.2 | Failure to obtain written consent from LA to purchase or test new/replacement vehicle | V4 | 2 |
| 4.0 | Changing specification of licensed vehicle without notify and obtaining the consent of the Licensing Authority in writing | V5 | 4 |
| 4.1.e) | Fail to carry a serviceable spare tyre when run flat type of tyres not fitted or fail to carry jack or wheelbrace. | V6 | 2 |
| 4.1.f) | Using a vehicle with remoulded tyres fitted | V7 | 2 |
| 4.1.h) | Fail to have functional nearside and offside mirrors | V8 | 2 |
| 5.2 | Failure to produce LPG safety certificate | V9 | 2 |
| 7.1 | Failure to obtain consent from LA to alter equipment, dimensions or other specifications in/on the vehicle | V10 | 2 |
| 8.1(a) | Failure to display approved roof sign | V11 | 2 |
| 8.1(a) | Failure to maintain roof sign in working order | V12 | 2 |
| 8.1(b) | Failure to display front door signs | V13 | 2 |
| 8.1(b) | Failure to display correct front door signs | V149 | 2 |
| 8.2 | Failure to display one or more "no smoking" signs in the vehicle | V15 | 2 |
| 9.1 | Fail to display vehicle licence plate | V16 | 2 |
| 9.1 | Fail to display plate in accordance with conditions | V17 | 2 |
| 9.2 | Fail to return vehicle licence plate | V18 | 2 |
| 9.3 | Failure to report loss or damage of a vehicle plate. | V19 | 2 |
| 9.4 | Failure to surrender vehicle licence and plate if proprietor does not wish to retain vehicle licence | V20 | 2 |
| 10.1 | Advertising on vehicle without written authorisation from the LA | V21 | 2 |
| 11.1 | Failure to submit taximeter for testing when requested to do so by LA | V22 | 2 |
| 11.3 | Failure to display a statement of fares inside the HC | V23 | 2 |
| 11.4 | Wilfully or neglectfully causing letters or figures in the statement to be obscured | V24 | 2 |
| 11.5 | Fail to supply LA with a copy of statement of fares if price differs. | V25 | 2 |

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| 12.1 | Failure to notify Licensing within 72 hours of any accident causing damage affecting the safety, performance, comfort, or appearance of the vehicle | V26 | 3 |
| 13.1 | Failure to produce Insurance certificate for the vehicle | V27 | 2 |
| 13.2 | Failure to produce renewal cover for insurance | V28 | 2 |
| 13.3 | Failure to keep copy of insurance in the vehicle | V29 | 2 |
| 13.4 | Failure to notify Council of change of insurer or particulars within 2 working days. | V30 | 2 |
| 14.1 | Failure to produce details to the Council of drivers permitted to drive | V31 | 2 |
| 14.2 | Failure to notify Council of any changes to the list of drivers. | V32 | 2 |
| 15.1 | Failure to carry a suitably approved fire extinguisher within the vehicle | V33 | 2 |
| 15.1 | Failure to mark fire extinguisher with vehicle plate number | V34 | 2 |
| 15.2 | Failure to carry first aid equipment as specified in conditions | V35 | 2 |
| 16.1 | Failure to obtain written permission to use trailers on PH vehicles | V36 | 2 |
| 17.1 | Failure to present trailer for inspection | V37 | 2 |

