



***Basingstoke  
and Deane***

## CIVIL PARKING ENFORCEMENT POLICY

The contents of the policy are derived from current Basingstoke and Deane Borough Council practices, accepted best practice, National guidance and the Traffic Penalty Tribunal (formerly the National Parking Adjudication Service) recommendations.

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# **1 Background**

## **1.1 General Information**

The Borough Council undertakes parking enforcement (Civil Parking Enforcement) under Part 6 of the Traffic Management Act 2004, the Regulations made under it and in accordance with the procedures included in Statutory and Operational Guidance.

The basic premise of parking enforcement is that motorists should:

- Park within the law as required by Traffic Regulation or Parking Place Orders.
- Pay to park where appropriate.
- Park in accordance with the terms of a permit, dispensation or other agreement.

Those who do not comply with these requirements may be issued with a penalty charge notice.

The Borough Council has adopted penalty charge's of £70 and £50 as per Council Decision Notice 19/2008 (both of which may be discounted by 50% if payment is received within 14 days of issue of the penalty charge notice).

Enforcement of unpaid penalties is through civil rather than criminal processes. There are both statutory and 'informal' opportunities (challenges) for a vehicle owner to object to a penalty being imposed. If all such challenges are rejected by the Council (but not before such rejections); the owner can formally appeal to an independent tribunal. These appeals are dealt with by independent legally qualified adjudicators through the Traffic Penalty Tribunal service (formerly know as the National Parking Adjudication Service).

# **2 Overview**

## **2.1 Purpose of Enforcement Policy**

The purpose of the Policy is to:

- Deliver a high quality parking service to all users in a fair and consistent manner.
- To provide clarity, consistency and transparency within the Council's parking enforcement process.
- To provide staff with clear guidelines and allow them to apply fairness, discretion and flexibility in the issuing of penalty charge notices or in dealing with subsequent challenges and representations.

## **2.2 Coverage of the Policy Document**

This Policy is concerned with:

- On and off-street parking enforcement (including penalty charge notice issuing criteria).

- How the Council will endeavour to treat people fairly and equally taking into account their personal circumstances.
- Service standards to be adopted by Basingstoke and Deane Borough Council when undertaking parking enforcement.

### **2.3 Parking Enforcement Objectives**

The Council's parking control/enforcement objectives are to:

- Improve traffic conditions and road safety thereby making the Borough a more pleasant and environmentally safe place to live and visit.
- Safeguard the needs and requirements of residents, businesses/organisations and shops thereby sustaining the Borough's economic growth.
- Increase and improve pedestrian and cyclist mobility and safety to ensure that the Borough is accessible to all.
- Support the needs of disabled people to ensure that those with disabilities are able to have equal access to the Borough's facilities.
- Manage and reconcile the competing demand for kerb space.

### **2.4 How the Parking Operations contribute to Parking enforcement Objectives**

Parking operations contribute towards the Parking Enforcement objectives by providing:

- On and off street enforcement by patrolling permitted and restricted areas together with the Council's off street car parks and parking places and issuing Penalty Charge Notices in regard to contraventions observed.
- Management of the Borough Council's car parks.
- Management of Residents' permit parking schemes.
- Monitoring the adequacy of signs and markings and the reporting of deficiencies and damage.
- Checking the correct operational performance of car park ticket machines.

### **3 On and Off-Street Parking Enforcement**

#### **3.1 On and Off-Street Enforcement**

- **‘On-street’** relates to enforcement of regulations pertaining to parking on the highway. This includes, but is not limited to, permitted limited parking, permit bays, restricted and/or prohibited parking.
- **‘Off-street’** relates mainly to enforcement in the Council’s car parks and off street parking places. It can include car parks that are owned by a third party provided the correct order making process is followed. It also relates to controlled areas which prohibit traffic (e.g. pedestrian zones).

#### **3.2 Enforcement on Private Property**

Enforcement of parking restrictions placed on private property are outside the scope of the Council’s enforcement operation unless there is a specific agreement between the parties concerned.

Private landlords, residents etc can impose any reasonable restriction on their own property: such as the need for permits, clamping etc. Enforcement of such restrictions, however, is also their responsibility although it could be subcontracted to other companies.

#### **3.3 Penalty Charge Notice issuing Criteria**

The method of enforcement of parking restrictions is by the service of penalty charge notices on drivers or to vehicles observed by Civil Enforcement Officers to be parked in contravention of the Regulations.

The Council’s policy is to issue such penalty charge notices for parking contraventions whenever the established criteria are met. This document sets out the required criteria together with a specific policy on the handling of challenges, representations and the cancellation of penalty charge notices.

In some instances a warning notice may be issued rather than a penalty charge notice, for example for a period after a new parking scheme, change to a scheme or a non-persistent contravention incurred by a vehicle displaying a disabled holder’s badge.

## **4 Officer Authority**

### **4.1 Civil Enforcement Officers**

These officers are the public face of the Council's parking control and therefore the Council consider it essential that they present a professional and efficient image. The Council's aim is for parking enforcement to be effective, efficient and fair and, equally important, that it is seen to be so.

Civil Enforcement Officers shall issue a penalty charge notice where they believe a contravention has occurred. They shall have authority to exercise discretion if there is significant doubt as to the contravention or where they consider that it would not be possible to enforce the penalty charge notice.

### **4.2 Office Team (back office staff)**

Officers within the Parking Team have authority to deal with informal challenges and representations. It is important that decisions are fair and reasonable and Council policy is to deal with each case on its individual merits rather than through over-rigid or mechanistic application of formal rules.

Recognising that policy cannot cover all conceivable situations, Officers have authority to exercise discretion and make the necessary decisions with regard to:

- Accepting informal challenges or representations and cancelling or writing off penalty charge notices.
- Non acceptance of informal challenges or representations and hence continuing with the enforcement process.
- Accepting late payments, providing they are within reasonable timescales (i.e. not more than one week), of the outstanding debt.

Where owners find it difficult to pay the outstanding debt they are required to put their case in writing to make payment by instalments. Officers have authority to deal with such requests and draw up payment plans, subject to confirmation by the Parking Manager.

## 5 The Penalty Charge Notice Process

### 5.1 The Penalty Charge Notice Processing Timetable

This section provides an overview of Civil Parking Enforcement from issue of a penalty charge notice to closing the case.

Legislation requires the issue of six statutory notices at certain pre-determined times/intervals. These are

- Penalty Charge Notice
- Notice to Owner
- Charge Certificate
- Order of Recovery
- Witness Statement
- Warrant of Execution

The following table shows the legislative times/intervals which need to be followed by the Council:

<b>PROCESSING TIMETABLE</b>	
<b>Activity</b>	<b>Statutory Days</b>
Issue of Penalty Charge Notice	Day One
Deadline for discounted Payment	Fourteen
Issue of Notice to Owner	Twenty Eight
Deadline for Representations	Fifty Six
Issue of Charge Certificate	Fifty Seven
Issue of Pre Debt letter	Not applicable
Debt Registration	Seventy One
Issue of Pre Warrant letter	Not applicable
Warrant application	One Hundred & Six

It should be noted that the days indicated are counted by default from Day One but if other events intervene (e.g. Challenge, Representation or Appeal) the count re-starts from the date the outcome of the challenge, representation or appeal is notified in writing to the motorist or owner.

Although these are the legislative times/intervals it is considered to be good practice to allow some latitude beyond these to provide for lapsed time during the process; for example the handling of correspondence and postage time.

This policy is adopted by the Council and demonstrates that it is acting reasonably.

The general policy is to add on 3 days to the minima stipulated in the Act. It should, however, be noted that if the periods concerned embrace a Bank Holiday

period discretion is used by adding the number of such days that are bank holidays.

## **5.2 Penalty Charge Notice –Discount Period**

If the penalty charge notice is paid within 14 days a discounted amount of 50% is accepted in full settlement of the case. To allow for postal delays and for any other difficulties the motorist may have in meeting this deadline, the Council's policy is to accept the discounted sum up to and including 17 days following the date of issue of the notice.

If a challenge is received from the keeper within 14 days of issue of the penalty charge notice the discounted period is frozen pending the Council's decision. If the challenge is rejected the discount period restarts from the date of the notice of rejection. This information is included within a rejection notice.

Where a challenge is received more than 14 days from issue of the penalty charge notice the discount period is not frozen and the full amount becomes payable in the event of the challenge being rejected.

## **5.3 Driver & Vehicle Licensing Agency (DVLA) Enquiry**

Upon expiry of the 28 day payment deadline it is necessary to submit an enquiry to the DVLA to obtain the name and address of the person who is registered as the owner of the vehicle (the registered keeper). Such enquiries are sent automatically (electronically) by the Council's notice processing system for all unpaid cases.

A registered keeper is the person(s) or organisation who is registered at DVLA as being legally responsible for the vehicle. Under the legislation the responsibility for any penalty charge notice rests with the registered keeper of the vehicle.

Therefore pursuance of an outstanding debt is made against the registered keeper, who may not necessarily have been the driver of the vehicle when the penalty charge notice was issued.

In some instances the DVLA response will indicate that no details are held for the vehicle registration mark (VRM) for which a penalty charge notice has been issued. In these situations the Council makes a maximum of two further enquiries, at appropriate intervals, and should DVLA still have no record of the vehicle owner the case is closed; enforcement is not possible if the owner details cannot be determined.

Wherein some cases, vehicle details do not match those recorded by the Civil Enforcement Officer, for example the make or colour of the vehicle, officers have the discretion to consider each penalty charge notice on its merits.

