

**Bath & North East  
Somerset Council**

# Parking Responsibilities

A quick reference guide to the powers to enforce



Bath and North East Somerset  
- *The place to live, work and visit*

This guide has been designed in response to requests from Councillors and the public to clarify the responsibilities regarding parking and who can take enforcement action for different issues and circumstances witnessed or reported. Further detail is included on areas where the powers are complex to provide clarity.

Parking Services encourage all members of the public to supply local intelligence regarding vehicles parking in contravention of the regulations to allow more efficient enforcement. Contact details are at the rear of this document.

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## Glossary

|     |   |                             |
|-----|---|-----------------------------|
| CPZ | - | Controlled Parking Zone     |
| FPN | - | Fixed Penalty Notice        |
| HGV | - | Heavy Goods Vehicles        |
| NTO | - | Notice to Owner             |
| PCN | - | Penalty Charge Notice       |
| RPZ | - | Residents Parking Zone      |
| RTA | - | Road Traffic Act 1991       |
| SEA | - | Special Enforcement Area    |
| TMA | - | Traffic Management Act 2004 |
| TPT | - | Traffic Penalty Tribunal    |
| TRO | - | Traffic Regulation Order    |

## Background

Parking serves and impacts upon a range of sustainability objectives and quality of life indicators. The aim of Parking Services is to strike a suitable balance between the availability of parking; the needs of residents; the needs of workers; and the environment and economic development of the area.

The primary aim of enforcement is to support the Council's wider objective of supporting economic vibrancy and vitality whilst reducing unsustainable traffic levels in the central area of Bath and Keynsham and congestion on main radial routes. This will result in positive impacts on the historic fabric of the World Heritage Site and the surrounding areas; the pedestrian environment; and on air quality.

Parking Services seek not to penalise drivers but to manage the central area as a destination for car based trips as well as for the service vehicles that sustain the city and the whole area.

## Quick Reference Guide

| Parking Issue  | Responsibility   |
|--|--|
| Parking on Double or Single Yellow Lines   | Parking Services   |
| Parking in Disabled Bays/Loading Areas/Bus Stops/Taxi Ranks when not authorised                                  | Parking Services   |
| Parking in Limited Waiting areas beyond the time limit   | Parking Services   |
| Parking in Residents Areas without authorisation (please note permits are virtual and not displayed on vehicles) | Parking Services   |
| Parking on the Pavement – Where there are Parking Restrictions such as Double Yellow Lines                       | Parking Services   |
| Parking on the Pavement – where there are not Parking Restrictions such as Double Yellow Lines                   | Police   |
| Dangerous Parking such as on corners (where there are no Parking Restrictions in place)                          | Police   |
| Parking on white Keep Clear markings   | Police<br>(These are Advisory only but the Police may use powers if appropriate and prevents entry to highway) |
| Parking on dropped kerbs   | Parking Services   |

## Overview of the Appeals Processes

The procedure for the enforcement of Penalty Charge Notices (PCNs) is dictated by the Traffic Management Act 2004 and the Council is not at liberty to deviate from this process.

Statutory guidance issued by the Secretary of State for transport and published under section 87 of the Traffic Management Act 2004 stipulates that “elected members and unauthorised staff should not, under any circumstances, play a part in deciding the outcome of individual challenges or representations. This is to ensure that only fully trained staff make decisions on the facts presented”. This guidance is repeated in section 11.21 of the Operational Guidance to Local Authorities “Parking Policy and Enforcement (Revised Edition Nov 2010)”

However, it is recognised that on occasion members of the public may approach Councillors for advice and therefore a brief overview is outlined within this document. However, it is important to always advise the recipient of the PCN to follow the instructions on the rear of the PCN or in any letters received regarding the matter to ensure the correct decision is reached.

### PCNs (not Bus Lane PCNs)

Appeals should be started informally by writing to Parking Services, either via the online challenge portal (<https://parking.bathnes.gov.uk>) or by post, explaining in detail why you disagree with the ticket and enclosing any evidence to support your case. If you write within 14 days of receiving the notice and your appeal is rejected, the early-payment discount period is extended by another 14 days.

If your informal appeal is rejected and no payment is received after this extra 14 days, you will be sent a Notice to Owner (NTO), which officially orders the charge to be paid. You have 28 days from the date of the NTO to either pay, or lodge a formal appeal.

If you have received a PCN through the post, you have 14 days to pay at the discounted rate.

