

*Please reply to:*

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Date: 14 April 2015

## **Notice of meeting**

### **Licensing Committee**

**Date:** Wednesday 22 April 2015

**Time:** 7.30pm

**Place:** Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames

#### **To the members of the Licensing Committee**

##### **Councillors:**

R.W. Sider BEM (Chairman)  
I.T.E. Harvey (Vice-Chairman)  
C.A. Bannister  
M. Bushnell  
J.A. Dale

C.A. Davis  
S.A. Dunn  
M.P.C. Francis  
V.J. Leighton  
M.J. Madams

A. Patterson  
M.W. Rough  
R.A. Smith-Ainsley  
B. Spoor



# AGENDA

## **1. Apologies**

To receive any apologies for non-attendance.

## **2. Minutes**

To confirm the minutes of the meeting held on 4 February 2015 (copy attached). 1 - 2

## **3. Disclosures of Interest**

To receive any disclosures of interest from members in accordance with the Council's Code of Conduct for Members.

## **4. Report to consider a request from hackney carriage drivers to increase the age limit of licensed vehicles**

To consider the attached report on the age limit of licensed vehicles. 3 - 11

## **5. Update on Penalty Points Scheme for the Taxi and Private Hire Trade**

To consider the attached report on the Penalty Points Scheme. 12 - 29



## **Minutes of the Licensing Committee**

4 February 2015

### **Present:**

Councillor R.W. Sider BEM (Chairman)  
Councillor I.T.E. Harvey (Vice-Chairman)

### **Councillors:**

J.A. Dale

M.J. Madams

M.W. Rough

S.A. Dunn

A.C. Patterson

**Apologies:** Councillors C.A. Bannister, M. Bushnell, V.J. Leighton, R.A. Smith-Ainsley and B. Spoor

### **21/15 Minutes**

The minutes of the meeting held on 26 November 2014 were agreed as a correct record.

### **22/15 Disclosures of Interest**

There were no disclosures of interest.

### **23/15 Proposed amendments to the current taxi tariff and introduction of calendar-controlled meters**

The Environmental Health Manager reminded the Committee that it had considered a proposal to amend the taxi tariff and introduce calendar controlled meters at its meeting on 26 November 2014. He outlined the background to this proposal and the matters which had been considered by the Committee at that meeting.

The Committee resolved to approve a rise of 10p to tariff 1 and to bring forward the time at which tariff 2 started from 11pm to 10pm. It also agreed to the introduction of calendar-controlled meters.

The Environmental Health Manager explained that a letter was sent to all drivers outlining the proposed changes in December 2014 and a notice published in a newspaper giving 14 days for objections. Four responses were received as a result of the two week consultation, three being from individual drivers and one with 12 signatories objecting to the proposals. The details of the objections were set out in the report.

The Environmental Health Manager explained that in setting tariffs, a balance needed to be struck between the rights of hackney carriage drivers to earn a living and the rights of the travelling public to be charged a reasonable rate. He said that the proposal to ratify the tariff rates as agreed by the Committee at its November 2014 meeting would represent a reasonable compromise

## Licensing Committee, 4 February 2015 - continued

between those whose proposals would lead to taxi journeys in Spelthorne being some of the most expensive in the country and those who did not support a rise at all.

There had been no objections to the introduction of calendar-controlled meters but one driver had requested that due to their cost, drivers be given more time to make the change.

**Resolved to:**

- (1) reject the objections to this Committee's decision made on 26 November 2014 to increase taxi tariff 1 by 10p and to bring forward the time at which taxi tariff 2 starts from 11pm to 10pm and
- (2) agree that taxi drivers be given up to 12 months to install calendar-controlled meters in their vehicles.

**24/15 Work and Decisions of Licensing Sub-Committees**

The Committee considered the report on the decisions of Licensing Sub-Committees held in January 2015.

**Resolved** to note the report on the work and decisions of Licensing Sub-Committees.

# Licensing Committee

22 April 2015



<b>Title</b>	Report to consider a request from hackney carriage drivers to increase the age limit of licensed vehicles		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Dawn Morrison		
<b>Cabinet Member</b>	Councillor Penny Forbes-Forsyth	<b>Confidential</b>	No
<b>Corporate Priority</b>	Delivering quality of life services		
<b>Cabinet Values</b>	Community		
<b>Recommendations</b>	The Licensing Committee is asked to consider approving an alteration to current Taxi and Private Hire Vehicle licence conditions to extend the age limit for licensed vehicles to 10 years (from the current 7 years) provided that cars that are over 5 years meet specified additional criteria.		

## 1. Key issues

### Background to this report

- 1.1 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 permits district councils to attach such conditions as they may consider reasonably necessary.
- 1.2 A petition dated 9 February 2015 was received on 20 February 2015, containing 39 signatures of predominantly hackney carriage licensed drivers. The petition requests that the Council reconsiders its policy on the age of vehicles that can be licensed for use as a hackney carriage or private hire vehicle. The petition requests that the Council considers extending the age limit from the current seven years, to at least ten years.
- 1.3 Additionally, a letter dated 26 February 2015 was received from a Private Hire Operator, also asking for vehicle licensing age restrictions to be reviewed.
- 1.4 During recent consultations about tariff and fee alterations, some drivers stated that the current age restriction of vehicles was a financial burden and replacing cars with newer vehicles their main expense.
- 1.5 In light of these requests, officers made an undertaking that the policy on the maximum age of vehicles would be reviewed.
- 1.6 The petition and related correspondence are attached as **Appendix A**

### The current position

- 1.7 The current age limit of seven years from the date of registration for hackney carriage and private hire vehicles was approved by Licensing Committee on

17 October 2007, and on 21 October 2009 a dispensation was approved to enable wheelchair accessible vehicles to be licensed for up to 10 years. The limit prior to October 2007 was 10 years for all vehicles.

