

Somerset Civil Parking Enforcement Service

Guidelines for dealing with Challenges and Representations

Revised Edition April 2019

INTRODUCTION

Parking Managers at Somerset County, Mendip District, Sedgemoor District, Somerset West and Taunton Councils have prepared the following guidelines in respect of Civil Parking Enforcement (CPE). These guidelines are intended to help the public know how challenges and representations are dealt with, including how each Council will endeavour to treat people fairly, equally and with respect, taking full account of their personal circumstances.

What is important about these guidelines is that they represent a foundation upon which fairness and discretion can be applied. The importance of flexibility in these matters has been recognised by the courts and, as a consequence, decisions made by councils must not be fettered by being unduly formulaic.

This is consistent with current best practice and aims to provide clarity, consistency and transparency within the enforcement process. This guidance aligns with the Councils' transport and parking policies, Department of Transport's guidance and with the aspirations of the Traffic Penalty Tribunal (TPT) and the Local Government Ombudsman.

The guidelines address the following:

- *The civil enforcement process*
- *The statutory grounds upon which representations may be made*
- *Mitigating circumstances*
- *The acceptance or rejection of challenges and representations*

It is important to recognise that each case will be considered on its own merits, and that matters of proportionality, objectivity, fairness and reasonableness should be paramount.

These guidelines will be subject to on-going review.

CIVIL PARKING ENFORCEMENT (CPE) FINANCIAL OBJECTIVES

The Secretary of State for Transport has stated that CPE is a means of achieving transport policy objectives. For good governance, enforcement authorities need to forecast revenue and expenditure in advance. But raising revenue should not be an objective of CPE, nor should authorities set targets for revenue or the number of Penalty Charge Notices (PCNs) they serve.

Enforcement authorities should run their CPE operations (both on and off-street) efficiently, effectively and economically. The purpose of penalty charges is to encourage compliance with parking restrictions. The objective of CPE should be for 100% compliance, with no penalty charges and PCNs are only served where there is a contravention of the regulations. Parking charges and penalty charges should be proportionate, so authorities should not set them at unreasonable levels. Any penalty charge payments received (whether for on-street or off-street enforcement) must only be used in accordance with section 55 (as amended) of the Road Traffic Regulation Act 1984.

Previous guidance said that local authority parking enforcement should be self-financing as soon as practicable. This is still a sensible aim, however, authorities need to bear in mind that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding. The Secretary of State will not expect either national or local taxpayers to meet any deficit.

THE CIVIL ENFORCEMENT PROCESS

This section describes the statutory process a PCN must follow.

The PCN is served by a Civil Enforcement Officer (CEO) and either affixed to the windscreen or handed to the driver. If this is not possible because the vehicle drove away or the CEO was verbally abused or threatened with violence, then the PCN may be sent by post.

The PCN must be paid within 28 days from the date it is served. If the PCN is paid within 14 days, a discount of 50% is offered and the case closed.

Drivers who receive a PCN and wish to query the service with the Council may write to the address shown on the back of the PCN, alternatively a challenge can be made online by visiting www.somerset.gov.uk/roads-and-transport/#parking. When a challenge is received no further action will be taken until the matter has been considered and a reply sent. If the driver challenges the PCN within the 14 day period allowed for payment of the discounted amount, and the PCN is not cancelled, a further 14 days will be allowed for payment of the discounted amount. This ensures that motorists do not lose the right to pay the discounted penalty if they challenge the serving of the PCN.

If the charge is not paid within the period mentioned above a Notice to Owner (NTO) is served to the registered keeper of the vehicle. The Registered Keeper is liable at all times, regardless as to who was driving the vehicle at the time of the contravention. On receipt of the NTO, the registered keeper has the opportunity to either pay the charge, or make formal representation to the Council.

The Council will consider all representations received and issue either a Notice of Acceptance or a Notice of Rejection. If the representation is rejected, the registered keeper of the vehicle will have the opportunity to appeal to the Traffic Penalty Tribunal (TPT), an independent appeals body. An adjudicator will consider the case and make a decision that is binding on both the Council and the appellant. If the appeal is accepted the case will be closed.

If no representation is made, or representation is made and rejected by the Council (and no appeal to TPT is made), or if an appeal is made and refused by TPT, and no payment is received within 28 working days, a Charge Certificate (CC) is served. This increases the original amount of the penalty charge by 50%.

Once the CC has been sent, and if payment is not made within 14 working days of receipt of the CC, the Council may apply to the County Court Business Centre (CCBC) to register the charge as a civil debt. CCBC is a special court, which deals with debt registrations for civil traffic contraventions. It is important to note that there is no right of appeal once the CC has been served, as the right to make representation is only available at the NTO stage.

Once CCBC has registered the debt, it may authorise the Council to issue a Notice of Unpaid Penalty Charge, which increases the outstanding charge by £8.00 (Court fees are added to the amount payable). On receipt of the Notice of Unpaid Penalty Charge, the registered keeper must either make payment of the full amount due, or submit a Witness Statement to the Court. A Witness Statement can only be made on certain grounds (these are explained in the Notice of Unpaid Penalty Charge).

If payment is not made within 21 days of the receipt of the Notice of Unpaid penalty Charge, or if a witness statement has not been submitted, the Council may make an application to CCBC for a Warrant to be issued to recover the debt.

CCBC authorise the Council to issue a Warrant of Control. This is valid for one year and a day and is passed to a certificated Enforcement Agent (Bailiff) for enforcement. The Enforcement Agent is appointed by a Court and will add their charges to the outstanding debt. These are strictly controlled by the Department for Justice, as are the actions they can take to recover the debt. After the Warrant of Control is served, no payments, correspondence or communication may normally be dealt with by the Council. The registered keeper may either be directed to the Enforcement Agent or advised to seek legal advice.

ANNUAL REPORT

The Traffic Management Act (TMA) 2004 requires the Council to publish an annual report on the activities of the service within six months of the end of the financial year. Guidelines recommend that the report contains the following information;

Financial

- Total income and expenditure on the parking account kept under section 55 of the Road Traffic Regulation Act 1984 as modified by regulation 25 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
- Breakdown of income by source (i.e. on-street parking charges and penalty charges).
- Total surplus or deficit on the parking account.
- Action taken with respect to a surplus or deficit on the parking account.
- Details of how any financial surplus has been, or is to be spent, including the benefits that can be expected as a result of such expenditure.

Statistical

- Number of higher level PCNs served.
- Number of lower level PCNs served.
- Number of PCNs paid.
- Number of PCNs paid at discount rate.
- Number of PCNs against which a challenge or formal representation was made.
- Number of PCNs cancelled as a result of a challenge or a formal representation.
- Number of PCNs written off for other reasons (e.g. CEO error or driver untraceable).
- Number of vehicles immobilised.
- Number of vehicles removed.
- Number of CEOs deployed.

Somerset's Councils will make the annual reports available by publishing them on each Council's web-site.

The following pages give details of the contraventions for which PCNs may be served and give more information on circumstances that may arise in challenges and representations and explain how the Council deals with them.

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ABBREVIATIONS

CC	Charge Certificate
CCBC	County Court Business Centre (Northampton County Court)
CEO	Civil Enforcement Officer
CPE	Civil Parking Enforcement
CPZ	Controlled Parking Zone
CV	Commercial Vehicle
DfT	Department for Transport
DVLA	Driver and Vehicle Licensing Agency
FPN	Fixed Penalty Notice
HHC	Hand Held Computer
NOA	Notice of Acceptance
NOR	Notice of Rejection
NTO	Notice to Owner
P&D	Pay and Display
PCN	Penalty Charge Notice
PMC	Private Motor Car
TMA 2004	Traffic Management Act 2004
TPT	Traffic Penalty Tribunal
TRO	Traffic Regulation Order
VRM	Vehicle Registration Mark

STANDARD CONTRAVENTION CODES AND OBSERVATION TIMES

Notes

* = or other specified time ** = or other number

CV = Commercial Vehicle (see definitions section)

PMC = Private Motor Car

Higher level contraventions – On-street

Code	Description	Observation Time
01	Parked in a restricted street during prescribed hours	Up to CV 10 min PMC 5 min
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	0 min
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 served for that place, or without payment of the parking charge	Up to 10 min
14	Parked in an electric vehicles' charging place during restricted hours without charging	Up to 5 min
16	Parked in a permit space or zone without clearly displaying a valid permit	0 min
18	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	0 min
20	Parked in a part of a parking place marked by a yellow line where waiting is prohibited	Up to CV 10 min PMC 5 min
21	Parked wholly or partly in a suspended bay or space	0 min
23	Parked in a parking place or area not designated for that class of vehicle	0 min
25	Parked in a loading place or bay during restricted hours without loading	Up to CV 10 min PMC 5 min
26	Parked in a special enforcement area more than 50 cm from the edge of the carriageway and not within a designated parking place	Up to 5 min
27	Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway	0 min

28	Parked in a special enforcement area on part of the carriageway raised to meet the level of a footway, cycle track or verge	0 min
40	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	0 min
41	Stopped in a parking place designated for diplomatic vehicles	0 min
42	Parked in a parking place designated for police vehicles	0 min
45	Stopped on a taxi rank	0 min
46	Stopped where prohibited (on a red route or clearway)	0 min
47	Stopped on a restricted bus stop or stand	0 min
48	Stopped in a restricted area outside a school, a hospital or a fire, police or ambulance station when prohibited	0 min
49	Parked wholly or partly on a cycle track or lane	0 min
55	A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban	0 min
56	Parked in contravention of a commercial vehicle waiting restriction	0 min
57	Parked in contravention of a bus ban	0 min
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	0 min
62	Parked with one or more wheels on or over a footpath or any part of a road other than a carriageway	0 min
99	Stopped on a pedestrian crossing or crossing area marked by zigzags	0 min

Higher level contraventions – Off-street

Code	Description	Observation Time
70	Parked in a loading place or bay during restricted hours without loading	10 min
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	0 min
81	Parked in a restricted area in a car park	0 min

85	Parked without clearly displaying a valid permit where required	0 min
87	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	0 min
89	Vehicle parked exceeds maximum weight or height or length permitted	0 min
91	Parked in a car park or area not designated for that class of vehicle	0 min
92	Parked causing an obstruction	0 min

Lower level contraventions – On-street

Code	Description	Observation Time
04	Parked in a meter bay when penalty time is indicated	Up to 10 min
05	Parked after the expiry of paid for time	Up to 10 min
06	Parked without clearly displaying a valid pay and display ticket or voucher	Up to 5 min
07	Parked with payment made to extend the stay beyond initial time	0 min
08	Parked at an out-of-order meter during controlled hours	0 min
09	Parked displaying multiple pay and display tickets where prohibited	0 min
10	Parked without clearly displaying two** valid pay and display tickets when required	Up to 5 min
11	Parked without payment of the parking charge	0 min
19	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 the expiry of paid for time	Up to 10 min
22	Re-parked in the same parking place or zone within one hour* after leaving	0 min
24	Not parked correctly within the markings of the bay or space	0 min
30	Parked for longer than permitted	Up to 10 min
35	Parked in a disc parking place without clearly displaying a valid disc	0 min
63	Parked with engine running where prohibited	0 min

Lower level contraventions – Off-street

Code	Description	Observation Time
73	Parked without payment of the parking charge	10 min
80	Parked for longer than permitted	10 min
82	Parked after the expiry of paid for time	0 min*
83	Parked in a car park without clearly displaying a valid pay and display ticket or voucher or parking clock	10 min
84	Parked with payment made to extend the stay beyond initial time	0 min
86	Not parked correctly within the markings of a bay or space	0 min
90	Re-parked in the same car park within one hour* after leaving	0 min
93	Parked in car park when closed	0 min
94	Parked in a pay and display car park without clearly displaying two valid pay and display tickets when required	10 min
95	Parked in a parking place for a purpose other than that designated	0 min
96	Parked with engine running where prohibited	0 min

Bus Lane/ Bus Gate contraventions Penalty Charge Notice rate

Code	Description	Observation Time
34	Being in a bus lane	0 min

Note – Most observation times are not a statutory requirement and the times shown above are subject to regular review. There may be individual situations where no observation time is given, for example, where a vehicle is parked dangerously.

