

Agenda item	<b>6.1</b>
Report no	<b>HLC/042/20</b>

## **THE HIGHLAND COUNCIL**

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 27 October 2020

**Report title:** Licensed taxi driver – Piotr Krol (Ward 8 – Dingwall and Seaforth)

**Report by:** The Principal Solicitor – Regulatory Services

### **1. Purpose/Executive summary**

**1.1** This report relates to a licensed taxi operator who has been reported for a breach of licence conditions.

This item is subject to a formal hearings procedure.

### **2. Recommendation**

**2.1** This report relates to a licensed taxi operator who has been reported for a breach of licence conditions.

This item is subject to a formal hearings procedure.

## **1.0 Background**

**1.1** The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 a licence will be required for the operation of a licensed taxi. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

**1.2** Mr Piotr Krol holds a taxi operator's licence with The Highland Council which expires on 04 June 2022.

## **2.0 Highland Council Penalty Points System for Taxi and Private Hire Operators**

**2.1** Highland Council (Trading Standards) introduced a Penalty Points System on 01 July 2006 to assist in the assessment of the level of compliance shown by each operator in relation to conditions 1 and 2 of a taxi operator's licence. When the points on an operator's licence reach 20 or more during a two year rolling period, the operator becomes the subject of a report to the Highland Licensing Committee.

**2.2** On 06 October 2020 a report in relation to Mr Krol was received from the Council's Trading Standards Service who are responsible for the enforcement of the licensing scheme for taxi/private hire cars and their drivers. A copy of the report received from Trading Standards is attached as **Appendix 1**. A copy of the Business Guidance Penalty Points System is attached as **Appendix 2**.

**2.3** The report has been submitted due to Mr Krol accruing a total of 26 points on Taxi Operator Licence no. T/21/307 and for failing to maintain his licensed taxi to the standards required by the Licensing Authority.

## **3.0 Process**

**3.1** A copy of the report and all attachments have been sent to Mr Krol who, in terms of Paragraph 4(2) of the Civic Government (Scotland) Act 1982, has been invited to attend and will be provided with an opportunity to be heard by the Committee. A copy of the procedure which will be followed at the meeting has also been sent to Mr Krol.

## **4.0 Consideration of action to be taken**

**4.1** In terms of Section 11 of Schedule 1 of the Civic Government (Scotland) Act 1982 a Licensing Authority may suspend a licence(s) on the following grounds:

- (a) if in their opinion the holder of the licence is no longer a fit and proper person to hold the licence(s);
- (b) the carrying on of the activity to which the licence relates has caused, is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
- (c) a condition of the licence has been contravened.

**4.2** If Members are not of a mind to suspend the licence, the Committee could require the operator to present his vehicle for inspection on a more frequent period than the current 6 or 12 months inspection regime eg every 3 months. This would allow Trading Standards an opportunity to undertake more regular monitoring of the vehicle.

## **5.0 Policies and Conditions**

**5.1** The standard taxi operator's licence conditions are relevant to this case and can be accessed via the following link:

[https://www.highland.gov.uk/downloads/file/3516/taxi\\_operator\\_conditions\\_of\\_licence](https://www.highland.gov.uk/downloads/file/3516/taxi_operator_conditions_of_licence)

**5.2** In terms of condition 1 of the taxi operator's licence conditions, "the holder of a taxi operator's licence shall ensure that the taxi, including all body work, upholstery and fittings, is maintained in a safe and serviceable condition and, subject to prevailing road conditions, is maintained in a clean condition and of smart appearance".

Officer Reference: Angela Mair

Date: 07 October 2020

Background Papers: Civic Government (Scotland) Act 1982  
Highland Council's Taxi Operator Licence Conditions

Appendix 1: Trading Standards Report

Appendix 2: Business Guidance: Penalty Points System

PIOTR KROL T/21/307

REPORT - APPENDIX 1

## CIVIC Government (Scotland) Act 1982

Penalty Points System for Licensed Taxi and Private Hire Cars  
(PHC) Operators and Drivers

Reference No TS/CG(S)A/PP/

Against: Piotr Krol

Age: ■■■■■■■■

Address

Licenses Held:

