

Traffic Management Act 2004 FAQs

Note: the phrase 'on-street' also includes local authority managed public car parks which, although 'off-street', are usually managed using the same legal powers.

Q: What is Civil Parking Enforcement?

A: The Road Traffic Act 1991 introduced the concept of local authorities undertaking enforcement of parking management schemes. This system was called Decriminalised Parking Enforcement (DPE). Parking 'offences' became 'contraventions' and parking attendants employed by the relevant local authority, issued [civil] Penalty Charge Notices (PCN) where previously traffic wardens employed by the Police, undertook the enforcement and issued [criminal] Fixed Penalty Notices (FPN). This reflected the need for the Police to concentrate on core policing priorities with traffic wardens continuing to deal with moving traffic offences and the management of Red Routes.

Commencing in London the system has been extended across the UK and over 200 local authorities, in all of our cities and major towns, now operate DPE.

The Traffic Management Act 2004 calls this Civil Parking Enforcement, making the change from Decriminalised Parking Enforcement and expands the range of contraventions that can be managed in this way. Legally speaking, Parking Attendants are now known as Civil Enforcement Officers (CEOs).

Q: When did the new Civil Parking Enforcement (CPE) regulations come into force?

A: The new regulations were introduced in England and Wales on 31 March 2008.

Q: Where in the country are the new regulations to be used?

A: CPE will initially only apply in those parts of England and Wales where local authorities currently undertake parking enforcement. Around 200 councils do this at present but the number is growing all the time.

Q: What are the main changes?

- **A:** The new CPE regulations have introduced proportionality. The motorist benefits from having the Penalty Charge more closely aligned

with the seriousness of the contravention, with parking on a yellow line incurring a higher penalty than simply over-staying in a parking place.

- Persistent evaders, who breach the system regularly or often, should have penalties which are more punitive than first-time contraventions. Persistent evaders are those with three or more recorded contraventions for a vehicle which have gone unpaid. When this occurs, it could result in a more rapid immobilisation or removal of the vehicle and information could be made available to the Police to help them investigate whether there is any associated criminal activity.
- Changes in the regulations mean that all CPE local authorities are able to issue PCNs by post when camera evidence is available or when CEOs are prevented from serving notices by threat or actual violence, or to motorists who regularly contravene the rules but simply drive away when they see a CEO. Authorities outside London are also able to enforce obstruction of dropped footways (areas lowered to form ramps for wheelchairs and baby buggies for example) and double parking, although this is not expected to be universally adopted in the early stages.
- There is an increased discount period for PCNs sent by post from 14 days to 21, except where violence or threats of violence prevented the service of the PCN, in which case it remains at 14 days.
- The new regulations also give more power to independent adjudicators. They have the power to refer cases back to local authorities where a parking contravention has taken place, but in mitigating circumstances, they can ask the local authority chief executives to consider withdrawal of the PCN. They will also consider cases where the authority has not followed the correct procedures. Local authorities have 35 days to respond to adjudicators and if they do not respond in this time the adjudicator's decision will be final.

Q. What are the levels for Penalty Charge Notices and what will the level be for the new two-tier system?

A: A local authority may set penalty charges in accordance with different bands in different parts of its area, provided that all the charges in each part of its area are set in accordance with the same band.

Band:

1. Higher level penalty charge £60, Lower level penalty charge £40
2. Higher level penalty charge £70, Lower level penalty charge £50

Higher level contraventions for on-street parking are those falling within one or more of the following descriptions:

- Parked in a restricted street during prescribed hours. Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force.
- Parked in a residents' or shared use parking place without clearly displaying either a permit or voucher or pay and display ticket issued for that place.

- Parked in a permit space without displaying a valid permit.
- Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.
- Parked in a loading gap marked by a yellow line.
- Parked in a suspended bay/space or part of bay/space.
- Parked in a parking place or area not designated for that class of vehicle.
- Parked in a loading place during restricted hours without loading.
- Vehicle parked more than 50 centimetres from the edge of the carriageway and not within a designated parking place.
- Parked adjacent to a dropped footway.
- Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge.
- Parked in a parking place designated for police vehicles.
- Parked on a taxi rank.
- Stopped where prohibited (on a red route or clearway).
- Stopped on a restricted bus stop or stand.
- Stopped in a restricted area outside a school.
- Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking).
- Stopped on a pedestrian crossing and/or crossing area marked by zig-zags.