*If a vehicle is parked legally on a designated parking bay when it is initially parked, then a ten minute grace period will apply before issuing a PCN from the moment it becomes legally parked

This means:

- A vehicle parked on a residents bay overnight when controls are not in place (and the vehicle is allowed to park), will receive a 10 minute grace period from the moment controls commence
- A vehicle that parks on a residents bay, shared use bay, or P&D bay when controls are already in force, and the driver does not display a permit/scratch card or P&D ticket is liable for a PCN **without** the need for a 10 minute grace period (any usual observation periods apply)
- A vehicle parked in a bay that is not designated for that class of vehicle can receive an immediate PCN **without** the 10 minute grace period if it parks when controls are already in force. 10 minutes grace will be given if it is parked legally before controls commence (any usual observation periods will apply)

COMMON CONTRAVENTION CODES EXPLAINED IN NUMERICAL ORDER

CODE: 01 – On-street only - Parked in a restricted street during prescribed hours

This code is used for contraventions on single or double yellow lines where loading is permitted.

Single yellow lines are normally restricted during part of the day. Times of control are shown on associated kerbside plates, unless the lines are within a Controlled Parking Zone (CPZ) when signs are not required providing the lines are in force during CPZ hours (if lines are restricted outside the CPZ times, signs are required). Double yellow lines are restricted at all times and do not need a time plate.

CEOs will observe commercial vehicles for up to 10 minutes and other vehicles for up to 5 minutes to check for loading, unloading or delivering before serving a PCN.

Yellow lines apply from the centre of the road to the building line. Therefore vehicles parked partly or wholly on the footway may also be served with a PCN with this code. Where this is the case, the serving of the PCN may be supported by photographs.

Holders of a Disabled Drivers Badge may park up to 3 hours on a single or double yellow line, providing that they are not causing a hazard or an obstruction. A valid disabled Blue Badge and time clock (set to the time of arrival) must be displayed.

In the case of Blue Badges issued overseas, where no time clock is used, CEOs will make note of the time the vehicle was first seen and the valve positions of the tyres at each observation to prove the vehicle has remained for over 3 hours.

CODE: 02 - On-street only - Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force

This code is used for contraventions on single or double yellow lines where there is also a loading ban in force, indicated by chevrons (marks) on the kerb and time-plates at the kerbside. The time-plate will inform motorists of the times when the ban applies. Loading/unloading is permitted outside of the times shown on the plate.

Exemptions for disabled Blue Badge holders do not apply when waiting and loading/unloading restrictions are in force.

Vehicles parked when a loading ban is in force may be served with a PCN instantly.

This is an instant contravention and no observation period is required.

CODE: 05 - On-street only - Parked after the expiry of paid for time

This code is used for contraventions where the driver has overstayed the time paid for in a pay parking bay.

At P&D only parking places drivers must purchase a P&D ticket from the machine to cover the entire anticipated period of their stay.

The ticket must be displayed prominently and clearly in the windscreen of the vehicle.

Before issuing a PCN the CEO will check that the machine is functioning correctly. If one P&D machine is not working motorists must use an alternative machine, where one is available.

Where pay by phone or other payment method is available, the Vehicle Registration Mark (VRM) or bay number will be used to check whether the paid for time has expired.

The CEO may take a photograph of the P&D ticket and/or the vehicle registration number and will make notes in their HHC.

National policy is that a PCN will not be served until 10 minutes after the P&D ticket has expired.

CODE: 06 - On-street only - Parked without clearly displaying a valid pay and display ticket or voucher

This code is used when a vehicle is parked in a P&D bay where

- No payment ticket is displayed.
- A ticket is displayed but is not valid for that parking place.
- A ticket is obscured/face down and the details cannot be read.

Motorists are expected to pay for their parking on arrival. No time is allowed to go and get change. Before serving a PCN, CEOs will check that the machine is functioning correctly and, where pay by phone is available the CEO will check for a valid parking session for the vehicle.

CEOs will check the vehicle for P&D tickets, looking at all windows. The ticket must be displayed prominently and clearly on the windscreen of the vehicle.

P&D tickets are not transferable between vehicles.

Up to a 5 minute observation period maybe given.

CODE: 12 - On-street only - 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 served for that place, or without payment of the parking charge

This code is used in either a resident's or a shared use bay where no permit or P&D ticket is displayed, or something (permit, voucher, scratch card or P&D ticket) is displayed which could never have been valid for that bay. This includes;

- Where a permit has expired by more than 7 days.
- Where a permit for a different bay or zone is displayed.
- In the case of a incorrectly validated voucher/scratch card, where
 - Two dates have been scratched off
 - The incorrect date has been scratched off
 - Where no permit is displayed or a permit is obscured and all the details cannot be read or a permit is displayed but has expired. It applies to contraventions occurring in bays reserved at that time for resident permit holders only.

Where there is a limited waiting facility with an exemption from the time limit for resident permit holders, code 30 will be used for vehicles that overstay the time limit and do not display a permit.

Up to a 10 minute observation period will be given.

Residents, or their visitors, must display their permit clearly in the windscreen of the vehicle. The CEO will check all windows for a permit and where electronic permits are available, that the VRM is not included on a list.

CODE: 16 - On-street only - Parked in a permit space or zone without clearly displaying a valid permit

This code normally applies to bays reserved for use by specific groups of permit holders, and will include Doctors or Hospital/Ambulance and business bays, car club bays or similar on-street.

Such bays are reserved for specific users as stated on the signs and cannot be used by other persons.

Loading and unloading is not permitted.

This is an instant contravention and no observation period is required.

CODE: 19 - On-street only - 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 the expiry of paid for time

This code is used for contraventions occurring in resident or shared use bays where the permit, voucher, scratch card or P&D ticket is incorrectly displayed.

This will include

- A permit that was valid for that bay but has expired by more than 7 days.
- A visitor permit is displayed when the driver of the vehicle is not visiting a resident, or, there is an infringement whereby a daily scratch card is endorsed for the wrong date.

It applies to contraventions occurring in bays reserved at that time for resident permit holders only or in bays where use is shared between residents and other permit holders or P&D.

Up to a 10 minute observation period maybe given.

Residents, or their visitors, must display their permit clearly in the windscreen of the vehicle. The CEO will check all windows for a permit.

CODE: 22 - On-street only - Re-parked in the same parking place or zone within one hour [or other specified time] of leaving

This code is used when a vehicle has returned to the same parking place within a specified time (shown on the bay sign as the "no return" time). This may be a pay parking bay, residents' bay or limited waiting bay.

*Note – a "parking place" is a group of bays or spaces running in a continuous line. Drivers may not move to another bay in the same parking place within the "no return" period.

This is an instant contravention and no observation period is required.

CODE: 23 - On-street only - Parked in a parking place or area not designated for that class of vehicle

This code is used when the wrong class of vehicle is parked (i.e. a car in a coach bay; a car in a motorcycle bay; a coach in a pay parking bay amongst others).

CEOs may take photographs to show what class of vehicle has parked.

This is an instant contravention and no observation period is required.

CODE: 24 - On-street only - Not parked correctly within the markings of the bay or space

This code is used for contraventions when a vehicle is parked partly outside the parking bay. A PCN will only be served when one or more wheels are outside the bay markings.

The code can apply in any type of on-street bay (i.e. residents', P&D, limited waiting).

The CEO may take photographs to show how the vehicle was parked in relation to the bay markings.

This is an instant contravention and no observation period is required.

CODE: 25 - On-street only - Parked in a loading place or bay during restricted hours without loading

This code is used if a vehicle is observed within a loading bay without loading or unloading.

On-street loading places are provided for loading/unloading purposes only.

CEOs may observe commercial vehicles for up to 10 minutes and other vehicles for up to 5 minutes before serving a PCN.

CODE: 26 - On-street only - Parked in a special enforcement area more than 50cm from the edge of the carriageway and not within a designated parking place

This contravention is also known as double parking. It does not apply where part of a vehicle is contained within the markings of a parking bay, even if the vehicle is more than 50cm from the edge of the carriageway.

Up to a 5 minute observation period may be given.

CODE: 27 - On-street only - Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway

This code is used if a vehicle parks on the road 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; or vehicles entering or leaving the carriageway across the footway, cycle track or verge.

Enforcement action will not be taken where a vehicle is parked adjacent to an individual residential dropped crossing unless it is requested by the resident.

This is an instant contravention and no observation period is required.

CODE: 30 - On-street only - Parked for longer than permitted

This code is used when the maximum stay at a free limited waiting parking bay has been exceeded.

National policy is that a PCN will not be served until 10 minutes after the permitted time has expired.

CODE: 34 – Being in a bus lane

This contravention is based on evidence gathered by CCTV cameras located at bus lane or bus gate sites. Evidence is reviewed to check that a contravention has taken place and PCNs are served by post. The regulations allow local service buses and emergency service vehicles to pass and any PCNs served for these vehicles may normally be cancelled.

CODE: 40 - On-street only - Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner

This code is used when a vehicle is parked in a designated disabled bay

- without displaying a valid disabled badge.
- when a badge is displayed but is not valid (i.e. has expired).
- When a badge is displayed but is obscured and the relevant details cannot be read.

This is an instant contravention and no observation period is required.