Taxi driver's licence, reference Number TD/21/935, expires  
31/05/2022

Taxi Operator's licence reference number 21 307, expires 05/06/2022

Plate Number 21 307

Vehicle description: Mercedes E250

SY13MZE

Date of first registration: 29/03/2013

Mileage at last inspection: 166155

Penalty Points Total as of 16/09/2020: 26 Points

Reporting Officer: William Robert Leslie

Designation: Enforcement Officer

Address: Highland Council

Trading Standards

38 Harbour Road

Inverness,

V1 1UF

Telephone Number: 01463 644574

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

### **It is reported that.**

Mr Krol has failed to maintain his licensed taxi to the standard required by the Licensing Authority, Highland Council, contrary to condition 1 of the Taxi Operator's Conditions of Licence, as demonstrated by the results of two vehicle inspections, carried out by Highland Council's Contractor.

### **Background Information.**

The penalty points system was introduced on 1<sup>st</sup> July 2006. Its purpose is to assist Trading Standards in the evaluation of how well licensed operators are maintain their vehicles.

Points accumulate when faults are discovered at the Council's inspection of licensed vehicles or during "on the spot" inspections of vehicles by Trading Standards Staff. An appeal system is in place, which allows an Operator to question the allocation of points.

When the points total reaches 20 or more during a two-year rolling period, the Operator becomes the subject of a report to the Licensing Committee.

A taxi and PHC penalty points tariff, which identifies possible faults and the points, is available.

### **(Production Number 1, Business Guidance Penalty Points System).**

#### **Summary of Facts and Evidence**

This report relates to the licensed vehicle operated by PIOTR KROL, licence number 21 307, which was first issued on 19<sup>th</sup> May 2016. The present vehicle on this licence is a Mercedes E250, registration number SY13MZE. This is the third vehicle to be operated on this licence by Mr Krol. The licence has accrued 26 penalty points since 29<sup>th</sup> October 2018, for faults identified during two inspections of the licensed vehicle, carried out by the Council's contractor. This matter is

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

reported because the licence has accumulated more than 20 points within a two-year rolling period.

### **Antecedents**

Mr Krol presently holds taxi operator's licence 21 307 and taxi drivers licence 21 935. Mr Krol originally held PHC operator's licence 21 378 and a PHC driver's licence. Mr Krol applied for taxi driver's and operator's licences and was granted them on 19/05/2016. The PHC licences were handed in. The taxi drivers' licence was renewed on 31/05/2019 and is valid to 31/05/2022. The taxi operator's licence was renewed 05/06/2019 and is valid to 05/06/2022. The present vehicle is the third vehicle to be operated on this licence.

### **Evidence relating to licence 21 307**

Council's contractor of the licensed vehicle on 29<sup>th</sup> October 2018, resulted in a failure with one fault being identified. The front offside tyre was found to have a large gouge on the inside of the wheel. This failure accrued 5 penalty points.

#### **(Production number 2. Taxi test report form dated 29/10/2018).**

The vehicle was inspected again on 31<sup>st</sup> October 2018 and passed the inspection.

#### **(Production Number 3. Taxi test report form dated 31/10/2018).**

On 24<sup>th</sup> March 2020, the licensed vehicle was subjected to its inspection carried out by the council's contractor. This inspection resulted in a fail and dangerous result. The faults identified were:

1. Nearside front tyre had ply or cord exposed
2. Nearside rear tyre had ply or cord exposed.
3. Offside rear tyre had ply or cord exposed.

Each of these faults was allocated 7 points, giving a total for this inspection of 21 points and a two-year rolling total of 26 points.

**(Production Number 4. Taxi test report dated 24/03/2020)**

A suspension notice in terms of Section 11 of the Civic Government (Scotland) Act 1982, was issued to Mr Krol via e mail.

**(Production Number 5. Suspension notice).**

This notice effectively prohibited the use of the vehicle as a taxi until such time as the faults were repaired and the vehicle inspected by the Council contractor.

The faults identified were rectified and the vehicle was inspected again on 25<sup>th</sup> March 2020 and the vehicle passed the inspection.