- If the differences are minor, the details provided by DVLA are entered onto the system. Examples of minor differences include spelling errors, transposition of make and model and insignificant discrepancies relating to colour/shade/paint finish.
- If the variance is more significant, this could result in a subsequent appeal by the owner being accepted by the Traffic Penalty Tribunal and it is reasonable to conclude there has been a Civil Enforcement Officer error. The penalty charge notice is thus effectively invalid and the case is closed.

## **5.4 Notice to Owner**

A 'Notice to Owner' is sent when a penalty charge notice has remained unpaid for 28 days after its issue. If there has been an informal and rejected challenge, the period is reset to allow for both 14 days discounted payment and a total of 28 days from the date of the Council's letter of response. In practice the Council policy is to issue a Notice to Owner no sooner than 31 days (plus Bank Holidays) to allow for receipt of payment. The discount no longer applies but if the discounted sum is received too late it is taken as a part payment.

The purpose of the Notice to Owner is to ensure that the vehicle owner is aware that the penalty charge notice remains unpaid; to provide the opportunity for formal representations against its issue to be made to the Council and, if these are rejected, to the Traffic Penalty Tribunal and to advise the owner that if neither payment is made nor representations submitted a Charge Certificate is served increasing the penalty charge by 50%.

If the keeper who subsequently states that the penalty charge notice was not on the vehicle (other persons do sometimes remove a notice) the 50% discounted amount can be accepted even when the payment has not been made within the 14 or 28 day period. This is confirmed in writing to the keeper; a new discount period is set, starting from the date of the letter.

## **5.5 Formal Representation**

Within 28 days from the date of the Notice to Owner being issued the owner may submit formal representation against the penalty charge notice. In practice the Council allows 31 days.

The case is 'held' (i.e. the date is reset) if either representations or appeals apply. Legislation states that 28 days after the date of the 'Notice to Owner' (if there is neither representation nor appeal or rejection of the representation or appeal and full payment has not been made) the Council may issue a Charge Certificate. In practice Council policy is to issue a Charge Certificate no sooner than 31 days after the date of the Notice to Owner. The penalty at this stage is increased by 50%.

## **5.6 Charge Certificate**

A 'Charge Certificate' informs the vehicle owner that the penalty charge has been increased by 50% and that action will be taken to recover the amount due through the County Court if it is not paid within 14 days.

The legislation allows for a Charge Certificate to be served on the owner if the penalty charge remains unpaid after 28 days from any of the following;

- The date of service of the 'Notice to Owner' if no representation is made;
- The date of service of a 'Notice of Rejection' if unsuccessful representations are made;
- The date of service of the Adjudicator's decision if an unsuccessful appeal is made to the Traffic Penalty Tribunal.

To allow for service, a Charge Certificate is issued no sooner than 31 days from the date of the issue of a 'Notice to Owner' or the re-set date. (It should be noted, however, that if an owner withdraws their appeal to the Traffic Penalty Tribunal

before the adjudicator serves his decision, the 28 day period is reduced to 14 days from date of withdrawal; accordingly the 31 day period may lawfully be reduced to 17 days in these circumstances). In the interests of good customer practice the Council still issues the Charge Certificate at the 31 day level.

There is no statutory provision for an owner to make representations in response to a Charge Certificate.

However the Council's policy is to treat such attempted representations as correspondence to which courtesy and customer service concepts dictate that officers should respond. Officers exercise discretion based on the merits of the case, so there may be occasions where a decision can still be made to cancel a penalty charge notice at this late stage; however the overriding consideration will be to prevent this from delaying progression to the next stage of the process.

## **5.7 Pre-Debt Letter**

If full payment of the penalty charge has not been made 14 days after the issue of a Charge Certificate the debt is registered at the Traffic Enforcement Centre at Northampton County Court

If a Charge Certificate has been served on an owner, there is no statutory requirement for Council's to issue any reminders or notices before the debt is registered. However, in general it has been found beneficial to send a 'Pre-Debt Registration' letter 17 days after the Charge Certificate. Not only is this good customer relations practice, but also experience is that a proportion of recipients will pay in response.

If a pre-debt letter generates a response from the owner, in accordance with best practice the Council handles a response at this stage as if it were post Charge Certificate correspondence.

Actual debt registration is made no sooner than 14 days from the date of the pre-debt letter.

## **5.8 Order of Recovery and Witness Statement**

Following Debt Registration, and receipt of the authority of the Traffic Enforcement Centre, an 'Order for Recovery' is sent to the owner and within 21 days the owner may send a Witness Statement to the Traffic Enforcement Centre to refute the need to pay the penalty charge.

A Witness Statement can be made on the following grounds:

- The 'Notice to Owner' was not received;
- Representations were made to the Council but did not receive a response in the form of a Rejection Notice;
- An appeal was made to the adjudicator against the Council's rejection but the owner received no response to the appeal; or that the appeal had not yet been determined; or that the appeal had been determined in the appellant's favour;
- That the penalty charge to which the Charge Certificate relates has been paid.

### **5.8.1 Grounds of Non-Receipt of Notice to Owner**

If the grounds of the Witness Statement are non-receipt of a Notice to Owner, the Council is empowered to serve a fresh notice. The Council has the option of re-serving the Notice to Owner by recorded mail or by hand. The Council's policy is to send a fresh notice by normal post.

Whether to serve a new Notice to Owner depends on the circumstances of the case but, unless there is uncertainty about the 'soundness' of the penalty charge notice or other issues relating to the validity of the contravention, the Council's policy is to continue enforcement.

### **5.8.2 Grounds of Non-Response from Council**

If the grounds relate to non-response to representation the Council must refer the case to the Traffic Penalty Tribunal where an adjudicator may give such direction as considered appropriate.

### **5.8.3 Grounds of Non-Response from Parking Adjudicator**

If the grounds relate to non-response to appeal the Council must refer the case to the Traffic Penalty Tribunal where an adjudicator may give such direction as considered appropriate.

## **5.9 Warrant of Execution**

Where the owner has been served with an Order of Recovery for the unpaid penalty charge and fails to pay the charge or to complete a Witness Statement, the Council makes application to The Traffic Enforcement Centre for issue of a Warrant of Execution.

Again there is no statutory requirement for Council's to issue any reminders or notices before making an application for a Warrant. However, in general it has been found to be good customer practice to send a 'Pre Warrant Application' letter to the owner as a final opportunity to make payment of the outstanding penalty charge.

Application for issue of a warrant of execution will be made no sooner than 14 days from the date of the pre-debt letter.

The Council can make application for the issue of a Warrant of Execution providing all of the following criteria are met:

- 21 days have elapsed since issue of the Order or Recovery;
- Full payment has not been received;
- No Witness Statement has been filed;
- No time extension for making a Witness Statement has been approved;
- The owner lives in England or Wales.

The Council produces the warrant in accordance with the Traffic Enforcement Centre Code of Practice and issues it to a bailiff.

## **5.10 Bailiffs**

A warrant of execution authorises the bailiff to collect payment of the debt or to seize and sell goods belonging to the owner to the value of the outstanding amount and to charge fees associated with executing the warrant.

The Council has Service Level Agreements with the bailiff companies it uses and a stipulated condition within the Agreement is that the Council will be notified in advance of any proposed removal of goods. This is to allow officers to check their records and to ensure that this action is necessary and appropriate.

The bailiff now has control of the case and the Council allows them up to 12 months to either collect the debt, plus their costs, or return the warrant unexecuted.

While the case is with the bailiff the owner must make payment to the bailiff, the Council will not accept such payments during this stage.

The case is either closed by receipt of payment or treated as 'closed-unable to recover', based on the results of the bailiff's attempts to recover.

## **5.11 Penalty Charge Notice-Instalment Payments**

As a general rule the Council neither offers extension of time in which to pay penalty charge notices nor enters into instalment payment arrangements.

Exceptions may be made in cases of demonstrated financial hardship, or where someone is genuinely trying to resolve payment of a number of outstanding penalty charge notices (more than two).

Applications for payment by instalments must be in writing. The application must include a proposal for payment and be accompanied by evidence supporting the claim of financial hardship and/or that the person is trying to resolve the debt.

Note that where bailiffs are already involved in pursuing the debt the owner must deal with the bailiff, not the Council.

The Council may accept the owner's proposal or may make a counter-offer. The Council's offer will usually be based on:

- In the case of multiple penalty charge notices the settlement of at least one notice per month.
- Payments being applied to the oldest penalty charge notice first thereby preventing the payment of discounted notices first.
- Otherwise a minimum payment of £10 per week.
- Payment being made by any of the methods made available by the Council; post dated cheques not being acceptable.
- Non payment of any instalment will result in enforcement action being re-commenced.

Instalment payment proposals require approval by the Parking Manager.

## **5.12 Un-actioned Penalty Charge Notices**

Where, for whatever reason (such as an administrative failure), the penalty charge notice process has not been pursued according to the enforcement timetable set out in this policy, an un-actioned penalty charge notice is cancelled after 6 months .

## **6 Representations and Appeals**

### **6.1 General Information**

An important aspect of the parking enforcement process is the ability of motorists and owners to have their objections heard and considered fully and impartially.

The process of dealing with challenges and representations against the issue of penalty charge notices will therefore be carried out in a fair, unbiased and equal manner. The process includes the ultimate right of all appellants to refer the matter to an independent arbitrator, the Traffic Penalty Tribunal.

To preserve the integrity of the enforcement process/procedures they are solely managed and carried out by the Parking Team and no undue external pressure will be brought to bear upon them to duly influence their decisions.