In Shropshire, Penalty Charge Notices will be issued within Band 2, with each level carrying a 14 day discount period from the date of issue.

Q. Does the two-tier penalty charge system just mean more revenue for local authorities?

A: For many local authorities the new rules are likely to mean an effective reduction in parking income as the new Penalty Charge for less serious contravention is lowered. This is all part of the philosophy of CPE of a fair traffic management policy.

Differential penalties were introduced in London in July 2007 and there does not appear to have been any adverse effect from the new two-tier system. It has only served to demonstrate that parking enforcement can be tailored to match the severity of the contravention. This should help reinforce that parking enforcement is not about revenue generation, but about managing our streets for the public's benefit.

Q: Aren't postal Penalty Charge Notices unfair?

A: The introduction of what is called the postal PCN is not a new concept. This power has been available in London since 2000. It is used mainly with CCTV and camera enforcement and its use is now being extended.

It can now also be used where vehicles are driven away before the PCN can be completed and issued to the motorist or attached to the vehicle. The CEO

will be required to provide evidence that the PCN was 'in production' and would otherwise have needed to be cancelled on return to the parking office.

The new regulation will deal with those people who persistently contravene the parking regulations but simply drive away when they see a CEO or where a PCN is physically created but has not been served due to threatening behaviour towards the CEO.

A Postal PCN may also be appropriate in cases of moving traffic, where it is safer to issue a PCN by post using camera evidence rather than have the CEO take personal risks. Where the physical act of stopping (e.g. on a Red Route) causes a traffic management problem, a Postal PCN may be issued.

Q. How will CPE affect clamping?

A: The operation of wheel clamping is also covered by the new regulations. Councils in England are discouraged from using clamping simply as a means of enforcing parking regulations but where a persistent evader is identified with three or more 'tickets' outstanding, or where the vehicle is not registered at the DVLA or does not have a tax disc on display, clamping is a useful means of ensuring compliance with the rules.

Q: What does the new Civil Parking Enforcement (CPE) legislation mean to motorists and the parking industry?

A: Most motorists will not notice any real change to on-street parking, apart from the differential charges, but there has been a real shift in the philosophy aimed at making the regulations appear more legitimate and introducing greater transparency and fairness for all – not just the motorist. The parking industry will benefit from the greater transparency, and hopefully recognition that this is not all about income generation but proper management of the streets in the UK, where 30 million cars are registered.

Civil Parking Enforcement is a legal process - it sets the law on how Civil Parking Enforcement should be carried out. It is hoped that the changes will improve the public's perception of parking enforcement – through educating them about the reasons for local parking restrictions, and getting them to accept that parking enforcement is necessary. Greater publicity and awareness of the new regulations will help the motorist ensure that they park where they can and avoid penalties.

Q: What are the key reasons for the changes?

A: The three key reasons are legitimacy, transparency and fairness.

- Legitimacy - this means that enforcement is for the right reasons: street management; to reduce congestion and the potential for road casualties, and to manage the kerb space where there are competing demands. The new regulations make it clear that local authorities and

other enforcement agencies should not use CPE as an income generator.

- Transparency - this means there is a need for local authorities and others to be open about what they are doing, why they are doing it, and the consequences of their actions. For example, all local authorities are required to produce an annual report including its parking policy, method of enforcement and publish statistics such as the number of Penalty Charge Notices issued, the number cancelled, the income generated and details of how any surplus income has been used to benefit the local community.
- Fairness - the new regulations have introduced differential penalties and improved protection for those on the 'front line' of parking enforcement – the Civil Enforcement Officer. This will be most welcome and should go a long way towards making parking management firmer but fairer. The motorist will benefit from having the Penalty Charge more closely aligned with the seriousness of the contravention.

Q: Do councils need to run the old system and new system in tandem until cases which commenced before 1 April 2008 have run through the system?

A: Yes

Q: How will the public find out about new charges?

A: Local authorities must publish a Notice in the local press informing the public of the new charge bands they will introduce from 31 March 2008 and they may also choose to publicise the changes in other ways.

Q: How can a motorist be assured that their ticket has been issued fairly?

A: The software used in a CEO's handheld computer prevents a ticket from being issued until the required observation period is completed. A CEO is also required to gather eight pieces of information (such as number plate, tax disc details and photographic evidence) before a ticket can be issued, ensuring that the CEO has to be on the scene to complete this.