- 1.8 The reasoning behind previous age limits appears to primarily relate to the safety of some older vehicles which at that time may have lacked some of the safety features that are standard in modern cars.
- 1.9 There is currently discretion to extend the vehicle licence beyond the age limit stipulated, as long as they have met the licensing requirements by providing six monthly MOTs, and are generally in an above-average condition.

#### **Department of Transport Best Practice guidance**

- 1.10 The Department of Transport issue best practice guidance in relation to taxi and private hire vehicle licensing. This guidance was last updated in March 2010. The guidance has this advice in relation to age limits: "It is perfectly possible for an older vehicle to be in good condition, so the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old".
- 1.11 The guidance is not legally binding but may be considered definitive in the event of a legal challenge.
- 1.12 The Department of Transport produced a Taxi Licensing Statistical Report on 2013 which showed that, of those authorities they had received information from, 93 authorities had no age limit and 212 had age limits. The inference to be drawn from this is that age limits remain a popular way of ensuring that licensed vehicles are of a high standard.

#### **Neighbouring Boroughs**

- 1.13 Neighbouring boroughs have differing policies on the age of vehicles, a summary of which is outlined in the table below:

Borough	Age limit?	Note
Runnymede	None	Criteria applied to older vehicles and more frequent testing for cars over 5 years
Elmbridge	None	Criteria applied to older vehicles and more frequent testing for cars over 5 years
Windsor and Maidenhead	None	Criteria applied to older vehicles and more frequent testing for cars over 5 years
Slough	5 years when first licensed and then up to 14 years	
Waverley	4 years when first licensed and then up to	



	10 years	
Reigate and Banstead	4 years when first licensed and then up to 7 years	
Woking	No age limit	Must meet Euro Standard 5 for emissions

- 1.14 In the London area, it has been proposed that all new taxis should be capable of emitting zero emissions from 2018.

### **Car safety**

- 1.15 It is generally accepted that in recent years there has been an improvement in vehicle safety in a broad range of areas such as seatbelt reminders, air bags, easier to use child seat ISOFIX points, better protection for rear seat passengers, tyre pressure monitoring systems. This is in addition to reliability brought about by engine management and fault finding systems.
- 1.16 It is clear that modern vehicles which are properly maintained and serviced can be safe and reliable and remain on the road for a longer period of time.
- 1.17 Most of the current safety features have been in existence for some time. We have arguably reached a plateau in vehicle safety innovations.
- 1.18 Current UK and European vehicle safety and Construction and Use Regulations help ensure vehicles meet required safety standards.

### **Emissions**

- 1.19 Woking Borough Council has introduced minimum emissions for vehicles licensed by them. They introduced this having first commissioned a detailed study of their fleet, including a study of the proportion of vehicles that could not meet the standard, alongside an analysis of the potential for reducing pollution.
- 1.20 As fuel economy on vehicles improves and cleaner engines are developed, we can expect reductions in pollution from individual motor vehicles. However with the high annual mileage of taxis and private hire vehicles it is desirable that we have policies in place to encourage drivers to use vehicles which produce the least harmful pollutants.
- 1.21 Introducing such a policy will require a detailed analysis of the current position and a proper assessment of the likely impacts on air quality in the short and medium term. Having done an initial assessment, 58% of our currently licensed vehicles will not meet the Euro Standard 5 for emissions. This option cannot therefore be introduced without proper consideration of all of the issues, including the impact on the drivers.
- 1.22 It is proposed that the consideration of the emission levels of licensed vehicles form part of the Air Quality Action Plan (AQAP) to be formulated within the next two years, and that the Licensing Team works closely with the Senior Environmental Health Manager who will be responsible for drawing up the AQAP, whilst making sure that the views of the taxi and private hire drivers are taken into account.

## 2. Options analysis and proposal

### 2.1 The options include:

- a) To keep the age limit as it is, including the current discretion to license vehicles beyond the age limit for cars that meet certain criteria.
- b) To increase the age limit to allow vehicles to be licensed up to 10 years, with no additional criteria applied for older cars, but with the current requirement that cars over 5 years must submit 6-monthly MOTs to remain in place.
- c) To increase the age limit to allow vehicles to be licensed for up to 10 years but require cars that are over 5 years meet criteria as follows:

#### **Exterior of vehicle**

- i. The vehicle must be submitted in a clean state so that an effective inspection is possible
- ii. The vehicle must show no visible signs of rusting
- iii. The paintwork should not be faded or show signs of mis-matched repairs, or have scratches, scuffs, cracks or abrasions where the top layer of paint has been removed
- iv. The bodywork should be maintained so as to be in excellent condition and be free of obvious, large or unsightly dents
- v. The car wheels and wheel trims should be free from significant damage

#### **Interior of vehicle**

- vi. The seating and carpet areas of the vehicle shall not show signs of staining, damp, fraying or ripping of materials, or seat covers that are loose or badly fitted
- vii. The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism. Any mechanism for adjusting the height or angle of the seat must be in working order
- viii. Interior panels and fittings within the vehicle should not be damaged or show excessive wear or staining
- ix. The interior of the vehicle should be odour free, however this does not include the use of odour neutralising products or air-fresheners

#### **General**

- x. The car must have six-monthly MOTs
- d) To remove the age limit on vehicles, effectively meaning that any vehicle that otherwise meets the Council's specifications can be licensed.
  - e) To remove the age limit altogether but require safeguards for cars that are over five years old as outlined in b) i. to x. to ensure that cars remain safe, reliable and fit for purpose.
- 2.2 Option a) represents the current position. With this option, licensed vehicles are more likely to be able to meet minimum emissions standards, be of a higher safety standard, and generally have less wear and tear than older

vehicles. However this would not take into account the driver's views that the current age limit is a financial burden to them, would go against current good practice guidance, and would be inconsistent with the policies of neighbouring boroughs.

