

### East Herts Council Penalty Point Scheme

#### 1. Introduction

- 1.1 The protection of the public, safeguarding children and vulnerable persons and the prevention of crime are the most important factors in the licensing regime.
- 1.2 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire drivers and vehicles and private hire operators is the safety of the travelling public.
- 1.3 The aim of a Licensing Record Point Scheme (LRPS) is to work in conjunction with other enforcement measures to provide a stepped enforcement process for licence holders. It bridges the gap between the warning and suspension/revocation options provided by the legislation and creates a record of a licence holder's conduct; thereby enabling the Council to make an informed decision as to whether a licence holder is a fit and proper person to hold a licence. The primary objective of the Scheme is to improve levels of compliance and standards within the trade to ensure the safety of the travelling public.

#### 2. Relevant legislation

- 2.1 Hackney carriage and private hire drivers and vehicles and private hire operators are principally governed by the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847, Council's Byelaws and the Rules, Regulations and Conditions set by East Herts Licensing Committee. The purpose of the legislation and regulations is to ensure that applicants are 'fit and proper' to hold a licence and that they continue to remain 'fit and proper' for the duration of the licence period. It is the council's ongoing responsibility to ensure that the required standards are continually met.

#### 3. General Principles

- 3.1 The scheme applies to all hackney carriage and private hire drivers and vehicles and private hire operators.
- 3.2 Where an offence or breach of the rules is committed or alleged, or a complaint received, the investigation process set out in this document will be followed and may result in the issue of licensing record points and/or other appropriate action.
- 3.3 The licensing record point process will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation, regulations and its own Policy.

- 3.4 On occasions it may be determined not to award points but to proceed immediately to the revocation of a licence on the grounds that the Council considers that the licence holder is not fit and proper to hold a licence. In such cases the right of appeal will be direct to the Magistrates' Court.
- 3.5 Points issued under this licensing records point scheme will remain live for 24 months from the date they are issued.
- 3.6 The licensing records points issued will be at the discretion of the investigating officer and in accordance with the licensing record points' table.
- 3.7 The issuing of points against a driver who is an employee will not necessarily result in the issuing of points to their employer. However, points may be issued to one or more parties for a single contravention if the circumstances warrant such action being taken i.e. where there is joint responsibility for the contravention.
- 3.8 Licence holders may see the record of their licensing record points at any time. Vehicle proprietors and licensed operators may make a written request to view the licensing record points of their employees; any such request must give full reasons for the request. All such requests are subject to approval by the Service Manager-Licensing & Enforcement.
- 3.9 The Council may as part of its investigations into an alleged offence/complaint or similar matter request a Police National Computer check (PNC) to ensure that it has all the evidence necessary to properly investigate the matter; this evidence will be made available to all involved officers to assist them in reaching a decision. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and may result in a licence, previously granted, being revoked.

#### 4. Investigation and Appeal Procedure

- 4.1 The Council will deal with all genuine complaints or witnessed/alleged breaches of the legislation, licence conditions and/or policy as follows –
  - a. On receipt of a complaint or where there is an alleged or witnessed breach of the Council's conditions or other relevant statutory provisions, a member of the Licensing Team will assess whether there is a case to answer.
  - b. If it is considered there is a case to answer, a member of the Licensing Team will investigate the facts which may include interviewing the relevant individuals under caution.
  - c. Upon completion of the investigation, licensing record points may be applied. Notification that points have been given will be sent in writing to

the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 10 working days of the decision.