**(Production Number 6, Taxi test report dated 25/03/2020)**

Current operating protocols of the penalty points system require that when an Operator reaches 20 or more points, they are interviewed by Trading Standards Staff, to ascertain if there is any reason that points should not have been allocated to the licence prior to being reported to the Licensing Committee. Due to the current Covid 19 epidemic, Trading Standards Staff are working from home and face to face meetings are not permitted. In light of this situation at 1230 hrs on 3<sup>rd</sup> September 2020, Mr Krol was contacted by telephone by William Leslie, Enforcement Officer. He was duly notified that the points on his taxi operator's licence had exceeded the threshold and asked if he had any mitigating circumstances for the failure. Mr Krol did not have any mitigating circumstances and had not had the vehicle checked over by a suitable garage prior to submitting the vehicle for its taxi inspection. He was therefore informed that the matter would be reported to the licensing committee for their consideration.

It should be noted that the fail and dangerous result in the most recent inspection were all tyre faults. Three tyres which were all showing ply or cord. This is a public service vehicle and the council

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

inspections are there to ensure that licensed vehicle is safe for members of the public to travel in. In this instance tyres are such a state had potential for putting members of the public in danger. The result of the last inspection was enough to exceed the penalty point threshold.

The condition of the tyres along with other safety checks should be part of a professional taxi drivers daily checks and it is quite clear that this type of fault is within the driver's scope to identify.

Subsequently Mr Krol presented his vehicle for its 6 month inspection on 24<sup>th</sup> September 2020 at the council contractors and the vehicle attained a clean pass, with no faults being identified.

**(Production number 7, taxi test report dated 24/09/2020)**

Evidence held by Trading Standards

Number	Description
1	Business Guidance Penalty Points System Taxi test report dated 29/10/2018
2	Taxi test report dated 31/10/2018
3	Taxi test report dated 24/03/2020
4	Suspension notice
5	Taxi test report dated 25/03/2020
6	Taxi test report dated 24/09/2020



# HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

<b>DATE OF INSPECTION</b>	29.10.2018	<b>INSPECTION LOCATION</b>	Riverford Garage, Conon Bridge	
<b>TIME OF INSPECTION</b>	10:30 am	<b>VEHICLE OWNER</b>	Piotr Krol	
<b>INSPECTION REF NO</b>	R&C 1899	<b>ADDRESS</b>	[REDACTED]	
<b>TAXI/PHC LICENCE NO.</b>	T/21/307	<b>POSTCODE &amp; TEL. NO.</b>	[REDACTED]	[REDACTED]
<b>TYPE OF INSPECTION</b>	Standard	<b>INSPECTION CARRIED OUT</b>		<u>council</u>
<b>VEHICLE DETAILS</b>		(Council Test/Combined Test/Retest etc)		
<b>REGISTRATION No.</b>	SY13 MZE	<b>RECEIPT NO(s)</b>	4j6di9920858	
<b>MAKE &amp; MODEL</b>	Mercedes E250	<b>FEE PAID</b>	114.00	
<b>VEHICLE COLOUR</b>	White	<b>MILEAGE</b>	88068	
<b>DATE OF FIRST REG</b>	29.03.2013	<b>FUEL TYPE</b>	diesel	
<b>ENGINE SIZE</b>	2143 cc	<b>TYRE SIZE</b>	245/40/18	
<b>CHASSIS NO</b>	WDD2120032A769599	<b>TAXI METER SERIAL NO</b>	182048	
<b>NO OF PASSENGER SEATS</b>	4	<b>VEHICLE EXAMINER</b>	P foster	

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

	TEST RESULTS	MOT CERTIFICATE NUMBER
MOT	n/a	
SAFETY ASPECTS	fail	*WARNING In the opinion of the examiner, the vehicle is dangerous to drive because of the defects listed in box A above *Delete if not applicable.
APPEARANCE & UTILITY	pass	
<b>Overall Test Result</b>	<b>fail</b>	
<b>IMPORTANT: PLEASE READ THE NOTES OVERLEAF FOR INFORMATION AS TO WHAT ACTION (IF ANY) IS REQUIRED TO BE UNDERTAKEN <u>BY YOU THE VEHICLE OPERATOR</u></b>		

**A: SAFETY ASPECTS (FAIL POINTS)**

o/s/f tyre has large gouge on inside of wheel	

**B: FAULTS (Appearance & Utility Standard) MUST be rectified within 21 days.**


**C: Observations for information only**

n/s/r tyre has nail in tread	Front pads wearing very low

Examiners Signature...p foster.....

