

# FAREHAM

## BOROUGH COUNCIL

### **Fareham Parking Enforcement Policy**

#### **Introduction**

#### **Traffic Regulation Orders**

1. Traffic Regulation Orders (TROs) are introduced by Fareham Borough Council (as the agent for Hampshire County Council, which is the Highway Authority) on roads within the Borough to regulate the use of highways by both moving and parked vehicles. In doing so, the objectives are to:
  - (a) Promote the safe use of highways
  - (b) Manage the competing demands for road space, e.g. traffic movement, bus stops, loading for access to premises and parking
  - (c) Give priority when considered necessary to different classes of users, e.g. disabled people, residents.
2. Fareham Borough Council was granted delegated authority in 2007 from Hampshire County Council to act as the Enforcement Authority on the County's behalf to enforce on-street contraventions and recover any debts and to pursue, through the County Court, any unpaid debts. As such, Fareham Borough Council is the Enforcement/Issuing authority.

#### **Off-street car parks**

3. The Borough Council also manages the use of its off-street car parks through an Off-street Parking Order which allows for charges and time limits to be introduced to ensure the best use of car parks and a turnover of vehicles where necessary.

#### **Fareham Parking Enforcement**

4. Hampshire County Council and Fareham Borough Council together have achieved Special Parking Area status for the Borough which means that as from April 2007 parking contraventions became decriminalised and Fareham Borough Council is responsible for enforcement of all orders controlling parking within the Borough.

5. Parking contraventions, both on-street and in Council car parks will be enforced by the serving of a Penalty Charge Notice by a Civil Enforcement Officer.
6. Fareham Parking Enforcement is also able to deal with parking on zigzag markings on pedestrian crossings as well as the Police, who may still issue Fixed Penalty Notices incurring penalty points and for parking on or across dropped kerbs which causes obstruction, also double parking on the highway and persistent offenders.

#### Public Accountability

7. With Fareham Parking Enforcement, the locally elected Council will have responsibility for both the way in which parking on Fareham's streets and car parks is managed and the level of enforcement of the parking controls to achieve the objectives.

#### **Objectives of Parking Control and Enforcement**

8. Traffic Regulation Orders to control parking are introduced by the Council and enforcement of the regulations is undertaken in order to:
  - (a) Make Fareham Borough a safer place, to drive, walk or cycle through
  - (b) Ensure that pedestrians may walk safely without fear or obstruction, especially in pedestrianized areas and outside schools
  - (c) Keep traffic flowing freely
  - (d) Ensure good access to properties adjoining highways for loading and unloading
  - (e) Ensure that there is a fair and even distribution and turnover of available parking spaces throughout the Borough, not only for visitors, but also for residents, traders, customers and businesses
  - (f) Ensure that designated disabled bays are used only by those persons lawfully displaying a valid disabled Blue Badge in accordance with the regulations pertaining to the international Disabled Badge Scheme, and the Blue Badge Scheme: rights and responsibilities in England booklet issued by the Department for Transport, and meeting the needs of those with disabilities, some of whom will be unable to use public transport and are dependent entirely upon the use of a car.
  - (g) Ensure that parking places designated for use by specific vehicles such as taxis, buses, and goods vehicles only bays are kept clear for their intended use

- (h) Ensure that parking places within a residents' parking scheme contain only vehicles that have on display, a valid resident's parking permit or visitor permit.
- (i) Minimise parking on verges and footways where there is a restriction on parking on the highway for road safety, maintenance and environmental reasons

### **Legislation**

9. The enforcement of parking regulations by Fareham Borough Council will be carried out within the relevant powers under the following Acts:
- (a) The Traffic Management Act 2004 (as amended) of which has now superseded;
  - (b) The Road Traffic Regulation Act, 1984 (as amended)
  - (c) The Road Traffic Act, 1991 (as amended)
  - (d) Also by the following Traffic Regulation Orders (TROs):
  - (e) The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire) (Borough of Fareham) Order 2007
  - (f) The Borough of Fareham (Waiting Restrictions and Street Parking Places) (Consolidation) Order 2014 (as amended)
  - (g) Borough of Fareham (Off Street Parking Places) (Consolidation) Order 2007 (as amended)
10. Any other order made or any other Act, Regulation, which enables enforcement by the Council to achieve the objectives set out in this policy.