- d. The award of points can be appealed to the Service Manager- Licensing & Enforcement and this should be done within 10 working days of being notified of the award of points. The appellant may submit documentary evidence to support their appeal. Appeals must be made in writing to [licensing.enforcement@eastherts.gov.uk](mailto:licensing.enforcement@eastherts.gov.uk) or Licensing Enforcement, East Herts Council, Wallfields, Pegs Lane, Hertford, Hertfordshire, SG13 8EQ.
  - e. The Service Manager- Licensing & Enforcement will then consider the matter and confirm his decision in writing to the licence holder within 10 working days.
  - f. Where the Service Manager- Licensing & Enforcement has issued the points being appealed the appeal will be decided by the Head of Housing and Health and the route of appeal and time frames remain the same as above.
  - g. The appeal determination is final and there is no further right of appeal. Please note – it is important to exercise the right of appeal if you do not believe the points should have been awarded and you wish to challenge the evidence that resulted in the award of points. If further points are awarded and the 12 point threshold is reached, the impositions of points cannot be challenged or revisited at a later date. Points must be challenged in line with the process set out above. It is important to note that the Service Manager- Licensing & Enforcement and the Head of Housing and Health, in addition to dismissing or upholding the appeal, have the discretion to award a lesser or greater number of points than displayed on the Licensing Records Points Table. In these circumstances the reasons for varying the points awarded will be documented.
- 4.2 In cases where a licence holder has reached the threshold of 12 or more points in a rolling 2 year period the matter of ongoing fitness and propriety will be considered. Submission from the licence holder regarding their fitness and propriety will be requested before a memo is compiled containing all the facts. Before going to the decision maker the memo will be provided to the licence holder so that they can highlight any factual errors. The memo will then be passed to the Head of Housing and Health who will determine the matter in consultation with the Chair of the Licensing Committee.
- 4.3 If a licence is suspended or revoked there is a right of appeal to the Magistrates Court. Appeals must be made in writing to the Clerk of the Court, Stevenage Magistrates Court, C/O Luton Magistrates' Court, Stuart Street, Luton, LU1 5BL within 21 days of having been notified of the decision. Where an appeal has been made, the implementation of any suspension or revocation will be held

over until the appeal has been determined unless the licence has been revoked with immediate effect.

### Licensing Record Points Table

Matters marked with a \* are direct contraventions of either the Town Police Clauses Act 1847 or of the Local Government (Miscellaneous Provisions) Act 1976 and may result in prosecution in addition to any licensing record points incurred.