The vehicle owner may dispute the issuing of a penalty charge notice at three stages:

- They may make an informal representation (challenge) against the penalty charge notice before the Council has issued a 'Notice to Owner' (this does not apply when a penalty charge notice has been issued by post).
- They may make a formal representation to the Council once a Notice to Owner has been issued.
- If a formal representation is rejected by the Council they may appeal against the Council's Notice of Rejection to the Traffic Penalty Tribunal.

Informal and formal representations are handled by designated officers within the Parking Team.

### **6.2 Making Challenges and Representations in Writing**

The policy is that all challenges, representations, appeals, complaints and all detailed matters must be raised in writing. General information may be given over the phone, but specific issues will not be considered, for example under no circumstances may a penalty charge notice be cancelled by phone. In exceptional circumstances, however, officers may indicate that a penalty charge notice may be cancelled if the circumstances are confirmed and/or substantiated by written evidence.

### **6.3 Informal Representation (Challenge) against issue of a Penalty Charge Notice**

The Council reviews correspondence received in the period prior to the serving of a 'Notice to Owner' stage (31 days from issue of a penalty charge notice) and any such correspondence is referred to as a 'challenge'. Within this challenge the person can mention any mitigating circumstances as well as challenging the validity of the penalty charge notice.

The Council responds in writing, within the time established by corporate standards, giving either notice of acceptance of the challenge and cancellation of the penalty charge notice or rejection of the challenge.

Only by exception are mitigating circumstances considered grounds for cancelling a penalty charge notice. Mitigating circumstances are not considered in respect of those who consistently contravene the regulations.

On receipt of a challenge the case is placed on 'hold' and an officer makes a decision on the appropriate action to be taken in accordance with the policies laid out in this document.

Once a 'first challenge' has been rejected, and in the absence of any further substantial grounds, any second or subsequent challenges are rejected without further consideration.

Where a challenge is received within the 14 day discount period and is rejected the owner is allowed 17 days (the original 14 day discount period plus 3 days postage time) from the date of the rejection letter to make payment at the discounted rate. A case is only re-set in this manner once; the extra days of grace are not allowed if further correspondence is received; other than the days taken up by receiving and responding to such correspondence. If, in the view of officers, an owner seeks to delay or avoid payment by making a series of representations but with no valid and relevant information, the Council reserves the right to progress the case to a further stage rather than consuming resources in unproductive interaction with the owner.

When a challenge is accepted a letter confirming cancellation is sent and the case closed.

If a challenge is received later than 14 days from the date of the penalty charge notice the procedure is the same, but the discounted period is not restarted and the full amount is payable.

Note: The making of a challenge in no way detracts from the ability of the vehicle keeper to make a subsequent formal representation against the issue of the penalty charge notice to the Council or make an appeal to the Traffic Penalty Tribunal at a later date.

#### **6.4 Formal Representations (following issue of Notice to Owner)**

Legislation states the grounds for which representations against a Notice to Owner can be made, which are:

- The alleged contravention did not occur.
- The recipient never was the owner of the vehicle in question.
- The recipient had ceased to be the owner of the vehicle in question before the date on which the alleged contravention occurred.
- The recipient became the owner of the vehicle in question after the date the alleged contravention occurred.
- The driver of the vehicle at the time of the alleged contravention did not have the owners consent (i.e. stolen vehicle).
- The recipient is a vehicle hire firm.
- The penalty charge exceeds the relevant amount.

- There has been a procedural impropriety on the part of the Council.
- The Order supporting the parking restriction which is alleged to have been contravened by the vehicle in question is invalid.
- In the case where a penalty charge notice was served by post (in cases where the Civil Enforcement Officer was prevented from fixing the notice to the vehicle or handing it to the driver of the vehicle) that the officer was not so prevented.
- The Notice to Owner should not have been served because the penalty charge had already been paid.

Formal Representations are dealt with by designated officers who consider the representation on its merits and with regard to the statutory grounds set out above. As good practice and relations the Council also considers representations made on any other grounds.

Formal Representations are required to be made within 28 days of issue of the Notice to Owner but officers have discretion to accept late representations, especially in cases where the owner gives a valid reason for the delay and has strong grounds for making a representation.

Where the representation is accepted, an 'Acceptance of Representation' letter is sent and the case closed; unless the representation is in respect of ownership or from a hire/lease company. In these circumstances, a fresh Notice to Owner is generated and served on the 'new' owner or hirer.

Where the representation is rejected, a 'Notice of Rejection' letter is sent. The letter states that the owner is required to make payment of the penalty charge or appeal to the Traffic Penalty Tribunal within 28 days of service of the Notice of Rejection, and that non payment will result in the Council issuing a Charge Certificate.

Officers have the discretion to allow an owner 14 days to pay at the discounted rate if they accept that the penalty charge notice may have been removed from the vehicle by a third party, or not have been handed to the person who appeared to be in charge of the vehicle.

On making the decision the case is re-set to progress to the 'Charge Certificate' stage after 31 days from the date of the decision (28 day legislative period plus Council policy of giving 3 days postage time).

With respect to the grounds stated above for which representations against a Notice to Owner can be made these are dealt with as follows:

#### **6.4.1 The Contravention Did Not Occur**

When representations are made on the grounds that the contravention did not occur the specific points made by the owner shall be fully investigated. If there is any doubt or uncertainty an officer has discretion to decide in the owner's favour.

Against this, officers are alert to the possibility that owners may seek inappropriate cancellations and checks are made to see whether a pattern of contraventions have occurred. If this is not the first contravention and/or the

owner has relied on the same arguments before, it is appropriate for the officer to reject the representation unless the investigations suggest clear support for the owner's position.

It is not uncommon for statements to be made that the penalty charge notice was neither attached to the windscreen nor handed to the person appearing to be in charge of the vehicle. In these circumstances, an officer has discretion to allow a further 14 day period in which to pay at the discounted rate. In making this decision the owner's 'history' in respect of similar allegations is taken into account.

#### **6.4.2 The Named Owner did not own the Vehicle at the Time of the Contravention, ceased to be the Owner before the Date of the Contravention or never was the Owner:**

Where the named owner is unable to provide current owner information, officers check the notice processing system database for any other penalty charge notices for the vehicle and may make further DVLA enquiries. Alternatively, where the allegation is made that the named owner was never the owner officers have the authority to ask the named owner to provide DVLA confirmation of this.

In general, the Council requires written evidence of non-ownership, disposal or acquisition. Suitable evidence may consist of DVLA letters, bills of sale or insurance company cancellation or transfer of insurance to a different vehicle.

A successful representation under these grounds removes the named owner's liability and the records are amended accordingly. A new Notice to Owner is issued to the new owner, if identified.

If the appropriate owner cannot be ascertained the case is closed.

#### **6.4.3 The Vehicle was used without the Owner's Consent**

The owner remains responsible for the use of the vehicle unless the owner can demonstrate that the vehicle was taken and driven without consent. In practice this claim can only be validated in the case of stolen vehicles as it is difficult to provide other evidence of non-consent.

The owner is required to supply supporting written evidence in the form of police and/or insurance company correspondence, and such correspondence should include the crime reference number, the police station concerned, the date and time of the theft and the date and time of recovery, if appropriate.

If such written evidence is not available, the owner is required to supply, as a minimum, the crime number and police station to enable officers to verify the information. If the owner cannot or will not supply this minimal information the representation is rejected.

#### **6.4.4 The owner is a Vehicle Hire/Leasing Organisation**

Where representations are made on these grounds the owner is required to supply the hirer's or lessee's name and address and a copy of the hire/lease agreement. The agreement needs to include a statement signed by the hirer/lessee accepting liability for any penalty charge notices issued to that vehicle during the period of hire.

In these situations the penalty charge notice records are amended to show the hirer's name and address, as that party becomes liable for the penalty. A fresh Notice to Owner is then issued.

#### **6.4.5 The Charge Exceeded the Relevant Amount**

Representations made on these grounds normally relates to the owner being required to pay the full charge rather than the discounted sum. Officers have discretion in reaching a decision having reviewed the records and the circumstances.

#### **6.4.6 Procedural impropriety by the Council**

A procedural impropriety is a failure by the Council to observe any requirement imposed on it by the Traffic Management Act or the Regulations in relation to the imposition or recovery of a penalty charge or other sums.

In these instances the officer is required to check that all notices and documents have been issued correctly and in accordance with the legislative timescales. Officers have discretion in reaching a decision.

#### **6.4.7 The Traffic Order was Invalid**

Where representations are made on these grounds the order itself is checked and if necessary clarification is sought from Traffic Management or Legal officers, an appropriate conclusion is reached and the owner notified, with the case proceeding or closed as appropriate.

Where the owner is using this ground to protest about the general concept of parking regulations and/or the Council's parking policy this is not accepted as a valid ground for cancellation.

#### **6.4.8 Officer was not prevented from Serving the Penalty Charge Notice**

When representations are made on the grounds that the Civil Enforcement Officer was not prevented from fixing the notice to the vehicle or handing it to the driver of the vehicle the Council has recourse to the Civil Enforcement Officer's recorded notes or written statements. Officers have discretion in reaching a decision.

#### **6.4.9 Penalty Charge had already been paid**

When representations are made on the grounds that the penalty charge had already been paid before the service of the Notice to Owner, officers check all payment records to validate or refute the allegation. In these instances officers have discretion in reaching a decision, but in general if no payment has been processed the owner is notified that and the case is pursued.

