

This leaflet is designed to explain the penalty points system in operation within Highland Council and provide basic guidance to Taxi and PHC operators and drivers on its use. It is not a complete or an authoritative statement of the law relating to taxi and PHC businesses.

1. What is it?

1.1. The Penalty Points System (the system) is an evaluation tool used by Trading Standards staff to determine whether the licensed vehicle of a Taxi/PHC operator or driver, when examined over a period of time, has reached a point where the matter justifies referral to the Licensing Committee.

2. Why was it introduced?

2.1. The system was introduced in 2006 following concerns expressed by Members of the Civic Government Licensing Working Group about the level of safety related failures recorded during the routine vehicle examinations undertaken by the Council's appointed contractor.

2.2. In addition to the real public safety concerns that existed, the time spent by Trading Standards staff suspending unsafe vehicles from use and chasing up licensees to remedy other defects found, was seen as wasteful and inefficient.

2.3. Trading Standards have used the system since then to maintain the general standard of Taxi's and PHC's operating within Highland.

3. What is the principle of the system?

3.1. The system is a way of demonstrating to licensees any failures to maintain and otherwise operate a licensed vehicle, including unacceptable actions or omissions by a licensed driver. The system encourages self-regulation and by routine scrutiny provides a fair process for all licensed operators/drivers.

3.2. In addition, it provides a clear decision making process for Trading Standards staff to report a matter to the Licensing Committee. The system can be seen as being fair and transparent. Members can also be confident that a consistent approach is being taken and that the behaviour of one licensee can be easily compared against that of other licensees as well as against the standard set by the Council.

4. How does it work in practice?

4.1. The current Penalty Points Tariff is annexed to this document. The tariff was drawn up by reference to existing DVSA guidelines on the categorisation of vehicle safety defects. Other non-safety elements of the tariff were agreed by the Civic Government Licensing Working Group members.

4.1.1. The tariff was last reviewed by the Civic Government Licensing Working Group during 2009.

4.2. Different categories of licence holder will be liable to have Penalty Points allocated for different events or defects found. This is due to the very specific responsibilities that are applicable to licence categories; examples of this are as follows: -

4.2.1. A licensed Operator has overall responsibility for the vehicle and will therefore be liable for safety defects discovered which should have been detected by appropriate routine maintenance.

A licensed driver also has some responsibility for the safety of the vehicle, but whilst it is seen as reasonable that he/she should carry out an examination of the vehicle at the start of a shift and detect tyres that are below the legal tread depth, he/she is not liable for defects which would take a mechanic to identify.

4.2.2. A licensed operator cannot be liable for the failure of a licensed driver to display his identity badge. In such circumstances penalty points will only be allocated to the driver.

4.2.3. In some cases e.g. the “bald tyres” scenario, both driver and operator would be allocated penalty points as both have equal liability.

4.3. Vehicle defects are recorded on the Trading Standards database. These include defects discovered during:

- Routine Council examinations
- inspections carried out on taxi ranks and elsewhere while vehicles are in use
- complaint investigations, and
- any necessary follow-up actions e.g. warnings issued where remedial work has not been carried out as required.

This record entry is automatically translated into the relevant number of Penalty Points according to the agreed tariff.

4.4. A licensee can appeal to Trading Standards operational staff against the allocation of penalty points and, in cases where circumstances justify, an adjustment to the allocated points will be made.

A further route of appeal to the Trading Standards Team Leader is also available, should this be necessary.

5. **What is the Formal Action Trigger Point?**

5.1. The “**Formal Action Trigger Point**” has been set at a total of 20 Penalty Points during any 2 year period.

5.2. If any licensee accumulates 10 points or more they will be formally notified in writing of this fact and given the opportunity to discuss the matter with a member of Trading Standards staff.

5.3. Where the “**Formal Action Trigger Point**” is reached or exceeded, the preparation of a report to the Licensing Committee will be triggered.

5.4. Licensees are then notified in full of the faults or problems which have led to the penalty points accumulated and are given the opportunity, before the report is submitted, to make representations to the Trading Standards Manager in relation to the matter.

5.5. A report would only go ahead if the Trading Standards Manager is content that such a report is justified.

6. **What information will the report to the Licensing Committee contain?**

6.1. The report will identify the licensee to which the case relates. This could be a licensed operator, licensed driver or both.

- 6.2. Where a report is made against a licensed operator who is also a driver, the report may only be in relation to one of the licences he/she currently possesses.
- 6.3. The Penalty Points accumulated by the licence will be identified, as will the full facts including vehicle inspection reports, complaint outcomes, warnings issued and any other evidence relevant to the case. It is on the basis of the total evidence and not simply on the Penalty Points total that the case will be submitted.