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| 17.4 | Failure to present vehicle for inspection | V38 | 4 |
| 18.1 | Failure to maintain radio equipment in sound condition | V38 | 2 |
| 19.4 | Failure to display method of opening doors on mini-bus | V39 | 2 |
| 19.5 | Failure to clearly identify emergency exit on mini-bus. | V40 | 2 |
| 19.7 | Failure to restrict sliding windows open to more than 6" on mini-bus | V41 | 2 |
| 19.8 | Failure to illuminate steps or have clearly visible makings on mini-bus | V42 | 2 |
| 20.6 | Failure to have grab handles at door entrances on wheelchair accessible vehicle | V43 | 2 |
| 20.11 | Failure to maintain disabled facility vehicle with wheelchair access whilst it is being used to ply for hire | V44 | 4 |
| 21.1 | Proprietor of vehicle allowing a greater number of persons to be conveyed than is specified on the licence | V45 | 4 |
| 21.2 | Failure to maintain a reasonable standard of behaviour | V46 | 2 |
| 21.3 | Failure to supply information in relation to driver or vehicle requested by an authorised officer | V47 | 4 |
| 21.4 | Failure to assist authorised officer or person accompanying authorised officer to carry out their function | V48 | 4 |
| 22.3 | Failure to notify LA of use of spare vehicle | V49 | 4 |
| 22.6 | Failure to notify LA of reason for use of spare vehicle | V50 | 2 |
| 23.1 | Failure to notify LA within 72 hours of accident involving damage to vehicle | V51 | 4 |
| 23.1 | Using damaged vehicle without written consent of LA | V52 | 4 |
| 23.2 | Failure to notify council within 48 hours of an accident involving personal injury | V53 | 4 |
| 24.1 | Using recorded CCTV without written consent of LA | V54 | 2 |
| 24.1 | Fail to display sign in vehicle stating CCTV in use. | V55 | 2 |

4. Driver Licence Conditions - Private Hire/Hackney Carriage

| <u>Condition number</u> | <u>Offence</u> | <u>Code</u> | <u>Points</u> |
|--------------------------------|---|--------------------|----------------------|
| 1.2 | Driver not clean and respectable in their dress | <u>D1</u> | 2 |
| 1.2 | Driver not behaving in a civil and orderly manner | <u>D2</u> | 3 |
| 1.3 | 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 | <u>D3</u> | 2 |
| 1.4 | Driver smoking whilst in the vehicle | <u>D4</u> | 4 |
| 1.5b | Not moving vehicle forward on a Rank to fill the space which has been vacated | <u>D5</u> | 2 |
| 1.6 | PH drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre-booking | <u>D6</u> | 3 |
| 1.7 | PH driver plying for hire | <u>D7</u> | 4 |

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| 1.7 | PH driver calling out or influencing person to travel in the vehicle for gain without a prior appointment | <u>D8</u> | 3 |
| 1.8 | HC driver calling out or influencing a person to travel in the vehicle for gain | <u>D9</u> | 3 |
| 2.1 | Failure to wear badge or failure to wear correctly | <u>D10</u> | 3 |
| 2.2 | Not displaying second badge or not visible to passengers being conveyed in the vehicle | <u>D11</u> | 2 |
| 2.3 | Failure to surrender drivers badge to the Licensing Authority upon expiry, revocation or suspension of their licence | <u>D12</u> | 2 |
| 2.3 | Failure to surrender drivers badge to the Licensing Authority upon revocation or suspension of their licence | <u>D13</u> | 4 |
| 2.4 | Failure to return expired badge to Licensing Authority | <u>D14</u> | 2 |
| 3.1 | Failure to carry evidence of insurance cover in the vehicle whilst on duty | <u>D15</u> | 2 |
| 4.1 | Carrying greater number of persons than the number specified on the licence | <u>D16</u> | 4 |
| 4.2 | Carrying other persons in the vehicle without the consent of the hirer | <u>D17</u> | 2 |
| 4.3 | Drivers refusal to carry luggage or to ensure security | <u>D18</u> | 2 |
| 4.3 | Drivers refusal to offer reasonable assistance with luggage | <u>D19</u> | 2 |
| 4.3 | Failing to take steps to ensure passenger safety | <u>D20</u> | 4 |
| 5.1 | Fail to search vehicle after journey | <u>D21</u> | 2 |
| 6.2 | Tampering with or permitting tamper with taxi meter other by authorised person | <u>D22</u> | 4 |
| 6.3 | Cancelling the fare or concealing the fare on meter before the hirer has agreed the fare | <u>D23</u> | 2 |
| 6.4 | Demanding more than the previously agreed fare | <u>D24</u> | 2 |
| 6.4 | Demanding more than the fare shown on the taxi meter | <u>D25</u> | 2 |
| 6.5 | Demanding more than fare shown on taxi meter where journey concludes outside county without agreement prior to hire | <u>D26</u> | 2 |
| 6.6 | Starting the fare before the hirer enters the vehicle without prior agreement | <u>D27</u> | 2 |
| 7.1 | Failure to notify proprietor of complaints made by the passengers | <u>D28</u> | 2 |
| 7.2 | Failure to notify passengers of their right to refer their complaint to the council | <u>D29</u> | 2 |
| 8.1 | Failure to attend at appointed time or place without sufficient cause | <u>D30</u> | 2 |
| 8.2 | Unnecessarily prolonging journey in distance or time | <u>D31</u> | 4 |
| 9.1 | Failure to provide copy of dual drivers licence to operator | <u>D32</u> | 2 |
| 9.2 | Failure to ensure insurance cover for them to drive vehicle | <u>D33</u> | 2 |
| 9.3 | Failure to ensure vehicle is licensed by council for the purpose used | <u>D34</u> | 2 |
| 10.1 | Failure to notify Council of change of address/telephone number within 7 days | <u>D35</u> | 2 |
| 10.2 | Failure to notify council of motoring or criminal convictions during the period of licence | <u>D36</u> | 4 |