Date...29/10/18.....

# HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

<b>DATE OF INSPECTION</b>	29.10.2018	<b>INSPECTION LOCATION</b>	Riverford Garage, Conon Bridge
<b>TIME OF INSPECTION</b>	3:30 pm	<b>VEHICLE OWNER</b>	Piotr Krol
<b>INSPECTION REF NO</b>	R&C 1899	<b>ADDRESS</b>	██████████
<b>TAXI/PHC LICENCE NO.</b>	T/21/307	<b>POSTCODE &amp; TEL. NO.</b>	██████ ██████
<b>TYPE OF INSPECTION</b>	RETEST	<b>INSPECTION CARRIED OUT</b> (Council Test/Combined Test/Retest etc)	retest
<b>VEHICLE DETAILS</b>			
<b>REGISTRATION No.</b>	SY13 MZE	<b>RECEIPT NO(s)</b>	free
<b>MAKE &amp; MODEL</b>	Mercedes E250	<b>FEE PAID</b>	free
<b>VEHICLE COLOUR</b>	White	<b>MILEAGE</b>	88100
<b>DATE OF FIRST REG</b>	29.03.2013	<b>FUEL TYPE</b>	diesel
<b>ENGINE SIZE</b>	2143 cc	<b>TYRE SIZE</b>	245/40/18
<b>CHASSIS NO</b>	WDD2120032A769599	<b>TAXI METER SERIAL NO</b>	182048
<b>NO OF PASSENGER SEATS</b>	4	<b>VEHICLE EXAMINER</b>	P foster

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

	TEST RESULTS	MOT CERTIFICATE NUMBER
<b>MOT</b>	n/a	
<b>SAFETY ASPECTS</b>	pass	
<b>APPEARANCE &amp; UTILITY</b>	pass	
<b>Overall Test Result</b>	<b>pass</b>	
<b>IMPORTANT: PLEASE READ THE NOTES OVERLEAF FOR INFORMATION AS TO WHAT ACTION (IF ANY) IS REQUIRED TO BE UNDERTAKEN <u>BY YOU THE VEHICLE OPERATOR</u></b>		

**A: SAFETY ASPECTS (FAIL POINTS)**


**B: FAULTS (Appearance & Utility Standard) MUST be rectified within 21 days.**


**C: Observations for information only**

Front pads worn to limits	n/s/r tyre has nail in tread

Examiners Signature....p foster.....

Date....29/10/18.....

# HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

DATE OF INSPECTION	24.03.2020	INSPECTION LOCATION	Inverness MOT
TIME OF INSPECTION	11:45 am	VEHICLE OWNER	Piotr Krol
INSPECTION REF NO.	R&C 2029	ADDRESS	[REDACTED]
TAXI/PHC LICENCE NO.	T/21/307	POSTCODE & TEL. NO.	[REDACTED]      [REDACTED]
TYPE OF INSPECTION	Combined	<u>INSPECTION CARRIED OUT</u> (Council Test/Combined Test/Retest etc)	<u>COMBINED TEST</u>
<b>VEHICLE DETAILS</b>			
REGISTRATION No.	SY13 MZE	RECEIPT NO(s)	4J6SC9960059
MAKE & MODEL	Mercedes E250	FEE PAID	£ 134.00
VEHICLE COLOUR	White	MILEAGE	166095
DATE OF FIRST REG	29.03.2013	FUEL TYPE	DIESEL
ENGINE SIZE	2143 cc	TYRE SIZE	245/40 R18
CHASSIS NO	WDD2120032A769599	TAXI METER SERIAL NO	182048
NO OF PASSENGER SEATS	4	VEHICLE EXAMINER	Gareth MacMillan

