



*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 charges 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 known 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 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.

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 penalty charge notices.
- Non acceptance of informal challenges or representations and hence continuing with the enforcement process.

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 for Recovery
- Witness Statement
- Warrant of Execution

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

PROCESSING TIMETABLE	
Activity	Statutory Days
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
Debt Registration	Seventy One
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.

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.

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.

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.

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%.

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.

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. 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.

5.7 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.

5.7.1 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.

5.7.2 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.

5.7.3 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.

5.8 Warrant of Execution

Where the owner has been served with an Order for 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.

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.

5.9 Enforcement Agents (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.

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.

5.10 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 Enforcement Agents are already involved in pursuing the debt the owner must deal with the Enforcement Agent, not the Council.

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.

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 authorised 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.

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 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.

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.

Where a challenge is received within the 14 day discount period and is rejected the owner is allowed 14 days from the date of the rejection letter to make payment at the discounted rate.

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 authorised 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.

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.

On making the decision the case is re-set to progress to the 'Charge Certificate' stage after 28 days from the date of the decision.

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.

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.

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.

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.

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.

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.

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. 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.

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 affected 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 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.

10.4 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:

10.5 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). Zero tolerance may be used around schools and persistent evaders.
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.
12	Parked in a residents or shared use parking place or zone without either clearly displaying a valid permit or voucher or pay and display ticket issued for that place, or without payment of the parking charge	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).
16	Parked in a permit space without displaying a valid permit (None residential permit bay)	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 None residential permit

		<p>displayed to be checked-penalty charge notice to be issued for invalid permit.</p> <p>Suspected fraud or misuse of permit to be reported.</p> <p>Blue Badge holders may be exempt (dependent on exemption in associated Order).</p>
19	<p>Parked in a residents or shared use parking place or zone either displaying an invalid permit or voucher or pay and display ticket , or after expiry of paid for time</p>	<p>Observe for 5 minutes to ascertain if loading or unloading is taking place.</p> <p>Visual inspection to be undertaken of windscreen and vehicle interior before issue of a penalty charge notice.</p> <p>Validity of any displayed permits to be checked-penalty charge notice to be issued for invalid permit.</p> <p>Suspected fraud or misuse of permit to be reported.</p> <p>Blue Badge holders may be exempt (dependent on exemption in associated Order).</p>
22	<p>Re-parked in the same parking space within one hour (or other specified time) of leaving</p>	<p>Valve positions to be checked.</p> <p>Observe for 5 minutes to ascertain if loading or unloading is taking place. Instant penalty charge notice after this period if none seen.</p> <p>Blue Badge holders may be exempt (dependent on exemption in associated Order).</p>
23	<p>Parked in a parking space or area not designated for that class of vehicle</p>	<p>Vehicles to be moved on if driver present.</p> <p>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.</p> <p>Blue Badge holders may be exempt (dependent on exemption in associated Order).</p>
24	<p>Not parked correctly within the markings of the bay or space</p>	<p>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.</p>
26	<p>Parked more than 50cm from the edge of the carriageway and not within a designated parking place (Double Parking)</p>	<p>Enforcement only undertaken if obstruction is caused to passing vehicles (especially emergency and public transport vehicles).</p> <p>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.</p> <p>Blue Badge holders not exempt.</p>
27	<p>Parked adjacent to a dropped footway (kerb)</p>	<p>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.</p>

		<p>If picking up/setting down of passengers is observed allowed as long as necessary for activity to take place.</p> <p>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.</p> <p>Observe for 10 minutes to ascertain if loading or unloading is taking place. Instant issue of a penalty charge notice after this period if none seen.</p> <p>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.</p> <p>Vehicles to be moved on if driver present, otherwise instant issue of a penalty charge notice.</p> <p>Blue Badge holders not exempt.</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>Blue Badge holders not exempt.</p> <p>(Note: If Police have already taken action no penalty charge notice to be issued- criminal action takes precedence.</p>

10.6 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 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.

10.7 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.
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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:

- 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.