### **6.5 Challenges or Representations accompanied by payment**

To avoid the loss of the discount period or to avoid County Court action a vehicle keeper may opt to enclose settlement of a penalty charge notice with a challenge or formal representation. In such circumstances the Council will act in good faith and deal with the challenge or representation in a fair and equitable manner and process such payments in the usual way.

If the challenge or representation is successful the payment is returned to the vehicle keeper with the letter of acceptance. If the challenge is unsuccessful the vehicle keeper is duly notified (within the rejection letter) that the Council has accepted the payment already received in full or part settlement.

In such cases any letter of acceptance or rejection sent by the Council must make specific reference to the fate of the payment.

## **7 Traffic Penalty Tribunal**

The Traffic Penalty Tribunal is an independent body supported by subscriptions from Local Authorities by means of a levy on each penalty charge notice issued plus an annual fee.

When a formal representation against a penalty charge notice has been rejected the keeper of the vehicle is given the opportunity to appeal to the Traffic Penalty Tribunal.

The Traffic Penalty Tribunal may allow an appeal if one of the statutory grounds for appeal applies. The Tribunal reviews the case and makes an independent decision as to the validity of the penalty charge notice based on its legality. The Traffic Penalty Tribunal decision is final and binding on both parties.

Where a contravention has taken place but the Tribunal considers that the Council should have used its discretion to cancel the Notice to Owner, it may refer the case back to the Council to reconsider. National guidance states that such cases should be dealt with by the Chief Executives Department and not by the team who considered the original representation. Such referrals are therefore dealt with by the Corporate Director who is responsible for the Business Unit that parking enforcement sits within.

The Council must have regard to the reasons given by the Tribunal for its recommendation and must make a decision within 35 days from the date of the Tribunal's decision. Where the Council does not accept the recommendation it must notify the Tribunal and the appellant of the reasons for its decision before proceeding to issue a Charge Certificate.

To ensure that appeals are not upheld the Council endeavours to have watertight cases as any element of doubt is given to the appellant and the penalty charge notice cancelled.

When dealing with cases officers will take into account any previous judgments taken by adjudicators in similar case circumstances.

## **8 Serving Penalty Charge Notices by Post**

### **8.1 General Information**

Legislation allows the Council to serve penalty charge notices by post and there are three circumstances in which a notice may be served in this way:

- Where the contravention has been detected on the basis of evidence from an approved device (i.e. camera and associated recording equipment-CCTV).
- If the Civil Enforcement Officer has been prevented (for example by force, threats of force, obstruction or violence) from serving the penalty charge notice either by affixing it to the vehicle or by giving it to the person who appears to be in charge of that vehicle.
- If the Civil Enforcement Officer had started to issue the penalty charge notice but did not have enough time to finish or serve it before the vehicle was driven away and would otherwise have to write off or cancel the penalty charge notice.

In any of these circumstances a penalty charge notice is served by post on the owner, whose identity the Council obtains from DVLA, and the penalty charge notice also acts as the Notice to Owner. The Council is required to send a postal penalty charge notice by post not later than 28 days after the date on which the contravention to which the penalty charge notice relates occurred.

### **8.2 Contravention Detected by Approved Device**

The Council currently do not undertake enforcement of contraventions detected with a camera and associated recording equipment. Policy on camera enforcement is therefore not included within this document.

### **8.3 Prevention of Service by Force, Threats of Force, Obstruction or Violence**

A penalty charge notice may be served by post if someone intervenes to stop the Civil Enforcement Officer from serving it. This includes situations where the person who appears to be in charge of the vehicle is abusive, intimidatory or threatens or uses actual physical force. In these cases the actual penalty charge notice issued by the Civil Enforcement Officer is cancelled and an appropriate regulation notice prepared and served by post.

The officer prevented from serving the notice is required to sign a witness statement inclusive of recording all relevant details of the incident. The officer should also, if possible, obtain statements from passers by who witnessed the incident.

Any incidents of actual physical force are reported to the police.

The penalty charge notice sent by post also serves as the Notice to Owner. The notice includes all the information required by legislation together with any further information that has been obtained. The nature of such additional information is determined from time to time by the Parking Manager with the agreement of the appropriate Portfolio Holder.

It includes the information that the notice is being served by post because a Civil Enforcement Officer attempted to serve a penalty charge notice by affixing it to a vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person.

The penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the notice is served. If the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the notice is served, the penalty charge is reduced by 50%.

If after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made and the penalty charge has not been paid, the charge is increased by 50%.

The vehicle owner may make representation against the penalty charge within 28 days, or outside this period if accepted by the Council. In instances where the Council reject the representation the owner may appeal against the Council's decision to the Traffic Penalty Tribunal.

The date of service of the penalty charge notice is taken to be on the second working date after posting. A working day excludes a Saturday, Sunday, New Year's Day, Good Friday, Christmas Day and any other English bank holiday.

#### **8.4 Prevention of Service by 'Drive Away'**

A penalty charge notice may also be served by post if a Civil Enforcement Officer had begun to issue it (had completed their observations and had either started to write the notice or put data into their handheld) but the vehicle was driven away before the officer had time to finish or serve the notice.

In these circumstances, the actual penalty charge notice that was in the process of being completed or served cannot be sent by post. The Council is required to cancel the original notice and serve another appropriate regulation notice by post.

The officer who had started to issue the original penalty charge notice before the vehicle was driven away is required to sign a witness statement detailing the events which took place. If possible the officer also verbally informs the driver (before they drive away) of the contravention and subsequent possible action to be taken by the Council.

The notice includes all the information required by legislation together with any further information that has obtained. It states that the notice is being served by post because a Civil Enforcement Officer had begun to prepare a penalty charge notice but the vehicle was driven away before the officer had finished preparing and serving the notice.

In instances of 'drive away' a penalty charge is only served by post if the Civil Enforcement Officer has successfully recorded the following information:

- The registration mark of the vehicle
- The vehicle make and colour (although the Council may where it deems appropriate obtain this information from photographic evidence)
- The date and time at which the alleged contravention occurred

- The alleged contravention
- The location of the vehicle
- Observation start and finish times (where appropriate)
- The vehicles tax disc number and expiry date (a reason is recorded if this information has not been obtained)
- The serial number and expiry time of any relevant pay and display ticket.

Where possible the Civil Enforcement Officer takes photographic evidence in support of the alleged contravention.

The penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the notice is served. If the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the notice is served, the penalty charge is reduced by 50%.

If after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made and the penalty charge has not been paid, the charge is increased by 50%.

The vehicle owner may make representation against the penalty charge within 28 days, or outside this period if accepted by the Council. In instances where the Council rejects the representation the owner may appeal to the Traffic Penalty Tribunal against the Council's decision.

The date of service of the penalty charge notice is taken to be on the second working date after posting. A working day excludes a Saturday, Sunday, New Year's Day, Good Friday, Christmas Day and any other English bank holiday.

### **8.5 Return of the Motorist before a Civil Enforcement Officer has started to issue a Penalty Charge Notice**

Civil Enforcement Officers are expected to continue to issue a penalty charge notice once they have started the process, since the offence is deemed to have been committed. Where a motorist has difficulties with this the officer shows them the procedures set out on the notice for making representations.

A penalty charge notice is not served by post in instances where a motorist returns to the vehicle and drives away before the officer has started to issue a notice. An officer has not started to issue a penalty charge notice if they are only observing a vehicle or noting down some details. It is only when an officer has started to create the notice and would otherwise have to cancel it that they have started to issue it.

## **9 Dropped Kerb and Double Parking Prohibitions**

### **9.1 Background Information**

During 2008 the Department for Transport undertook a consultation exercise as to whether restrictions on parking at dropped kerbs and double parking should be indicated with traffic signs and road markings. The response indicated clear overall support that signs and lines should not be required.

As a result Regulations were amended to allow enforcement authorities to enforce prohibitions of parking at dropped kerbs and double parking with out the need for Traffic Regulations Orders, traffic signs and road markings to be provided.

Amended Regulations came into force on 1 June 2009, thus allowing enforcement authorities to enforce these parking restrictions from that date.

### **9.2 Double Parking**

The contravention of double parking applies when a vehicle parks on any part of the carriageway and no part of the vehicle is within 50cm of the edge of the carriageway.

Although parking more than 50cm from the edge of the carriageway may not cause problems for smaller vehicles to pass, the passage of ambulances, fire appliances, buses, waste collection vehicles and other essential vehicles could be obstructed.

In instances where obstruction is caused to passing vehicles the Council's policy is to issue a penalty charge notice to the offending vehicle, subject to the exemptions listed below.

Civil Enforcement Officers will observe for such offences when patrolling their daily patrol route. When a complaint is received by the council regarding a single incident response will be subject to best efforts, subject to staff availability and/or being mobile.

Where there is a complaint (or series of complaints) regarding persistent and repeated offences, a patrol route may be modified on a temporary basis, again on a best efforts basis.

In determining allocation of resources, particular attention will be paid to offences that impede the passage of those with disabilities.

Exemptions to the contravention of double parking are:

- Vehicles which are parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised
- Vehicles used by the fire, ambulance or police services
- Where loading or unloading is taking place
- Vehicles used for waste collection, building works or road works

### 9.3 Parking at Dropped Kerbs

The contravention of parking adjacent to a dropped kerb applies where a vehicle parks on the carriageway next to a place where the footway, cycle track or verge has been lowered to the level of the carriageway (or where the carriageway has been raised to the level of the footway, cycle track or verge) to assist:

- Pedestrians crossing the carriageway
- Cyclists entering or leaving the carriageway
- Vehicles entering or leaving the carriageway across the footway, cycle track or verge (e.g. property driveways)

Parking alongside a dropped kerb etc. can cause considerable inconvenience and put vulnerable road users at severe risk. And parking adjacent to a dropped kerb at an access to premises can cause considerable nuisance to drivers trying to enter or exit the premises.