CODE: 42 - On-street only - Parked in a parking place designated for police vehicles

This code is used when non-police marked vehicles are observed in a police bay.

A police bay is recognised by the legend "POLICE VEHICLES ONLY" painted on the road surface and an information plate. Only marked operational police vehicles may park in the bays. Any non-marked vehicle parked in the bay may be served with a PCN. The bays are enforceable at any time.

This is an instant contravention and no observation period is required.

CODE: 45 - On-street only - Stopped on a taxi rank

This code is used when serving PCNs to vehicles stopped in taxi ranks which are not licensed taxis. Only licensed taxis may park in such bays (taxis that are permitted to ply for hire).

Some taxi bays are only operational at certain times and parking or loading is permitted at other times. The signs will explain when the restriction applies; if no times are stated the restriction applies at all times.

This is an instant contravention and no observation period is required.

CODE: 47 - On-street only - Stopped on a restricted bus stop or stand

This code is used when a vehicle, other than a bus, parks in a restricted bus stop. Only buses may stop in the marked area. Coaches may also stop to pick up and set down passengers but not to park awaiting passengers.

Loading/unloading is not permitted.

This is an instant contravention and no observation period is required.

CODE: 48 - On-street only - Stopped in a restricted area outside a school, a hospital or a fire, police or ambulance station when prohibited

This code is used for any vehicle observed within the marked areas outside a school. To protect areas outside the entrances to schools yellow zigzag lines are painted on the carriageway, with the legend "KEEP CLEAR"; to indicate that no parking is allowed.

The restriction is for safety reasons and any vehicle stopped, even if picking up or setting down children, may be served with a PCN.

Loading/unloading is not permitted.

This is an instant contravention and no observation period is required.

CODE: 70 - Off-street only - Parked in a loading place or bay during restricted hours without loading

This applies only in off-street car parks. The area will be marked on the surface that it is for loading/delivery purposes only. Only vehicles conducting legitimate deliveries may use these spaces.

CEOs may observe vehicles for 10 minutes to check for loading/unloading activity.

CODE: 80 - Off-street only - Parked for longer than permitted

Some car parks have a maximum stay, indicated on the car park information plate and on the P&D machines in car parks. This code is used when someone has stayed longer than the maximum time limit indicated. It can be served even if a current in-time P&D ticket is displayed.

CEOs will check all windows for P&D tickets. CEOs will make a logging of the time the vehicle is observed and its later observation to prove that the vehicle has stayed in the car park for longer than the time permitted.

CODE: 81 - Off-street only - Parked in a restricted area in a car park

Certain car parks have bays or areas, which are not available for general parking. For instance, wheelchair bays or hatch markings indicating areas should be kept clear for access purposes. This code is used when someone parks in the restricted area without permission.

The contravention may still occur even if the vehicle displays a valid P&D ticket.

This is an instant contravention and no observation period is required.

CODE: 82 - Off-street only - Parked after the expiry of paid for time

This code is used for contraventions where the driver has overstayed the time stated on their P&D ticket or the time paid for by other means.

P&D tickets must be displayed prominently and clearly in the windscreen of the vehicle.

National policy is that a PCN will not be served until 10 minutes after the P&D ticket has expired. If the P&D ticket has expired by more than 10 minutes no additional observation period will be given.

CODE: 83 - Off-street only - Parked in a car park without clearly displaying a valid pay and display ticket or voucher or parking clock

This code is used when a vehicle is parked in a P&D car park where

- No payment ticket is displayed
- A ticket is displayed but is not valid for that parking place
- A ticket is obscured/face down and the details cannot be read.

Motorists are expected to pay for their parking on arrival and display a valid P&D ticket (or voucher). No time is allowed to go and get change.

Before serving a PCN, CEOs will check that the machine is functioning correctly and where other means of payment is available that the VRM is not included on a list.

If one P&D machine is not working motorists must use an alternative machine, where one is available.

CEOs will check the vehicle for P&D tickets, looking at all windows.

In some places charges apply to Disabled Blue Badge holders. P&D tickets are not transferable between vehicles.

CODE: 85 - Off-street only - Parked without clearly displaying a valid permit where required

This code is used in car parks where there are bays for specific permit holders. This code is used when a vehicle is parked in a permit bay where

- No permit is displayed
- A permit is displayed but is not valid for that parking place
- A permit is obscured/face down and the details cannot be read.

This is an instant contravention and no observation period is required.

CODE: 86 - Off-street only - Not parked correctly within the markings of a bay or space

This code is used for contraventions when a vehicle is parked partly outside the parking bay (one wheel or more out of the bay). The CEOs may take photographs to show how the vehicle was parked.

This is an instant contravention and no observation period is required.

CODE: 87 - Off-street only - Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner

This code is used when vehicles use designated disabled bays without displaying a disabled Blue Badge.

Any vehicle using the disabled bay must display the Blue Badge (and time clock where the exemption is time limited) along with either a P&D ticket or evidence of the vehicle's tax exemption from the vehicle excise licence as required. Regulations vary between car parks and requirements will be displayed on the car park signs.

This is an instant contravention and no observation period is required.

CODE: 90 - Off-street only - Re-parked in the same car park within one hour [or other specified time] after leaving

This code is used when a vehicle has returned to the same car park within a specified time. A sign on the entrance to and signs throughout the car park will state the no return period. CEOs will record wheel valve positions on first and second observations to prove that the vehicle has returned.

This is an instant contravention and no observation period is required.

CODE: 91 - Off-street only - Parked in a car park or area not designated for that class of vehicle

This code is used when the wrong type of vehicle is parked (i.e. a car in a coach bay, a car in a motorcycle bay or a coach in a car bay).

CEOs may take photographs to show what type of vehicle has parked.

This is an instant contravention and no observation period is required.

CODE: 92 - Off-street only - Parked causing an obstruction

This code is used when a vehicle parks causing obstruction. This is more serious than code 86. It normally means that other traffic has difficulty manoeuvring around the obstruction.

CEOs may take photographs of the vehicle causing the obstruction.

This is an instant contravention and no observation period is required.

CODE: 93 - Off-street only - Parked in car park when closed

Some car parks are not open all the time and some are closed by a barrier. This code is used if cars are left in the car park at a time when it is closed.

This is an instant contravention and no observation period is required.

CODE: 99 - On-street only - Stopped on a pedestrian crossing or crossing area marked by zigzags

Under the TMA 2004 PCNs can be served for parking within a pedestrian crossing (marked with white zigzag markings).

The Police will also have the power to issue a Fixed Penalty Notice and your driving licence may be endorsed with penalty points.

If you get a penalty from both the Police and the Council, the Police's Notice will take precedence and the Council's will be cancelled if the Police advise the Council that they are taking action.

This is an instant contravention and no observation period is required.

SPECIFIC PROCEDURES

This section explains how challenges and representations will be considered in relation to particular circumstances. They are guidelines only and each case will be considered on its own merits. When considering challenges and appeals, the Council will take all relevant circumstances into account, and this includes the consideration of mitigating circumstances.

Abandoned Vehicles:

Defined as an untaxed vehicle that remains parked, in a restricted area, for a period during which multiple PCNs are served (multiple means more than three) for the same contravention and in the same location. The CEO will report the vehicle as potentially abandoned and it will be dealt with by the appropriate council's abandoned vehicle section under the provisions of Refuse Disposal (Amenity) Act 1978.

Whilst the vehicle is being dealt with as potentially abandoned, no further PCNs may be served. Served PCNs may be enforced against the registered keeper of the vehicle in the normal way. In situations where the vehicle has been stolen prior to being abandoned, PCNs will be cancelled providing that suitable proof is received (crime book reference number or police report).

Abusive, Threatening & Violent Behaviour

Abusive behaviour to all Parking Services staff, either in person or on the telephone, will not be tolerated.

Abusive individuals will be advised that their behaviour is unacceptable and the conversation terminated if the abuse continues. A record will be kept of persistent offenders who are intimidating or abusive to staff.

CEOs that experience abusive behaviour should make a full record on their HHC directly quoting what is said.

Where a driver has been recorded as being abusive towards a CEO the Council may not consider a discretionary decision and cancel any PCN if it is challenged.

Threatening or intimidating behaviour is subject to the Contractor's operating procedures, which will include a "Code Red" policy. Code Red calls will be treated as serious incidents that require prompt attention and may require police attendance (this will be handled by the NSL base).

The Council will fully support a prosecution of individuals who assault CEOs in the performance of their duties and will enlist the support of the local police to prosecute in the event of an assault on Council employees.

For the purposes of prosecution it is important that the CEO makes detailed notes as soon as possible after the incident.

Bank Holidays – Restrictions Applicable:

Waiting and loading restrictions, as indicated by yellow lines/markings on the carriageway and/or kerbs may be in force throughout the year. These include:

- All double and single yellow lines
- Dropped kerbs
- Bus stop restrictions
- Pedestrian crossing keep clear zigzag markings
- Disabled bays (unless otherwise stated on the bay sign)

Charges apply on Bank Holidays in off-street car parks unless there are notices stating otherwise.

Motorists should not assume that restrictions do not apply on Bank Holidays unless this is specifically stated in the relevant signage and the Council may not usually cancel any PCNs served to drivers who were unaware that restrictions were in place.

Bank Visits:

Claims from individuals or companies that a PCN should not have been served because money is being taken to, or from, a bank may not be accepted as an automatic reason to cancel the PCN, irrespective of the amount involved.

It is appreciated that difficulty may be experienced when visiting banks but the exemption that will apply is in relation to cash in transit vans whilst loading/unloading large quantities of coin and cash boxes. If restrictions are in place adjacent to a bank these must be complied with by all motorists. Motorists are advised to contact the bank about future security arrangements.

The Council may consider cancellation of the PCN if it can be shown that there was no alternative time or method available for banking and that the cash involved was coinage of a heavy and bulky nature or where other mitigating circumstances can be cited.

Blocked Access/Exit:

Enforcement action may be taken if a vehicle parks on the road 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, or vehicles entering or leaving the carriageway across the footway, cycle track or verge.

Enforcement action will not be taken where a vehicle is parked adjacent to an individual residential dropped crossing unless it is requested by the resident.

PCNs served to vehicles in these circumstances may not normally be cancelled unless proof is received that the vehicle was parked with the permission of the resident (where the vehicle is parked adjacent to an individual dropped crossing), or where the driver can demonstrate that the vehicle was parked to enable the driver to obtain a key or unlock a barrier to gain access.

Where a representation against the serving of a PCN is received claiming that a vehicle could not be moved due to another parked vehicle, then due consideration will be given to its cancellation. When considering this the representation should be accompanied by any supporting evidence provided by the vehicle keeper, and due consideration will also be taken of the CEO's HHC notes and any photographs.

