



Elmbridge
Borough Council

... bridging the communities ...

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Elmbridge Borough Council

Hackney Carriage and Private Hire Licensing

Penalty Points Policy

2013

Supplemental to Main Hackney Carriage & Private Hire Licensing Policy

Adopted 24 June 2013
In force from 01 August 2013

Penalty Points Policy (PPP)

1. Introduction

This version of the Elmbridge Borough Council ('the Council') Penalty Points Policy ('the PPP') was adopted on 24 June 2013 and came into force on 01 August 2013.

The PPP aims to complement the Elmbridge Borough Council Private Hire and Hackney Carriage Licencing Policy 2013 and protect the safety of the public by ensuring that only fit and proper persons hold HC or PH Driver or PH Operator Licences.

The PPP provides a means of enforcement for multiple minor matters that would not usually result in enforcement action if committed in isolation. Under current legislation, HC/PH licensees who commit certain offences may be prosecuted and/or have their licence suspended or revoked. Under the PPP, minor breaches of legislation and/or instances of undesirable behaviour that are insufficiently serious to warrant such enforcement action may result in the licensee receiving penalty points for each misdemeanour (see PPP Appendix 1). Further enforcement action may be triggered if a licensee reaches a total of 20 points in any 12 month period.

2. How does the PPP operate?

Where the Council has reliable evidence that a licensee has committed a misdemeanour within the last 6 months, it may issue a Penalty Points Notice (PPN). Persons who wish to report a misdemeanour must provide accurate details of the incident (see a. - c. below). A PPP Incident Report form is available, which can be downloaded from the Council's website at www.elmbridge.gov.uk/taxis or provided in hard copy on request.

Note: Disputes regarding overcharging by PH Drivers and/or PH Operators fall outside the PPP, as these are contractual, not licensing matters.

The PPN will contain:-

- a. The date/time the misdemeanour occurred;
- b. The location in which the misdemeanour occurred;
- c. A brief description of what took place;
- d. The number of penalty points recorded against the licensee's current record;
- e. Details of how to appeal the PPN.

The PPN will be issued to the licensee in person or posted to the address held on file.

Penalty Points will expire and be removed from the licensee's current record 12 months from the date they were imposed.

The PPP is operated completely independently of the DVLA penalty points scheme and only affects licences issued by the Council.

3. Appealing a PPN

Licensees wishing to appeal a PPN must do so in writing to Environmental Services within 21 days of the date of receipt.

Appeals must be accompanied by the appropriate fee (see "Private Hire and Hackney Carriage – Fees"), which will be refunded if your appeal is successful.

Appellants must explain why they say the PPN is unwarranted, citing only justifiable reasons e.g. that they had reasonable excuse etc. The matter will be determined by the Council and a written response issued to the licensee, cancelling or confirming the PPN, with reasons for the decision.

4. What happens when 20 points (or more) are reached?

Where multiple misdemeanours have been committed, which have attracted sufficient penalty points to bring the licensee's running total to 20+ in any 12-month period, this may result in the suspension or revocation of a licensee's licence.

5. Revocation of a licence, Sub-Committee hearings and dispute resolution

Before the decision to revoke a licence is taken, the licensee will be notified in writing and given the opportunity to submit written representations to Environmental Services setting out their case against revocation. Representations should be received within 21 days of the date of receipt of notification, after which they will not normally be considered.

Note: Representations should focus on the facts of the incident(s) which lead to the imposition of penalty points and not the personal circumstances of the licensee which may result if the licence is revoked. Resulting hardship will **not** be considered.

Where representations are received, this will trigger a meeting of the Licensing Sub-Committee consisting of 3 Members of the Licensing Committee, who will decide whether a licence should be revoked. Such hearings are not normally held in public.

Normal order of Sub-Committee hearing

- Licensing Officer introduces the parties present and outlines the matter(s) under consideration (followed by Members' questions);
- Licensee addresses the Sub-Committee setting out the case against revocation of their licence (followed by Licensing Officer's questions + Members' questions);
- Licensing Officer's closing statement;
- Licensee's closing statement;
- Sub-Committee withdraw to consider their decision;
- Sub-Committee announce their decision and the reasons supporting it.

The Council's written decision will be sent to the address held on record for the licensee.

Where a licence is revoked, no part of the original application fee will be refunded and the remaining licensing period shall be forfeit.

6. Appealing a revocation to the Magistrates' Court

Where a person's licence has been revoked, they may appeal the Council's decision to the Magistrates' Court within 21 days of receipt of the letter of revocation, in which case they are strongly recommended to seek independent legal advice.

7. Re-applying for a licence

Any person whose licence has been revoked may apply for a new licence, after 12 months has elapsed from the date of revocation, unless any misdemeanour which resulted in the revocation carried 6+ penalty points, in which case this period will be 24 months.

New licences will not be granted automatically and applicants must demonstrate that they are a fit and proper person to hold a licence.

Applications for new licences following revocations will be subject to a fee - see "Private Hire and Hackney Carriage – Fees" available on the Council's website or in hard copy from Environmental Services.