### **Special Provisions**

#### **Blue Badge holders**

11. Traffic Regulation Orders introduced by the Council will, wherever practical, follow national statutory requirements and advice on good practice in respect of facilities provided for disabled persons badge holders.

#### **Off-Street Car Parks**

12. Exemptions will allow blue badge holders to park within spaces reserved for disabled badge holders provided the badge is valid and displayed in the front of the windscreen the correct side up displaying the serial number and expiry date, (as detailed in "The Blue Badge Scheme, Rights and Responsibilities in England" booklet, issued from the Department of Transport which is sent to all Badge Holders) and that the vehicle has

been used or is about to be used to give the holder of the badge better access to a desired location.

13. Blue Badge Holders may also park free of charge in any other non-designated bay for a maximum of 24 hours, provided the badge is displayed correctly. This exemption does not include the pay on foot car parks.

#### On-Street

14. On single and double yellow lines, exemptions for vehicles displaying a blue badge will allow parking for up to three hours except where there is a ban on loading and unloading provided the badge is valid, properly displayed as above accompanied by the clock and the vehicle has been used or is about to be used by the holder of the badge. Badge holders are required to park with due consideration for other road users and if a vehicle causes an obstruction the CEO may disregard the exemptions offered by the blue badge and issue a PCN, also the police may take action under separate regulations.
15. Blue badge holders may park in any limited waiting on-street free of charge and in excess of the limited time, providing the badge is displayed correctly, as detailed above, unless there is signage explaining the contrary. Care must be made to check for any restrictions/signage when parking the vehicle.

#### Suspension of Parking Places

16. The Council has the power to suspend all or part of any parking places or car park and thereafter permit or prevent certain vehicles to park.
17. Suspensions will not be undertaken lightly and most will be for reasons of traffic flow or safety. However, in instances such as where a large removal lorry or vehicles associated with works on an adjacent property are required to be parked close by, a suspension may be agreed.
18. Such permission will be granted by the Council for specific circumstances and on payment of an administration fee as agreed from time to time by the Council, a dispensation will be issued which must be displayed on the vehicle at all times that it is parked in the suspended parking place.

#### Dispensations

19. There are times when it may be acceptable or unavoidable for vehicles to be parked where restrictions apply. Under strictly controlled circumstances, the Council may issue

a dispensation permitting a vehicle to be parked without the driver having to comply with the regulations.

20. A dispensation will contain any conditions that the Council may stipulate and will be issued on payment of an administration fee as agreed from time to time by the Council.

21. The dispensation must be displayed on the vehicle at all times that it is parked in the suspended or nominated parking place or area.

22. Acceptable purposes to which a dispensation may apply include:

- Extended loading and unloading of goods, materials, tools or equipment.
- Continuous use of vehicles as a workshop (not storage only), where there is fixed equipment in the vehicle which is required to perform the work in progress (in this context fixed means cannot be unloaded from the vehicle).
- Fitting of replacement glass (except for emergency boarding up purposes) when a dispensation is not required.
- Collectors of significant amounts of cash from premises where a risk of crime may exist if the vehicle is parked some distance from the premises
- Trade vehicles visiting a controlled parking zone for working in a premises within that zone

### Carers

23. Numerous care organisations are now operating within the Borough as a result of contract arrangements with Social Services and the Local Health Authority as well as privately arranged care. Vehicles may often display badges issued by the various organisations but, due to the variety of badges in circulation none are recognised by Hampshire County Council or Fareham Borough Council as valid authorities to park in contravention of orders prohibiting or restricting waiting.

