

## Appendix C - Outline Vehicle Removals Framework

### Removal of Vehicles Parked in Contravention of On-Street and Off-Street Parking Places in West Sussex

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## **1. Introduction**

This document outlines the West Sussex County Council framework in relation to the removal of vehicles parked in contravention of on and off-street parking restrictions to a secure vehicle storage facility.

The framework applies within the boundaries of the West Sussex Civil Enforcement Area (CEA), including the adopted public highway and any car parks owned by the respective district and borough councils, which are subject to a permanent or temporary waiting or loading restrictions.

It is West Sussex County Council's aim to undertake a fair and transparent approach to the removal of vehicles. In most cases parking contraventions within the CEA will be dealt with by the issue of a Penalty Charge Notice (PCN). The removal of a vehicle parked in contravention is a serious action and therefore this will only take place in exceptional cases. The decision on whether to remove a vehicle requires an exercise of judgement and will only be taken by an appropriately trained and authorised officer in accordance with current legislation.

The guidelines set out in this framework are designed to deal with vehicles that are parked in contravention in the following circumstances:

- Persistent evader vehicles
- Fraudulent use of disabled persons parking blue badges or an article that purports to be a disabled blue badge
- Parked using a fraudulent on-street parking permit, voucher or pay and display parking ticket; inclusive of cashless parking sessions and virtual permits
- Parked in a manner that causes serious obstruction to emergency services and other road users
- Abandoned and Untaxed Vehicles

## **2. West Sussex Parking Priorities**

This framework contributes to the primary aims of Civil Parking Enforcement (CPE) in West Sussex, namely:

- To encourage a high level of compliance by motorists with the parking controls and waiting and loading restrictions.
- To integrate traffic management policies with effective on-street enforcement.
- To ensure the equitable distribution and management of the availability of parking space.
- Be responsive to changing priorities, local factors and demand.
- Provide parking permits, exemptions, dispensations and waivers for residents and businesses, the disabled, and others as appropriate.

### **3. General Definitions**

#### Authorised Officers

Parking Officers as listed in Section 5.4 below are authorised to instruct removal of vehicles in contravention of the TMA 2004.

#### Designated Parking Places

For the purposes of these guidelines, the meaning of Designated Parking Places shall be the definition prescribed under section, 32 33, & 45 of the Road Traffic Regulation Act (RTRA) 1984.

#### Parking Device

For the purposes of these guidelines, the meaning of Parking Devices shall be the definition prescribed under section 51 of the RTRA 1984

#### Road

For the purposes of these guidelines, the meaning of "Road" shall be the definition as contained in the RTRA 1984 and Traffic TMA 2004.

#### Vehicle

For the purposes of this Policy a "vehicle" is defined as:

- Mechanically propelled vehicles intended or adapted for use on roads whether or not it is in a fit state for such use
- Any trailer intended or adapted for use as an attachment to a vehicle

- Any chassis or body with or without wheels, appearing to have formed part of such a vehicle or trailer (e.g. vehicles with wheels removed)
- Anything attached to such a vehicle or trailer
- Motorcycles
- Caravans

#### Vehicle Owner

For the purposes of this Policy the “vehicle owner” is presumed to be the last registered keeper of the vehicle unless that person can provide evidence to the contrary.

#### **4. Legislation and Guidance**

This framework complies with the statutory provisions of the Traffic Management Act (TMA) 2004, which governs the civil enforcement of parking contraventions. It has also been developed in accordance with the Department for Transport’s Operational Guidance to Local Authorities: Parking Policy and Enforcement, issued in March 2008 and revised November 2010 and March 2015, as well as with the following documents:

- Road Traffic Regulation Act 1984
- Refuse Disposal (Amenity) Act 1978
- The Removal and Disposal of Vehicle Regulations 2008
- Clean Neighbourhoods and Environment Act 2005
- The Vehicles Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1994 (as amended).
- General Regulations for Clamping and the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007
- The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007/3483)
- The Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007 (SI 2007/3482)
- The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487)
- The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000

- Department for Transport (DFT) Operational Guidance Traffic Management Act 2004
- Department for Transport (DFT) The Blue Badge Scheme Local Authority Guidance
- Parking Enforcement Guidelines 2015

## **5. Persistent Evaders**

Once a vehicle has received three or more PCNs within a 24 month period for parking contraventions in West Sussex, and these have not been paid or appealed against within the statutory time limits, that vehicle will be classed as a persistent evader.