- 2.3 Option b) is consistent with the request from the drivers and operator and would be simple to implement.
  - 2.4 Option c) extends the age limit to 10 years as requested by the trade but at the same time cars will have to meet criteria to ensure that they are maintained in good working order and fit for purpose. This is the preferred option.
  - 2.4 Option d) removes the age limit but offers no safeguards in ensuring that licensed vehicles continue to be safe and fit for purpose.
  - 2.5 Option e) removes age limits altogether so there is a risk that some vehicles could be presented for licensing that fall below the safety standards that more modern cars are likely to have. This policy would however offer safeguards by way of additional criteria and be more consistent with our closest neighbouring boroughs. This is therefore an alternative to the preferred option.
- 3. Financial implications**
- 3.1 Any costs incurred in relation to any proposed changes, including consultation, will be met within existing budgets.
- 4. Other considerations**
- 4.1 The Law Commission has presented to Government a draft Taxi and Private Hire Reform bill. This bill outlines that new national minimum standards as well as local standards will be set. There is no current indication of what these national minimum standards might be, or whether or not age limits will be included.
- 5. Timetable for implementation**
- 5.1 If appropriate, in accordance with good practice guidelines, a consultation will commence for a period of six weeks.

**Background papers:** There are none.

**Appendices:**

**Appendix A – Petition and related correspondence**



Appendix A

SBC TAXI DRIVERS c/o

Mr Rob Thomas and Ms Reba Danson.  
Licensing officers. S. C.  
Taxi licensing Spelthorne.b.c.  
licensing@spelthorne.gov.uk

Hayes, middx

9<sup>th</sup> February 2015.

Dear sir/madam

The Licensing authority Spelthorne borough council

Re: Hackney carriage vehicle licensing age limits.

We the Spelthorne borough Hackney carriage drivers thank the licensing authority committee for any inconvenience in convening to consider our proposed application. Also special thanks to Mr Jonathan bramley, Ms dawn Morrison and as always rob and Reba for liaison and their dedication to run the services they work in.

We the Spelthorne borough Hackney carriage licensed drivers are:--

Hereby making an application to the Spelthorne borough licensing authority :--

To extend the age limit of Hackney carriage vehicles from present seven years (7 years) to at least ten years (10 years) as previously existed in Spelthorne borough ,  
The Spelthorne borough council only changed this as their reason to be in line with the neighbouring borough of Runnymede.

The Runnymede council and Elmbridge council both have no age limits on their Hackney carriage vehicles for licensing. ( they have done away with age limit on Hackney carriage vehicles for licensing )

As we recently wrote to Spelthorne council regarding the reduction of work in the borough, and the hardship we feel in especially replacing the vehicles as our main expense, we ask the council to be considerate in our times of austerity.

Therefore we are asking the council to extend our present licensed vehicles to at least ten years of age (10 years) .....with five years old vehicles to enter for licensing for the first time.

All other present rules and regulations applied as they exist.

Thanking you very much for your kind consideration.  
We are much obliged.

Yours sincerely

A. Khan ( and on behalf of all below named Spelthorne Hackney carriage drivers )

Hayes  
Middlesex

Tel:  
Email: :

#### DRIVERS SIGNATURES TO FOLLOW

Dear sir/madam

The signatures I have provided are the maximum number of drivers working as Hackney carriage (taxis) in Spelthorne borough from the ranks. Even though majority of these are working with private hire companies.... All others permanently work with cab companies.... otherwise they wouldn't be able to earn a living.

As we highlighted in our earlier communication to SBC that there is only one place of work in Spelthorne borough.....eg. Staines railway station..... all others are dead ranks.....

For example; If a taxi is waiting for a fare outside communication house for one week (1week) it wouldn't get a fare.

These problems are consistent with rest of the country as whole, the main reason why other councils are removing the upper age limits on their taxi vehicles.

These councils either have no age limit or have over 10 years for their taxi vehicles.....  
Pco in greater London..... Runny Mede bc.....Elmbridge bc.....Rushmore bc..... Arun dc.....  
Reading bc..... Cotswold dc..... Bournemouth bc..... Tandridge dc..... North Wiltshire  
dc..... Etc

In addition PCO vehicles are licences for upto 15 years and drive not only with in the Low Emission Zone (LEZ) but also with in the Ultra Low Emission Zone (ULEZ). We approximately have 80 vehicles with a Hackney Carriage License currently in borough of Spelthorne, where as there are many thousands of PCO licensed vehicles.



**5, Station Approach, Shepperton, Middlesex, TW17 8AR  
Tel: 01932 252525 Fax: 01932 252500**

Licensing Department  
Spelthorne Borough Council  
Knowle Green  
Staines  
Middlesex  
TW18 1XB

26<sup>th</sup> February 2015

Dear Sirs

**Re: Vehicle licensing age restrictions**

As a Licensed Private Hire Operator in the Borough of Spelthorne we would like to register our wish for the renewal age of licensed vehicles to be reviewed and brought into line with other Boroughs.