24. Upon receipt of a written request Fareham Borough Council will consider the request and if satisfied that the permit is required issue its own permits to allow genuine professional carers to park within residential areas to enable them to care for residents. Permits may be issued upon application, which must be supported by an official letter from the care organisation or, in the case of a private carer (relative etc.) confirmation from the resident's GP that he/she is in need of regular, permanent care within their home. Any abuse of such permits may result in them being withdrawn.

25. It is not felt that there is a need for carers to park within Council car parks free of charge or for longer than the permitted free time. However, this is a matter which is kept under review by the Council.
26. Carers are not exempt from yellow line restrictions and must not contravene them. A dispensation/permit may be issued to carers to enable them to park in contravention of a yellow line, (in an emergency) or limited wait on street whilst not at their normal place of work and whilst visiting a client or patient.

#### Administration charges

27. Where a Dispensation is required to be issued by the Council for purposes above or action is taken to suspend all or part of a parking place, the Council may make a charge for the service at a rate agreed from time to time by the Council, to cover the administration and enforcement costs.

#### Statement of Intent

28. The Council will introduce orders regulating parking as appropriate to meet local needs as outlined above.
29. The Council will enforce parking regulations fairly, lawfully and without discrimination. All Civil Enforcement Officers are trained to a required standard in the legislation governing parking activities and in Council policies and values, and will operate in accordance with a standard handbook.
30. Enforcement can take place at any time and on any day depending on the hours of control of specific parking regulations. Enforcement will also take place if on street parking contraventions have been highlighted by members of the public, these will be placed on the "Hot Spot" list, the CEO's will then target these areas as appropriate, via a tasking process at daily briefings.
31. Enforcement of regulations will focus on achievement of objectives relating to road safety (including safety of pedestrians at school premises), traffic movement, loading/unloading requirements, and proper use of priority parking places, turnover at commercial centres, nuisance, environmental factors and special events.
32. It is not the policy of this Council to clamp and remove vehicles; although there are legal powers in place to do so. Any such action on-street would require the consent of Hampshire County Council, on whose behalf Fareham Borough Council is acting. There are powers to do so for persistent offenders with 3 or more Penalty Charge Notices under TMA.

33. Where the driver of a vehicle is relying on a blue disabled Person's Badge for exemption from parking regulations, it is the policy of Fareham Borough Council to issue a Penalty Charge Notice (PCN) if the badge is not displayed correctly, however the CEO's will use their judgement and discretion before issuing a PCN. If a challenge is received regarding a PCN each case will be considered on its own merits. This course of action reinforces the need for disabled badge holders to use and display the blue badge and clock correctly, and avoids misunderstanding at a later date.
34. The primary task of the Civil Enforcement Officers (Parking) is to assist the motorist in parking in compliance with the regulations, whilst keeping the Borough free from congestion and highway obstruction.
35. It is Council policy to pursue debt incurred by non-payment of penalty charges within the current legislation, which includes registration of the debt at the County Court and obtaining a warrant of execution for recovery action by Court Enforcement Officers (certified bailiffs), this will inevitably incur extra costs.
36. The Parking Enforcement Service will aim to be as open and fair as possible and will review its policies, procedures and practices at regular intervals, which will be available to the public for consultation at any time. This will also include reports of the income and expenditure as well as the Penalty Charge Notice, issues and cancellation statistics.

### **Summary of Enforcement Procedure**

#### **Management**

37. Enforcement of regulations and consideration of challenges, representations and appeals against Penalty Charge Notices will be managed by the Council's in-house Parking Enforcement Service.
38. The level of penalty charge is set by the Council within a range determined by the Government. The level of charge will be based upon the type of contravention.
39. This Council has adopted the Band 2 tariff that sets the Penalty Charge Notice at £70 with a reduced rate of £35 if paid within 14 days of the date of issue of the notice, for the higher level of contraventions.
40. The lower level of contraventions is set at £50 with a reduced rate of £25 if paid within 14 days of the date of issue of the notice.
41. It is the responsibility of each driver to park legally and there is generally ample opportunity to do so for every situation throughout the Borough. The driver must also

observe and adhere to, any restrictions in place at the time whenever the vehicle is parked.

