

## **APPENDIX I**

### **PENALTY POINTS SYSTEM**

- 1.** The details of how the scheme will be operated are as follows:
  - 1.1** The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
  - 1.2** Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
  - 1.3** The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However, the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
  - 1.4** When issued, the penalty points will remain "live" for a rolling period of 36 months from the date they were imposed.
  - 1.5** There is no financial penalty associated with the system, and the licensee may continue to work. However, if 12 penalty points are imposed on an individual licence in any one 36 month rolling period, the driver will appear in front of the Licensing Sub Committee where appropriate action will be taken in accordance with this policy.
  - 1.6** A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
  - 1.7** Any driver, vehicle, proprietor or operator subject to suspension has the right of appeal to the Magistrates Court against the suspension. Suspensions will normally be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process, except where the relevant legislation allows for a suspension to take place with immediate effect.
  - 1.8** Any driver, vehicle, proprietor or operator subject to revocation has the right of appeal to the Magistrates Court against the revocation. Revocation of the licence will take place with immediate effect.
  - 1.9** The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
  - 1.10** The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.
  - 1.11** Any penalty points issued to a driver or operator have the right of appeal which must be made in writing to the Licensing Manager within 21 days of receipt.

## 2. Penalty Points Tariff

### 2.1 Legislative offences and penalties

Two statutes principally create offences relating to hackney carriages and private hire vehicles, the offences are set out below under the relevant statute –

- i) Town Police Clauses Act 1847
- ii) Local Government (Miscellaneous Provisions) Act 1976

<b>Town Police Clauses Act 1847</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
44	Failure to notify change of address on a hackney carriage licence
47	Lending or parting with a hackney carriage driver's licence
62	Driver leaving a hackney carriage unattended on the rank
64	Hackney carriage driver obstructing other hackney carriages
<b>Maximum Penalty Points 6-9</b>	
48	Failure of a proprietor to hold and produce a hackney carriage driver's licence
52	Failure to display a hackney carriage plate
56	Travelling less than the lawful distance for an agreed fare
57	Failure to wait after a deposit to wait has been paid
59	Carrying persons other than with the consent of the hirer
<b>Maximum Penalty Points 10-12</b>	
40	Giving false information on a hackney carriage licence application
45	Plying for hire without a hackney carriage licence
47	Driving a hackney carriage without a hackney carriage driver's licence
47	Hackney carriage proprietor employing an unlicensed driver
53	Refusal to take a fare without a reasonable excuse
54	Charging more than the agreed fare
55	Obtaining more than the legal fare (including failure to refund)
58	Charging more than the legal fare
60	Driving a hackney carriage without the proprietor's consent
60	Allowing a person to drive a hackney carriage without the proprietor's consent

<b>Local Government (Miscellaneous Provision) Act 1976</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
49	Failure to notify the transfer of a vehicle licence
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested
56(4)	Failure of a private hire operator to produce their licence upon request
<b>Maximum Penalty Points 6-9</b>	
48(6)	Failure to display a private hire vehicle plate
50(3)	Failure to report an accident to the Council within seventy two hours
53(3)	Failure to produce a driver's licence upon request
54(2)	Failure to wear a private hire driver's badge
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer

56(3)	Failure of a private hire operator to keep proper records of all private hire vehicles, or failure to produce them on request of an authorised officer of the Council or a police officer
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank
<b>Maximum Penalty Points 10-12</b>	
46(1)(a)	Using an unlicensed private hire vehicle
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver
46(1)(d)	Operating a private hire vehicle without a private hire operators' licence
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request
50(4)	Failure to produce the vehicle and insurance upon request
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taxi-meter with intent to mislead
73(1)(a)	Obstruction of an authorised officer of the Council or a police officer
73(1)(b)	Failure to comply with a requirement of an authorised officer of the Council or a police officer
73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer

## 2.2 Hackney Carriage and Private Hire Licensing Policy

<b>Swale Borough Council's Hackney Carriage and Private Hire Licensing Policy</b>	
<b>Offence</b>	
<b>Maximum Penalty Points 2-5</b>	
Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	
Failure to give reasonable assistance with passenger's luggage	
Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	
Failure to notify the Council of any amendment to the details of a licence within fourteen days	
Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	
Failure of a private hire operator to ensure that office staff act in a civil and courteous	

manner at all times
Failure of a private hire operator to keep the operating premises in accordance with council requirements
Failure to observe rank discipline e.g. failure to move up
Failure to have a working hackney carriage roof light that is lit when available for hire
Failure to display the current fare chart so that it is clearly visible to passengers
Failure to keep a copy of a valid insurance certificate in the vehicle
Failure to display door logos (to the required measurements) on the exterior of the two front doors of the vehicle
Display of flags and other promotional material
Failure to adhere to dress code
Failure to attend on time for a pre-arranged booking without reasonable cause
Drinking or eating in the vehicle whilst carrying passengers
Causing excessive noise from any radio or sound-reproducing equipment
Sounding the horn to signal that the vehicle has arrived disturbing residents
Failure to notify the Council of DVLA penalty points within 14 days
Failure to provide a receipt for a fare when requested
Carrying radio equipment or similar devices not in accordance with council requirements
<b>Maximum Penalty Points 6-9</b>
Failure to wear a driver's badge
Concealing or defacing a vehicle licence plate
Failure to display or maintain external plates as issued by the Council or displaying them incorrectly e.g. in the window of a vehicle
Failure to display or maintain Internal plates as issued by the Council or displaying them incorrectly e.g. near the driver side
Failure to proceed with all reasonable speed to the next available rank
Modifying a vehicle without the consent of the Council
Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below
Smoking or prevent smoking in the vehicle at any time this includes vaping and e-cigarettes
Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand
Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire
Failure to comply with requirements for the safe carrying of a wheelchair
Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein
Using a taxi-meter that does not conform to Council requirements
Waiting or stopping on a double yellow line or a bus stop
Failure to produce a licence upon request
Failure to report an accident within seventy-two hours
Failure to show a private hire driver's licence to the private hire operator at the commencement of employment
Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment
<b>Maximum Penalty Points 10-12</b>
Failure to ensure the safety of passengers
Private hire soliciting for hire or accepting a fare that is not pre-booked
Using a non-hands free mobile telephone whilst driving
Failure to advise of a relevant medical condition
Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage
Failure to surrender a driver's licence, badge or plate upon request

Failure to notify the Council of DVLA penalty points within 14 days
Failure of a licence holder to disclose offence, conviction, prosecution or cautions within seven days
Operating/using a vehicle which is not maintained in a sound and roadworthy condition
Affixing or displaying a roof sign on a private hire vehicle
Driving with no insurance or inadequate insurance for the vehicle
Permitting the vehicle to be used for any illegal or immoral purposes
Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured
Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access
Failure to produce a valid certificate of compliance every 6 months upon request of an authorised officer
Carrying an offensive weapon in the vehicle including imitation firearms
Unsatisfactory behaviour or conduct of a driver including failing to behave in a civil and orderly manner to both the public, authorised officers or to other drivers
Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed
Conveying a greater number of passengers than permitted
Driving without the consent of the proprietor
Failure to notify, a change in medical circumstances
A licensed vehicle with a defective tyre