Annex: Penalty Points Tariff

Applicability				Defect				Penalty Points
Operator		Driver		Category	Sub-Category	Descriptor	Code	
Taxi	PHC	Taxi	PHC					
✓	✓	✓	✓	Safety	Tyres/Wheels	High Risk / Obvious	TA7	7
✓	✓			Safety	Tyres/Wheels	Med-High Risk / Detectable by Routine Maintenance	TA5	5
✓	✓			Safety	Tyres/Wheels	Med Risk / Undetectable by Routine Maintenance	TA2	2
✓	✓	✓	✓	Safety	Brakes	High Risk / Obvious	TB7	7
✓	✓			Safety	Brakes	Med-High Risk / Detectable by Routine Maintenance	TB5	5
✓	✓			Safety	Brakes	Med Risk / Undetectable by Routine Maintenance	TB2	2
✓	✓	✓	✓	Safety	Steering / Suspension	High Risk / Obvious	TC7	7
✓	✓			Safety	Steering / Suspension	Med-High Risk / Detectable by Routine Maintenance	TC5	5
✓	✓			Safety	Steering / Suspension	Med Risk / Undetectable by Routine Maintenance	TC2	2
✓	✓	✓	✓	Safety	General	High Risk / Obvious	TD7	7
✓	✓			Safety	General	Med-High Risk / Detectable by Routine Maintenance	TD5	5
✓	✓			Safety	General	Med Risk / Undetectable by Routine Maintenance	TD2	2
✓	✓	✓	✓	Safety	Lighting	High Risk / Obvious	TE7	7
✓	✓			Safety	Lighting	Med-High Risk / Detectable by Routine Maintenance	TE5	5
✓	✓			Safety	Lighting	Med Risk / Undetectable by Routine Maintenance	TE2	2
✓	✓			Documents, etc.	Insurance	Not Present (Insurance Valid)	TF1	1
✓	✓			Documents, etc.	MOT	Not Present (MOT Valid)	TG2	1
✓	✓			Documents, etc.	Registration Document V5	Not in operators name	TH1	1
✓	✓			Documents, etc.	Registration Document V5	Not Present	TI1	1
✓	✓ If meter fitted			Documents, etc.	Tariff Card	Not Present / Illegible	TJ3	3
		✓	✓	Documents, etc.	Drivers ID Card	Not Present	TK5	5
		✓	✓	Documents, etc.	Drivers ID Card	Incorrectly Displayed	TK3	3
✓	✓			Documents, etc.	Licence plate	Not Present	TL5	5
✓	✓			Documents, etc.	Licence plate	Incorrectly Displayed	TL3	3
✓				Documents, etc.	Taxi Sign	Not Present / Incorrectly Displayed	TM3	3
✓	✓ If meter fitted	✓	✓	Taximeter	Meter	Unsealed (Not 'False or Unjust' and with Reasonable Excuse)	TN3	3
✓	✓			Safety+ Standards	Fire extinguisher	Not Present	TO1	1
✓	✓			Safety+ Standards	Fire extinguisher	Unacceptable Standard	TP1	1
✓	✓			Safety+ Standards	First aid kit	Not Present	TQ1	1
✓	✓			Appearance/	Spare Wheel	Not Present	TR1	1

Applicability				Defect				Penalty Points
Operator		Driver		Category	Sub-Category	Descriptor	Code	
Taxi	PHC	Taxi	PHC					
				Utility				
✓	✓	✓	✓	Appearance/Utility	External Cleanliness	Unacceptable Standard	TS1	1
✓	✓			Appearance/Utility	External Appearance	Unacceptable Standard	TT1	1
✓	✓			Appearance/Utility	Advertising	Unacceptable Standard (Honest, Decent & Truthful)	TU2	2
✓	✓	✓	✓	Appearance/Utility	Internal Cleanliness	Unacceptable Standard	TV2	2
✓	✓			Appearance/Utility	Internal Appearance	Unacceptable Standard	TV1	1
✓	✓			Appearance/Utility	Controls & Fittings	Unacceptable Standard	TW1	1
✓	✓	✓	✓	Appearance/Utility	Drivers Cleanliness / Appearance	Unacceptable Standard	TX1	1
✓	✓	✓	✓	Licensee Behaviour	Other Breach of Conditions / Act	Written Warning	TY5	5
✓	✓	✓	✓	Licensee Behaviour	Other Breach of Conditions / Act	Oral Warning/ Written Notice	TY3	3
✓	✓			Licensee Behaviour	Accident Damage	Failure to Report	TZ2	2