42. Where a vehicle is parked in contravention of a prohibition, restriction or conditions of parking a penalty charge becomes payable.
43. The main objective of a Civil Enforcement Officer (CEO) is to ensure that parking controls are observed and enforced in a fair, accurate and consistent manner. A (CEO) has a duty to serve a Penalty Charge Notice; if there is sufficient evidence that a contravention has occurred.
44. Part of the process of issuing a PCN involves a CEO making a note of the vehicle make (where able), colour and registration number, details of which appear on the PCN. Additionally the position of tyre valves is also noted in some circumstances.
45. Anyone who has been issued with a PCN has the opportunity to make an informal challenge to the PCN or to pay the penalty charge. An informal challenge is the initial letter or e-mail of appeal sent to parking services. This will be investigated and all evidence and mitigating circumstances considered.
46. Should no challenge to the PCN be received, FBC will pursue the registered keeper of the vehicle for the outstanding debt.
47. Further consideration of an unresolved dispute involves a formal challenge by the owner of the vehicle or person in charge of the vehicle at the time. A challenge is part of the formal procedure the next stage of which can be an appeal to an Independent Adjudicator.
48. Independent Adjudication is achieved through the Traffic Penalty Tribunal (TPT), a body set up by the Government which must be used in settlement of disputes by each local authority operating decriminalised parking enforcement, and are independent of the Council.
49. The TPT procedure replaces the previous role of the Magistrates' Court in resolving civil disputes for parking contraventions.
50. All challenges, representations and appeals must be in writing or e-mailed to [parkingservices@fareham.gov.uk](mailto:parkingservices@fareham.gov.uk) (This must include the PCN number and address)
51. The management process in serving PCNs and the follow-up procedure will be in strict adherence to the processes laid down by the *Traffic Management Act 2004* and *The*



*Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.*

Obstruction

52. Within current civil enforcement legislation the offence of obstruction cannot be enforced through the process of civil parking enforcement. Civil Enforcement Officers can only enforce parking 'contraventions' where there are yellow lines associated with a Traffic Regulation Order. Without such restrictions enforcement associated with vehicles parked in an obstructive manner can only be undertaken by the police (Section 137 of the Highways Act 1980).

Pavement Parking

53. Paved footways (pavements) are predominantly constructed/provided for pedestrian use. Vehicles that are parked partly, or wholly on pavements, particularly where they are narrow, may present:

- (a) a hazard to pedestrians, causing an obstruction, which may result in them having to step off the pavement onto the carriageway thus putting themselves in danger;
- (b) a hazard by restricting the width of the pavement making it difficult for someone with a pushchair or wheelchair; or a pedestrian with visual impairments, to pass safely - again this person may have to step onto the carriageway to avoid the obstruction;
- (c) a hazard due to the damage caused by driving on and off the pavement – broken flags etc.

54. If there are yellow lines (waiting restrictions) on the carriageway adjacent to the pavement, then a PCN could be issued to a vehicle parked on the footway, as such parking may be in contravention of the waiting restrictions. Waiting restrictions cover the highway from centre of the carriageway to the back of footway.

55. If there are no waiting restrictions (e.g. no single or double yellow lines) on the carriageway adjacent to the pavement, then CEO's have no powers to take action. If a vehicle is blocking the pavement in these circumstances, the Police should be contacted; as such parking may constitute an obstruction of the highway (Highways Act 1980).