The Highway Code advises drivers “DO NOT STOP OR PARK.....where the kerb has been lowered to help wheelchair users and powered mobility vehicles, or where it would obstruct cyclists’ use of cycle facilities.....except when forced to do so by stationary traffic”.

In instances where a vehicle parks alongside a dropped kerb the Council’s policy is to issue a penalty charge notice to the offending vehicle, subject to the exemptions listed below.

Civil Enforcement Officers will observe for such offences when patrolling their daily patrol route. When a complaint is received by the council regarding a single incident response will be subject to best efforts, subject to staff availability and/or being mobile.

Where there is a complaint (or series of complaints) regarding persistent and repeated offences, a patrol route may be modified on a temporary basis, again on a best efforts basis.

In determining allocation of resources, particular attention will be paid to offences that impede the passage of those with disabilities.

Exemptions to the contravention of parking at dropped kerbs are:

- Alighting from a vehicle
- Vehicles used by the fire, ambulance or police services
- Where loading or unloading is taking place
- Vehicles used for waste collection, building works or road works
- Vehicles parked outside a driveway to residential premises with the occupier’s consent (but see note below)
- Vehicles parked outside a shared driveway to residential premises by or with the consent of residents at those premises.

Note: it is illegal for the owner of a driveway to 'rent out' space on the public highway across the driveway entrance. Where there is evidence that the owner's consent to park across a driveway entrance is based on payment, the vehicle remains liable to the issue of a penalty charge notice.

#### **9.4 Parking at Dropped Kerbs-Driveways to Residential Premises**

The Council can only respond to a complaint of a vehicle parked outside a single driveway in instances where the complaint has been received from the occupier of the effected premises. In such instances the Council requires the complainant to provide relevant requested information (name, address, contact details) and confirm that they are the occupier.

#### **9.5 Blue Badge Holders**

It should be noted that although valid Blue Badge holders may park for up to 3 hours on yellow line restrictions, where it is safe to do so and providing they are not causing an obstruction, they are not exempt from the prohibition of double parking or parking at dropped kerbs.

## **10 Parking Contraventions-Specific Penalty Charge Notice Issuing Criteria**

### **10.1 Parking Restrictions**

The hours during which restrictions are in force can vary and the responsibility lies with the motorist to take care when and where they park. Restrictions are generally as follows:

- Permitted Parking Bays.
- Yellow Lines:
  - Single: no waiting during times shown on adjacent/nearby signs.
  - Double: no waiting at any time except where adjacent/nearby signs indicate otherwise.
  - With respect to a Controlled Parking Zone as signed at the entrance(s) to the zone.
- Loading Restrictions-Yellow Kerb Markings
  - One Line: during the working day or as specified on adjacent/nearby signs.
  - Two Lines: no loading at any time.
- Designated Loading Bays: as indicated on adjacent/nearby signs.
- Disabled Bays: as indicated on adjacent/nearby signs.

### **10.2 Penalty Charge Notice Issue and Serving**

Before issuing a penalty charge notice the Civil Enforcement Officer must ensure that:

- All relevant road markings, signs and plates are in place and clearly visible/readable.
- There are no penalty charge notices already issued. A multiplicity of such notices would indicate that the vehicle is broken down or abandoned.
- The nearest pay and display ticket machine is working and, if not, that there is working equipment within a reasonable distance.
- There are no visible pay and display tickets, permits, dispensation or badges which permit the parking.

The Civil Enforcement Officer will carry out appropriate observations in regard to loading, unloading, vehicle positions; including valve positions, in accordance with the criteria set out in this document.

### 10.3 Pocket Books

Civil Enforcement Officers records information relating to the issue of a penalty charge notice in a pocket book issued by the Council for this purpose.

Pocket books are the property of the Council and are retained as physical records in the parking office. The information contained within the books may assist an officer in verifying or countering any statement made by the motorist or owner.

### 10.4 Photographic Evidence

It is Council policy that Civil Enforcement Officers take photographic evidence showing that a penalty charge notice has been affixed to a vehicle together with any other photographs to show that no relevant permits/tickets/badges had been on display. Photographs are also taken in appropriate instances to show the contravention which has taken place (i.e. vehicle parked out of bay or on a yellow line), together with any other appropriate supporting evidence at the officer's discretion.

### 10.5 Untaxed Vehicles

It is an offence to use or keep a vehicle on a public road without displaying a vehicle excise licence disc. However it is beyond the authority of Civil Enforcement Officers to issue penalty charge notices for such offences.

It is clearly in the public interest for untaxed vehicles to be reported to the Driver & Vehicle Licensing Agency (DVLA). In this respect Civil Enforcement Officers shall note the location and vehicle registration numbers of such vehicles, both on street and within the Council's car parks, and the information is submitted to DVLA on appropriate DVLA forms. A form is also left on the offending vehicle.

### 10.6 Specific Penalty Charge Notice Issuing Criteria

There is a single, nationwide list of contraventions and associated code numbers, which is revised from time to time. Not all contraventions are necessarily applicable in every authority's enforcement area (where a particular contravention is not covered by an Order in that area).

Contraventions which are applicable within the Borough are listed below with the penalty charge notice issuing criteria with which the Civil Enforcement Officer must comply in regards to the parking contravention:

### 10.7 On-Street

Code	Contravention Description	Enforcement Criteria
01	Parked in a restricted street during prescribed hours	Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. If activity observed, allowed as long as necessary. Blue Badges must be valid (time clock only is insufficient).
02	Parked loading/unloading in a restricted street where waiting and unloading restrictions are in force	Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice. If picking up/setting down of passengers is

		observed allowed as long as necessary for activity to take place. Blue Badge holders not exempt and penalty charge notice to be issued.
16	Parked in a permit space without displaying a valid permit	Observe for 5 minutes to ascertain if loading or unloading is taking place. Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice. Validity of any displayed permits to be checked-penalty charge notice to be issued for invalid permit. Suspected fraud or misuse of permit to be reported. Blue Badge holders may be exempt (dependent on exemption in associated Order).
22	Re-parked in the same parking space within one hour (or other specified time) of leaving	Valve positions to be checked. Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant penalty charge notice after this period if none seen. Blue Badge holders may be exempt (dependent on exemption in associated Order).
23	Parked in a parking space or area not designated for that class of vehicle	Vehicles to be moved on if driver present. Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. Blue Badge holders may be exempt (dependent on exemption in associated Order).
24	Not parked correctly within the markings of the bay or space	At least one wheel should be outside bay/space. If vehicle has straddled the bay markings a penalty charge notice not to be issued unless the instigating vehicle can be identified.
26	Parked more than 50cm from the edge of the carriageway and not within a designated parking place (Double Parking)	Enforcement only undertaken if obstruction is caused to passing vehicles (especially emergency and public transport vehicles). Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. If activity observed, allowed as long as reasonably necessary. Blue Badge holders not exempt.
27	Parked adjacent to a dropped footway (kerb)	Enforcement action against vehicles parked across a private driveway only to be undertaken if occupier of premises has asked Council to do so. Name, contact details and confirmation of residency to be obtained before issue of a penalty charge notice. If picking up/setting down of passengers is observed allowed as long as necessary for

		<p>activity to take place.  Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. If activity observed, allowed as long as reasonably necessary. Blue Badge holders not exempt.</p>
30	Parked for longer than permitted	<p>Valve positions to be checked.  Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen.  Blue Badge holders may be exempt (dependent on exemption in associated Order).</p>
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge.	<p>Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice.</p>
45	Parked on a taxi rank	<p>Rank is for 'Hackney' carriages only. Private hire vehicles are not permitted to park.  Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice.  Blue Badge holders not exempt.  (NOTE: IT IS THE UNDERLYING WAITING RESTRICTION THAT IS ENFORCED ON THE EXISTING RANKS WITHIN THE BOROUGH).</p>
47	Stopped on a restricted bus stop/stand	<p>Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice.  Blue Badge holders not exempt.</p>
48	Stopped in a restricted area outside a school	<p>Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice.  Blue Badge holders not exempt.</p>
99	Stopped on a pedestrian crossing or crossing area marked by zigzags	<p>Vehicles to be moved on if driver present, otherwise instant issue of a PCN.  Blue Badge holders not exempt.  (Note: If Police have already taken action no penalty charge notice to be issued- criminal action takes precedence.</p>

## 10.8 Off-Street (Car Parks)

74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice.
80	Parked for longer than the maximum period permitted	10 minute overstay to be permitted. Instant issue of a penalty charge notice beyond this period.
81	Parked in a restricted area in a car park	Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice. Blue Badge holders not exempt.
82	Parked after the expiry of paid for time	10 minute overstay to be permitted. Instant issue of a penalty charge notice beyond this period.
83	Parked in a car park without clearly displaying a valid pay & display ticket	5 minute grace period to be given in case motorist has gone for change. Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice. Validity of any displayed tickets to be checked. If unable to verify or read face down tickets a penalty charge notice to be issued.
85	Parked in a permit bay without clearly displaying a valid permit	Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice. Validity of any displayed permits to be checked-penalty charge notice to be issued for invalid permit. If unable to verify or read face down permits a penalty charge notice to be issued. Suspected fraud or misuse of permit to be reported.
86	Parked beyond bay markings	At least one wheel should be outside bay/space. Where a series of vehicles have straddled the bay markings and it is not possible to identify which vehicle first caused the effect a penalty charge notice not to be issued. Two or more bays to be affected before issue of a penalty charge notice.
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice. Validity of any displayed permits to be checked-penalty charge notice to be issued for invalid permit. If unable to verify or read face down permits a penalty charge notice to be issued. Suspected fraud or misuse of permit to be reported.