If it is again discovered to be parking in contravention of the relevant parking restrictions, a Civil Enforcement Officer (CEO) may then issue a further PCN. Where that restriction is a designated parking place, a period of at least 15 minutes must have elapsed following the issue of the PCN before the County Council (or delegated local authority) can exercise powers to remove the vehicle from the place where it is parked.

Vehicles parked in contravention on a road and not in a designated parking place (i.e. on a yellow line) may be liable for instant removal following the issue of a PCN. The removal of the vehicle will be carried out by an approved contractor working on behalf of the County Council.

The final decision to remove a vehicle parked in contravention will be taken by an authorised officer, so either the local authority Parking Manager, Deputy Manager or an Enforcement Supervisor.

## **6. Contraventions of the Blue Badge Scheme**

These include vehicles that are parked and are displaying a disabled person's parking blue badge but not in accordance with the regulations.

This may include vehicles displaying a disabled parking blue badge that is:

- Copied or Counterfeit
- Expired or Expired / Altered
- The Badge Holder is deceased
- The Badge has been reported lost or stolen
- The Badge has been cancelled by the Issuing Authority
- Abuse of a valid badge has been clearly established
- In the case of an Organisational Badge - the Organisation ceases to exist

If a vehicle is discovered to be parking in contravention of the relevant parking restrictions, a district/borough council may then issue a PCN. Where that restriction is a designated parking place, a period of at least 30 minutes must have elapsed following the issue of the PCN before the district/borough council exercise powers to remove the vehicle from the place where it is parked.

Vehicles parked in contravention on a road and not in a designated parking place may be liable for instant removal following the issue of a PCN.

A vehicle parked in a disabled persons' parking place, without displaying a valid disabled person's badge, may be subject to removal.

## **7. Fraudulent Use of On-Street Parking Permits or Pay & Display Tickets**

These include vehicles that are parked and are displaying an on-street parking device (permit, voucher or pay and display ticket) but not in accordance with the regulations.

This may include vehicles displaying a permit, voucher or ticket that is:

- Copied or Hybrid or Wholly Counterfeit
- Expired and or Expired/Altered
- Reported lost or stolen

- Cancelled by the Issuing Authority
- Not authorised for use by a particular holder
- Not issued for that vehicle
- Clearly being abused
- In the case of a Business Permit - the business ceases to exist

If a vehicle is discovered to be parking in contravention of the relevant parking restrictions, a district/borough council may then issue a PCN. Where that restriction is a designated parking place, a period of at least 30 minutes must have elapsed following the issue of the PCN before the district/borough council exercise powers to remove the vehicle from the place where it is parked.

Vehicles parked in contravention on a road and not in a designated parking place may be liable for instant removal following the issue of a PCN.

## **8. Vehicles causing a hazard or obstruction**

There may be cases where a vehicle is parked in contravention in a way that is dangerous to other road users; and/or emergency service vehicles. Vehicles parked in contravention but not exclusive of the restrictions listed below will be deemed to be causing a hazard or physical obstruction and may be removed immediately.

Contravention 01	
Description	Parked in a restricted street during prescribed hours
Contravention 02	
Description	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
Contravention 21	
Description	Parked in a suspended bay or space or part of a space
Contravention 47	

Description	Stopped on a restricted bus stop or stand
Contravention 48	
Description	Stopped in a restricted area outside a school when prohibited
Contravention 99	
Description	Stopped on a pedestrian crossing or crossing area marked by zigzags

In the following circumstances after a PCN has been issued vehicles could be removed;