Service of a Penalty Charge Notice (PCN)

56. The Council believes that in introducing parking controls of any kind it is doing so in the interest of general or, in some cases, specific road users or sections of the community. If any regulation is perceived as being unjust or unnecessary an appraisal can be requested.
57. Drivers who park in contravention of the parking regulations will be served with a Notice to pay the PCN, which will be affixed to the vehicle or handed to the driver. It is the policy of this authority to take a photograph, whenever possible, of every contravention, in order to prove the contravention and where appropriate the fact that the PCN was legally placed on the vehicle. These images will be available and provided at the earliest opportunity, should a challenge be made.
58. If the CEO has been prevented from serving the PCN by actions or threats from the driver or other person, a Regulation 10 PCN/Notice to Owner will be served on the registered keeper of the vehicle by first class post. Any person receiving this may receive a discount of 50% for a period of 14 days after the date of receipt of this notice.
59. Fareham Borough Council encourage CEO's to use their discretion and judgement in certain situations, for example, where the CEO feels that a verbal warning rather than issuing a PCN for a contravention and is still with, or returns to, the vehicle before a PCN has been served.

#### Challenge of PCN

60. Drivers will be given 14 days from the date of service of the PCN in which to either pay the penalty charge at the discounted rate, or challenge the penalty charge. Every case in which a penalty charge is challenged will be investigated on its own merit, and mitigating circumstances will be taken into account.
61. It is standard practice to request proof of these circumstances wherever possible, for example, if a valid pay and display ticket or permit is produced or we receive evidence of loading and unloading such as a delivery note and/or receipt and in emergency cases proof of the emergency.
62. If a challenge to a PCN is received, and does not constitute grounds for waiving the charge, the opportunity to pay the discounted rate will be re-offered for a further 14-day period from the date of receipt of the rejection letter.
63. The Secretary of State considers that the exercise of discretion should, in the main, rest with back office staff as part of considering challenges against PCNs and

representations against a Notice to Owner (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.

#### Notice to Owner (NTO)

64. If no payment has been received within 28 days after the date of service of the PCN, irrespective of whether the driver/owner has previously challenged the penalty charge, then Parking Services will obtain the details of the registered owner/keeper of the vehicle from the Driver Vehicle Licensing Agency (DVLA).
65. The registered owner/keeper of the vehicle is legally the person responsible for payment of the charge.
66. A NTO will be served by 1<sup>st</sup> class post to the registered owner/keeper upon receipt of these details from the DVLA, and may not be served before the expiry of 28 days from the date of service of the PCN.

#### Regulation 10 Penalty Charge Notice

67. This form is served if the CEO is prevented, by the actions of the driver or third party, from serving a PCN. Details are obtained from the DVLA and the Regulation 10 PCN/NTO is served. The registered keeper of the vehicle has 14 days to pay the PCN at the 50% discounted rate. If no payment is received after 28 days of service then the charge will increase by 50% and a charge certificate will be served.

#### Formal Challenge

68. The owner/driver may then make a formal challenge in respect of the charge, and this will be investigated by Parking Services where a decision will be made after investigating and considering all the presented facts.
69. All challenges must be made in writing or e-mailed to: [parkingservices@fareham.gov.uk](mailto:parkingservices@fareham.gov.uk) and must be made not later than the last day of the period of 28 days beginning with the date on which the NTO is served. Any challenges made outside of this period may be disregarded by the Council. If this is the case you may still contact the TPT by post asking them to consider the late appeal and request the Council to re-consider, (contact the Council for details).
70. If the challenge against the charge is not accepted, a formal notice of rejection under Part 6 of the Traffic Management Act 2004 will be served to the appellant. This correspondence will contain details of the steps that can be taken by the appellant if he or she wishes to appeal to the Traffic Penalty Tribunal.

71. At this stage there will be no opportunity for the reduced charge to be paid.

Appeal to the Traffic Penalty Tribunal [www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk)

72. It is the policy of this council to contest every formal appeal to the Traffic Penalty Tribunal, unless the appellant produces additional evidence that was not previously forthcoming.

73. Fareham Borough Council will not pursue enforcement of PCN simply to test whether the appellant will progress the challenge to the TPT.