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| 10.3 | Failure to notify LA of involvement with police which made lead to caution or conviction | <u>D37</u> | 4 |
| 10.4 | Failure to notify council in writing within 7 days of serious injury or illness affecting fitness to drive | <u>D38</u> | 4 |
| 11.2a | Failure to carry assistance dog without exemption | <u>D39</u> | 2 |
| 11.2b | Making additional charge for carrying assistance dog | <u>D40</u> | 2 |
| 12.1 | Not using mobile phone in accordance with The Road Vehicle (construction and use) (Amendment) (No.4) Regulation 2003 | <u>D41</u> | 2 |
| 13.1 | Causing licence plate to be concealed or defaced to be illegible | <u>D42</u> | 2 |
| 14.2 | Failure to ensure vehicle is clean inside and out | <u>D43</u> | 2 |
| 14.3 | Failure to notify council within 72 hours of any accident or damage to the vehicle | <u>D44</u> | 4 |
| 14.3 | Failure to present vehicle for inspection when requested by the Council to do so | <u>D45</u> | 2 |
| 14.4 | Failure to provide receipt when requested by hirer to do so | <u>D46</u> | 2 |
| 14.5 | Failure to co-operate with any Authorised Officer, Constable or any other clearly identifiable person nominated by the Council | <u>D47</u> | 4 |
| 15.1 | Failure to keep a record sheet in the Private Hire Vehicle | <u>D48</u> | 2 |
| 16.1 | Failure to comply the regulations governing the wearing of seat belts | <u>D49</u> | 2 |