89	Vehicle parked exceeds maximum weight or height or length permitted in the area	Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. If activity observed, allowed as long as necessary.
91	Parked in an area not designated for that class of vehicle	Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen. If activity observed, allowed as long as necessary.
92	Parked causing an obstruction	Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice. Blue Badge holders not exempt.
93	Parked in a car park when closed	Vehicles to be moved on if driver present. Penalty charge notice only to be issued if vehicle is causing a problem (i.e. obstruction). Blue Badge holders not exempt.
95	Parked in a parking place for a purpose other than the designated purpose for the parking place	Vehicles to be moved on if driver present, otherwise instant issue of a PCN. Blue Badge holders not exempt.
96	Parked with engine running where prohibited	Vehicles to be moved on if driver present, otherwise instant issue of a PCN. Blue Badge holders not exempt.

## 10.9 Implementation of New Restrictions

N/A	New schemes, extension to existing waiting restrictions etc.	Vehicles to be moved on if driver present. A warning notice to be issued during first week following implementation. After first week enforcement criteria as applicable to be followed.  NOTE: WARNING NOTICES ONLY TO BE ISSUED ON IMPLEMENTATION OF NEW SCHEMES WHEN DEEMED NECESSARY.
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## **11 Other Specific Policy**

This is not meant to be an exhaustive list and there will be occasions where either the Civil Enforcement Officer or back office staff will need to consider a case on its individual merits and need to apply a commonsense/gained experience approach on whether to issue a penalty charge notice in the first instance and then subsequently whether to cancel or enforce it.

### **11.1 Abandoned Vehicles**

Where a vehicle remains parked for a period during which multiple penalty charge notices are issued for the same offence (a maximum of three) a Civil Enforcement Officer reports the vehicle as potentially abandoned and information is passed to the appropriate Council officer.

Criteria to be used in identifying Abandoned Vehicles are:

- Untaxed or showing out of date tax disc.
- General poor condition of vehicle, for example multiple flat tyres.
- No evidence of movement.
- Multiple penalty charge notices attached to the vehicle.

Whilst the vehicle is being dealt with as potentially abandoned no further penalty charge notices are issued.

Penalty charge notices already issued are enforced against the registered keeper of the vehicle in the normal way.

### **11.2 Bank Holidays-Restrictions Applicable**

Waiting and loading restrictions, as indicated by yellow line markings on the carriageway and/or kerb may be in force throughout the year.

In the Council's pay and display car parks restrictions and conditions of use are displayed. Motorists should not assume that restrictions do not apply to Bank Holidays unless this is specifically stated in the relative signage.

### **11.3 Bank Visits**

Claims from motorists or companies that because (in the interest of security) money is being taken to or from a bank penalty charge notices should not be issued are not accepted as a reason to cancel. If restrictions are in place adjacent to a bank these must be complied with by all motorists.

An exemption is in relation to bullion vehicles whilst loading or unloading.

### **11.4 Bankruptcy**

Where an owner of a vehicle with outstanding penalty charge notices has gone bankrupt the most practical measure is to write off the outstanding debt. However, the Council requires written proof of bankruptcy before writing off any debt.

## **11.5 Blocked Access**

When motorists are unable to gain access to their private or commercial property they are not entitled instead to park in contravention of any parking restriction.

Where access to a property is being blocked the occupier of the effected premises should report the matter to the Council. In such instances the Council requires the name, address, contact details and confirmation that they are the occupier before undertaking enforcement action.

(Note: the issue of a penalty charge notice will not resolve the immediate issue of an access being blocked).

## **11.6 Broken Down Vehicles**

Claims of alleged breakdown are accepted if they appear to be unavoidable and supporting evidence in the form of one or more of the following is produced:

- Garage receipt, on headed paper, properly completed and indicating repair of alleged fault within a reasonable time of the contravention.
- Till receipt for purchase of seemingly relevant spare parts purchased on or soon after the date of the contravention.
- Confirmatory letter/documentation from the RAC, AA, garage or other motoring organisation.
- Confirmation from a Civil Enforcement Officer that the vehicle was obviously broken down or was seen to be towed away.

A note left in the windscreen of the vehicle stating that “the vehicle has broken down” is not necessarily accepted by a Civil Enforcement Officer as a reason for not issuing a penalty charge notice.

Some areas of contention relative to an alleged breakdown and how they shall be dealt with are:

### **11.6.1 Flat Battery:**

The receipt for the purchase of a new battery or parts that could result in or alleviate a flat battery is requested. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.

In instances where it is alleged that a vehicle was bump/jump started the penalty charge notice is enforced unless reliable third party evidence is provided. (Note: vehicles with automatic transmission cannot be bump started).

Officers may also give consideration as to how the vehicle became illegally parked in the first instance (i.e. was it pushed from an unrestricted area or was it parked in contravention of a parking restriction before the breakdown occurred).

### **11.6.2 Flat Tyre:**

It is reasonable to expect that in the event of a flat tyre the driver of the vehicle would be with the vehicle and possibly making efforts to change the wheel. If the vehicle is left unattended a penalty charge notice may be issued and will

only be cancelled if it subsequently transpires that the driver had gone for assistance. In such cases the Council requires evidence to be provided from the assisting party.

Failure to carry a spare wheel is not sufficient reason for the penalty charge notice to be cancelled.

### **11.6.3 Overheating:**

Cases where it is claimed that the vehicle had overheated due to lack of water are enforced unless it is directly attributable to a mechanical fault. In such cases evidence of repair is required to be produced.

Overheating caused by heavy traffic, traffic delay or hot weather is not accepted as a valid excuse.

### **11.6.4 Running out of Petrol:**

Unless this is due to a mechanical fault, evidenced by repair documentation, a penalty charge notice is not cancelled.

## **11.7 Builders/Tradespersons**

### **11.7.1 Residents Permit Parking Zones:**

All trade vehicles parked within a residents permit parking zone are required to either display a valid Visitors permit (obtainable from the resident) or a Dispensation permit issued by the Council.

### **11.7.2 Yellow line restrictions:**

Parking is only allowed whilst loading or unloading of tools and materials are taking place. At all other times vehicles must be moved to a permitted parking area.

## **11.8 Care Organisations, Doctors and Social Services**

Numerous care organisations operate within the Borough as well as privately arranged care. Although some organisations, Doctors or Social Service Departments may display their own badges or other documentation in vehicles these are not valid as authority to park.

### **11.8.1 Parking in Residents Permit Parking Schemes:**

Carers, Medical Practitioners, Social Workers and others who need to make visits to residents situated within residents permit parking schemes may apply for a Medical Dispensation permit to enable them to park while carrying out professional visits to clients.

The issuing of Medical Dispensation permits is subject to the agreed management policy of such schemes.

### **11.8.2 Other permit bays:**

Medical Dispensation permits do not allow the holder to park within any other kind of permit bay other than resident's bays.

### **11.8.3 Parking in Council pay and display car parks:**

Medical Dispensation permits do not exempt the holder from purchasing a pay and display ticket.

### **11.8.4 Parking on Yellow lines:**

Carers, Medical Practitioners, Social Workers and others are not exempt from yellow line restrictions and should not contravene them. Medical Dispensation permits may exempt the holder from this parking restriction.

## **11.9 Children and Elderly People**

Claims are often made by drivers, accompanied by young children or elderly persons, that they were delayed by them. While this is not a legitimate reason for otherwise inappropriate parking, officers are empowered to treat each case on its merits.

### **11.10 Clamping and Removal**

Although the Council has the necessary powers assigned to them to immobilise (clamp) or to remove a vehicle which is in contravention of a parking restriction it has to date not seen the need to implement these powers.

### **11.11 Complaints against Civil Enforcement Officers**

Allegations that an Officer has made an error whilst issuing a penalty charge notice are investigated under the normal 'Challenge' and 'Representations' procedures.

Any allegation of misconduct or rudeness made against an Officer is dealt with under the Council's formal complaints and / or disciplinary procedures.

### **11.12 Council Officers and Members on duty**

All council officers and members on official duty are expected to fully comply with parking regulations:

#### **11.12.1 Parking in Residents permit parking schemes and Council car parks:**

Staff or members using their vehicle to carry out their official council duties must display their Council issued permit whilst parked. Permits are only valid during periods when official duties are being carried out and at all other times the restrictions (purchase of a pay and display ticket or requirement to display a residents or visitors permit) must be complied with. Unless on council business and displaying the permit, vehicles and keepers are subject to all relevant parking charges and penalties.

#### **11.12.2 Parking on yellow lines:**

The Council permit does not authorise parking on yellow lines.

#### **11.12.3 Request for cancellation of Penalty Charge Notice:**

These will be treated in the same way as all other challenges or representations.

### **11.13 Court Attendance**

The length or timing of any hearing at Basingstoke Magistrates Court cannot be guaranteed and sometimes attendees find that they are unable to leave court to purchase further pay and display car park tickets. This can lead to overstay resulting in a penalty charge notice being issued to their vehicle.

In such circumstances the Council enforces the penalty charge notice unless supporting evidence/documentation is produced to support the fact that the person was delayed to an extent that could not have been reasonably foreseen.

