

## **SPELTHORNE BOROUGH COUNCIL**

### **Penalty Points Scheme (updated May 2017)**

#### **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.

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 be excluded from the running total recorded against an individual licence holder 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 Senior Environmental Health Manager who, in consultation with the Deputy Chief Executive 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 Senior Environmental Health Manager in conjunction with the Deputy 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 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, 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.



## 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:

	Offence/breach of Condition	Fixed Points Applicable	Driver	Vehicle Owner or Operator	Regulatory framework reference
	<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>	✓	✓	<p>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.</p> <p>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.</p>
<b>2</b>	Driver not holding a current DVLA Licence.	<b>12</b>	✓	✓	RTA 1988 s87;

					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 / 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 within 4 weeks of the due date of the MoT test.	4		✓	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.	4		✓	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 cover within a specified time when requested by a	4	✓		LG(MP)A 1976 s50 (4);  Spelthorne's Hackney Carriage(HC) Byelaw 9; Spelthorne's HC vehicle licence – conditions of licence, section

	Council officer.				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>7</b>	Continuing failure, after a further 4 weeks has elapsed, to provide documentary evidence that a licensed vehicle has the appropriate motor insurance cover.	<b>4</b>	✓		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.
<b>8</b>	Failure to produce specified documents within a specified timescale when requested by a Council Officer in writing.	<b>4</b>	✓	✓	Depends which documents are requested, because various sections of LG(MP)A 1976 apply.
<b>9</b>	Continuing failure to provide relevant documents to a Council officer, as requested in writing – for every 4 weeks that elapse.	<b>4</b>	✓	✓	LG(MP)A 1976 s73(1)(b) and/or(c).
<b>10</b>	Failure to produce a Hackney Carriage or Private Hire vehicle for inspection/testing when Requested by a licensing officer.	<b>4</b>		✓	LG(MP)A 1976 s50(1).
<b>11</b>	Continuing failure, to provide a hackney carriage or private hire vehicle for inspection/testing within the	<b>4</b>		✓	LG(MP)A 1976 s50(1).

	timescale specified by the Licensing Officer..				
12	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	6		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
13	Failure to produce on request records of drivers' work activity.	6		✓	LG(MP)A 1976 s56(2); Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
14	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).
15	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.
16	Failure to keep or produce records of private hire bookings	6		✓	LG(MP)A 1976 s56 (2). Spelthorne's Private hire operators' licence conditions – sections 2.0 and 3.0.
17	Failure to notify the Council, in writing, of any motoring or criminal convictions within 5 days of conviction or caution during period of	4	✓	✓	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;

	current licence.				Spelthorne's Private hire drivers licence conditions – section 7.0 (i.e. within 14 days).
18	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)
19	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).
20	Failure to comply with any other licence conditions set by the Council.	3 per licence breach	✓	✓	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.
21	Failure to notify the Council when involved in an accident whilst using a licensed vehicle.	4	✓	✓	LG(MP)A 1976 s50(1).
21	Failure to notify the Council , in writing, of a change of <u>postal address, telephone number or e-mail address</u> within 14 days (two week).	3	✓	✓	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>				

<b>22</b>	Using a vehicle subject to a suspension or revocation order issued by the Council.	<b>12</b>	✓	✓	Unlicensed hackney carriage TPCA 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
<b>23</b>	Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle.	<b>12</b>	✓	✓	LG(MP)A 1976 s73(1)
<b>24</b>	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.
<b>25</b>	Serious misconduct or behaviour of a licensee	<b>12</b>	✓	✓	TPCA 1847 s68 – HC drivers; Spelthorne's HC byelaw 9; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
<b>26</b>	Failure to behave in a civil and orderly manner	<b>6</b>	✓	✓	TPCA 1847 s68 – HC drivers ; Spelthorne's HC byelaw 9; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 b) & c).
<b>27</b>	Plying for hire by private hire drivers.	<b>12</b>	✓		TPCA 1847 s45 ; Spelthorne's PH licence – conditions of licence, Part (B), section 5.0.
<b>28</b>	Unreasonable prolongation of journey	<b>6</b>	✓		TPCA 1847 s54,58, & LG(MP)A 1976 s66,69 – HC drivers; LG(MP)A 1976 s69 – PH drivers;
<b>29</b>	Failing to activate the meter or charging more than the	<b>12</b>	✓		TPCA 1847 s54,58, & LG(MP)A 1976 s66,69 – HC drivers; LG(MP)A 1976 s69 – PH drivers;



	metered fare for journeys inside the borough				Spelthorne's HC byelaw 4, 5, 6, 14 and 15.
<b>30</b>	Carrying more passengers than the capacity stated on the vehicle licence.	<b>6</b>	✓		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).
<b>31</b>	<u>Failure of private hire operator to provide a valid criminal record check for a controller working under his/her employ on request of an authorised officer</u>	<b>6</b>		✓	<u>LG(MP)A 1976 s56 (2).</u> <u>Spelthorne's Private hire operators' licence conditions – section 5.</u>
<b>32</b>	<u>Failure of private hire operator to provide a pass certificate in respect of Barnardo's Safeguarding Vulnerable Adults &amp; CSE training module for a controller working under his/her employ on request of an authorised officer</u>	<b>4</b>			<u>LG(MP)A 1976 s56 (2).</u> <u>Spelthorne's Private hire operators' licence conditions – section 5.</u>
<b>33</b>	Failure to carry fire extinguisher.	<b>3</b>		✓	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).
<b>34</b>	Failure to carry a first aid kit.	<b>3</b>		✓	Spelthorne's PH licence application requirements, section 2.0 o); Spelthorne's HC licence application requirements, section 1.0 o).
<b>35</b>	Smoking or vaping in vehicle by either the driver or any passenger(s).	<b>4</b>	✓	✓	Health Act 2006 s7(2) and s8(4) Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 g).
<b>36</b>	Eating, using a mobile phone which was not hands	<b>4</b>	✓	✓	Spelthorne's HC byelaw 9. Spelthorne's PH licence – conditions of licence, Part (A), section