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
1*	Giving false, misleading or withholding information to obtain a hackney carriage / private hire licence.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Failure to notify the licensing authority of any motoring or criminal convictions during the period of the licence. (Within 48 hours of receiving such conviction).	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3	Failure to notify the council of having been arrested (for any matter, whether subsequently charged or not), cautioned, or charged for an offence or being subject to a criminal investigation within 48 hours of the said action.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4	Failure to notify the licensing authority of any serious injury, illness or change in medical circumstances that may affect your ability to drive or the safe transportation of passengers (including eyesight) within 48 hours.	12	<input checked="" type="checkbox"/>		
5	Failure to notify the licensing authority of a DVLA notifiable condition.	12	<input checked="" type="checkbox"/>		
6	Driver not holding a current/ valid DVLA driving licence.	12	<input checked="" type="checkbox"/>		
7*	Employing or permitting an unlicensed driver to drive a licensed vehicle.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8*	Driving an East Herts licensed vehicle whilst not in possession of a valid East Herts driver licence. (Including allowing an unlicensed driver to drive a licensed vehicle).	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Failure to maintain adequate vehicle insurance cover. (i.e. hire and reward / public hire).	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Fighting and / or aggressive behaviour towards the public, other licensed drivers or authorised officers of the council.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
11*	Operating / using an unlicensed vehicle as a hackney carriage/ private hire vehicle. Using a vehicle without insurance.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
12	Operating / using a vehicle without any or the correct type of insurance.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13	Driver in possession of illegal drugs while in charge of a licensed vehicle or evidence of drugs or alcohol in the vehicle.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
14	Driver found under the influence of drink and / or drugs while in charge of any vehicle.	12	<input checked="" type="checkbox"/>		
15*	Refusal to accept a booking or failure to carry an assistance dog without a valid certificate of exemption. Or charging an additional cost for the carrying of an assistance dog.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
16*	Failure to ensure that all assisted devices to promote mobility, such as wheel chairs, walking aids, specialist buggies are carried safely in a licensed vehicle.	12	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
17*	Refusal to accept a booking or failure to carry assisted devices to promote mobility. Or charging an additional cost for the carrying of these devices.	12	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
18	Carrying more passengers than stated on the vehicle licence.	12	<input checked="" type="checkbox"/>		
19	Failure to ensure the safety of passengers.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
20	Permitting the vehicle to be used for any illegal or immoral purposes.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
21*	Operating a private hire vehicle without a private hire operator's licence.	12			<input checked="" type="checkbox"/>
22	Failing to behave in a civil and orderly manner, being verbally abusive or aggressive to any member of the public, other licensed driver or authorised officers of the council or bringing the trade into disrepute.	9	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
23	Collusion or interfering with evidence, victims or witnesses, when officers of the council are carrying out an investigation.	9	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
24*	Lending or parting with a hackney carriage/private hire driver licence.	9	<input checked="" type="checkbox"/>		
25	Using a vehicle with illegal tyres.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
26	Using a mechanically unfit or unsound vehicle or with any defects (breaks, seat belts, steering, suspension, doors, windscreen, bodywork, lights, wipers, washers, exhaust, horn, battery, tyres or other relevant defects that may warrant a failure at with MOT or council vehicle inspection.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
27	Presenting a vehicle for testing that is in an unsafe or dangerous condition.	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
28*	Failure to return any licence to the licensing	7	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	authority upon expiry, suspension, revocation or upon request by an authorised officer of the council or police officer.				
29*	Failing to provide relevant information or pay the relevant fee (including dishonoured cheques).	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
30*	Failures to co-operate, give information, assistance, comply with a requirement or obstruct an authorised officer of the council or police officer or any other clearly identifiable person nominated by the council.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
31	Late application for the renewal of a licence.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
32*	Driver allowing a customer to smoke /vape or similar in a licensed vehicle.	6	<input checked="" type="checkbox"/>		
33*	Driving whilst using a mobile phone or other hand held device. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6+FPN 12+FPN	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		
34*	Unreasonable prolongation of journeys in distance or time or any other misconduct regarding the charging of fares.	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
35	Refusal to accept hiring without reasonable cause (N.B. a reasonable excuse can include drunk or rude customers).	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
36	Failure of private hire operator / driver to honour a booking without a reasonable excuse.	6	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
37	Unacceptable standard of driving, witnessed by an authorised officer of the council or a police officer.	6	<input checked="" type="checkbox"/>		
38*	Failure to present a hackney carriage or private hire vehicle for inspection upon request.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
39	Concealing or defacing a vehicle licence plate.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
40	Failing to deal with lost property in an appropriate manner. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
41	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the council.	6		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
42*	Illegal ranking.	6	<input checked="" type="checkbox"/>		
43	Failure to comply with the Highway Code/ conform to statutory road signs.	6	<input checked="" type="checkbox"/>		
44	Failure to produce relevant documents (i.e. medical certificates, DBS, MOT, VCC,	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	insurance documentation) upon expiry of current document.				
45*	Failure to produce relevant documents (i.e. medical certificates, DBS, MOT, VCC, insurance documentation) within a set timescale, when requested by an authorised officer of the council or police officer.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Continued failure to produce documents as requested- for every 14 days that elapse.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	In addition to receiving licensing record points a licence may also be suspended until such a time that the outstanding document is received by an officer or until the licence expiry date.				
46*	Failure to report within 72 hours an accident or damage to a licensed vehicle, which would cause the vehicle to breach licence conditions.				
	1 <sup>st</sup> offence	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
	2 <sup>nd</sup> offence	8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
47*	Failure to comply with the regulations governing the wearing of seat belts.				
	1 <sup>st</sup> offence	4	<input checked="" type="checkbox"/>		
	2 <sup>nd</sup> offence	8	<input checked="" type="checkbox"/>		
48*	Failure to display the external/ internal licence plate(s) or signs as required by the council or displaying them incorrectly.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
49	Dropping off or picking up in an inappropriate place such as to cause an obstruction or nuisance to other road users.	4	<input checked="" type="checkbox"/>		
50	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and / or other road users.	4	<input checked="" type="checkbox"/>		
51*	Failure to attend or attend on time for a pre-arranged appointment at the request of the council without reasonable cause.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
52*	Failure of a private hire operator to keep proper records of all bookings and driver and vehicle licences, or failure to produce them upon request by an authorised officer of the council or a police officer within reasonable time / or specified time.	4			<input checked="" type="checkbox"/>
53*	Failure to notify in writing the council of a change of address within 7 calendar days.				
	1 <sup>st</sup> offence	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	2 <sup>nd</sup> offence	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
54*	Failure to notify the council of a change of any contact details (i.e. email address, telephone number) where such failure results in the council being unable to contact you directly. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3 6 9	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
55*	Failure to display "no smoking" signage in the vehicle or at the operating base.	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
56*	Driver smoking / vaping / similar whilst in a licensed vehicle. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3+FPN 9+ FPN 12+Prosecution	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
57*	Smoking or allowing smoking in an operator's premises. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3+FPN 9+ FPN 12+Prosecution			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
58	Unsatisfactory condition of vehicle- interior or exterior.	3	<input type="checkbox"/>	<input type="checkbox"/>	
59	Driver eating or drinking in the vehicle while passengers are on board.	3	<input type="checkbox"/>		
60	Driver allowing noise from a radio or other similar equipment to be a source of nuisance or annoyance to any person inside or outside the vehicle.	3	<input type="checkbox"/>		
61	Driver sounding the horn to signal that the vehicle has arrived and so causing a potential disturbance.	3	<input type="checkbox"/>		
62	Failure to give reasonable assistance with passenger luggage.	3	<input type="checkbox"/>		
63	Failure to carry an approved operational fire extinguisher.	3	<input type="checkbox"/>	<input type="checkbox"/>	
64	Failure to carry first aid kit (items contained within the box must be in date).	3	<input type="checkbox"/>	<input type="checkbox"/>	
65*	Failure to notify the council of the transfer of a vehicle licence.	3		<input type="checkbox"/>	<input type="checkbox"/>
66*	Failure to wear your drivers badge whilst on duty in a licensed vehicle. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	<input type="checkbox"/> <input type="checkbox"/>		
67	Failure to carry evidence of insurance cover in the vehicle whilst on duty or to provide proof of insurance cover when requested. 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
68*	Failure to provide a receipt for a fare when	3	<input type="checkbox"/>		