A seven year renewal age, although attempting to ensure better quality cars in use puts an extreme additional financial burden on licensed drivers in the borough. Especially when adjoining Boroughs have a 10 year renewal rule.

Kind regards

Tim Want





# Licensing Committee

22 April 2015



<b>Title</b>	Update on Penalty Points Scheme for the Taxi and Private Hire Trade		
<b>Purpose of the report</b>	To make a decision		
<b>Report Author</b>	Dawn Morrison		
<b>Cabinet Member</b>	Councillor Penny Forbes-Forsyth	<b>Confidential</b>	No
<b>Corporate Priority</b>	Delivering quality of life services		
<b>Cabinet Values</b>	Community and Accountability		
<b>Recommendations</b>	To note the update on the Penalty Points Scheme and to agree the proposed modifications and, subject to there being no objections at consultation, recommend that Council amend the Scheme of Delegations (7.46) accordingly.		

## 1. Key issues

- 1.1 This report seeks to provide an update on the Council's Penalty Points Scheme first approved on 17 August 2011 which came into effect from 20 October 2011. The report also seeks to recommend certain modifications to the current scheme.
- 1.2 The Penalty Points Scheme is designed to identify those drivers, vehicle proprietors or operators who repeatedly behave in a manner which, if taken as a whole, indicates that they may not be "fit and proper" to hold licences as defined by the relevant legislation.
- 1.3 The scheme was also implemented to improve levels of compliance in order to improve standards, and ensure the safety and protection of the travelling public.
- 1.4 Since the scheme was implemented, 60 individual drivers have been awarded points (out of a total of 170). Nine drivers have been referred to a licensing sub-committee as a result of accumulating 12 or more penalty points. This has led to two revocations, five suspensions and two verbal warnings.
- 1.5 There have been 27 appeals against points, four of which were allowed and 23 of which were dismissed.
- 1.6 Points have been awarded for a variety of misdemeanours. The most common misdemeanour is failure to move on if a rank is full (Hackney Carriage bye-law 7b), followed by failure to produce documents such as MOTs and insurance certificates.

- 1.7 Some of the revisions have been made in order to clarify language which could be ambiguous or open to misinterpretation. Proposed modifications also include changing the level of points to be awarded, to ensure that drivers are reported to a Sub-Committee at the appropriate time. There have also been some additions to the list of reasons for points to be awarded, where there have been instances of poor behaviour from drivers that do not strictly fit within the existing categories, and conversely proposals to remove some of the categories where appropriate.
- 1.8 When a driver appeals against the penalty points issued, a report outlining the matter is prepared for determination by the Assistant Chief Executive in consultation with the Chairman of the Licensing Committee. This approach has worked well in considering appeals to date. However, in some circumstances the Chair has found himself having to determine an appeal and also deal with the same individual at a Sub-Committee hearing. In the interests of natural justice and transparency, it is proposed that appeals against penalty points will be determined by the Senior Environmental Health Manager in conjunction with the Deputy Chief Executive. It would be more appropriate for members of the Licensing Committee to become involved in determinations, should drivers who have appealed points be referred to a Licensing Sub-Committee upon the accumulation of 12 penalty points. The driver would still have the benefit of having a senior officer who has had no involvement in the matter, consider the appeal. Full details of the proposed changes to the scheme are attached at **Appendix A**.
- 1.10 The current scheme was implemented following consultation with the trade. It is proposed that a further consultation with the trade should take place, in order to ensure the process is fair and transparent, and to allow officers to address any concerns from the trade before the changes are implemented.

## **2. Options analysis and proposal**

- a) to leave the scheme as it is
- b) to agree the proposed modifications and, subject to there being no objections at consultation, recommend that Council amend the Scheme of Delegations (7.46) accordingly.
- c) to propose alternatives to the modifications.

The preferred option is for the Licensing Committee to approve the draft modified Penalty Points Scheme to go out for consultation. If there are any objections, then it is proposed that these be considered by a further Licensing Committee.

## **3. Financial implications**

- 3.1 Modifications to the scheme and consultation will be met within existing budgets.

## **4. Other considerations**

- 4.1 There are none.

## **5. Timetable for implementation**

- 5.1 A consultation with the trade and other interested parties will take place for six weeks. If there are no objections, then the revised scheme will come into force the day after the last day for objections. Any objections will be referred to a further Licensing Committee at the appropriate time.

**Background papers:**

There are none

**Appendices:**

Appendix A - Penalty Points Scheme with proposed draft changes shown



## APPENDIX A

### SPELTHORNE BOROUGH COUNCIL

#### Penalty Points Scheme

##### Introduction

1. Hackney Carriage (taxi) and Private Hire Operators, drivers and vehicles are principally governed by a “regulatory framework” including:-
  - I. Local Government (Miscellaneous Provisions) Act 1976;
  - II. Town Police Clauses Act 1847;
  - III. Council’s Taxi Byelaws;
  - IV. Rules, Regulations and Conditions for taxi and private hire licences and vehicles as approved by Spelthorne’s Licensing Committee.
  
2. The primary objective of the penalty points scheme is to improve the levels of compliance with the regulatory framework and to help improve standards, safety and the protection of members of the public affected by the actions of taxi, private hire drivers and operators. The scheme also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.
  
3. Council officers (i.e. Licensing Enforcement Officers or the Licensing Manager) will investigate allegations of offences under the regulatory framework, by licensed operators, drivers or vehicles owners. When considering what action to take the Council officers will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licensee who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in:-
  - I. No further action being taken;
  - II. A “Penalty points Notice” being awarded against a driver, operator or owner of a vehicle (see pages 13 and 14). The officer will apply a fixed number of penalty points for each offence as specified in the table below;
  - III. A formal written warning;
  - IV. Immediate suspension of a licence (if the public safety condition is fulfilled);
  - V. Referral to the Council’s Licensing Sub-Committee;
  - VI. Administer of a formal caution or Prosecution.
  