74. Members of the public are able to access [www.patrol-uk.info](http://www.patrol-uk.info) for further information of appeals to the TPT and the rights of motorists relating to Civil Enforcement and the whole process up to and including bailiff stage. Downloadable forms will be available.

#### Charge Certificate

75. A minimum of twenty-eight days after the date of issue of the NTO or Regulation 10 PCN, Parking Services will serve a Charge Certificate to the registered owner/keeper of the vehicle, which will increase the original charge by 50%. At this stage there is no legal right of appeal but all cases may be considered by its own merit.

76. After a further period of 14 days a pre debt registration letter is sent advising of cost and next stage of bailiff.

#### Registration and collection of debt

77. After a minimum of 14 days after the date of issue of the pre debt registration letter, Parking Services will register the debt at the Traffic Enforcement Centre which is a branch of the County Court set up to handle registration of debt from non-payment of penalty charges for England and Wales. This action will increase the charge on each case by a further £7 to cover the appropriate court fee for this service and registration.

78. The registered owner/keeper will be informed of this debt registration and, if no response is received within 21 days of the date of registration, then Enforcement Agents (Certificated Bailiffs) will be instructed to recover the debt on the Council's behalf. This could incur substantial extra costs being added onto the outstanding amount. The outstanding debt is then handled by the debt recovery company acting for the Council and any payment or correspondence must be sent to them.

## **Consistency and Proportionality**

79. All CEO's and Parking Office Support staff are trained to the same standards by way of an in-house manual, formal training in the form of City in Guilds qualification or equivalent and on-going monitoring and refresher training.
80. At any of the legal stages throughout the enforcement process, up to the issuing of the warrant stage, mitigating circumstances will be considered in order to produce a reasonable and sustainable decision.
81. This Authority has a policy of allowing an observation period when vehicles are parked on double yellow lines. This is to allow for any loading or unloading of heavy goods, however should there be evidence from a CEO that it is immediately evident that no loading/unloading is taking place; an instant PCN will be served.
82. Although Fareham Borough Council has always allowed a grace period of 10 minutes to allow customers to return to their vehicle, this has now been made a statutory undertaking.
83. On 6<sup>th</sup> April 2015 the Department for Communities and Local Government (DCLG) who are now responsible for off street parking and the Department for Transport introduced a new Statutory Instrument to allow a 10 minute parking grace period, this applies to paid for or free parking spaces both on-street and off-street (in Council owned car parks or similar), the exact wording of the Statutory Instrument is:

“If a vehicle is parked legally on a designated parking bay when it is initially parked, then you should apply a ten minute grace period before issuing a PCN from the moment it becomes parked illegally.”

An explanation of this is provided below:

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 pay and display bay when controls are already in force, and the driver does not display a permit/scratch card or pay and display ticket is liable for a PCN without the need for a 10 minute grace period (any usual observation periods apply).

A vehicle parked on a single yellow line (and not in a designated parking place) outside of the hours of control will be liable to an immediate PCN without the 10 minute grace period when controls commence (any usual observation periods apply).

84. 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 need to be given if it is parked legally before controls commence (any usual observation periods will apply).
85. It is important to note that grace periods only apply to designated parking places where a person is permitted to park. A road with a restriction (e.g. single yellow line) or prohibition (e.g. double yellow line) is not a 'designated' parking place either during or outside of the period of the restriction or prohibition.
86. In cases of extreme hardship, customers may be given the opportunity to pay the full charge in instalments. Each case will be dealt with on its own merits and a request for such should be made in writing or by e-mail to parking services. It is important to list all/any outstanding PCN'S.
87. At every stage that correspondence is sent to a registered owner/keeper or appellant, that person will be advised of the next course of action that will apply. All correspondence will be matched and input into the relevant case and responded to within appropriate timescales. Further advice is available on the Council website; [www.fareham.gov.uk](http://www.fareham.gov.uk)
88. Parking Services will use whichever databases are lawfully available to them to pursue details of drivers that have committed a contravention of the parking regulations, and are fully compliant with the requirements of the Data Protection Act.
89. Fareham Borough Council pursues a policy of non-discrimination for all drivers and for that reason will consider the use of an agency to enforce payment by residents in countries other than England and Wales.
90. Parking Services undertakes not to disclose information held on its databases to a third party unless the request is from a Law Enforcement Agency and is in order to prevent or detect crime.
91. Parking Services will endeavour to ensure that patrolling takes place in all areas of the Borough on a regular but prioritised basis as resources permit.
92. Measurement of performance of the Parking Enforcement function will take place regularly through the service plan monitoring process applicable to all Council departments.