- i. When the vehicle is causing a major obstruction to traffic or a danger to pedestrians or other road users, or is parked on an operational bus lane, cycle lane, bus stop, or taxi rank. Consideration should also be given to the likely time lapse which will occur before a vehicle is moved. If such time delay is likely to extend the presence of the vehicle to a time when it will become an obstruction, e.g. the vehicle is in a non-operational bus lane, which is due to commence in 1+ hours, then the vehicle should be removed.
- ii. When a vehicle is parked adjacent to a fire exit, across an access used by emergency vehicles or leading to private premises.
- iii. When a vehicle is parked in a specially designated reserved parking bay, e.g. disabled person, doctor, or diplomatic bay.
- iv. When a vehicle is parked in a suspended parking place.
- v. When a vehicle is parked on zig zag lines

The following exemptions will apply:

- a) Emergency vehicles (Police, Fire, Ambulance Services); and or other vehicles carrying out emergency or statutory works.
- b) Vehicles displaying a valid Blue Badge should not be removed. If such a vehicle is dangerously or obstructively parked, it should be repositioned nearby, preferably within view of its previous location.

- c) Diplomatic vehicles bearing a "D" or "X" vehicle registration mark or personalised registration plates with a "D" Vehicle Excise License. If such a vehicle is dangerously or obstructively parked, repositioning nearby is suggested. (Legal requirement - Diplomatic Privileges Act 1964).

For cases of obstruction where or when no parking restriction is in force e.g. advisory bus stop, no action can be taken, and it will be necessary to seek the assistance of the police

## **9. Circumstances for vehicle relocation**

In some circumstances, such as those outlined in Section 8, re-positioning of a vehicle may be better than removal

Where a vehicle is in contravention of a temporary prohibition of waiting, loading and unloading which has been implemented to facilitate an event or works on the highway and the vehicles presence can impede or prevent the event or highways work taking place it will be necessary to urgently relocate the vehicle rather than remove to a secure storage compound. In these circumstances, any vehicle (including those displaying a valid disabled person badge) will be issued with a PCN and the vehicle will be relocated to the nearest available road after 5 minutes have elapsed from the issue of the PCN. No costs are charged for the relocation of a vehicle. The decision to authorise the relocation of a vehicle can only be taken with the authority of a senior member of the Parking Enforcement Team.

## **10. Abandoned and Untaxed Vehicles**

A vehicle is normally considered abandoned when it is untaxed or has a Statutory Off Road Notification (SORN) on public land or it is taxed but not moved for four weeks. Abandoned vehicles often appear un-roadworthy or damaged and are usually not insured or have a current MOT.

Removal of abandoned and untaxed vehicles is carried out under different legislation to the Traffic Management Act 2004 and is dealt with through the relevant district or borough council.

## **11. Process**

If the driver returns to the vehicle while removal is taking place, then unless they are a persistent evader, the operation will be halted unless all the wheels are aboard a tow truck or 2 wheels in the rear drop cradle. The PCN will still be enforced in these circumstances.

The Police are contacted and informed of the vehicle removal

When reclaiming a removed vehicle, the owner/keeper will be required to produce proof of identity, address, and vehicle ownership; pay the prescribed sums and charges for the vehicle removal and any incurred storage fees before the vehicle can be released. Payment of the penalty charge notice issued prior to the vehicle removal remains payable under the standard procedures laid out on the notice.

If the owner fails to contact the district or borough council within 35 days, the vehicle is either scrapped or auctioned in accordance with The Removal and Disposal of Vehicle Regulations 1986 as amended by The Removal & Disposal of Vehicles (Amendment) (England) Regulation 2007". The sale of a vehicle can enable the authority to recover the costs incurred, which would include the removal and storage of the vehicle, as well as the PCN that was issued on the day the vehicle was removed. Any excess money from the sale of the vehicle will be repaid to the registered owner where contact has been made. Where no contact is made it will be held in the county council's bank account for a year from the date of sale, after which it will be added to the council's Civil Parking income. The outstanding debt from other PCNs will be pursued through the appropriate channels.