### **11.14 Court Attendance-Defendants**

When a defendant has parked within a Council car park and as a result of receiving a custodial sentence is unable to remove their vehicle, any penalty charge notice that has been issued will not be enforced, providing supporting evidence/documentation is supplied.

However, in such instances the Council expects that the vehicle is removed as soon as reasonably possible by the defendant's family or friends; otherwise there is a risk that it will be regarded as an abandoned vehicle.

### **11.15 Delays**

Delays due to queues at shops, banks etc, meetings taking longer than expected, caught up in delays etc, are not necessarily considered as valid reasons to cancel a penalty charge notice. Officers are empowered to treat each case on its merits. Drivers should make allowance for such delays when purchasing pay and display tickets as these are a regular occurrence and part of normal life.

### **11.16 Dental/Doctors Appointments**

Challenges or representations that are made against an issue of a penalty charge notice claiming that, due to a delay in an appointment time or that treatment took longer than anticipated, resulted in a contravention of overstaying in a pay and display car park are given due consideration.

Any such claims should be supported by written confirmation from the dentist or doctor that the delay was caused by reasons outside of the person's control. However, the Council will need to be satisfied that the parking time purchased was reasonably sufficient to allow for normal delays experienced whilst attending such appointments.

### **11.17 Description of Vehicle on Penalty Charge Notice**

When issuing a penalty charge notice the Civil Enforcement Officer is required to note the make, colour and registration number of the vehicle, which is printed on the notice. The officer will also note other details such as tax disc number and position of tyre valves, which shall form part of the supporting records.

#### **11.17.1 Incorrect vehicle colour:**

If the colour is incorrectly recorded, due consideration may be given to cancellation of the penalty charge notice as follows:

- Similar colours can be mistaken for each other especially in poor light. Where there is a close relationship between the colours a penalty charge notice will be pursued.
- Where there is wide difference (i.e. a blue car recorded as a white) cancellation of the penalty charge notice may be given serious consideration.

#### **11.17.2 Incorrect vehicle make:**

Different manufacturers do produce models that look similar, but it would be very difficult to enforce a penalty charge notice issued to a totally different make of vehicle. In such instances due consideration is given to cancelling a penalty charge notice.

#### **11.17.3 Tax Disc number:**

The tax disc number is recorded by a Civil Enforcement Officer when issuing a penalty charge notice and this is the one thing that is unique to the vehicle. If the Officer's and DVLA records match then the Council has good grounds to pursue the penalty charge notice irrespective of any other error regarding colour or make.

### **11.18 Diplomatic Vehicles**

Diplomatic vehicles are not exempt from parking restrictions. A Civil Enforcement Officer will therefore issue a penalty charge notice to such vehicles if normal criteria requirements are met.

If a DVLA response shows that the vehicle has diplomatic privileges (a 'D' plate), the penalty charge notice is not subject to the enforcement procedure because many diplomats are not subject to civil jurisdiction. If payment is not received the penalty charge is cancelled.

Vehicles with an 'X' plate indicate that the owner is an embassy employee and, as such, does not have diplomatic immunity. In these instances the Council applies the normal enforcement procedures.

### **11.19 Disabled "Blue" Badges**

Disabled badges are issued to either a disabled driver or disabled passenger. The badge can only be used when the disabled person is the driver of the vehicle or a passenger in the vehicle. Disabled badges permit the holder some parking concessions in restricted areas. However, they do not offer full immunity against enforcement.

Providing the badge is clearly displayed the badge holder can park:

- In a limited parking area for an unlimited time.
- On a yellow line for a period not exceeding 3 hours (the time clock, set to show time of arrival, must also be displayed).
- In a residents permit parking scheme for an unlimited time (where the associated Traffic Regulation Order allows).

- In Council pay and display car parks free of charge.

Badge holders are not allowed to park in an area where there is a loading restriction.

In cases involving a disabled badge holder, officers seek to resolve the matter prior to the appeals stage. Council policy is to treat disabled badge holders leniently on a first contravention but not to overlook persistent contraventions.

### **11.20 Disability or Restricted Mobility**

Where a driver or passenger has a mobility-restricting condition but does not qualify for or has not obtained a Blue Badge, the Council's general policy is to exercise leniency and close the case for a first contravention, subject to officers being satisfied that there is good evidence of the disability, but not to overlook persistent contraventions.

### **11.21 Dispensations**

A dispensation authorises a vehicle (or vehicles) to park in contravention of a parking control. It allows parking where alternative arrangements cannot reasonably be made, for example where loading/unloading is prohibited or the permitted time period is insufficient.

A dispensation does not permit general parking; it does not allow the vehicle to remain in the restricted/prohibited area once the dispensation purpose has been fulfilled. At that time, the motorist is required to park elsewhere and lawfully.

Certain vehicles receive automatic dispensation from parking controls when being used in connection with the operations referred to in the associated Traffic Regulation Order (for example, vehicles used for fire, ambulance, police purposes, vehicles used in connection with building or demolition work, maintenance of the highway, laying of pipes and cables etc).

Requests for dispensations are made to the Parking Team who have discretion to approve or reject such requests taking into account the location, existing parking controls and parking issues.

A charge is made for each dispensation issued. The dispensation states start and end dates with a maximum period of thirty days. The charge is set through the Council's annual review of fees and charges.

### **11.22 Drink Driving or Other Arrest**

If as a direct result of being arrested or detained by the police a driver of a vehicle has been forced to leave a vehicle in contravention of a parking restriction a resultant penalty charge notice may not be pursued, if the view of officers is that the driver has not had time to remove the vehicle upon release from custody.

Where challenges against the issue of a penalty charge notice are made on arrest claims the Council requires the driver of the vehicle to provide supporting documentation/evidence of the arrest. Failure of the driver to supply or obtain supporting documentation/evidence leads to the penalty charge notice being pursued.

### **11.23 Dropping Off and Picking Up**

Except on designated clearways and zig-zag areas at schools and pedestrian crossings any vehicle may be allowed a reasonable amount of time to pick up or drop-off passengers irrespective of any waiting or loading restriction in force.

It is considered that two minutes is a reasonable amount of time for picking up or setting down passengers unless it involves young children, the elderly or disabled persons.

### **11.24 Emergency Duties**

It is accepted that persons engaged on emergency duties (i.e. Doctors, nurses, midwives) may need to park in contravention of parking controls in some instances.

Attendance to emergency call outs by plumbers, electricians, gas fitters etc. are considered to last as long as it takes to make the premises safe i.e. turn off the main supply, after which the Council would expect that the vehicle be moved to a permitted parking place before any subsequent repairs are undertaken.

If a penalty charge notice is issued to a vehicle being used by a person on emergency duties or call out it may be cancelled on receipt of evidence of the emergency undertaken.

### **11.25 Foreign Vehicles**

Foreign registered vehicles are not exempt from parking regulations and Civil Enforcement Officers should issue a penalty charge notice to such vehicles if normal criteria requirements are met.

### **11.26 Footway Parking**

Civil Enforcement Officers can only issue a penalty charge notice to a vehicle parked on a footway where a parking control exists. Most waiting and loading restrictions cover the whole highway, which includes footways and verges. A penalty charge notice can therefore be issued to a vehicle parked on a footway if the footway is specifically incorporated in the associated Traffic Regulation Order.

### **11.27 Funerals and Weddings**

Vehicles actively involved in a funeral or a wedding should be given due consideration and respect. These vehicles are normally exempt from waiting restrictions and are allowed to wait for as long as is reasonably necessary.

Vehicles belonging to mourners or guests who are not actively involved in the funeral or wedding are not able to park in contravention of a waiting restriction.

Penalty charge notices issued to vehicles associated with a funeral or wedding should be considered with due respect and shall only be enforced when blatant disregard to parking restrictions has occurred or where there has been a serious safety infringement of other road users and pedestrians.

## **11.28 Hackney Carriages and Private Hire Vehicles**

Hackney Carriages and Private Hire Vehicles operating within the Borough are licensed by Basingstoke and Deane Borough Council and carry a numbered license plate that must be displayed on the vehicle.

Hackney Carriages and Private Hire Vehicles, like all vehicles, can stop to allow passengers to board or alight for as long as is reasonably necessary. It is not an exempted activity to assist passengers into premises and to leave the vehicle unattended. If a licensed Hackney Carriage or Private Hire Vehicle is left unattended it shall be liable to receive a penalty charge notice

Civil Enforcement Officer's will exercise reasonable discretion to Hackney Carriages and Private Hire Vehicles when picking up or dropping off passengers to allow drivers reasonable time to announce their arrival and accept payment.

## **11.29 Hiring Agreement**

In instances where a penalty charge notice has been issued to a hire vehicle it is the hirer who becomes liable for the penalty.

Consequently, in this instance, the responsibility does not rest with the registered keeper (the Hire Company) providing they make formal representation to the Council once the 'Notice to Owner' has been sent to them. The representation must be accompanied by a copy of the appropriate hire agreement.

In all cases the agreement must include:

- The name, address and date of birth of hirer.
- Details of the hirer's driving licence.
- Details of vehicle hired.
- Start and finish dates of hire period.
- A statement signed by the hirer accepting liability for penalty notices.

Should any of the above be unclear, absent or in contradiction of the issue date/time of a penalty charge notice then Council policy is to enforce the notice against the hire Company.

## **11.30 Loading and Unloading**

Loading and unloading is a valid exemption from certain parking contraventions. The exemption has two elements : (1) "Loading and Unloading" and (2) "Delivering and Collecting" and, depending on individual circumstances, either or both may be applicable.