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 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 affected 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.

11.5 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:

11.5.1 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.

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).

11.5.2 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.

11.5.3 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.

11.5.4 Running out of Petrol:

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

11.6 Builders/Tradespersons

11.6.1 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.

11.6.2 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.

11.7 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.

11.7.1 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.

11.7.2 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.

11.7.3 Parking in Council pay and display car parks:

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

11.7.4 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.

11.8 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.

11.9 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.

11.10 Council Officers and Members on duty

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

11.10.1 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.

11.10.2 Parking on yellow lines:

The Council permit does not authorise parking on yellow lines.

11.10.3 Request for cancellation of Penalty Charge Notice:

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

11.11 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.

11.12 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.

11.13 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. Drivers should make allowance for such delays when

purchasing pay and display tickets as these are a regular occurrence and part of normal life.

11.14 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.

11.15 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.

11.15.1 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.

11.15.2 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.

11.16 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.

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.

11.17 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.

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, or in any bays restricted to designated users or vehicles i.e. business permit holders, loading bays, taxi ranks.

11.18 Discretion

The Secretary of State for Transport considers that the exercise of discretion should, in the main, rest with back office staff as part of considering challenges against PCNs and representation against a NTO. This is to protect CEOs from allegations of inconsistency, favouritism or suspicion of bribery. It also gives greater consistency in the enforcement of traffic regulations.

11.19 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.

11.20 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.

11.21 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.

11.22 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.

11.23 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.

11.24 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.

11.25 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.

11.26 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.

11.27 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.

11.28 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.

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.

11.29 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.

11.30 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?

11.31 Medical Emergency

In claims made that the driver or passenger became ill or suffers from a condition involving such circumstances, Officers have the discretion, 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.

11.32 Missing, Obscured or Broken Road Signs or Markings

11.32.1 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.

11.32.2 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.

11.33 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.

11.34 Mitigating Circumstances

Each case will be treated on its individual merits and particular circumstances are referred to elsewhere within this document. However, the following are a few guidelines:

1. Delays: Delays due to queues at shops, banks etc., meetings taking longer than expected, caught up in crowds etc., are not normally considered to be valid reasons to cancel a PCN. Allowance should be made for such delays when purchasing parking time as they are a regular occurrence and part of normal life. (See emergencies below).

2. Children/elderly people: Claims are often made by drivers, accompanied by young children or elderly people, that they were delayed because of them. Again this is not normally considered as a reason to cancel a PCN because allowance should be made for this when purchasing parking time. (See emergencies below).

PCNs served whilst children were being dropped-off or collected from schools etc., will not normally be cancelled unless a reasonable amount of time was not allowed by the CEO. The normal 5 minute observation period should be enough time in such circumstances.

3. Emergencies: An emergency is an unforeseen situation that prevented the driver from moving their vehicle. They are usually of a medical nature and leniency should be exercised where it can be seen that the driver could not have foreseen the situation. Wherever possible such claims should be supported by independent evidence.

11.35 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.

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. The matter is dealt with by Officers on its individual merits.

11.36 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.

11.37 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.

11.38 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.

11.39 Pregnancy – Parents with Young Children:

Generally pregnancy is not considered to be a disability and delays caused by

young children should not normally lead to the cancellation of a PCN. However, this is a sensitive area and each case should be treated on its merits. If the delay was caused by the parent not allowing enough time to deal with young children or her own condition, both of which they are fully aware of, then the PCN will not normally be cancelled.

11.40 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.

11.41 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.

11.42 Zigzag Markings

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).

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 Review and Revision Log

Date Reviewed/Revised	Reviewed/Amended by:	Revision Details	New Policy Version
October 2010	Martin Bennett	Enforcement policy and penalty charge notice issuing criteria for parking at dropped kerbs and double parking added	October 2010
July 2014	Martin Bennett	No changes	October 2010
January 2017	Geoff Hislop	contravention codes updated	January 2017
October 2017	S.J.Hardy	Review of Policy	October 2017

Date of next Review: October 2018