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
	requested.				
69*	Failure of a proprietor / private hire operator to request and keep a copy of all drivers' licenses associated with their business.	3		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
70	Failure of private hire operator to ensure that the office staff act in a civil and courteous manner at all times.	3			<input checked="" type="checkbox"/>
71	Failure to comply with any other licence conditions / byelaws set by the council. Or instruction by an authorised officer.	3 per breach	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

### Private Hire Offences

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
72*	Driver plying for hire. (Including accepting a fare that is not pre-booked).	12	<input checked="" type="checkbox"/>		
73*	A private hire driver using a hackney carriage vehicle without a hackney carriage driver licence.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
74	Failure of private hire operator to ensure that all vehicles operated by them are adequately insured.	9			<input checked="" type="checkbox"/>
75	Driver calling out or influencing persons to travel in the vehicle for gain without prior appointment.	9	<input checked="" type="checkbox"/>		
76	Drivers parking in a position or location which gives the appearance of being for hire, whilst not on a pre-booking.	6	<input checked="" type="checkbox"/>		
77	Displaying any features or using a vehicle in which its appearance may suggest that it is a Hackney Carriage.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
78*	Permitting a private hire vehicle to wait on a hackney carriage rank.	6	<input checked="" type="checkbox"/>		
79	Affixing or displaying a roof sign on a private hire vehicle.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

### Hackney Carriage Offences

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
80*	Failure to ensure that all assisted devices to promote mobility, such as wheel chairs, walking aids, specialist buggies being carried in a licensed vehicle have been correctly loaded, secured and unloaded.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

No.	Offence/ Breach of condition	No of Points	Driver	Vehicle owner	Operator
81*	A designated wheelchair accessible vehicle refusing or failing to comply with S165 of The Equality Act 2010.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
82*	Making an additional charge for carrying an assisted device to promote mobility. See point 80 above.	12	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
83	Using a non-calibrated or non-approved taxi meter.	6	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
84	Failure to affix a roof sign to a hackney carriage vehicle.	4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
85*	Driver leaving car unattended on a rank appointed by the council.	4	<input checked="" type="checkbox"/>		
86	Hackney carriage driver obstructing other hackney carriages.	4	<input checked="" type="checkbox"/>		
87	Failure to display table of fares.	3	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
88	Failure to proceed to another rank when at the time of arrival the rank is full.	3	<input checked="" type="checkbox"/>		