5. Operator Licence Conditions - Private Hire

| <u>Condition number</u> | <u>Offence</u> | <u>Code</u> | <u>Points</u> |
|--------------------------------|---|--------------------|----------------------|
| 1.3 | Operating more vehicles than stated on licence | O1 | 2 |
| 2.1 | Failure to obtain and maintain insurance on vehicle | O2 | 4 |
| 2.2 | Failure to produce evidence of insurance cover to the Council | O3 | 3 |
| 2.3 | Failure to notify Council of change of insurer within 2 days | O4 | 2 |
| 3.1 | Failure to operate the business in a manner which does not cause nuisance to the public or to persons in nearby premises | O5 | 2 |
| 3.2 | Failure to provide a prompt, efficient or reliable service | O6 | 2 |
| 3.3 | Failure to attend a booking at appointed time or place without sufficient cause | O7 | 2 |
| 3.4 | Knowingly allowing a greater number of persons in the licensed vehicle than is prescribed on the licence | O8 | 4 |
| 4.1 | Operating the business from a premises outside the County of Herefordshire | O9 | 2 |
| 4.2 | Failure to keep booking or waiting areas which the public have access, clean, adequately heated, ventilated and lit | O10 | 2 |
| 4.3 | Failure to provide seating facilities in waiting areas | O11 | 2 |
| 6.1 | Failure to supply written confirmation within seven days of changes to the particulars shown on the application form relating to the licence | O14 | 2 |
| 7.1 | Failure to notify the Council within seven days of any convictions imposed on him/her, during the period of the licence | O15 | 2 |
| 8.1 | Failure to keep proper records for a period of not less than six months | O16 | 3 |
| 8.2 | Failure to keep proper records | O17 | 3 |
| 8.3 | Failure to number consecutively record of bookings | O18 | 3 |
| 8.4 | Failure to obtain authority from Council to operate computer booking system | O19 | 3 |
| 8.5 | Failure to supply details of computer system to LA. | O20 | 3 |
| 8.6 | Failure to keep record of vehicles operated | O21 | 3 |
| 8.7 | Using the words taxi or cab without having at least 70% of the fleet licensed as hackney carriages. Displaying the words taxi or cab on a private hire vehicle. | O22 | 2 |
| 8.7 | Displaying the word Taxi or Cab on a Private Hire Vehicle | O23 | 2 |

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| 8.8 | Failure to keep records of all drivers employed or failure to produce details of the drivers | O24 | 2 |
| 8.9 | Failure to notify council within seven days of the particulars of any driver who is no longer employed by the Operator | O25 | 2 |
| 9.1 | Failure to maintain telephone or radio equipment in sound condition or failure to repair defects promptly | O26 | 2 |
| 9.2 | Failure to have or produce evidence of a Licence issued by the Department of Trade and Industry licence for all radio equipment | O27 | 2 |
| 10.1 | Using unlicensed drivers to drive a Herefordshire Council licensed vehicle | O28 | 4 |
| 11.1 | Failure to keep a written record of all complaints or failure to make available to the council | O29 | 2 |

6. County Of Herefordshire District Council Byelaws Relating To Hackney Carriage

| <u>Byelaw number</u> | <u>Offence</u> | <u>Code</u> | <u>Points</u> |
|-----------------------------|---|--------------------|----------------------|
| 2 (a) | Display hackney plate number other than on council plate | B1 | 2 |
| 2 (b) (i) | Wilfully or negligently causing licence number to be concealed from public view while the carriage is standing or plying for hire | B2 | 2 |
| 2 (b) (ii) | Causing or permitting the carriage to stand or ply for hire with an illegible plate | B3 | 2 |
| 3 | Failure to furnish the Hackney Carriage in accordance with requirements of the Byelaw | B4 | 2 |
| 4. | Failure to provide a taximeter in accordance with the requirements of the Byelaw | B5 | 2 |
| 5. | Failure to operate taximeter in accordance with requirements of the Byelaw. | B6 | 2 |
| 6. | Driver or proprietor tampering with meter or permitting any unauthorised person to tamper with meter | B7 | 4 |
| 7. (b) | Failure to proceed to another rank when at the time of arrival rank is full | B8 | 2 |
| 7. (c) (d) | Failure to station or move the carriage immediately behind the carriage or carriages in front on the rank | B9 | 2 |
| 8. | A proprietor or driver using the services of a person to importune a person to hire the vehicle | B10 | 2 |
| 10. | Failure by driver to take reasonable precautions to ensure the safety of passengers | B11 | 4 |
| 11. | Driver or proprietor allowing more persons to be conveyed than the licence allows | B12 | 4 |
| 12. | Failure by driver to wear the badge provided by the council when plying for hire | B13 | 2 |
| 13. | Failure to conform to byelaw in relation to luggage | B14 | 2 |
| 15. | Failure to display statement of fares inside the carriage in a legible state | B15 | 2 |
| 17. | Failure to deposit lost property to the offices of the Council within 48 hours of discovery | B16 | 2 |