Blue Badges – See “Disabled Drivers/Passengers”

Broken Down Vehicles: (Also See “Vandalised Vehicles”)

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

1. Garage receipt, on headed paper, properly completed and indicating repair of the alleged fault within a reasonable time of the contravention.
2. Till receipt for purchase of seemingly relevant spare parts purchased on, or soon after, the date of contravention.
3. Confirmatory letter from the RAC, AA or other similar motoring organisation.
4. Confirmation from the CEO that the vehicle was obviously broken down.

Each case should ultimately be considered upon its own merits although previous cases where breakdowns have been accepted as mitigating circumstances will also be considered.

A note left in the windscreen, stating that “the vehicle has broken down”, may not be accepted, by the CEO, as a reason for not serving a PCN.

Listed below are some areas of contention relating to the alleged breakdown of vehicles:

1. Flat Battery:

- a) The receipt for the purchase of a new battery or parts that could cause a flat battery (alternator, solenoid etc.), should be requested. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.
- b) In cases where it is alleged that the vehicle was bump/jump started and no other evidence received, the PCN may not normally be cancelled. (NB. Vehicles with automatic transmission cannot be bump started).

- c) If no supporting evidence is forthcoming, the PCN may not normally be cancelled.

Consideration should also be given as to how the vehicle became parked in the first instance i.e. was it pushed from an unrestricted area or was it parked in contravention of a restriction before the breakdown occurred?

2. Flat Tyre:

- a) It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle's wheel. If the vehicle is left unattended a PCN will be served and may be cancelled only if it subsequently transpires that the driver was unable to change the tyre (e.g. elderly, disabled or infirm), and had gone to obtain assistance. In such instances evidence from the assisting party is required.
- b) If the wheel could not be changed because of a mechanical difficulty, evidence must be produced from the attending breakdown service supporting this.
- c) Failure to carry a spare wheel is not normally sufficient reason to cancel a PCN.

3. Overheating

- a) In cases where it is claimed that the vehicle had overheated due to a lack of water, the PCN may not normally be cancelled, unless this is directly attributable to a mechanical fault such as a broken fan belt, cracked radiator, burst hose, faulty water pump or thermostat. In such cases evidence of repair should normally be produced.
- b) Overheating caused by heavy traffic or hot weather may not normally be accepted as a valid reason to cancel the PCN.

4. Running out of fuel

- a) Unless this is due to a mechanical or electrical fault evidenced by repair the PCN may not normally be cancelled.

NB. If it is apparent from previous records that the same driver is continuously trying to avoid liability for PCNs by claiming that their vehicle is broken down, this will be considered when deciding on whether or not to accept the challenge or representation. Where a challenge or representation is accepted on the second or subsequent occasion the keeper will be informed, in writing, that due consideration to previous incidents may be taken into account should another contravention be committed for the same reason.

Builders / Tradesmen:

1. **Waiting restrictions:** Parking may only be allowed whilst loading/unloading of tools or materials are taking place. At all other times the vehicle must be moved to a permitted parking area.

2. **On-Street Residential Parking Zones:** Trade vehicles can only park if they are loading/unloading, have a valid permit or where limited waiting is allowed without a permit – there will be a need to check the signs to determine how long the vehicle can be parked for.

PCNs may not normally be cancelled if these guidelines have not been complied with.

Bus Stops:

Bus stops can either be restricted or unrestricted:

1. **Restricted:** A restricted bus stop will be marked with a yellow line and a time plate showing the hours of operation.
2. **Unrestricted:** An unrestricted bus stop will not have a time plate but may show advisory (white) road markings.

A bus stop restriction will not apply to a temporary bus stop unless the temporary bus stop is fully signed in accordance with the regulations.

PCNs served to any vehicle, other than buses, waiting in a restricted bus stop may not normally be cancelled.

Bus Lanes/ Bus Gates

Bus lanes and gates are carefully signed in accordance with regulations to ensure that drivers are aware of the restrictions. Bus lanes and bus gates are enforced using CCTV cameras. PCNs are served by post.

Local service buses and emergency vehicles are exempt and PCNs will not normally be served for these vehicles. If a PCN is served to an unmarked emergency vehicle deployed on an emergency it will usually be cancelled on production of evidence of the situation.

An assertion that the driver was directed to go through the bus lane by a satellite navigation system may not normally be accepted as a reason to cancel a PCN.

Care Organisations:

Many care organisations operate within Somerset as a result of contract arrangements with the Council and the Local Health Authority, as well as privately arranged care. Each will often display badges served by the various organisations but, due to the variety of badges in circulation none are recognised by Somerset County Council as valid authorisations to park in contravention of the restrictions.

1. **Parking in Council Car parks:** It is not felt that there is a need for carers to park within Council car parks free of charge. Consequently permits are not available for this purpose.

2. **Parking on Yellow Line Restrictions:** Carers are not exempt from yellow line restrictions and must not contravene them. No dispensation may be available to carers to enable them to park on a yellow line. In a medical emergency the PCN may be cancelled after consideration of the evidence available.
3. **Parking in limited waiting bays:** Carers are not exempt from the time limits shown on the signs.
4. **Parking in Resident Parking Zones:** Carers parked in bays reserved for residents must display either a valid visitor permit or a valid carer permit.

All requests for cancellation of PCNs will be considered in accordance with the guidelines shown above, although any extenuating circumstances, such as an emergency situation, will be taken into account. Evidence of these circumstances should be supplied.

Challenge against the Issue of a PCN:

At any time before a NTO is served, the owner or driver of the vehicle may make an informal written challenge against the serving of the PCN.

Challenges can also be made on-line at www.somerset.gov.uk/PCNinfo. When making a challenge the motorist can mention any mitigating circumstances as well as challenging the validity of the PCN.

The Council will respond, in writing, within 28 days of receipt of the challenge and will either, give notification of acceptance of the challenge and cancellation of the PCN, or rejection of the challenge.

If a challenge is rejected, the written notification from the Council will give precise reasons why this decision has been reached and explain that a NTO may be sent to the registered keeper of the vehicle who may then make formal representation. If the challenge is received within 14 days of the PCN being served, the discounted rate will be re-offered if payment is received within 14 days from receipt of the challenge rejection letter.

Making an informal challenge in no way detracts from the ability of the registered keeper to make a subsequent formal representation against the serving of the NTO or PCN to the Council or a subsequent appeal to the TPT if the representation is rejected.

Challenges / Representations Accompanied by Payment:

To avoid the loss of the discount period some motorists choose to enclose payment of the PCN with their challenge. Providing the Challenge is received within 14 days of the penalty the discount amount is always available if the Challenge is rejected.

If payment is sent the Council must comply with its own financial regulations regarding the banking of cheques, therefore any payment may be banked. If the challenge is

subsequently successful and the PCN is cancelled, a refund will be sent. The sending of payment with Challenges is therefore discouraged.

Complaints against CEOs:

Allegations that a CEO has made an error while serving a PCN will be investigated under the normal challenge or representation procedures.

Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with. The findings of the investigation will be communicated to the complainant, in writing, within 14 days. Should the findings not be acceptable to the complainant, advice of how to invoke the Council's Formal Complaints Procedure will be given.

Council Officers and Members on Duty:

All council officers and Members (Councillors), whether on or off-duty, are expected to fully comply with parking regulations:

1. Traffic Regulation Orders (TROs) contain exceptions for council staff and others carrying out certain duties, examples of which may include the following –
 - Servicing street furniture.
 - Maintenance of utility boxes.
 - Highway maintenance.
 - Graffiti removal.

All requests for cancellation of a PCN will be considered in relation to the exceptions included in the TRO, and any extenuating circumstances, such as an emergency situation, will be taken into account. Evidence of these circumstances should be supplied.

2. Request for Cancellation of a PCN: This will be considered in the same way as any representation from a member of the public.
3. Councillors can discuss individual cases of a PCN that has been served to their constituents; however they are not permitted to play a part in deciding the outcome of individual challenges or representations.

Court Attendance – Defendants:

The conditions given below which apply to Jury Members and Witnesses equally apply to defendants. However, there have been instances when a defendant has unexpectedly been given a custodial sentence and, as a direct result, is unable to remove their vehicle from a Council car park or limited parking bay.

In such instances the Council will expect that the vehicle will be removed as soon as is reasonably possible, by the defendant's family, friends or legal representatives. Any PCN

served may be considered for cancellation providing supporting evidence is supplied by the defendant's legal representative.

Court Attendance – Jury Service or Witness:

The length or timing of any court hearing or trial cannot be guaranteed and often Jury members and/or witnesses find that they are unable to leave court to purchase further parking time or to move their car. This often leads to overstays and to PCNs being served. To avoid this, courts issue clear instructions to all Jury members and witnesses advising them as to how and where they should park. The courts will not pay any PCN served to a witness or Jury member whilst carrying out their legal duties, even if they are delayed by the court.

In such circumstances the Council may not usually cancel PCNs unless evidence is produced to support the fact that the driver was delayed to an extent that could not have been reasonably foreseen e.g. moved to a hotel overnight.

Dental / Doctors Appointments:

If the claim is made that due to a significant delay in the appointment time or that treatment took longer than anticipated and this resulted in a PCN being served for overstaying the parking time allowed, the PCN may not normally be cancelled. Any extenuating circumstances, such as an emergency situation, will be taken into account. Evidence of these circumstances should be supplied.

Diplomatic Vehicles:

PCNs may be served in the normal manner to vehicles parked in contravention and displaying diplomat plates, (usually in the format of three numbers, followed by 'X' or 'D' and another three numbers).

If a driver of a diplomatic vehicle queries the serving of a PCN, this will be dealt with in the same manner as any other PCN.

Disabled Drivers / Passengers:

Blue Badges are issued to either a disabled driver or a disabled passenger. They can only be used when the badge holder is with the vehicle. It is not permitted to use the badge for any other purpose e.g. shopping for the disabled person when they, themselves, are not being transported in the vehicle to carry out the shopping. Blue Badges must be clearly and properly displayed whilst the vehicle is parked.

The Blue Badge must be on the dashboard or the fascia of the vehicle where it can be seen through the windscreen. The front of the badge must be displayed, with the wheelchair symbol visible. If there is no fascia or dashboard in the vehicle, the badge must be displayed in a prominent position. The Blue Badge must always be displayed along with the disabled badge time clock if the vehicle is parked in a time-limited space or on a yellow line.

Failure to do so may result in a PCN being served for the contravention of the appropriate parking restriction. When considering the matter the Council may take into account any previous contraventions by the same vehicle and/or badge holder. For PCNs served in Sedgemoor, Somerset West and Taunton car parks, and on-street throughout Somerset where no previous contravention has occurred the challenge or representation may be allowed, providing proof of the existence of a valid badge is supplied. In such circumstances the letter sent to the person making the representation will explain the proper use of the badge and make it clear that this contravention may be taken into account when considering any future contravention, and that this may lead to future representations being rejected.