	free, or drinking while his/her vehicle was in motion.				1.0 c) & d).
<b>37</b>	Failure to wear private hire or hackney carriage driver's badge.	<b>4</b>	✓		Spelthorne's HC Byelaw 12; LG(MP)A 1976 s54(2) – PH drivers.
<b>38</b>	Refusal to accept hiring without reasonable cause	<b>4</b>	✓		TPCA1847 s 52 or s53 – HC drivers;
<b>39</b>	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the borough's taxi ranks).	<b>4</b>	✓		TPCA 1847 s64; Spelthorne's HC byelaw 7.
<b>40</b>	Failure to issue a receipt on request	<b>4</b>	✓	✓	Spelthorne's PH licence – Conditions of licence, Part (A), section 4.0.
<b>41</b>	Failure to give assistance with loading/unloading luggage to or from any building or place.	<b>4</b>	✓	✓	Spelthorne's HC byelaw 13; Spelthorne's PH licence – conditions of licence, Part (A), section 1.0 a)
<b>42</b>	Failure to attend punctually at appointed time and place without sufficient cause.	<b>4</b>	✓	✓	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).
<b>43</b>	Failure to display the fare card.	<b>3</b>	✓	✓	Spelthorne's HC byelaw 15 (a); Spelthorne's HC vehicle licence – conditions of licence, section 4.0.
<b>44</b>	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.	<b>3</b>	✓		TPCA 1847 s28 .

<b>45</b>	Failure to comply with any other licence conditions set by the Council	<b>3 per licence breach.</b>	✓	✓	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.
<b>46</b>	Any other inappropriate behaviour, as defined by Council Officers in accordance with Spelthorne's licence conditions	<b>Sliding scale: 1-12 points depending on the severity of the issue</b>	✓		Spelthorne's PH licence – conditions of licence, Part (B), section 8.0.
	<b>Condition of vehicle offences</b>				
<b>47</b>	Using a non-approved or non-calibrated taximeter	<b>12</b>	✓	✓	LG(MP)A 1976 s71 ; Spelthorne's HC byelaw 4; Spelthorne's HC licence application requirements, section 1.0 e).
<b>48</b>	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	<b>6</b>		✓	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).
<b>49</b>	Displaying any feature on a taxi that may suggest that it is a private hire vehicle.	<b>6</b>		✓	Spelthorne's HC application requirements, section 1.0 e); Spelthorne's HC vehicle licence – conditions of licence, section 5.0 & 6.0.
<b>50</b>	A licensed vehicle with illegal tyres	<b>4 per tyre</b>		✓	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).
<b>51</b>	Failure to use authorised roof light on a hackney carriage vehicle.	<b>4</b>	✓		Spelthorne's HC vehicle licence – conditions of licence, section 5.0.
<b>52</b>	Failure to display the	<b>4</b>		✓	TPCA 1847 s52 - HC drivers;

	external/internal licence plate or signs as required.				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.
<b>53</b>	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).	<b>4</b>	✓	✓	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.
<b>54</b>	Unsatisfactory condition of vehicle, interior or exterior.	<b>4</b>	✓	✓	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.
<b>55</b>	Displaying unsuitable or inappropriate sited signs or advertisements in or on the vehicle.	<b>3</b>		✓	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).
<b>56</b>	Leaving car unattended on a rank appointed by the Council	<b>3</b>		✓	Town Police Clauses Act 1847
<b>57</b>	Failure to comply with any other licence conditions set by the Council.	<b>3 per licence condition.</b>	✓	✓	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.

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.

## 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)	.....	<input type="text"/>
2)	.....	<input type="text"/>
3)	.....	<input type="text"/>
4)	.....	<input type="text"/>
Total points imposed		<input type="text"/>

Officer's signature: .....

Officer's name: .....

Date points imposed: .....

## Penalty Points Notice

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 you. If you accrue 12 points in any 12 month period, your licence will be reported to the Council's Licensing Sub-Committee for them to consider whether or not you are a fit and proper person to hold such a licence.

If you want to check how many penalty points have been awarded to you in the past 12 months please contact the Licensing team.

If you think this notice should not have been served, you have the right to have the decision reviewed. A request to have this notice reviewed must be made in writing to the Senior Environmental Health Manager within 10 working days of the date of the award of the penalty points, stating why you 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 prevent you from facing enforcement action by any other agency, such as the Police.

If you have any questions about this notice, please contact:

Spelthorne Borough Council  
Licensing  
Council Offices  
Knowle Green  
Staines-upon-Thames  
Middlesex  
TW18 1XB

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