If you are successful, the council will send you confirmation that the NTO is cancelled. If your appeal is unsuccessful, you will receive a ‘Notice of Rejection of Representations’, plus a ‘Notice of Appeal’ form to proceed to the adjudicators if you wish.

You can either pay the charge or use this form to make your appeal to the adjudicators within 28 days. The Notice of Appeal form will tell you which adjudicator to write to, and also has information about how to present your appeal. You’ll be able to opt for either a postal, telephone or personal hearing. The council must also send you a copy of its evidence in accordance with directions given by the TPT.

If you’ve asked for a postal decision, you will be notified of the week in which your appeal is due to be decided. If you have asked for a personal or telephone hearing, you’ll usually receive at least 21 days’ notice of the date, time and location. If you win the case, the PCN is cancelled. If you lose then the full fee for the PCN will be payable.

### Bus Lane PCNs

When you receive the Bus Lane PCN/Notice to Owner through the post you have the option to make a representation if you believe it is incorrectly issued. However, due to the legislation the option to reoffer the discount period if your representation is rejected is not available.

If the penalty charge is paid within 14 days from the date of service of the Penalty Charge Notice (PCN) the 50% discounted rate will be accepted. You cannot pay the penalty charge to secure the discounted rate and then make formal representations. Once payment has been received the matter is considered closed. Should you choose to make representations, and your representations are rejected, the original charge of £60 will be due.

If you are successful, the council will send you confirmation that the NTO is cancelled. If your appeal is unsuccessful, you will receive a ‘Notice of Rejection of Representations’, plus a ‘Notice of



'Appeal' form to proceed to the adjudicators if you wish.

You can either pay the charge or use this form to make your appeal to the adjudicators within 28 days. The Notice of Appeal form will tell you which adjudicator to write to, and also has information about how to present your appeal. You'll be able to opt for either a postal, telephone or personal hearing. The council must also send you a copy of its evidence in accordance with directions given by the Traffic Penalty tribunal (TPT).

If you've asked for a postal decision, you will be notified of the week in which your appeal is due to be decided. If you have asked for a personal or telephone hearing, you'll usually receive at least 21 days' notice of the date, time and location. If you win the case, the PCN is cancelled. If you lose then the full fee for the PCN will be payable.

## Mobile Camera PCNs

When you receive a Mobile Camera PCN/Notice to Owner through the post you have the option to

make a representation if you believe it is incorrectly issued. However, due to the legislation the option to reoffer the discount period if your representation is rejected is not available.

If the penalty charge is paid within 21 days from the date of service of the Penalty Charge Notice (PCN) the 50% discounted rate will be accepted. You cannot pay the penalty charge to secure the discounted rate and then make formal representations. Once payment has been received the matter is considered closed. Should you choose to make representations, and your representations are rejected, the original charge of £70 will be due.

If you are successful, the council will send you confirmation that the NTO is cancelled. If your appeal is unsuccessful, you will receive a 'Notice of Rejection of Representations', plus a 'Notice of Appeal' form to proceed to the adjudicators if you wish.

You can either pay the charge or use this form to make your appeal to the adjudicators within 28



days. The Notice of Appeal form will tell you which adjudicator to write to, and also has information about how to present your appeal. You'll be able to opt for either a postal, telephone or personal hearing. The council must also send you a copy of its evidence in accordance with directions given by the TPT

If you've asked for a postal decision, you will be notified of the week in which your appeal is due to be decided. If you have asked for a personal or telephone hearing, you'll usually receive at least 21 days' notice of the date, time and location. If you win the case, the PCN is cancelled. If you lose then the full fee for the PCN will be payable.

## Traffic Regulation Orders (TRO)

A TRO is the legal instrument by which traffic authorities implement most traffic management controls on their roads. Under the provisions of the Road Traffic Regulation Act 1984, local authorities can implement TROs, designed to regulate, restrict or prohibit the use of a road or any part of the width of a road by vehicular traffic or pedestrians. A TRO

may take effect at all times or during specified periods, and certain classes of traffic may be exempted from a TRO.

There are three different types of TRO:

- 1. Permanent** which remain in force until superseded or revoked;
- 2. Experimental** orders, which may last for up to 18 months, with extensions available in certain circumstances;
- 3. Temporary** orders which may last for: up to six months for footpaths, bridleways, cycle tracks and byways open to all traffic; and up to 18 months on other roads, with extensions available in certain circumstances.

These may be used for road works, or the avoidance of danger to the public, or for litter clearance and cleaning.

