



## Proposed Penalty Points System

The Brighton & Hove Cab Trade Association is a closed to public, private online group of Brighton & Hove licensed hackney carriage/private hire drivers & proprietors as members. The current collective membership of the group is 504 of which around 50% is directly made up of locally licensed hackney carriage/private hire drivers & proprietors.

The main purpose of the BHCTA is to provide a centralised hub to disseminate local licensing information provided by the Licensing Department and to discuss and debate such matters for representation at the councils regular Taxi Trade Forum.

Guests such as local councillors and local and national media representatives are also members who are welcome to view and participate on the local and national taxi/private hire trade issues and news items.

Specially invited guest taxi reps and trade experts from around the UK are also members which allows for a broader spectrum of inter-local licensing and shared issues.

The hub also provides a very successful local network system of reporting out-of-town cars/drivers to respective licensing authorities of breaches of conditions of licensing, a point of which is quite suitable given the context of the proposed Penalty Points System.

## Proposed Penalty Points System

The members of the BHCTA were provided with the following information:

### **BHCTA Trade Members - Proposed Penalty Points System**

You will be aware that B&HCC has proposed to introduce what is commonly known as a 'Penalty Points System' for drivers, proprietors & operators.

Please go to: <https://bhcta.co.uk/pps1> which has the full council details and reasons.

The Penalty Points Table can be viewed at: <https://bhcta.co.uk/pps2>

This is following a recommendation for such a system as outlined in the 2022 DoT '**Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England**'. **Consultation Guide. Please view that section here.** <https://bhcta.co.uk/Dot-Penalty-Enforcement>

At the Trade Forum meeting at the town hall on September 13 2023 I stated, as minuted:

*"AP – Was against it 8 years ago but I was happier this time around now that there is an appeal process in place, but that also needs to be improved and that it was better to work with the council then against it.*

*I will present a balanced view to my group view on why it should be introduced as well as reasons why it should not be introduced noting that this would not apply to out-of-town drivers who work here without respective enforcement."*

Therefore, I am offering an unbiased and hopefully balanced platform here for discussion on the PPS proposal.

The consultation runs until November 19 and nearer that date a poll will be available here but restricted to Brighton & Hove licensed drivers. Whatever that decision is will be presented to Licensing and may also contain various comments raised.

The report of the trade consultation will go to the Licensing Committee in February 2024.

### **Reasons for a PPS**

Looking through the PPS clauses it would be considered that it would not apply to a good 90% of the drivers/proprietors and none of the operators. As stated by Licensing.

Of that low 5% that it may apply to it could be the case that these drivers are not quite up to the standard as their colleagues which is where the PPS could be used to raise their standards in offering the facility to avoid a possible suspension of a driver/vehicle licence.

One of the main complaints that a lot of drivers have is 'Cherry Picking' of jobs from the ranks. This has been discussed many times by the Trade Reps at the forum meetings with Licensing and councillors. This is often an issue raised on the BHTPH Whatsapp group. Trade Reps have asked Licensing to take action several times such as with Secret Shoppers. So, with a PPS in place, Licensing would be able to deal with this in an appropriate way.

At a fairly recent 'Multi-Agency Joint Enforcement' two Brighton & Hove cars were found to have defective tyres down to the cords which is not acceptable under any circumstances. In this case under Clause 43 of the PPS the driver of the vehicle would receive 3 points as a warning.

### **Reason against a PPS**

The 'Best Practice Guide' is not law so no council is compelled to have this in place.

However, although Lewes DC does have a PPS, this seems hardly worth the paper it is written on based on the very clear fact Lewes Enforcement on Lewes drivers and cars that predominantly work here in the city is non-existent.

So, whilst the Brighton & Hove trade has continuous Enforcement carried out around the city, Lewes drivers/car can work here without fear of ever having the PPS used against them.

Just the plain fact that over the last couple of years over 130 reports of breaches of Lewes vehicle conditions of licencing have been sent to Lewes Licensing from the Brighton & Hove trade which speaks volumes of:

#### **1: The disregard that some Lewes drivers have of standards**

#### **2: The disregard that Lewes Licensing has on Enforcement, being reliant on the Brighton & Hove trade to supply such information.**

Brighton & Hove drivers may consider that the PPS will be oppressive with overzealous Licensing Officers, which may not now be the case, but could be in the future.

I would advise that if there are specific concerns then it would be best to contact Licensing directly to pose any specific questions. [hco@brighton-hove.gov.uk](mailto:hco@brighton-hove.gov.uk)

However, I am prepared to send in such questions and concerns on behalf of drivers to Licensing and to have the replies posted back on here.

I may also be able to directly address some questions.

There is a petition against the PPS which has been organised via the BHT&P H Whatsapp group which you can go to here:

<https://chnq.it/mrvnmjKj>

However, I must point out that the petition (oddly) **supports six monthly compliance tests** which has not been an item of discussion by the taxi trade forum. So please be aware of this should you sign it after fully reading it.