In Mendip car parks the Blue Badge must be on display, if face down and proof is supplied to confirm it is the valid badge the PCN may be cancelled.

Providing the Disabled Badge is clearly and properly displayed the, Blue Badge Holder can park in:

- Most designated disabled parking bays on-street, free of charge and without time limit. Some disabled bays do have a time limit and this will be shown on the sign. In this case, the time clock should be set to the time of arrival and displayed alongside the Blue Badge.
- Limited parking places: Unlimited unless signs indicate otherwise
- On single or double yellow lines for up to three hours and providing that the vehicle is not causing an obstruction (the clock should be displayed and set to the time of arrival).
- In P&D bays on-street: free of charge and without time limit, unless signs indicate otherwise
- Council car parks within the Mendip District Council area – in accordance with the signage in the relevant car park.
- Council car parks within the Sedgemoor District Council area free of charge (providing the vehicle is displaying a Blue Badge). Wherever possible the driver should park in designated disabled bays.
- In council car parks within the Somerset West and Taunton Council area Blue badge holders are required to pay the standard tariff; however shall be entitled to 1 extra hour of free parking in addition to the session purchased (unless parked in a pay on foot/exit car park).

Blue Badge Holders are not allowed to park in:

- Any area where there is a loading restriction.
- Resident only permit areas
- Any area specifically reserved for other vehicles or purpose i.e. Taxi Ranks, reserved spaces in car parks, cycle lanes, bus stops or goods vehicle loading bays etc.
- Any location where they cause a hazard or an obstruction.

Parking with a Blue Badge must always be in accordance with the current Blue Badge Scheme guidance.

Disabled visitors from the European Union can enjoy the parking concessions provided in the UK by displaying the badge served under their own national scheme.

The DfT is keen to ensure that the Blue Badge Scheme provides the intended benefits to badge holders while seeking to prevent improper use. By virtue of Section 94 of the TMA 2004 police officers, traffic wardens, local authority parking attendants and CEOs (as defined in Section 76 of the TMA 2004) have the power to retain badges. It is an offence to fail to produce a badge when requested to do so by any of these authorised persons.

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.

Dispensations and Suspensions:

DISPENSATIONS: The following vehicles will receive dispensation from waiting restrictions:

- Marked Police, Fire, Rescue Services (including RNLI and Coastguard) and Ambulances
- Vehicles involved in contracted Highway Maintenance or Public Utility work where there is a need for them to be parked adjacent to the site.
- Liveried Council Vehicles carrying out statutory duties such as Refuse Collection, Street Cleansing and verge maintenance where there is a need for them to be parked adjacent to the site.
- Vehicles displaying valid disabled drivers badge (see appropriate section on Disabled Drivers/Passengers).

Dispensations may also be granted for other reasons.

SUSPENSIONS: Designated parking bays, on or off-street, may be suspended.

Full guidance on dispensations and suspensions (what they will be granted for, how to apply etc.) can be found at www.somerset.gov.uk or from Somerset Parking Services: 01823 210566.

Suspension of bays in off-street car parks need to be discussed with the relevant District or Borough Council that operates the car park and a charge for the suspension will be made. Only authorised vehicles may park in a suspended bay. Householders requesting suspensions for removals or other works to be carried out are not permitted to park their own vehicle in the suspended bay, even if the authorised vehicle(s) are not using it at the time.

PCNs may not normally be cancelled if a vehicle is parked in a suspended bay, or is not complying with the requirements of a dispensation.

Double Parking:

Drivers are not permitted to park their vehicles more than 50 centimetres away from a kerb unless the vehicle is fully contained within the markings of a designated parking space. This contravention is more commonly known as double parking. Vehicles parked in this manner cause inconvenience and unnecessary danger to other road users by obstructing the carriageway.

PCNs served to vehicles that are double parked may not normally be cancelled.

Drink Driving or Other Arrest:

If the driver of a vehicle has been arrested and, as a direct result, left the vehicle in contravention of an on-street parking restriction any resulting PCN should not normally be enforced unless the driver has had ample time to safely remove the vehicle after their release from custody. (In the case of drink driving a period of at least 12 hours should be allowed for safe removal of the vehicle).

In all cases of arrest claims the driver should be asked to provide date, time and evidence of arrest including custody number, officer and Police Station involved.

Drive-aways:

A PCN may be sent by post where the vehicle has been driven away before the CEO is able to place it on the vehicle or hand it to the driver. The claim that a PCN had not been served at the time by the CEO does not invalidate the issue of the PCN.

If drivers claim that they were unaware the CEO was issuing a PCN, reference will be made to the notes made by the CEO at the time, and where these support the serving of the PCN, it may not normally be cancelled.

Dropped Kerbs:

Parking across a dropped kerb is now a contravention outside London under the TMA 2004. However if the vehicle is parked with the permission of the owner of the property it will not be subject to enforcement action. Therefore the Council will only enforce this contravention on demand. Should an unknown vehicle be parked across the dropped kerb, the resident/business can contact Parking Services 01823 210566 and the matter will be dealt with at the earliest opportunity by serving a PCN.

Not all dropped kerbs are there to allow access to a private driveway. Dropped kerbs are also placed on the footway or the carriageway for other reasons; to assist –

- Pedestrians crossing the carriageway
- Cyclists entering or leaving the carriageway, or
- Vehicles entering or leaving the carriageway

These dropped kerbs will be enforced in the normal manner and PCNs may be served to vehicles parked in contravention. Any PCNs served for this contravention may not normally be cancelled.

Dropping Off - Picking Up Passengers:

Except on designated clearways and zigzag (schools and pedestrian crossings) restrictions, any vehicle will be allowed a reasonable amount of time to drop-off or pick-up passengers. It is considered that two minutes is sufficient allowance for this unless it

involves the elderly, people with disabilities, young children or large amounts of luggage etc.

When considering the cancellation of PCNs special consideration will be given to Hackney Carriages or Private Hire Vehicles who will need additional time to announce their arrival and accept payment.

Emergency Duties:

Local Authority Livered Vehicles will be exempt from parking restrictions when actively dealing with an emergency on the highway. However, these vehicles should not be parked in a way that will cause an obstruction to other road users and pedestrians wherever possible.

Medical Emergency: Doctors, nurses, midwives engaged on emergency duties are, wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be served it will be cancelled only upon evidence of the emergency being provided. Regular or programmed visits may not be considered an emergency.

Non-Livered Vehicles such as private vehicles being used by the County Council Highways Department, RNLI, Coastguard and Cliff Rescue Members are wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be served, it will be cancelled only upon evidence of the emergency being provided. Regular or programmed visits may not be considered an emergency.

Enforcement Agents (formerly known as Bailiffs):

Enforcement Agents act on behalf of the Council to recover outstanding penalties. The actions and additional fees charged by the Enforcement Agent are detailed within the Taking of Good Regulations.

Estate Agents:

Estate agents are not exempt from parking restrictions and PCNs may not normally be cancelled.

Exempt Vehicles:

The following vehicles are considered to be exempt from parking restrictions whilst attending emergencies:

1. Fire and Rescue Services Vehicles (including private vehicles where the vehicle is being driven by emergency services personnel such as Lifeboat Personnel and Retained Fire-fighters)
2. Marked Police Vehicles
3. Ambulances.

The following vehicles are exempt in the circumstances described:

1. Vehicles that at the relevant time are being used or appropriated for use by HM Forces.
2. Vehicles that belong to, or at the relevant time are being used or appropriated for use by visiting forces (such as the United States Visiting Forces).
3. Local Authority Vehicles (or those of their contractual agents), whilst being used to carry out statutory and common law duties and powers (i.e. Refuse Collection, Street Cleansing, Highway Maintenance), or whilst carrying out duties that require the vehicle to be in close proximity (i.e. Verge Grass Cutting), including vehicles in the service of the CPE Contractor.
4. Post Office and other vehicles engaged in the delivery of postal packets (i.e. Courier companies). This does not include private vehicles used by postmen/women whilst carrying out letter deliveries. The Council will expect such vehicles to be parked in compliance with any parking restriction.
5. Electricity, Gas and Water Companies, British Telecom or other telecommunications (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus in the highway.
6. Vehicles involved in building, excavating and demolition work whilst lawfully and actively engaged on those duties in the highway.
7. Vehicles with pumping systems on-board whilst lawfully and actively using the pump system to take on or discharge water on the highway.
8. Cash in transit vans

All challenges and representations received from drivers or keepers of vehicles claiming one of the exemptions listed should be accompanied by suitable proof before cancellation is considered. This should be signed by a manager or senior officer, not the driver of the vehicle.

Formal Representation against the serving of a PCN:

The registered keeper of a vehicle is given the opportunity to make a formal representation against a PCN once the NTO is sent to them by the Council. This representation must be made within 28 days of receipt of the NTO. Formal representation can be made on the following grounds; as stated in the legislation and the Department of Transport Operational Guidance as follows:

- a) That the alleged contravention did not occur.

This is likely to be the most common ground for representations. It includes cases where a vehicle was allegedly loading or unloading in accordance with a TRO, where a PCN was allegedly served too early by the CEO, or where a vehicle was allegedly displaying a valid permit, ticket, voucher, Badge, etc.

- b) That the recipient never was the owner of the vehicle in question or had ceased to be its owner before the date on which the alleged contravention occurred; or became its owner after that date.

Where a recipient makes representation under the second or third circumstances above, he or she is legally obliged to include a statement of the name and address of the person to whom the vehicle was disposed of (or from whom it was acquired, as the case may be), if that information is in the recipient's possession.

- c) That the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner.

This ground for representation covers stolen vehicles and vehicles used without the owner's consent but which were not stolen. It may apply in limited circumstances where a vehicle was being used by a member of the owner's family without the owner's express consent, such as where the family member has no permission to use the vehicle and has taken the keys without the owner's knowledge.

- d) That the recipient is a vehicle-hire firm and the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN served in respect of any contravention involving the vehicle.

The Secretary of State suggests that the NTO requests that the hire-firm supply to the authority the name and address of the person hiring the vehicle at the material time and a copy of the statement of liability. This information should be used to issue a second NTO, on the person hiring the vehicle (who shall be deemed to be the owner of the vehicle for the purposes of processing the PCN).

- e) That the penalty charge exceeded the amount applicable in the circumstances of the case.
- f) That there has been a procedural impropriety on the part of the enforcement authority.