A TRO may be implemented for one or more of the following purposes:

- Avoiding danger to persons or traffic;
- Preventing damage to the road or to buildings nearby;
- Facilitating the passage of traffic;
- Preventing use by unsuitable traffic;
- Preserving the character of a road especially suitable for walking or horse riding;
- Preserving or improving amenities of the area through which the road runs;
- To improve air quality under section 87, subsection (1) paragraphs (a) to (c) of the Environment Act 1995.

Parking Services require, in a majority of cases, a valid and correctly marked and signed TRO before being able to issue a Penalty Charge Notice. To develop and implement a TRO takes on average between 12 and 18 months and costs between £3k and £50k depending on the amount of work and level of controversy the TRO causes.

## Pavement Parking

Pavement parking can be inconvenient for pedestrians and especially hazardous for disabled and elderly people, those who are visually impaired and people with pushchairs and double buggies.

Consequently rule 244 of the Highway Code says:

“You MUST NOT park partially or wholly on the pavement in London, and should not do so elsewhere unless signs permit it. Parking on the pavement can obstruct and seriously inconvenience pedestrians, people in wheelchairs or with visual impairments and people with prams or pushchairs. “.

Parking Services can enforce against vehicles where other restrictions such as Double Yellow Lines are in place upon the highway under the Traffic Management Act 2004. Where there are no restrictions we do not have powers to issue PCNs.

The Police have powers under section 137 of the Highways Act 1980, which makes it an offence “to wilfully obstruct the free passage of the highway”. However, this is difficult to prove and resource intensive so rarely gets used. Failing to use this power is usually explained by either asserting that the entire width of the pavement has not been obstructed, or claiming that pedestrians can avoid an obstruction by stepping onto the carriageway part of the highway. This lack of clarity is unhelpful to motorists, pedestrians, and local authorities; not to mention the police’s reputation. It is illegal to drive a vehicle on the footway (Highways Act 1835 s.72) and to cause an obstruction (Highways Act 1980 s. 137). Both the latter carry fines (Road Traffic Offenders Act 1988, s.51 and schedule 3).

Unlike Greater London, there is currently no national legislation banning the parking of all vehicles on the pavement, due to the wide range of circumstances and locations where pavement parking occurs. For example in some narrow residential roads with a lack of off-street parking provision, drivers have little option but to park on the pavement to avoid causing traffic hazards. As far as we are aware, the Government has no plans at present to introduce new legislation specifically aimed at banning pavement parking on a national scale.

We do have the power under the Road Traffic Regulations Act 1984 to make TROs, allowing for specific parking regulations to be implemented in specific areas, according to the demands of local circumstances. We can for example introduce a TRO in a single road banning the parking of vehicles on any part of the pavement. However, the order would need to be signed appropriately and the restriction would apply to all vehicles.

Special authorisation for the signing was agreed by the Department for Transport in February 2011 for all Local Authorities but this, as far as I am aware, has yet to be tested at the Traffic Penalty Tribunal.

For information, under section 19 of the Road Traffic Act 1988, Heavy Goods Vehicles (HGVs) are banned from parking on the pavement.

## Dropped Kerbs

During 2008 the Department for Transport undertook a consultation exercise as to whether restrictions on parking at dropped kerbs should be indicated with traffic signs and road markings. The response to the consultation indicated clear overall support that traffic signs and road markings should not be required. As a result, regulations have been amended to allow enforcement authorities to enforce prohibitions of parking at dropped kerbs without the need for Traffic Regulation Orders, traffic signs and road markings to be provided.

Dropped kerbs are only enforceable within a Special Enforcement Area (SEA). Bath & North East Somerset is a Special Enforcement Area under the Traffic Management Act 2004 and therefore the powers granted can be used throughout the unitary authority area.

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

been raised to the level of the footway, cycle track or verge) to assist:

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

Please note: The extent of the dropped kerb includes the transition kerb between the higher level and the lowered level of the footway, cycle track or verge.

Parking alongside a dropped kerb can cause considerable inconvenience and put vulnerable road users at severe risk. Parking adjacent to a dropped kerb at an access to premises can cause considerable nuisance to drivers trying to enter or leave the premises. Vehicles that are parked close to the dropped kerb but not physically preventing a vehicle from coming or going will not fall under the criteria of the contravention and a penalty will not be issued in such circumstances.