AP – BHCTA Admin

### Penalty Points System – Full Details

The full details of the PPS consultation that was provided by the licensing department was made available for the BHCTA members to read and download from the BHCTA website at: [bhcta.co.uk/pps1](http://bhcta.co.uk/pps1)

### BHCTA – Online Poll

The provision of an online poll was available to vote either 'For' the PPS, 'Against' it, or if 'Undecided'.

The poll was restricted to voting by only Brighton & Hove licensed drivers/proprietors.

The result of the poll of those members who took part was:

47 Against - 2 For

The poll demonstrates that the introduction of a Penalty Points System is not supported.

### Comments & Concerns

The Licensing Department & Licensing Committee may like to address the following comments submitted by drivers:

*"I would have voted yes, because if you "walk the line" you should have nothing to fear. My problem with it, is you can accrue too many points for just making mistakes...you don't have to do anything "bad" to lose your licence through "totting up". I also think the expiry time for points should be 12 months in the case of "minor faults" and 24 for something major."*

*"My problem with this is if you are wrongly accused of something like I was and you receive a letter from the police to prove your innocent which I did all at my own expense, will the council reimburse your costs? I was accused of do something on a day I could clearly prove that I wasn't even working."*

### Out-of-Town Uncontrolled Enforcement

The council will be aware of the massive numbers of drivers/cars that are not licensed by Brighton & Hove council from Lewes, Chichester, Southampton, Portsmouth, Havant and other areas that predominantly work here in the city.

Based on this, one main concern that was not only raised in the general discussion within the BHCTA, but also a point raised within the local trade is the complete lack of respective local licensing enforcement on these 'Out-of-Town' cars.

On this basis there is concern that whilst the locally licensed trade would be under a Penalty Point System for misdemeanours/breaches of licensing conditions, those 'Out-of-Town' cars will continue to work here in the city without any care of being penalised under any such Penalty Point System.

This argument is even more pertinent considering that Chichester, Havant, Southampton, Portsmouth or Havant do not currently have such a Penalty Points System in place.

Lewes District Council & Eastbourne Borough Council both have a Penalty Points System and whilst we do not have Eastbourne BC private hire drivers/vehicle predominantly working in the city, there are a huge number of Lewes DC private hire drivers/vehicles that do. In fact, there is no hesitation in stating that the vast majority of the 400+ Lewes private hire vehicles never leave Brighton & Hove and work here uncontrolled.

Along with all the other 'Out-of-Town' drivers/vehicles, these work 'out-of-sight' and 'out-of-mind' of Lewes Licensing Enforcement and it is **only** the local taxi network here that continues to provides evidence of breaches of respective licensing conditions which to date has been in excess of over 130 reports. This includes such drivers/vehicles using taxi ranks in the city. Many similar reports have been sent to Southampton, Chichester and Portsmouth Licensing Departments and it is pleasing to say that the Licensing Officers from these areas respond and act very quickly, unlike our experience with the Lewes Licensing Department that never replies to any reports although unknown action may still have be taken.

On this basis would it be fair to impose a Penalty Point System on the Brighton & Hove licensed taxi trade when 'Out-of-Town' drivers/vehicles predominantly work here without any fear or concern about being penalised for breaching respective licensing conditions?

If the council does introduce a Penalty Points System, then the Brighton & Hove licensed taxi/private hire trade needs assurance that a new robust system is in place where a better way of reporting is provided to the local taxi trade. This is not only for breaches of respective licensing conditions but also for the direct reporting of the abuse of the city ranks being used without care or concern by 'Out-of-Town' cars.

Whilst Lewes DC does at times participate in the 'Joint Enforcement Agency Operations' in the city, which involves the Brighton & Hove Licensing, Police, DVSA and 'occasionally' Licensing Officers from other areas, there are no other times when there is Lewes Licensing Enforcement in the city, nor indeed Licensing Enforcement from all the other areas

This is quite an ironic situation where there can be as many drivers/vehicles not licensed by Brighton & Hove Council working in the city as there are fully licensed Brighton & Hove private hire and hackney carriage drivers/vehicles

It is known that Brighton & Hove council has a concordant arrangement with Lewes District Council which provides a limited level of Enforcement on Lewes DC licensed drivers/vehicles.

The council should ask the Lewes Licensing department for a public statement on its methods of Enforcement of its licensed vehicles that predominantly work here in the city. Additionally, as to whether its own Penalty Points System is applied when such vehicles are in breach of conditions of licensing when working outside of the Lewes Licensing Authority and where these use the city taxi ranks.

**For example, the Lewes PPS states:**

'6: Private hire vehicle parking or waiting on a taxi rank - 9 Points'

Does this apply to when using Brighton & Hove taxi ranks?

**Conclusion**

- The BHCTA poll on the introduction of a Penalty Points System shows that this is not supported.
- This is especially relevant where the city is flooded with drivers/vehicles that predominantly work here, 'Out-of-Sight' and 'Out-of-Mind' of respective local Licensing Enforcement.
- If a Penalty Points System is put in place, then the Brighton & Hove taxi/private hire trade needs full assurance that a robust and swift acting protocol will be put in place to deal with out-of-town cars that commit offences within the city.

Andrew Peters

BHCTA

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