4. Once these investigations have been concluded, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Council officer. A record of the decision will be kept on the relevant licensed driver’s, licensed vehicle owner’s, or operator’s file, including copies of any “Penalty Points Notice(s)” issued, where applicable.
  
5. The aim of a penalty point scheme is to work in conjunction with other enforcement options and does not preclude or prejudice the Council’s ability to take other actions that it is entitled to take under the regulatory framework. It provides a formal and cumulative enforcement approach.
  
6. The purpose of the scheme is to record confirmed breaches or offences and to act as an ongoing record of a driver’s, licensed vehicle owner’s or operator’s behaviour and conduct, so as to ascertain whether they are a fit and proper person to hold such a licence.



## APPENDIX A

7. Penalty points will remain on a driver's, licensed vehicle owner's or operator's record for twelve months, from the date the penalty points were issued by the officer. Points issued will be confirmed in writing within 10 working days from the completion of an investigation. ~~Any points that were awarded more than twelve months ago will~~~~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 licence holder~~see~~ or operator.
8. The Council officers specified in paragraph 3 above have been given delegated powers by Spelthorne's Licensing Committee to administer penalty points to licensed taxi or private hire drivers, private hire operators or licensed vehicle owners.
9. If a licensee wishes to appeal against the issue of a "penalty points notice" he/she must do so in writing within 10 working days from the date of issue of such a notice, to the Council's ~~Head of Environmental Health and Building Control Services (HoEH&BCS),~~ Assistant Chief Executive, or in his/her absence the Environmental Health Manager ~~(Commercial), who, in consultation with the Chairman of the Licensing Committee,~~ will have the discretion to:-
- I. uphold the Council officer's decision – retain the number of points on the "penalty points notice"; or
  - II. cancel the issue of the "penalty points notice" to the licensee.
- There is no appeal beyond the decision made by the ~~HoEH&BCS~~ Assistant Chief Executive. However, should a licensee be subsequently reported to the Licensing Sub-Committee for accumulating 12 or more penalty points, he/she has the opportunity to raise the validity of the points issued.
10. Significant breaches of conduct, which are identified through officer observations or through complaints from the public or the trade, will be subject to investigation by Officers and may be reported to the Licensing Sub-Committee for a decision on whether the driver, operator or a licensed vehicle owner is a fit and proper person, ~~whether or not penalty points have been awarded.~~
11. The Licensing Sub-Committee, when dealing with ~~such~~ matters referred to them following the accumulation of penalty points, will consider the circumstances, the seriousness of the breaches of the regulatory framework, the quality of the evidence before it and the compliance history of the individual driver, licensed vehicle owner or operator. The Licensing Sub-Committee may decide to:-
- I. Suspend a licence; or
  - II. Revoke a licence; or
  - IV. Take no action.
12. If a driver's, ~~a~~ licensed vehicle owner or operator's licence is either suspended or revoked they will have the right to appeal against the Licensing Sub-Committee's decision to the Magistrates' Court.

**Comment [MD1]:** Wording changed to make the meaning clearer

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**APPENDIX A**

**PENALTY POINTS SCHEME**

With reference to relevant legislation stated in the table below, the following abbreviations have been used:

Town Police Clauses Act 1847 – TPCA 1847;  
 Local Government (Miscellaneous Provisions) Act 1976 – LG(MP)A 1976; and  
 Road Traffic Act 1988 – RTA 1988

The trigger point for a licensed driver, vehicle owner or operator to be referred to the Council’s Licensing Sub-Committee is a total of 12 penalty points accumulated within a 12 month period. The comprehensive lists of offences/breaches which will attract penalty points are listed in the table below:

	<b>Offence/breach of Condition</b>	<b>Fixed Points Applicable</b>	<b>Driver</b>	<b>Vehicle Owner or Operator</b>	<b>Regulatory framework reference</b>
	<b>Administrative offences</b>				
<b>1</b>	Using unlicensed vehicle or vehicle without the relevant motor insurance cover (i.e. insured for use as a private hire or taxi for hire and reward).	<b>12</b>	✓	✓	Unlicensed hackney carriage TCPA 1847 s45 d(i) drive (ii) stand on the highway (iii) ply for hire. Operating an unlicensed private hire vehicle – LG(MP)A 1976 s46 (1)(e)(i). Use of a vehicle (other than a licensed hackney carriage) as a private hire vehicle LG LG(MP)A 1976 s46(1)(a) No insurance (hackney carriage and/or private hire vehicle) RTA 1988 s143.  Spelthorne’s Hackney Carriage(HC) Byelaw 9; Spelthorne’s HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne’s HC application form requirement, section 1 p; Spelthorne’s Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne’s PH application form requirement, section 2 p.
<b>2</b>	Driver not holding a current DVLA Licence.	<b>12</b>	✓	✓	RTA 1988 s87;

**Comment [DR2]:** Unlicensed vehicle should be one offence.  
  
 Driving without insurance is a different offence and should be listed separately.