The regulations define a procedural impropriety as a failure by the enforcement authority to observe any requirement imposed on it by the TMA or the TMA regulations in relation to the imposition or recovery of a penalty charge or other sums and include, in particular, the taking of any step, whether or not involving the service of a document and the purported service of a Charge Certificate in advance of the time scale set out in the regulations. This will also be ground for a representation against a PCN that has been served if a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988, has been given in respect of that conduct or the conduct constituting the parking contravention in respect of which the PCN has been given is the subject of criminal proceedings. This is only likely to be the case on or near pedestrian crossings.

- g) That the Order which is alleged to have been contravened in relation to the vehicle concerned is invalid

This ground for representation includes cases where the wording of a TRO is deficient or contradictory. If the TRO is not properly indicated with traffic signs or road markings, or the traffic signs or road markings are not in order, or where the restriction marked on the street go beyond what is provided for in the TRO the TRO is unenforceable (rather than invalid) and so cannot be contravened.

- h) In the case where a PCN was served by post on the basis that a CEO was prevented by some person from fixing it to the vehicle concerned or handing it to the keeper or person in charge of the vehicle, that no CEO was so prevented.
- i) That the NTO should not have been served because the penalty charge had already been paid in full or by the amount reduced by any discount set within the period set.

In addition the Council will consider mitigating circumstances that do not fall in to the above categories.

Funerals and Weddings:

PCNs will not be served in the case of:

- Funerals – For the hearse and cortege vehicles.
- Weddings – Official Vehicles.

However, vehicles belonging to mourners or wedding guests that are not actively involved in the wedding or funeral will not be able to park in contravention of any parking restriction. Any PCN served to vehicles associated with a funeral or wedding, however, will be considered with due respect.

Garages – Vehicles Left Unattended:

If a garage employee parks a vehicle in contravention of a parking restriction, whilst the garage has charge of the vehicle for maintenance or other purposes (i.e. to facilitate vehicle movement within the workshop) a CEO will serve a PCN. Garages have no special

exemptions from the parking regulations for this purpose and PCNs may not normally be cancelled. The registered keeper may remain liable in these cases.

Glaziers:

Claims from glazing companies that a vehicle needed to be parked close to the location of a repair should be treated leniently providing it is confirmed, from the CEO's notes or Company's job sheet that such activity was taking place at the time the PCN was served. PCNs may not normally be cancelled when served to vehicles that are not actively involved in the work.

Government Department Vehicles:

Vehicles are not exempt purely by virtue of the fact that they are operated by a Government Department. If the vehicles are involved in exceptional activities such as surveillance by Customs and Excise or the Benefits Agency, evidence to support this in the form of a written statement from a senior manager on headed notepaper must be supplied. Wherever possible Government Agencies involved in such activities should be encouraged to give the Council advance notice and details of the vehicle(s) involved.

Grace Period:

From 06 April 2015 the law requires that a PCN cannot be served to a vehicle for overstaying in an on-street parking place or Local Authority car park until a 10 minute grace period has been granted. The grace period applies to on-street and off-street parking places, whether the period of parking is paid for or free. The grace period is only applicable to designated parking places where parking is permitted and does not include areas with restrictions (e.g. single yellow lines) or prohibition (e.g. double yellow lines).

Hackney Carriages / Private Hire Vehicles (PHVs):

Hackney Carriages and Private Hire Vehicles operating within the County are licensed by the relevant District Council and carry a numbered license plate that must be displayed on the rear of the vehicle. There is a distinct difference between Hackney Carriages and Private Hire Vehicles (PHV). PHVs are not allowed to ply for hire on the street or display a "TAXI" sign.

Hackney Carriages licensed by local authorities are not allowed to ply for hire within another local authority area. Hackney Carriages and PHVs, like all vehicles, may stop to allow passengers to board or alight for as long as is reasonably necessary for the purpose. The vehicle should not, in normal circumstances be left unattended.

If a licensed Hackney Carriage or PHV is left unattended and parked in contravention it is liable to be served a PCN. When considering representations it should be borne in mind that when a Hackney Carriage or PHV is called to an address to pick up passengers the driver should be allowed time to announce his/her arrival.

Hazardous Chemicals / Substances:

Claims by companies that toxic or dangerous substances were being delivered or collected from premises and, as a result, a PCN was served to the vehicle being used, should be given careful consideration. If the PCN was served for contravention of a no waiting restriction it can be established from the CEO's notes whether the activity of loading was taking place. If no loading activity was taking place the PCN may not normally be cancelled unless documentary proof is supplied. There is no reason, in this case, to differentiate between toxic and non-toxic deliveries as it is the driver's responsibility to ensure that the vehicle is moved immediately after the loading/unloading activity is complete. (See definition of Loading/Unloading). Ideally if there are serious Health and Safety concerns the authority should be notified prior to the delivery.

If the PCN was served for contravention of a no loading restriction then, once again, the CEO's notes should be viewed to establish whether the loading activity was taking place. If so then serious consideration should be given to the cancellation of the PCN in view of the Health and Safety of the public. Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

Hiring/Leasing Agreement:

The legislation states that, in the case of a hired vehicle, responsibility for a PCN lies with the hirer of the vehicle at the time. Consequently, in this case, the responsibility does not rest with the registered keeper, the Hire Company, providing they make formal representation to the Council once the NTO is received.

This representation must be accompanied by a copy of the relevant hire agreement. In all cases this agreement must clearly state: The name and address of the hirer, the start and finish dates for the hire period and the hirer's signature. It must also include a statement regarding the hirer's liability for any PCNs incurred during the hire period.

Should any of the foregoing be unclear, absent or in contradiction of the date or time of serving of the PCN then the PCN may not normally be cancelled and the Hire Company may remain liable. A NOR will be sent to the hire company explaining why the agreement does not comply with regulations.

Hospital Car Service:

The display of a "Hospital Car Service" badge does not automatically exempt the holder from parking restrictions. However all challenges or representations against the service of a PCN should be given due consideration bearing in mind that this is a voluntary service provided for the elderly and sick so they can be transported to and from hospitals.

Generally such consideration should extend to:

- Allowing sufficient time to enable the driver to make their presence known to the passenger(s).

- Allow sufficient time to assist the passenger(s) between the vehicle and their home(s), bearing in mind they may be elderly or infirm, have a disability or be unwell. This may well involve sufficient time to ensure the passenger is comfortably settled within their own home prior to departure by the driver.

Challenges and/or Representations should be accompanied by documentary evidence giving the date, time, pick-up and drop-off locations for the trip and, wherever possible, a description of the passenger (i.e. elderly, difficulty in movement, post-operative etc.).

Hospital Visits:

There are no automatic exemptions for patients or visitors to hospitals, and they should pay to park on-street or in car parks in the normal manner.

However, consideration will be given to individual circumstances and if a PCN is served to a patient in an emergency situation, it may be cancelled, providing suitable proof is supplied.

Loading/Unloading:

Vehicles are permitted to park in contravention of waiting restrictions (single or double yellow lines) or in permitted parking bays whilst carrying out the activity of loading and unloading heavy items or the delivery and collection of goods as part of a business activity.

Prior to serving a PCN the vehicle will be observed by the CEO for a minimum of 5 minutes. This enables the CEO to ascertain whether loading/unloading is being undertaken. However, there will be occasions that, due to the nature of the loading/unloading or delivery/collection, no activity will be seen and a PCN may be served.

In cases where a driver or registered keeper challenges the issue of a PCN as they were loading/unloading or involved in a delivery or collection, they should include documentary evidence to support their claim. This can include paperwork such as:

- Signed delivery/collection notes
- Delivery round records
- Till receipts (in the case of personal purchases of heavy/bulky goods)

It should be noted that, unless in exceptional circumstances, loading and unloading does not include the picking up or dropping off of shopping.

Lost Keys:

Where it is claimed that car keys have been lost, stolen or locked in a car, preventing its removal from a parking area, which results in the serving of a PCN due consideration should be given to cancellation. The representation should be accompanied by any supporting evidence from the police, motoring organisations etc. The following will also be considered:

- 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 in contravention of a parking restriction, should it have been parked there in the first place?

Mis-spelling of Keeper's Name:

Minor errors in the spelling of the registered keeper's name and/or address on the NTO do not invalidate it or discharge the liability of the person receiving it. The onus is still on the genuine keeper to deal with the matter.

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., may 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.

Motorcycle Bays:

These are not mandatory bays but are exemptions to the normal restrictions either on-street or in car parks. Consequently any vehicle, other than a motorcycle, parked in such a bay is parked in contravention of the underlying restriction, not for being parked in a motorcycle bay. These bays are indicated by white lines and are supported by an upright sign.

Car parks within Mendip.

Motorcycles may park free of charge in designated motorcycle bays but must pay if using a standard parking space.

Car parks within Sedgemoor.

Motorcycles may park free of charge in designated motorcycle bays but must pay if using a standard parking space.

Car parks within Somerset West and Taunton

Motorcycles may park free of charge in designated motorcycle bays but must pay if using a standard parking space.

PCNs served to vehicles not complying with these restrictions may not normally be cancelled.

Notice of Rejection or Notice of Acceptance (NOR/NOA) of Formal Representation:

Within 10 working days of receipt of a formal representation from the registered keeper of the vehicle the Council will endeavour to send out a written Notice of Acceptance or Rejection:

1. Notice of Acceptance (NOA): This will confirm that the representation has been accepted and that the registered keeper's liability for the PCN has been cancelled.
2. Notice of Rejection (NOR): This formally rejects the representation and gives detailed reasons why the Council have come to this conclusion. The rejection is also accompanied with the necessary forms and instruction on how an appeal can be made to the independent adjudicator at the TPT. – This appeal must be made within 28 days of receipt of the NOR.

Pay and Display (P&D) Tickets and Pay by Phone:

Most of the councils' car parks operate as pay and display, and pay by phone. Pay and display requires the purchase of a ticket at the time of parking for the amount of time required. All tickets display the expiry date and time on them along with the fee paid and car park. The ticket must also be clearly displayed in the vehicle once bought. The car park tariff is clearly displayed adjacent to each machine. P&D Tickets must be:

1. Clearly displayed whilst the vehicle is parked.
2. For the date shown
3. Valid for the duration parked
4. For the car park indicated
5. For the vehicle indicated – if required.

PCNs may be served for:

1. Failing to display a valid ticket so that it is clearly visible.
2. Displaying a ticket that has expired.
3. Purchasing additional Pay and Display tickets in order to extend the stay beyond that initially purchased (only applicable in some car parks where the contravention is clearly indicated on the machine).

Signs will indicate where pay by phone is available. Payment is recorded on a central database and CEOs will receive lists on their HHC of VRMs that have paid in this way. PCNs will not be served for vehicles not displaying a pay and display ticket if they are on this list, unless the vehicle is in contravention of another aspect of the regulations e.g. parked out of bay.