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

In instances where a vehicle parks alongside a dropped kerb the council’s policy is to issue a PCN to the offending vehicle, subject to the exemptions as specified. Parking attendants will observe for such offences when patrolling their daily patrol route. When a complaint is received by the council regarding a single incident, response will be subject to best efforts; staff availability; and/or being mobile. Where there is a complaint (or series of complaints) regarding persistent and repeated offences, a patrol route may be modified on a temporary basis, again on a best efforts basis. In determining allocation of resources, particular attention will be paid to offences that impede the passage of those with disabilities.

It would not be the council’s policy to issue PCNs to all vehicles parked at dropped kerbs in line with the following Secretary of State guidance

*“The purpose of these powers is to help prevent inconsiderate or selfish parking causing congestion and road safety problems. To be effective enforcement action may need to be quite severe and so the power should always be used reasonably and with circumspection. Enforcement action should only be taken if the vehicle is causing or is likely to cause a road safety hazard or obstruction to other road users or pedestrians. Restrictions on situations in which the authority can use these powers mean that they may be more suitable for tackling persistent problems than occasional ones.”*

The Council will therefore restrict enforcement to those areas where it is believed such parking will cause a daily nuisance. This will mainly be in the town centres where kerbs have been dropped to allow easy wheelchair access.

Furthermore, Bath and North East Somerset Council will consider the location fully and, in line with the

Guidance, only use this power where in its opinion that it is clear to the motorist the difference between a regular kerb and a dropped kerb (or a regular carriageway and a raised carriageway).

Exemptions to the contravention of parking at dropped kerbs are:

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

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

## Driveways to Residential Premises

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

## Loading and unloading principles

Work must be continuous - the driver should not break off the activity of loading/unloading to have a cup of tea or a smoke etc. However, this does not infer that such activities as completing paperwork or locating the goods in the premises are not part of the loading/unloading process.

The loading must involve heavy goods - the goods that are being loaded/unloaded must be of such burden of weight or bulk that they cannot reasonably be conveyed otherwise than by means of a vehicle. The goods must be of a type that cannot easily be carried by one person in one trip. Having said that, in some circumstances 'goods' may be an aggregate of several small or lightweight items when delivered in the course of a trade or business.

Shopping may be classed as goods but a vehicle is not covered by a loading exemption if the goods concerned have not been purchased prior to the waiting action. It is not lawful for a vehicle to wait

whilst a purchase is made irrespective of the type of goods involved. The exemption does not cover choosing the goods i.e. the process of shopping, but it would apply while the goods are being put into a vehicle. The goods must have been pre-ordered or collection pre-arranged.

The property should be adjacent - the vehicle must be parked adjacent to where the loading activity is occurring. If the vehicle were parked in another street more than 50 metres away, it would be difficult to argue that it was adjacent.

The vehicle does not have to be a goods vehicle, but it must be necessary for the activity and not merely convenient to use a vehicle.

The loading should be reasonable - For example, unloading vast quantities of goods and taking all day to do it would not be considered reasonable. Where the loading/unloading is likely to take a long time and cause a lot of disruption the council should be notified prior to the loading taking place to enable arrangements to be made to try and accommodate it.



The work must be completed in a timely manner - the loading should be completed as quickly as possible.

If the delivery is being carried out in the course of a trade or business, as compared to a private delivery, it will usually fall within the meaning of 'delivering and collecting goods', even if the size and weight of one item of the 'goods' is small in itself, for example a milk delivery float. The point is illustrated easily by multiple deliveries, but it also applies to one-off deliveries too. Deliveries of small items in the course of business are permitted but it should be borne in mind that the smaller and lighter the goods, the shorter the time needed to deliver. There may be a greater evidential burden on the driver to prove that he took no longer than was necessary if there was a lengthy absence from the vehicle.

The use of a vehicle, merely because it is more convenient than carrying goods, is not normally sufficient reason for the exemption to apply. However, all commercial deliveries have more to them than mere convenient use of a vehicle, as there are obvious considerations of time and money involved. Drivers involved in commercial deliveries are expected to be able to provide some form of supporting evidence if required. The driver does not have to prove that it was necessary to park where they did. They may, however, have to prove that they did not park for longer than was necessary.

The delivery process applies to the completion of paperwork, which is reasonably required, e.g. delivery note, obtaining a signature.

There may also be some other form of delay such as: papers not ready; people cannot be found; and goods need to be located. The driver will be covered for unexpected delays, but it will be difficult for them to argue that the process was still continuing if they go for refreshment or starts another job. The driver should be allowed a reasonable time while goods are being located, but this is not an automatic exemption covering however long it takes, a judgement has to be made on whether the time taken was reasonable.





## Contacts and Further information

Parking Services, PO Box 122, Bristol BS31 9AE

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