APPENDIX A

					Spelthorne's HC Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a);
3	Providing false or misleading information <del>on licence application form</del> / failing to provide relevant information or the relevant fee (including dishonoured cheques).	6	✓	✓	Providing false or misleading information LG(MP)A 1976 s57; Failing to provide information to an authorised officer LG(MP)A 1976 s73(1)(c); Hackney carriage and private hire driver licence fees LG(MP)A 1976 s53(4) & (5); Declaration section to Spelthorne's HC and PH application form.
4	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. <del>The Council will expect to see documentary evidence that such a test has been carried out</del> within 4 weeks of the due date of the MoT test.	64		✓	LG(MP)A 1976 s50 (1);  Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
5	Continuing failure, after a further 4 weeks has elapsed, to provide documentary evidence that a licensed vehicle has passed a 6 month MoT.	64		✓	LG(MP)A 1976 s50 (1)  Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
6	Failure to provide proof of appropriate motor insurance	64	✓		LG(MP)A 1976 s50 (4);

**Comment [DR3]:** One offence

**Comment [DR4]:** Separate offence

**Comment [TR6]:** Drop this to 4 so people don't go to a Sub-Committee for 2 breaches

**Comment [DR5]:** I don't think 'expect to see' is really specific enough in terms of offence definitions.

**Comment [TR7]:** Drop this to 4 so people don't go to a Sub-Committee for 2 breaches

**Comment [TR8]:** Drop this to 4 so people don't go to a Sub-Committee for 2 breaches



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	cover within a specified time when requested by a Council officer.				Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
7	Continuing failure, after a further 4 weeks has elapsed, to provide documentary evidence that a licensed vehicle has the appropriate motor insurance cover.	64	✓		LG(MP)A 1976 s50 (4);  Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's HC application form requirement, section 1 p; Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 1.0 a); Spelthorne's PH application form requirement, section 2 p.
8	Failure to produce <del>relevant specified</del> documents within a specified timescale when requested by a Council Officer in writing.	4	✓	✓	Depends which documents are requested, because various sections of LG(MP)A 1976 apply.
9	Continuing failure to provide relevant documents to a Council officer, as requested in writing – for every 4 weeks that elapse.	4	✓	✓	LG(MP)A 1976 s73(1)(b) and/or(c).
10	Failure to produce a Hackney Carriage or Private Hire vehicle for inspection/testing when <del>required, i.e. either during the new or renewal application process or on other occasions.</del> Requested	4		✓	LG(MP)A 1976 s50(1).

**Comment [TR9]:** Drop this to 4 so people don't go to a Sub-Committee for 2 breaches

**Comment [DR10]:** Relevant is subjective. Specified is specific.





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	by a licensing officer.				
11	Continuing failure, <del>after every 2 weeks ? days that elapse,</del> to provide a hackney carriage or private hire vehicle for inspection/testing within the timescale specified by the Licensing Officer..	4		✓	LG(MP)A 1976 s50(1).
12	Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence to another driver within 48 hrs;	4		✓	LG(MP)A 1976 49(2); Spelthorne's Private hire conditions of licence, Part (A), section 7.0; Spelthorne's Hackney Carriage vehicle licence – conditions of licence, section 7.0.
13	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	4		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
14	Failure to produce on request records of drivers' work activity.	4		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
15	Failure to notify, in writing, a change in medical circumstances	6	✓		LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect their medical condition has changed;  Spelthorne's Private hire drivers licence conditions – section 7.0 (i.e. within 14 days).

**Comment [TR11]:** Any licensed driver can driver any licensed vehicle... suggest removing this.

**Comment [TR12]:** 6 points more appropriate level

**Comment [TR13]:** As above – Suggest revision to 6 points



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16	Failure by a private hire operator to maintain proper records of drivers or vehicles registered with his/her business.	4		✓	LG(MP)A 1976 s56 (2). Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
17	Failure to keep or produce records of private hire bookings or other documents required to be kept or produced.	6		✓	LG(MP)A 1976 s56 (2). Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
18	Failure to return vehicle licence plate or driver badge within 7 days after due notice following expiry, revocation or suspension of such a licence.	6	✓	✓	LG(MP)A 1976 s58 (1). Spelthorne's Private hire (PH) licence – conditions of licence, part (B), section 2.0; Spelthorne's HC vehicle licence – conditions of licence, section 3.0.
19	Failure to notify the Council, in writing, of any motoring or criminal convictions within 14 day of conviction or cautions during period of current licence.	6	✓	✓	LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect they have received convictions or cautions;  Spelthorne's Private hire drivers licence conditions – section 7.0 (i.e. within 14 days).
20	Failure to submit a licence renewal application until after the expiry date of an existing one.	6		✓	Vehicle licence – LG(MP)A 1976 s50(1)
21	Misleading use of the words 'Taxi' or 'Cab' on advertising materials.	3		✓	Private hire vehicles - LG(MP)A 1976 s1(a)(ii); Spelthorne's Private hire operators licence conditions – section 6.0. Private hire vehicle application requirement 2:0 (r).

Comment [DR14]: One offence

Comment [DR15]: Separate offence

Comment [TR16]: Delete - duplication of breach #13

Comment [TR17]: Suggest deleting as this offence can't apply to an expired or revoked licence

Comment [TR18]: Again, suggest lesser number of points so that people aren't referred for 2 breaches of this.