If you have any suggestions for improvements to the PPP, please address them to:-

Environmental Services, Elmbridge Borough Council, Civic Centre, High Street, Esher, Surrey KT10 9SD

Telephone 01372 474750 Fax: 01372 474915 email: envhealth@elmbridge.gov.uk

For further taxi/minicab licensing advice see our website: www.elmbridge.gov.uk/taxis

Appendix 1 - Table of Misdemeanours and Penalty Points

Ref. No.	Misdemeanour	Penalty Points
1.	Revocation or suspension of DVLA driving licence for any period	20
2.	Serious contravention of a Road Traffic Act requirement or other legislation relating to vehicle, driver or operator licensing e.g. hackney carriage charging more than the prescribed fee	12
3.	Major vehicle defects e.g. illegal tyre, faulty steering	8
4.	Abusive behaviour to a Council Officer	8
5.	Failing to produce MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within 7 days of being requested	8
6.	Driver using a handheld mobile phone, handheld 2- way radio, eating or drinking whilst the vehicle is in motion	8
7.	Urinating or defecating in a public place	8
8.	Operator failing to keep proper records or keep records in accordance with licence conditions	8
9.	Failing to notify the Council of details of road traffic collision within the prescribed time limit	6
10.	Minor abusive behaviour to a member of the public or a licensed driver	6
11.	Carrying (an) excess passenger(s)	6
12.	HC driver plying for hire whilst the HC is parked other than on a designated taxi stand	6
13.	PH driver plying for hire	6
14.	Failing to present vehicle for inspection by an authorised officer at required time/location	6
15.	PH driver charging or attempting to charge more than the fare agreed with the customer by the PH Operator	6
16.	Failure to comply (without reasonable excuse) with a written requirement of an authorised officer of the Council	6
17.	Littering	5
18.	PH vehicle parking/waiting on or near (e.g. within 250 m of) a taxi rank without a booked fare	5
19.	HC/PH Driver smoking in the vehicle.	5
20.	Contravention of any byelaw or condition not specified above	5
21.	Minor contravention of a section of a Road Traffic Act or other legislation relating to vehicle, driver or operator licensing	5
22.	Driving or parking in a manner likely to cause inconvenience, distress or danger to any member of the public	5
23.	Parking in contravention of public highway parking restrictions	5
24.	Failure to comply with the Council's HC & PH policy regarding tinted windows in any specific calendar month	5
25.	Failing to notify change of address or change of medical circumstances within prescribed time limit	4
26.	Parking/stopping or picking up or dropping passengers on zigzags of a pedestrian crossing or school entrance	4
27.	Failing to wear HC/PH driver's badge	4
28.	Minor vehicle defects e.g. broken tail light, blown exhaust, ineffective/broken windscreen wiper/wash	4
29.	Licensed vehicle displaying unauthorised markings (inside or outside)	3
30.	Sounding the vehicle horn to announce arrival or to tout for business	3

Ref. No.	Misdemeanour	Penalty Points
31.	Licensed vehicle not properly displaying: roof sign, or external or internal licence plate	3
32.	Failing to display HC fare card in vehicle	3
33.	No spare wheel or tools for wheel changing (jack and wheel brace)	3
34.	Occupying a designated residents parking bay or a designated public parking bay without due authority	3
35.	Parking or stopping with wheels on the pavement or driving on a pavement	3
36.	Leaving a HC unattended whilst on a designated rank	3
37.	Dirty vehicle (interior and/or exterior)	2
38.	Using in-vehicle entertainment systems so as to cause annoyance to persons outside the vehicle	2

This is not an exhaustive list and the Council reserves the right to make minor amendments to the PPP to include further misdemeanours as and when they arise.

Appendix 2 – Misdemeanour Reporting Form



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**Penalty Points Policy
Misdemeanour Reporting Form**

This form is designed to be used in conjunction with our guidance notes on the Council's Penalty Points Policy and is for the reporting of a misdemeanour or unacceptable behaviour by a licensed hackney carriage (taxi) driver or a Private Hire (minicab) driver.

The form should be used to report **only** a breach or misdemeanour which appears on Appendix 1 to the Policy.

Please note that any information supplied on this form will normally be considered as confidential but may in certain circumstances have to be divulged to a licensee.

If insufficient information is given to enable us to identify the licensee responsible we may not be able to pursue the matter.

All reports of a misdemeanour will be investigated by us but we retain the right to decide whether to deal with the matter by the allocation of penalty points to the licensee or not.

Please complete the following (please print):

Your name _____

Your address _____

Your daytime telephone number _____ Email address _____

What was the vehicle registration number and/or the licence number of the vehicle being driven?

Please give details/description or Badge Number of the licensee who was responsible for the misdemeanour (i.e. male/female, approximate age etc.)

What was the misdemeanour number and description that was observed (please refer to the list of breaches and misdemeanours at Appendix 1 to the Policy)

(Please turn over)

What date and time did this take place? _____

Where was this? _____

Did anyone else witness the misdemeanour as well as yourself? **Yes / No**

If 'Yes' please give their name and contact details (if they are willing to have their details passed on)

Do you have any other evidence of the misdemeanour such as a photograph? If 'Yes' please give details or enclose

Any other comments

__ fold here for use with a window envelope

Thank you for completing this form.

Please return to:

Environmental Services
Elmbridge Borough Council
Civic Centre
High Street
Esher
Surrey KT10 9SD