Thus, unless there is a specific signed and marked loading prohibition, vehicles are permitted to park in contravention of waiting restrictions, including Resident Permit Parking schemes, whilst carrying out the legitimate activity of loading or unloading, including delivering and collecting.

The exemption also has two elements in terms of time, the exemption applies for so long as the activity is necessary and a maximum period can only be stipulated if

this is prescribed in the relevant Traffic Regulation Order. The Council's policy is to allow as long as reasonably necessary subject to evidence of such activity. This embraces taking goods into (or from) premises and placing them in (or removing them from) some part of premises. It also allows for dealing with paperwork (such as delivery notes) or other reasonable delays directly connected with the activity.

There is a presumption that activity is reasonably continuous. If, having observed the vehicle for a minimum of 5 minutes, no activity is observed the Civil Enforcement Officer should issue a penalty charge notice. The burden of proof that the exemption actually applied then falls on the motorist who is given the statutory opportunity of so doing by making a formal representation.

Loading and unloading implies an item or items of bulk which cannot easily be carried from the nearest legitimate parking place. Primarily this infers commercial activity, but it can also apply to the private motorist. It can therefore include light items and private activity. Although it is generally considered that the loading/unloading exemption does not normally apply to shopping or other non-commercial collection/deliveries, adjudicators have judged that the exemption may apply if the motorist can demonstrate that the use of the vehicle was necessary rather than convenient. An example is banking large sums of money: this may be of minimal weight and bulk but there are clear security risks if the motorist has to walk some distance. Therefore it is reasonable for the Council to accept this as necessary and thus within the parameters of the exemption. Conversely, parking outside a bank because it is convenient to do so in order to pay in small sums or use a cash machine can reasonably be interpreted as being outside the exemption.

Overall, therefore, Officers are empowered to consider a case on its individual merits and to take into account all the evidence presented. Appropriate evidence could, for example, be a collection or delivery note verifying the address in question, the date and time of the activity and indicating the nature of the delivery/collection.

### **11.31 Location of Vehicle Incorrectly Stated**

When a penalty charge notice is issued the location of the vehicle is stated on the notice. If the location is recorded incorrectly the penalty charge notice may be cancelled.

### **11.32 Lost Vehicle Keys**

Where there is evidence that car keys have been lost, stolen or locked in a car thus preventing removal of the vehicle from a parking area which in turn resulted in the issue of a penalty charge notice, then due consideration is given to the cancellation of the notice.

In dealing with such a claim Officers should consider all relevant circumstances. For example if the vehicle was parked in a pay and display car park, did the loss of the keys prevent purchase of additional parking time? If the vehicle was parked on a yellow line, why was it parked there in the first place?

### **11.33 Medical Emergency**

In claims made that the driver or passenger became ill or suffers from a condition involving such circumstances, Officers have the discretion to exercise leniency where it is evident that the driver could not have foreseen the situation. Officers

may seek written corroboration in the form of witness statements or medically issued statements or certificates.

### **11.34 Missing, Obscured or Broken Road Signs or Markings**

#### **11.34.1 Yellow Lines:**

Where a short break occurs in a length of yellow lining (due to highway repair, manhole cover or grating etc) and it is clearly evident that the line is otherwise continuous a claim made against the issue of a penalty charge notice on these grounds is not regarded as valid.

Where lines are partially worn, but are still reasonably visible, a claim made against the issue of a penalty charge notice on these grounds is not regarded as valid.

Where a considerable length of yellow line (where it is not clearly evident that the line is continuous) is missing the restriction is not enforceable and as such no penalty charge notices should be issued. If a penalty charge notice is issued and a claim is made on these grounds the notice may be cancelled.

#### **11.34.2 Signs:**

Signs accompanying waiting and loading restrictions must be visible at all times. Claims that a sign was obscured and could not be read because of graffiti, overhanging trees etc. may be treated on their individual merits. If upon inspection the claim is substantiated the penalty charge notice may be cancelled. If the sign can be easily read the notice is pursued.

Restrictions must be supported by the appropriate signage. If a sign is missing the restriction it relates to is not enforceable. If a penalty charge notice is issued and a valid claim is made on these grounds the notice may be cancelled.

### **11.35 Mis-spelling of Keeper's Name**

The mis-spelling of the keeper's name and or address on the Notice to Owner does not necessarily invalidate it or discharge the liability of the person receiving it. The onus is on the genuine keeper to deal with the matter.

Keeper names and address are obtained from the DVLA and are supplied by the keepers themselves. It is therefore incumbent upon the keeper to ensure that these are correct.

In instances where mis-spelling is discovered, alterations are made to the Council's records to ensure that future notices are sent out correctly.

In instances where the mis-spelling is severe and is radically different from the correct spelling officers have discretion to cancel the penalty charge notice.

### **11.36 Mitigating Circumstances**

The Council has a financial responsibility to collect penalty charges incurred.

Against this fairness and good customer care dictates that a fair and reasonable view is taken of any special and mitigating circumstances brought to the Council's attention.

Officers have discretion to exercise their professional judgement, while being wary of 'professional' evaders.

### **11.37 Pay and Display Car Park Machines not Working**

Where it is claimed that a machine was not working and it is subsequently confirmed (by maintenance records, Civil Enforcement Officer notes or machine test records) that the machine was not working at the time then the penalty charge notice may be cancelled.

However, if there was an alternative machine, in working order in the same car park, then it is reasonable to expect that the driver would use this machine and thus the penalty charge notice is not necessarily be cancelled. The matter is dealt with by Officers on its individual merits.

### **11.38 Pay and Display Tickets**

Motorists parking within the Council's pay and display car parks are required to purchase a ticket at the time of parking for the amount of time required. Tickets display the expiry date and time together with the fee paid and name of the car park. Car park fee tariffs are normally displayed adjacent to or on each machine.

Pay and display tickets must be:

- Clearly displayed whilst the vehicle is parked.
- For the date shown.
- Un-expired.
- For the car park indicated.

Penalty charge notices can be issued for:

- Failing to display a valid ticket.
- Parked after the expiry of time paid for.
- Parked in a permit bay or disabled bay without clearly displaying a valid permit or disabled person's badge.
- Parked beyond bay markings.

Challenges or representations made on the grounds that a ticket had been purchased but had fallen out of view may be allowed upon proof of purchase of a ticket. However the onus lies on the motorist to avoid this; second and subsequent occurrences by the same owner may result in such challenges being rejected.

Challenges or representations made on the grounds that the driver did not have change are not accepted as valid reasons for not displaying a valid pay and display ticket.

Challenges or representations made because of delays returning to the car park are dealt with in accordance with the policies covered elsewhere in this document.

### **11.39 Permission to Park given by Police Officer**

A police officer in uniform can direct or give permission for a vehicle to wait or park where restrictions are in existence.

In claims made that permission was given to park/wait, confirmation from the police officer concerned is required prior to the cancellation of a penalty charge notice.

### **11.40 Permits**

The Council issues a number of different permits (resident, visitor, business, health practitioner, car park i.e. Vyne Meadow).

Permits are subject to the terms and condition of use which are supplied at the time of issue. They are only valid for the area for which they are issued and for the period specified.

Failing to display a permit, displaying an out of date permit, using a permit in another area or on a vehicle other than that indicated is an offence and subject to the usual penalty notice processes set out in this policy.

The onus is on the permit holder to ensure the permit is displayed. While reasonable consideration may be given to the occasional case where a valid permit is held but accidentally not displayed, this should not be assumed and will not apply to second or subsequent instances.

### **11.41 Police Vehicles**

Penalty charge notices are not issued to marked police vehicles when on official duty.

A request for cancellation of a penalty charge notice issued to an unmarked vehicle must be supported by confirmation from the officer's superior that the vehicle was engaged in such an assignment.

### **11.42 Stolen Vehicle**

In claims that a vehicle issued with a penalty charge notice had been stolen the owner must provide supporting documentary evidence in the form of a crime reference number and/or corroboration of the theft from the police and/or insurance company.

### **11.43 Taxi Ranks**

A number of taxi ranks operate within the Borough. Vehicles, other than Hackney Carriages parked in such ranks are subject to the penalty charge notice procedures set out in this policy.

### **11.44 Vehicle not at Scene**

Where claims are made that a vehicle was not parked in the area at the date/time a penalty charge notice was issued the keeper is requested to confirm the make, colour and tax disc serial number relative to the vehicle in question.

If this information is provided and matches the records held by the Council the penalty charge notice process will be pursued. If they do not then the penalty charge notice may be cancelled. (Note: the key element is the tax disc number, which is unique to the vehicle).

## **11.45 Zigzag Markings**

### **11.45.1 Zigzag markings outside schools**

Zigzag markings outside schools can be either restricted or unrestricted and are installed for the safety of children. Markings that are restricted are governed by the associated Traffic Regulation Order and should have yellow lines and a time plate showing hours of operation. An unrestricted marking will not have a time plate and the markings are advisory only.

Vehicles parked on restricted markings, during the times shown on the plate, are issued with a penalty charge notice which will not be cancelled under any circumstances (including that the driver was picking-up or dropping-off children).

### **11.45.2 Zigzag markings at pedestrian crossing**

The Police still retain powers to enforce zigzag markings at pedestrian crossings. If the Council and the Police both take enforcement action, the criminal action takes precedence and a penalty charge notice issued by a Civil Enforcement Officer may be cancelled. In these instances if a penalty charge has been paid it can be refunded.

## Policy Revision Log

Version Revised	Revision Details	New Policy Version
March 2009	Enforcement policy and penalty charge notice issuing criteria for parking at dropped kerbs and double parking added	October 2010