<b>ARE 'PRE-BOOKED ONLY' STICKERS BEING DISPLAYED ON EACH SIDE OF THE VEHICLE (PHC'S ONLY)</b>	<b>YES/NO</b>
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	TEST RESULTS	MOT CERTIFICATE NUMBER
MOT	FAIL	
SAFETY ASPECTS	FAIL	* <b>WARNING</b> In the opinion of the examiner, the vehicle is dangerous to drive because of the defects listed in box A above *Delete if not applicable.
APPEARANCE & UTILITY	PASS	
<b>Overall Test Result</b>	<b>FAIL</b>	

**IMPORTANT: PLEASE READ THE NOTES OVERLEAF FOR INFORMATION AS TO WHAT ACTION (IF ANY) IS REQUIRED TO BE UNDERTAKEN BY YOU THE VEHICLE OPERATOR**

### A: SAFETY ASPECTS (FAIL POINTS)

Nearside front tyre has ply or cords exposed	
Nearside rear tyre has ply or cords exposed	
Offside rear tyre has ply or cords exposed	

# HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

**B: FAULTS (Appearance & Utility Standard) MUST be rectified within 21 days.**


**C: Observations for information only**

Offside front tyre worn on inside edge	

Examiners Signature G MacMillan

Date 24/03/2020

HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM



Reference No.  
CGSA/ 0892

CIVIC GOVERNMENT (SCOTLAND) ACT 1982  
SECTION 11(2) STATUTORY NOTICE

(Taxi and ~~Private Hire~~ Cars)  
(Safety of Vehicles and Fitness/Accuracy of ~~Taximeters~~)

Licence Holders Details

Name

MR PIOTR KROL

Address

[Redacted address]

Authorised Officer's Full Name:

I,

[Redacted name]

Being an Officer authorised by Highland Council for the purposes of Section 11 of the Civic Government (Scotland) Act 1982

Official Address

of, Highland Council, TEC Services, Trading Standards Unit, 38 Harbour Road, Inverness, IV1 1UF

Hereby give you notice that I am not satisfied that

Vehicle Details:	Mercedes E250 S413 MZE
Licence No:	21-307

\* is safe for the carriage of passengers

\* is fitted with a ~~taximeter~~ which is fit for its purpose and/or accurate

The reasons for my said conclusions are:

- 1 nearside front tyre has ply or cord exposed
- 2 nearside rear tyre has ply or cord exposed
- 3 offside rear tyre has ply or cord exposed

\* Your Licence (identified above) to operate a \*(Taxi/~~Private Hire Car~~), is hereby suspended with immediate effect.

You have a period of 28 days from the date of this Notice to satisfy an authorised officer of the Council or a Police Officer that the above matters have been rectified. Failure to do so will result in the automatic suspension of the unexpired portion of the duration of the said licence.

\* You are required to submit the said vehicle \*(and ~~taximeter~~) for further inspection and test at:

Time and Place

Council inspection garage when faults rectified

Signature of Authorised Officer

[Redacted signature]

Date

24th March 2020

\* Delete as appropriate

## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

DATE OF INSPECTION	25.03.2020	INSPECTION LOCATION	Inverness MOT
TIME OF INSPECTION	11:00 am	VEHICLE OWNER	Piotr Krol
INSPECTION REF NO.	R&C 2029	ADDRESS	██████████
TAXI/PHC LICENCE NO.	T/21/307	POSTCODE & TEL. NO.	██████ ██████
TYPE OF INSPECTION	Retest - foc	<b><u>INSPECTION CARRIED OUT</u></b> (Council Test/Combined Test/Retest etc)	
<b>VEHICLE DETAILS</b>		<b><u>Combined RE Test</u></b>	
REGISTRATION No.	SY13 MZE	RECEIPT NO(s)	N/A
MAKE & MODEL	Mercedes E250	FEE PAID	FREE
VEHICLE COLOUR	White	MILEAGE	166155
DATE OF FIRST REG	29.03.2013	FUEL TYPE	DIESEL
ENGINE SIZE	2143 cc	TYRE SIZE	245/40/R18
CHASSIS NO	WDD2120032A769599	TAXI METER SERIAL NO	182048
NO OF PASSENGER SEATS	4	VEHICLE EXAMINER	D Scott