For PCNs served in Mendip and Sedgemoor car parks where the driver indicates they have used the pay by phone service to pay for parking, and the Council has received the correct payment for the period purchased, cancellation of a penalty notice may be only be considered if the VRM paid for is clearly a typographical error from that actually parked.

For PCNs served in Somerset West and Taunton car parks, and on-street throughout Somerset where the driver indicates they have used the 'pay by phone' service to pay for parking and the Council has received payment, cancellation of a penalty notice may be considered in the following circumstances;

- a) the vehicle is parked in a car park of the same authority;
- b) the VRM paid for is clearly a typographical error from that actually parked;
- c) the driver has more than one vehicle registered with the 'pay by phone provider' at the same address and has mistakenly paid for a vehicle other than that parked.

In these circumstances the Council may consider cancelling the penalty on the first occasion.

Representations made because the driver failed to correctly display a valid ticket even though one was held may not normally be allowed as it is incumbent upon the driver to ensure that the ticket is clearly displayed throughout the time that the vehicle is parked. Representations made because the driver did not have change may not be allowed.

PCNs served in Sedgemoor, Somerset West and Taunton car parks may be cancelled if a P&D ticket that was valid at the time of issue of the PCN can be produced. PCNs served in Mendip car parks may only be cancelled if the ticket is upside down but the serial number on the back is visible and evidence is supplied that the serial number (also printed on the front of the ticket) relates to a ticket that was valid at the time the PCN was served.

For the avoidance of doubt, 'correctly displayed' means the pay and display ticket is displayed face-up on the dashboard, so all information printed on the ticket is clearly visible through the windscreen.

Representations made because of delays returning to the car park will be dealt with in accordance with 'mitigating circumstances' above.

Pedestrian Crossings

A PCN may be served immediately to any vehicles parked on the keep clear zigzag markings. The police may also enforce this contravention through the issue of a FPN.

If a challenge or representation is received claiming that a FPN was also served for this contravention, evidence of the issue of the Notice should be provided and the PCN must be cancelled. This is because the FPN will take precedence over the PCN.

Penalty Charge Rate:

The PCN rate has been set at £70/50 for both on and off-street parking contraventions. This Differential Penalty Charge has been introduced so lesser contraventions carry a lower charge, but more serious contraventions carry a higher charge. The PCN rate for contravention 34 "being in a bus lane" has been set at £60. Please see the tables starting on Page 9 for a full list of contraventions with their rates. If paid within 14 days of being served the PCN rate is discounted by 50%, and payment of this amount will be accepted in full settlement.

Permits (or Passes) In Car parks:

Various permits and season tickets are available for council owned car parks in Somerset, from the relevant local authority. Permits and season tickets must be correctly displayed; PCNs may be served for non-display or incorrect display of valid permits.

PCNs served for non or incorrect display may not normally be cancelled in Mendip.

PCNs served in Sedgemoor, Somerset West and Taunton may be cancelled if a valid season ticket or permit bearing the VRM of the vehicle is produced. If the season ticket or

permit does not show the VRM, or this is not a first time occurrence, the PCN may be upheld.

Plumbers, Electricians, Gas Fitters:

These vehicles are permitted to park whilst dealing with an emergency situation. An emergency is considered to last as long as it takes to make the premises safe i.e. turn off the main supply. After which, any vehicle should be moved to a permitted parking place before any subsequent repairs are undertaken. Repairs and service calls do not entitle the vehicle to be parked in contravention of the regulations.

Any requirement to bring in heavy equipment is dealt with as loading/unloading.

A PCN served to a vehicle not parked in accordance with these guidelines may not normally be cancelled, unless evidence is provided to support claims of emergencies or loading/unloading.

Police Officers on Duty:

PCNs should not be served to marked police vehicles when on official duty, or plain vehicles displaying their log book. Requests for cancellation of any PCN served must be made by the officer's area Inspector or equivalent. They should contain confirmation that the officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

PCNs served to unmarked police vehicles regularly parked outside of a police station should not automatically be cancelled as this can be deemed to be parking at a place of work and therefore, no different from any other employed person.

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 may not normally be cancelled.

Previous Records of Parking Contraventions:

All records of previous parking PCNs served within Somerset to the same vehicle may be reviewed before making any decision on any representation received and may be taken into account in any decision.

Private Property:

Private landlords, residents etc. can impose any reasonable restriction on their own property i.e. the need for permits or permission to park. Enforcement of such restrictions, however, is also their responsibility although it may be subcontracted to other companies, who may issue parking charge notices. These notices are not the same as a PCN served by

the Council and any person querying such an area should be referred to the relevant landlord, resident or to the company who has served the notice.

Public Utility Vehicles:

See "**Emergency Duties**" and "**Exempt Vehicles**"

Registered Keeper's Liability

The following extract from the TMA 2004 outlines who is responsible for paying a penalty charge once served:

'Person by whom a penalty charge is to be paid'

- (1) Where a parking contravention occurs, the person by whom the penalty charge for the contravention is to be paid shall be determined in accordance with the following provisions of this regulation.
- (2) In a case not falling within paragraph (3), the penalty charge shall be payable by the person who was the owner of the vehicle involved in the contravention at the material time.
- (3) Where—
 - a) the vehicle is a mechanically propelled vehicle which was, at the material time, hired from a vehicle-hire firm under a hiring agreement;
 - b) the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement; and
 - c) in response to a NTO served on him, the registered keeper of the vehicle made representation on the ground specified regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

the penalty charge shall be payable by the person by whom the vehicle was hired and that person shall be treated as if he were the owner of the vehicle at the material time for the purposes of these Regulations.

(4) In this regulation—

- a) "hiring agreement" and "vehicle-hire firm" have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(1); and
- b) "the material time" means the time when the contravention, giving rise to the penalty charge, is said to have occurred.'

(1) 1988 c. 53.

Residents' Parking (On-Street):

Residents' Permits:

- A resident's permit must be clearly displayed on the windscreen of the vehicle. Permits are only valid in the zones indicated on the permit, for the VRM shown and until the shown expiry date.
- Failure to display a resident's permit when required is a contravention and may result in a PCN being served which may not normally be cancelled unless there are mitigating reasons why the permit was not displayed.
- Where electronic resident's permits are available, a PCN will not be served if the VRM appears on a list of valid permits for the zone.
- Use of a permit in a zone other than those specified on the permit, or after its expiry date is also a contravention for which a PCN may be served. Again, the PCN may not normally be cancelled unless there are mitigating circumstances that account fully for the contravention.

Visitors' Permits:

- Visitors' permits are obtained by residents and issued to genuine visitors to their homes. Full instructions on how to use and display them are printed on the permits. A permit is valid only within the zone(s) printed on its face.
- Failure to display a visitor's permit when required is a contravention and may result in a PCN being served, which may not normally be cancelled unless there are mitigating reasons why the permit was not displayed.
- Where electronic visitor's permits are available a PCN may not be served if the VRM of the vehicle appears on a list of valid permits for the zone.
- Use of a permit within another zone, on a vehicle other than that indicated on the permit and on a date other than that indicated on the permit is also a contravention for which a PCN may be served. Again the PCN may not normally be cancelled unless there are mitigating circumstances that account fully for the contravention.

Visitors' Scratch Cards:

- Full instructions on how to use and display them are printed on the scratchcard. Scratchcards are valid only within the zone(s) printed on its face and for the day revealed on the face of the card.
- Failure to display a visitor scratchcard permit when required is a contravention and may result in a PCN being served, which may not normally be cancelled unless there are mitigating reasons why the permit was not displayed.
- Use of a scratchcard permit within another zone, on a date other than that indicated on the scratchcard or where more than one date has been exposed on the scratchcard is also a contravention for which a PCN may be served. Again the PCN may not normally be cancelled unless there are mitigating circumstances that account fully for the contravention.

Visitors' scratchcard permits are not currently available in Minehead parking zones.

Limited Waiting

- In some residents' parking zones vehicles can be parked for a limited time. The signs in these areas should be checked for the permitted duration.
- Vehicles exceeding this duration and not displaying a permit may be served with a PCN.

Restricted Hours:

The hours during which restrictions are in force may vary and, if there is any doubt, the relevant TRO can be consulted. Generally restrictions are as follows:

Yellow lines:

- a) Single: No waiting during times shown on adjacent sign
- b) Double: No waiting at any time.

Loading restrictions – yellow kerb markings:

- a) One marking: No loading during times shown on adjacent sign
- b) Two markings: No loading at any time.

Designated loading bays: Marked by white lines and indicated on adjacent sign(s). "Loading only" is written alongside the bay.

Disabled bays: mandatory: Marked by white lines and indicated on adjacent sign(s). "Disabled bay" is written alongside the bay.

Bus stop: Marked by a yellow bay together with a thick yellow bar through the back of the bay and indicated on adjacent sign. "Bus Stop" is written inside the bay.

Doctor's bays: Marked by white lines and indicated on adjacent sign(s). "Doctor" is written alongside the bay.

Drivers are advised to consult the relevant signs when they park to ensure that they are parking in accordance with the restriction. Claims that drivers were unaware of the times of restriction may not normally result in the cancellation of a PCN.

Road Signs / Markings – Missing, Obscured or Broken:

1. Yellow Lines:

- a) Where it is claimed that a yellow line(s) is worn away or has been covered by a highway repair, the area will be inspected and remedial work undertaken as soon as practicable.
- b) Where weather conditions have obscured the lines (e.g. snow, leaves or wind-blown sand) then remedial action to clear them will be taken as soon as practicable.
- c) If it is confirmed that the claim is valid the PCN will be cancelled. The claim will be considered valid, if the motorist could not establish if the restriction

considered was in operation. Where the lines can be clearly seen, even though they may be partially worn, the PCN may be enforced but remedial action to renew the lines should be undertaken.

2. Kerb Markings: (Loading Restrictions) as per yellow lines above.

3. Obscured Signs:

Information signs accompanying waiting or loading restrictions must be clearly visible at all times. If it is claimed that a sign was obscured and could not be seen (e.g. graffiti, weather, or overhanging trees) the sign will be checked as soon as practicable and remedial action taken. Photographic records from the CEO will be consulted. If the claim is proved to be correct the PCN will be cancelled.

4. Missing Signs: If a sign is claimed to be missing, it will be inspected as soon as practicable and, if confirmed, arrangements made for its replacement. A single missing time plate may not normally be considered as the restriction being improperly signed. No Waiting at Any Time restrictions do not require time plates to be erected.

5. Restriction marked after vehicle parked: A PCN may be cancelled if records confirm that signing/lining/placement of cones or suspension notices are likely to have taken place after the vehicle was parked.