## **12. Associated Costs**

The associated costs for vehicle removal, storage and or disposal of vehicles removed for parking contraventions under Traffic Management Act 2004; are prescribed by the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2008 (SI 2007/2095):

- £105 for vehicle removal

- £12 per day vehicle storage or each day or part day during which the vehicle is impounded
- £50 vehicle disposal

In addition to the prescribed sums and charges, the owner/keeper will be required to pay the amount payable for the penalty charge notice issued to that vehicle on the date the vehicle was removed.

All vehicle immobilisations and removals can attract an appeal from the owner or keeper of the vehicle. These appeals are to be treated the same as a PCN appeal, SI 2007/3482. If an appeal is successful, all monies paid in respect of the immobilisation, removal and storage of the vehicle will be reimbursed in full. A system will be in place to allow for payment of all monies owing as expeditiously as possible.

Whilst there is a legal obligation only to pay the PCN, the removal charge and any associated storage charges, the owner should be encouraged to pay all the outstanding charges when collecting the vehicle. When obtaining the name and address of the vehicle's keeper, it will be established when they took ownership of the vehicle if the outstanding PCNs date back further than 3 months.

Vehicle compound hours are dictated by the vehicle removal contractor whose current opening hours are:

### **13. Process for Abandoned and Untaxed Vehicles**

The process for abandoned vehicles will be as follows:

- Report received.
- The district or borough council will, within one working day, visit the vehicle and check for clues as to whether the vehicle is abandoned. Photographs will be taken if appropriate.
- Checks may be made with the DVLA and any other agencies as may be relevant, normally within a further 24 hour period.
- If still considered abandoned after checks, a letter is sent to ascertain ownership interest. This will normally be accompanied by a warning that the vehicle may be removed for disposal if not removed by the owner within seven days

- If the vehicle is in poor condition and/or there is a threat of arson or vandalism then the vehicle can be impounded immediately.
- After the deadline set out in the letter expires the vehicle is revisited, photographed and if in situ and no owner interest registered then it can be impounded after a further 24 hour period.
- A letter sent to the registered owner to inform them the vehicle has been impounded.
- If the vehicle is not claimed, then the vehicle can be disposed of as required.

Untaxed vehicles are dealt with under The Vehicles Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1994 (as amended).

- All councils will need to sign a Letter of Agreement with DVLA.
- The DVLA sends the district or borough council the unlicensed database for ANPR use. Although authorities can use gov.uk (up to date) or a Web Enabled Enquiry (WEE).
- Once an untaxed vehicle has been identified (if the vehicle has been untaxed for 2 months or longer), the district or borough council can use the dedicated DVLA phone line during office hours where DVLA staff will give authorisation to enforce (plus any support which may be required) to either clamp, remove or sticker the vehicle.
- The district or borough council will complete the offence report CLE2/6 which is then sent to the DVLA. Prosecution is then used to pursue cases in the Magistrate's Court.
- When the vehicle is impounded, the vehicle is valued by the district or borough councils contractor.
- The DVLA is sent a daily list of all impounded vehicles. The DVLA then issues a letter to the registered keeper informing them of where the vehicle is being held and when it will be disposed of if not claimed.
- If the vehicle is not claimed within 7 days (for vehicles under £1,000) and 14 days (for vehicles over £1,000), the DVLA will authorise the contractor to dispose of the vehicle.
- The district or borough council and its contractor will decide on the method of disposal. All fees and income from the disposal are retained by the district or borough council or its contractor.

Vehicles dealt with as abandoned or untaxed attract a different pricing structure:

- A release fee of £100, this increases to £200 if not claimed within 24 hours
- Surety fee of £160 if not claimed within 15 days
- £21 per day storage fee

#### **14. Conditions of Guidelines**

The final decision to remove a vehicle parked in contravention will be taken by a district or borough council senior authorised officer, so either the Parking Manager, Parking Office Manager or an Enforcement Supervisor. The information contained in this note is for guidance only and a senior authorised officer may remove a vehicle without following this guidance if there are compelling grounds to do so.

#### **15. Disclaimers**

The guidelines shall be enforced from the date of adoption and will remain in force until formally revoked or superseded. These guidelines will be reviewed annually, or when legislation changes dictate.

## 15. Procedural Guidance