<b>ARE 'PRE-BOOKED ONLY' STICKERS BEING DISPLAYED ON EACH SIDE OF THE VEHICLE (PHC'S ONLY)</b>	<b>YES/NO</b>
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	TEST RESULTS	MOT CERTIFICATE NUMBER
MOT	PASS	5088 3254 8562
SAFETY ASPECTS	PASS	<b><u>EXPIRY 28.03.2021</u></b>
APPEARANCE & UTILITY	PASS	
<b>Overall Test Result</b>	<b>PASS</b>	

**IMPORTANT: PLEASE READ THE NOTES OVERLEAF FOR INFORMATION AS TO WHAT ACTION (IF ANY) IS REQUIRED TO BE UNDERTAKEN BY YOU THE VEHICLE OPERATOR**

**A: SAFETY ASPECTS (FAIL POINTS)**


**B: FAULTS (Appearance & Utility Standard) MUST be rectified within 21 days.**

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## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM


**C: Observations for information only**


Examiners Signature D Scott

Date 25.03.2020

<b>DATE OF INSPECTION</b>	24.09.2020	<b>INSPECTION LOCATION</b>	Inverness MOT Centre
<b>TIME OF INSPECTION</b>	10:30 am	<b>VEHICLE OWNER</b>	Piotr Krol
<b>INSPECTION REF NO.</b>	R&C 2048	<b>ADDRESS</b>	████████████████████
<b>TAXI/PHC LICENCE NO.</b>	T/21/307	<b>POSTCODE &amp; TEL. NO.</b>	██████████    ██████████
<b>TYPE OF INSPECTION</b>	Standard	<b><u>INSPECTION CARRIED OUT</u></b> (Council Test/Combined Test/Retest etc)	
<b>VEHICLE DETAILS</b>		<b><u>COUNCIL TEST</u></b>	
<b>REGISTRATION No.</b>	SY13 MZE	<b>RECEIPT NO(s)</b>	4J6TA9916594
<b>MAKE &amp; MODEL</b>	Mercedes E250	<b>FEE PAID</b>	£114.00
<b>VEHICLE COLOUR</b>	White	<b>MILEAGE</b>	180965
<b>DATE OF FIRST REG</b>	29.03.2013	<b>FUEL TYPE</b>	DIESEL
<b>ENGINE SIZE</b>	2143 cc	<b>TYRE SIZE</b>	245/45 R18
<b>CHASSIS NO</b>	WDD2120032A769599	<b>TAXI METER SERIAL NO</b>	N/A
<b>NO OF PASSENGER SEATS</b>	4	<b>VEHICLE EXAMINER</b>	Gareth MacMillan

<b>ARE 'PRE-BOOKED ONLY' STICKERS BEING DISPLAYED ON EACH SIDE OF THE VEHICLE (PHC'S ONLY)</b>	
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## HIGHLAND COUNCIL – TAXI/PHC VEHICLE TEST REPORT FORM

	TEST RESULTS	MOT CERTIFICATE NUMBER
MOT	N/A	
SAFETY ASPECTS	PASS	
APPEARANCE & UTILITY	PASS	
<b>Overall Test Result</b>	<b>PASS</b>	

**IMPORTANT: PLEASE READ THE NOTES OVERLEAF FOR INFORMATION AS TO WHAT ACTION (IF ANY) IS REQUIRED TO BE UNDERTAKEN BY YOU THE VEHICLE OPERATOR**

**A: SAFETY ASPECTS (FAIL POINTS)**


**Has the plate been removed from the vehicle: No**

**B: FAULTS (Appearance & Utility Standard) MUST be rectified within 21 days.**


**C: Observations for information only**


Examiners Signature G MacMillan

Date 24/09/2020

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 openly communicating 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.

4.5. The allocation of penalty points will be identified to the licensee at the time of the incident or subsequently in writing to the licensee.

## 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 was content that such a report was 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

Applicability				Defect				Penalty Points
Operator		Driver		Category	Sub-Category	Descriptor	Code	
Taxi	PHC	Taxi	PHC					
✓	✓			Appearance/Utility	Spare Wheel	Not Present	TR1	1
✓	✓	✓	✓	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