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22	Failure to comply with any other licence conditions set by the Council.	<b>3 per licence breach</b>	✓	✓	Spelthorne's private hire operators' conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0.
23	Failure to notify the Council , in writing, of a change of address within 14 days (two week).	<b>3</b>	✓	✓	LG(MP)A 1976 s57 (1) – for hackney carriage drivers when renewing their licences; or LG(MP)A 1976 s73 (1)(c) – for hackney carriage drivers if an officer has grounds to suspect they have received convictions or cautions; Spelthorne's Private hire drivers licence conditions – section 7.0.
	<b>Conduct of driver, licensed vehicle owner or Operator offences</b>				
24	Using a vehicle subject to a suspension or revocation order issued by the Council.	<b>12</b>	✓	✓	Unlicensed hackney carriage TCPA 1847 s45 d(i) drive (ii) stand on the highway (iii) ply for hire. Operating an unlicensed private hire vehicle – LG(MP)A 1976 s46 (1)(e)(i). Spelthorne's PH Operators' – conditions of licence, section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 5.0
25	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle.	<b>12</b>	✓	✓	LG(MP)A 1976 s73(1)
26	Failure to carry an assistance dog without requisite exemption.	<b>12</b>	✓	✓	Disability Discrimination Act 1995 s37; Spelthorne's PH licence – conditions of licence, Part (A), section 5.0.
27	Serious misconduct or behaviour of a licensee	<b>12</b>	✓	✓	TPCA 1847 s68 – HC drivers; Spelthorne's HC byelaw 9;



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	(e.g. use of physical violence.)				Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
28	Failure to behave in a civil and orderly manner <del>(e.g. use of verbally or physically threatening language or behaviour.)</del>	6	✓	✓	TPCA 1847 s68 – HC drivers ; Spelthorne's HC byelaw 9; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
29	Plying for hire by private hire drivers.	912	✓		TPCA 1847 s45 ; Spelthorne's PH licence – conditions of licence, Part (B), section 5.0.
30	Unreasonable prolongation of journeys <del>or any misconduct</del> regarding the charging of fares. 12	6 12	✓		TPCA 1847 s54,58, & LG(MP)A 1976 s66,69 – HC drivers; LG(MP)A 1976 s69 – PH drivers; Spelthorne's HC byelaw 4, 5, 6, 14 and 15.
31	Carrying more passengers than the capacity stated on the vehicle licence.	6	✓		TPCA 1847 s45 - HC drivers; LG(MP)A 1976 s46(1)(a) – PH drivers; Spelthorne's HC byelaw 11; Spelthorne's PH licence – conditions of licence, Part (A), section 2.0 a).
32	Failure to carry fire extinguisher.	43		✓	Spelthorne's HC Byelaw 3 (h); Spelthorne's HC licence application requirements, section 1.0 n); Spelthorne's PH licence application requirements, section 2.0 n).
33	Failure to carry a first aid kit.	43		✓	Spelthorne's PH licence application requirements, section 2.0 o); Spelthorne's HC licence application requirements, section 1.0 o).
34	Evidence of smoking in vehicle by either the driver or any passenger(s).	4	✓	✓	Health Act 2006 s7(2) and s8(4) Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 g).
35	Evidence that driver was eating, using a mobile phone which was not hands free, or drinking while his/her vehicle was in motion.	4	✓	✓	Spelthorne's HC byelaw 9. Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 c) & d).

**Comment [TR19]:** Suggest removal of examples so that reasonable discretion can be applied

**Comment [DR20]:** One offence

**Comment [DR21]:** Separate offence which could be made clearer by saying "failing to activate the meter or charging more than the metered fare for journeys inside the borough.



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36	Failure to wear private hire or hackney carriage driver's badge.	4	✓		Spelthorne's HC Byelaw 12; LG(MP)A 1976 s54(2) – PH drivers.
37	Refusal to accept hiring without reasonable cause <del>e.g. drunk or rude customer.</del>	4	✓		TPCA1847 s 52 or s53 – HC drivers;
38	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the borough's taxi ranks).	<del>6</del> or 3	✓		TPCA 1847 s64; Spelthorne's HC byelaw 7.
39	Failure to issue a receipt on request	4	✓	✓	Spelthorne's PH licence – Conditions of licence, Part (A), section 4.0.
40	Failure to give assistance with loading/unloading luggage to or from any building or place.	4	✓	✓	Spelthorne's HC byelaw 13; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 a)
41	Failure to attend punctually at appointed time and place without sufficient cause.	4	✓	✓	Spelthorne's PH licence – conditions of licence, Part (A), section 6.0; Spelthorne's HC byelaw 10; Spelthorne's PH Operators' licence – conditions of licence, section 7.0 a).
42	Failure to display the fare card.	3	✓	✓	Spelthorne's HC byelaw 15 (a); Spelthorne's HC vehicle licence – conditions of licence, section 4.0.
43	Waiting or stopping on a double yellow road line, bus stop or private land (without the owner's permission) unless requested by a paying customer present in the vehicle.	3	✓		TPCA 1847 s28 .

**Comment [TR22]:** Recommend reduce to 4 so that there are at least three breaches to bring before a Licensing Sub-Committee.



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44	Unsatisfactory appearance of the driver.	2	✓		Spelthorne's PH licence – conditions of licence, section 1.0 b).
45	Failure to comply with any other licence conditions set by the Council	3 per licence breach.	✓	✓	Spelthorne's PH Operators' licence – conditions of licence, section 8.0;  Spelthorne's HC vehicle licence – conditions of licence, section 8.0; Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
46	Any other inappropriate behaviour, as defined by Council Officers in accordance with Spelthorne's licence conditions	Sliding scale: 1-12 points depending on the severity of the issue	✓		Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
	<b>Condition of vehicle offences</b>				
4647	Using a non approved or non-calibrated taximeter	6/12	✓	✓	LG(MP)A 1976 s71 ; Spelthorne's HC byelaw 4; Spelthorne's HC licence application requirements, section 1.0 e).
4748	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	6		✓	LG(MP)A 1976 s48(1)(a)(ii); Spelthorne's PH licence – conditions of licence, Part (B), section 3.0; Spelthorne's PH licence application requirements, section 2.0 r).
4849	Displaying any feature on a taxi that may suggest that it is a private hire vehicle.	6		✓	Spelthorne's HC application requirements, section 1.0 e); Spelthorne's HC vehicle licence – conditions of licence, section 5.0 & 6.0.
4950	A licensed vehicle with illegal tyres	4 per tyre		✓	Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a); Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a).
5051	Failure to carry a legal spare	4	✓	✓	Spelthorne's PH licence application requirements, section 2.0