Royal Mail and Universal Service Provider Vehicles:

Vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such. Vehicles parked for more than 10 minutes with no activity observed are subject to the same restrictions as ordinary motorists and a PCN may be served. Cancellation of a PCN may only be considered if written confirmation is received from the area manager that the vehicle was actively involved in the collection/delivery of mail.

Scaffolders

Scaffolders are generally exempt from parking restrictions where scaffolding is being constructed, i.e. whilst loading/unloading equipment from the vehicle and erecting/dismantling the scaffold.

Scaffolders are however encouraged to apply for a suspension which will allow them to work within permitted parking bays.

PCNs may not normally be cancelled unless evidence is provided that the vehicle was engaged in actively loading/unloading or constructing/dismantling scaffolding, essential work, or covered by a dispensation.

School Keep Clear Markings:

Zigzag markings outside of schools are installed for the protection of the children and can be either restricted or unrestricted. Any vehicle parked in a restricted area may be served with a PCN. Representation that the driver was picking-up or dropping-off children may not be accepted as a valid reason for cancellation.

Motorists stopping on zigzag markings outside schools are guilty of an offence whether the area is restricted or not. The Police can issue a FPN, which also carries penalty points as well as a fine.

Security:

The Chief Constable of Avon and Somerset Constabulary can, at any time, give notice to suspend the use of a parking space for up to 28 days where they consider such suspension as necessary for maintaining security in adjacent premises. PCNs served for contravention of such suspensions may not normally be cancelled.

Security Vans:

Secure cash vans are occasionally required to park in close proximity to premises in order to affect safe delivery or collection of cash.

An exemption is included in Somerset County Council's Traffic Orders for secure cash vans which applies to all restrictions.

Street Traders:

Street traders' vehicles such as mobile kitchens and ice cream vans are not permitted to park in contravention of any restrictions.

If a street trader's vehicle is seen to be parked in contravention of a TRO the person appearing to be the driver of the vehicle will be advised to move the vehicle by the CEO. If the vehicle is not moved after advice from the CEO, a PCN may be served. These PCNs may not normally be cancelled.

Suspended Bays:

Where a representation is received claiming that a vehicle was parked at the location without having received notice of the suspension and, upon investigation the claim is found to be valid, the PCN may be cancelled.

Vehicles parked when the suspension was placed may be recorded at that time. The keeper may have to demonstrate however that, if the vehicle remains parked in contravention of the suspension for a considerable time, they remained unaware of the suspension (e.g. because they were on holiday).

Tariff – Rises in Parking Charges not publicised:

We may accept representation made against the serving of a PCN if the registered keeper of the vehicle can provide proof that statutory notices were not erected in accordance with procedural regulations or, if the revised tariff is not on the tariff board.

Unauthorised Movement of a Vehicle (Taking Without Consent):

1. Stolen Vehicle: Confirmation from the police that the vehicle was reported stolen prior to the PCN being served, including the relevant crime report number will result in the PCN being cancelled.
2. Unauthorised use of a vehicle by another family member or a friend is difficult to substantiate and under these circumstances the PCN may be enforced unless it can be demonstrated that the matter was reported to the police prior to or just after the issue of the PCN. Subsequent reports may not lead to the cancellation of the PCN.

Vandalised Vehicle:

When a vehicle has been vandalised to an extent that prevents it from being safely moved any PCN served may be cancelled providing acceptable supporting evidence is provided. This evidence should be from either:

1. The Police – quoting the recorded crime number.
2. Motoring Organisation/Garage Service who removed the vehicle from site.
3. CEO observation from their HHC must also be considered providing that it clearly states the extent of the damage.

Vehicles Left Unattended To Gain Access:

When a driver has to collect a key to gain access to a property, this is likely to take no longer than 5 minutes and will be covered by the CEO's observation time. In such circumstances, vehicles should not be left for longer periods or in contravention of a total 'no waiting' or loading restriction. However, each case should be considered on its merits and extenuating circumstances taken into account.

Vehicle Cloned:

The Council may accept representation made against the serving of a PCN where the vehicle is alleged to have been cloned, subject to receiving satisfactory evidence. The registered keeper will be asked to provide a statement giving the location of the registered vehicle at the time of the contravention together with a valid crime reference number reporting the suspected cloning and a copy of the report from the DVLA (served in writing in response to a reported cloning) confirming that the cloning has been reported.

Vehicle Stolen:

See: Unauthorised Movement of a Vehicle (Taking Without Consent)

DEFINITIONS:

The following are definitions of terms commonly used in conjunction with parking enforcement.

Charge Certificate:

A Charge Certificate is served:

1. 28 days after a NTO is served and no Formal Representation is received.
2. 28 days after a NOR to a Formal Representation is served where no appeal has been made to TPT.
3. 14 days after any appeal to TPT is withdrawn (i.e. withdrawn before hearing)
4. 28 days after the rejection of an appeal by the TPT.

When a Charge Certificate is served, the amount of the penalty is increased by 50%. PCNs served at the £70 rate increase to £105. PCNs served at the £60 rate increase to £90. PCNs served at the £50 rate increase to £75. The Charge Certificate is sent to the debtor requiring payment within 14 days of the full increased amount.

Commercial Vehicle:

The definitions of commercial vehicles for the purpose of this procedure are as follows:

- Buses
- Hackney Carriages
- Private Hire Vehicles
- Heavy Goods Vehicles
- Vans – a van may look like a PMC but may have some, if not all, of the rear windows blanked out.

Debt Registration:

- This is undertaken at the CCBC at Northampton County Court electronically on or after 21 days from the issue of a Charge Certificate.
- The Local Authority must confirm issue of the Charge Certificate to the court and there is a fee, from the court, of £8 for each registration. This is added to the amount owed to the Council.

Debt Registration – Notice of:

- Once the debt has been registered at CCBC, an Order for Recovery and Witness Statement Form is sent to the debtor advising them that they have 21 days in which to pay the amount owed or complete a witness statement.
- Failure to do either may lead to a Warrant of Control being applied for by the Council at CCBC.
- Once served this will enable the Council to instruct Enforcement Agents to collect the debt on their behalf.

Driver and Vehicle Licensing Agency (DVLA):

- The Government Centre responsible for maintaining records of all vehicles, their registered keepers and Driving Licenses.

Goods – Definition of when related to Loading / Unloading:

- Any items, if a delivery is being carried out to a trade or business premises by a commercial vehicle.
- When loading and unloading is not part of a commercial activity, there is a requirement that the goods must be heavy or bulky. The delivery/collection of small individual portable items (regardless of value) to or from a private vehicle may not constitute loading/unloading, unless an elderly, disabled or infirm person is involved and enforcement of the restriction would cause hardship.

In all cases the vehicle should not be parked for longer than is necessary, but allowance will be made for delivery notes etc. to be signed.

Mandatory and Advisory Parking Bays:

- Where restrictions apply to a particular bay (e.g. Disabled bay, doctor's bay etc.), which is covered by a TRO, it is said to be mandatory. In this case there must be a time plate above the bay displaying the restrictions.
- When the bay is not covered by an order, then it is deemed to be 'advisory' and, therefore, unenforceable.
- If in doubt the relevant TRO should be checked.

Non-Fee Paying Enquiry and Response to DVLA – VQ4 and VQ5:

- When a PCN remains unpaid for 28 days The Council may make an enquiry to the DVLA (VQ4) to ascertain the identity of the registered keeper of the vehicle. This enquiry is made electronically via the Council's parking enforcement system.
- The response (VQ5) from DVLA is also electronic and is automatically fed into the Council's system. Responses are usually received within 3 days of enquiry.

Notice to Owner (NTO):

- If a PCN remains unpaid for 28 days, the Council may make an enquiry to the DVLA to identify the registered keeper. A NTO may be sent to the registered keeper advising them that the PCN remains unpaid.
- The notice will contain full details of the PCN and requests payment within 28 days of receipt, it also gives the registered keeper the opportunity to make a Formal Representation against the issue of the PCN, which must be done within 28 days of receipt.

Penalty Charge Notice (PCN):

Served at the time of the alleged contravention and affixed to the vehicle within a sealed plastic carrier, handed to the driver, or served by post (in the case of a vehicle driven away before the PCN was served, or where the CEO has been prevented from serving the notice to the driver).

The PCN will identify:

- a) The date on which the notice is served;
- b) The name of the enforcement authority;
- c) The VRM of the vehicle involved in the alleged contravention;
- d) The date and time at which the alleged contravention occurred;
- e) The grounds on which the CEO serving the notice believes that a penalty charge is payable;
- f) The amount of the penalty charge;
- g) That the penalty charge must be paid before the end of the 28-day period;
- h) That if the penalty charge is paid before the end of 14 days beginning with the date of service of the notice, the penalty charge will be reduced by 50%;
- i) The manner in which the penalty charge must be paid;
- j) That if the penalty charge is not paid before the end of the 28-day period, a NTO may be served by the enforcement authority on the registered keeper of the vehicle; and
- k) That the person on whom the NTO is served will be entitled to make representation to the enforcement authority against the penalty charge and may appeal to an adjudicator if that representation is rejected; and
- l) That, if the representation against the penalty charge is received at such address as may be specified for the purpose before a NTO is served,-
 - I. that representation will be considered;
 - II. but that, if a NTO is served notwithstanding that representation, representation against the penalty charge must be made in the form and manner and at the time specified in the NTO.

Registered Keeper:

The person(s) or organisation who are registered at DVLA as being legally responsible for the vehicle – The Registered Keeper is not necessarily the owner or the driver.

Suspension of Parking Bay:

Suspension of parking within a designated parking bay(s), notified by display of adjacent signs and notices sent, in advance, to nearby properties.

County Court Business Centre (CCBC):

The CCBC is located in Northampton and is a branch of the County Court, which specifically deals with motoring contraventions. All communication with CCBC is carried out electronically either by fax or on line modem link via a Parking Enforcement computer system.

Traffic Penalty Tribunal (TPT):

- An independent judicial body supported by subscriptions from Local Authorities by means of a levy on each PCN served.
- Once a formal representation against a PCN has been rejected the registered keeper of the vehicle is given the opportunity to appeal to the TPT within 28 days of the rejection.
- TPT will review the case and make an independent decision as to the validity of the penalty based on the facts of the matter. The TPT cannot take mitigating circumstances into account but will have expected the Local Authority to do so. If they feel the Council should have exercised its discretion, they may refer the case back to the Chief Executive who must respond within 35 days either agreeing to allow the case or stating the reason why the appeal should not be upheld.
- The TPT decision is final and binding on both parties.

PCN RECOVERY SYSTEM FLOW CHART

- Key:
- Recovery Action
 - Recovery Suspended Pending Decision
 - PCN Cancelled or Paid; no further action

Penalty Charge Recovery Flow Chart
Traffic Management Act 2004
Author: Jim Gales, Parking Associates Ltd., November 2007