**Comment [DR23]:** Suggest deleting as could only be applied if we had a "dress code".

**Comment [MD24]:** Would be applied where there is evidence that there has been a deliberate attempt to effectively overcharge for each journey



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	wheel and tools.				m); Spelthorne's HC licence application requirements, section 1.0 m).
5152	Failure to use authorised roof light on a hackney carriage vehicle.	4	✓		Spelthorne's HC vehicle licence – conditions of licence, section 5.0.
5253	Failure to display the external/internal licence plate or signs as required.	4		✓	TPCA 1847 s52 - HC drivers; LG(MP)A 1976 s48(6) – PH drivers; Spelthorne's PH licence – conditions of licence, section 2.0; Spelthorne's HC vehicle licence – conditions of licence, section 3.0.
5354	Failure to report to the Council, in writing, within 72 hours, of an accident or damage to licensed vehicle, which would cause the vehicle to breach a licence condition(s).	4	✓	✓	LG(MP)A 1976 s50(3); Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a) & 4.0.;  Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a) & 7.0.
5455	Unsatisfactory <del>mechanical</del> condition of vehicle, interior or exterior.	4	✓	✓	LG(MP)A 1976 s68; Spelthorne's PH licence – conditions of licence, Part (B), section 1.0 a) & 4.0.; Spelthorne's HC vehicle licence – conditions of licence, section 2.0 a) & 7.0.
5556	Displaying unsuitable or inappropriate sited signs or advertisements in or on the vehicle.	3		✓	Spelthorne's PH licence – conditions of licence, Part (B), section 3.0; Spelthorne's PH licence application requirements, section 2.0 r); Spelthorne's HC licence application requirements, section 1.0 r).
57	Leaving car unattended on a rank appointed by the Council	3		✓	Town Police Clauses Act 1847
5658	Failure to comply with any other licence conditions set by the Council.	3 per licence condition.	✓	✓	Spelthorne's PH Operators' licence – conditions of licence, section 8.0; Spelthorne's HC vehicle licence – conditions of licence, section 8.0;

**Comment [DR25]:** Technology has moved on and spare tyres are no longer standard. Suggest removal.

**Comment [DR26]:** We can't assess mechanical condition of vehicles.



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					Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
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Ticks indicate potential recipients of penalty points for infringements.

For certain infringements, points may be issued to one or several persons (drivers, proprietors or operators) depending upon the nature of that infringement.

Certain matters are specific to hackney carriages, private hire drivers or private hire operators.



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Penalty Points Notice

To: .....

Of: .....

Licence No: .....

Notice is hereby given that on the date specified below you were found to be in breach of the Council's Penalty Points Scheme in respect of the of the matter(s) detailed below. You should be aware that you may appeal against the award of points as set out overleaf.

Date of breach: ..... Time: .....

Location of breach: .....

Penalty Points	Detail of breach(s)
1)	.....
2)	.....
3)	.....
4)	.....

Total points imposed


Officer's signature: .....

Officer's name: .....

Date points imposed: .....



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### Penalty Points Notice

~~The~~ You should be advised that the penalty points imposed by this notice will be recorded on your personal file and will be taken into account when an application for renewal of a licence is made to the Council, or when considering any other enforcement action against the licensee you. If ~~an individual accrues~~ you accrue ~~twelve~~ 12 points in any ~~twelve~~ 12 month period, ~~then that individual's~~ your licence will be reported to the Council's Licensing Sub-Committee for them to consider whether or not ~~the licensee you are~~ is a fit and proper person to hold such a licence.

If you ~~wish to know~~ want to check ~~what~~ how many penalty points have been awarded to you in the past 12 months please contact the Licensing team. ~~of the Environmental Health and Building Control Services Assistant Chief Executive.~~

If you ~~feel~~ think you have justifiable reasons as to why this notice should not have been served, you have the right to have the ~~matter~~ decision reviewed. A request to have this notice reviewed must be made in writing to the ~~Head of Environmental Health and Building Control Services Assistant Chief Executive~~ within ~~ten~~ 10 working days of the date of the ~~imposition~~ award of the penalty points, stating why you ~~feel~~ think the points should not have been awarded. If you have been unable to appeal within this timescale, for example, because you have been away on holiday, then you should contact the Licensing Team as soon as possible on your return. If you can provide proof that you were away then consideration will be given to allow a reasonable extension to the appeal period.

The award of penalty points under this scheme does not ~~mean that~~ prevent the licensee you from facing ~~will not face~~ enforcement action by any other ~~enforcement~~ agency, such as the Police.

If you have any questions about ~~Any queries regarding~~ this notice, please contact: ~~should be made to:~~

Spelthorne ~~borough~~ Borough Council  
~~Environmental Health and Building Control Services~~ Licensing  
 Council Offices  
 Knowle Green  
 Staines  
 Middlesex  
 TW18 1XB

Telephone number: 01784 446432

Email:

~~environmental.health.commercial@spelthorne.gov.uk~~ [licensing@spelthorne.gov.uk](mailto:licensing@spelthorne.gov.uk)

Web-site: [www.spelthorne.gov.uk](http://www.spelthorne.gov.uk)