## **Rights of Appeal**

93. Specific rights of appeal will be set out in all of the Notices and correspondence referred to in the above procedures.

94. The procedure for dealing with parking appeals is set down in Part 6 of the Traffic Management Act 2004 and The Civil Enforcement of Parking Contraventions, Representations and Appeals Regulations 2007.

## **Traffic Penalty Tribunal**

95. The TPT exists as an independent body to determine appeals against Penalty Charges. If an owner or the person in charge of the vehicle at the time of the service of the PCN chooses to appeal to the TPT, then the right to pay the charge at the reduced rate will be forfeited. There is no additional charge to motorists for this service.

96. Appeals must be in writing and the adjudication may be requested either by post a telephone hearing or in person. Personal appeals would normally be heard in Portsmouth or Southampton but appellants may nominate any of the locations used by the Adjudication Service throughout the country. The correct form and details for this will be sent to the appellant within the formal rejection notice, as an appeal may not be made unless a NTO has been served.

97. The TPT has the power to award costs, either to the appellant or to the Council if either party is found to have behaved in a vexatious or frivolous manner.

## **Decision**

98. The Adjudicator's decision is final and neither the Council nor the driver/owner or person in charge of the vehicle can argue their case in another court at a later date. In certain limited circumstances an adjudicator's decision can be reviewed. For example, if an adjudicator makes a mistake in law the decision may be reviewed in the High Court.

99. The adjudicator may refer a case back to the Council. This may be if further evidence has been sent or received by them from the appellant. In these cases the file will be reviewed by a Council Officer independent of the parking services where after review and consultation a decision will be made whether to continue pursuing the case or not to contest it.

## **Complaints**

### **Corporate Complaints Procedure**

100. Our policy is to try to be as helpful and fair as possible in providing council services. If you have any suggestions for improving our services; if you have any comments or if you are dissatisfied with the way in which you have been treated, please talk to a member of our staff who knows about the situation and explain what the problem is. They will try to resolve the matter for you immediately.
101. If this is not possible please contact a Customer Services Adviser within the Customer Service Centre by telephoning 01329 236100, who will endeavour to resolve the matter to your satisfaction or advise you how to make a formal complaint through the council's complaints procedure. Alternatively, please e-mail [customerservices@fareham.gov.uk](mailto:customerservices@fareham.gov.uk).
102. The corporate complaints procedure provides the Council with the opportunity to investigate and, where appropriate, provide a remedy in circumstances where the Council is alleged to have been guilty of "maladministration" which has caused injustice (and where there is no other reasonable avenue available to the complainant to appeal or seek redress).
103. It is important to note, however, that the corporate complaints system cannot entertain objections against the merits of a decision on a penalty charge which has been properly taken but with which the complainant does not agree.

#### Local Government Ombudsman

104. In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer his/her complaint to the Local Government Ombudsman, who is independent of the Council. It must be emphasised that the Ombudsman will not consider a complaint where more than 12 months has elapsed since the alleged act/omission (unless the Ombudsman thinks that it is reasonable to look into the matter despite the delay).

#### The Role of Council Members

105. The Secretary of State, in his publication "Guidance on decriminalised parking enforcement outside London" (LAC 1/95) advises that "*given the semi-judicial role of the representation process, local authority members should play no part in deciding on individual representations*".
106. It is the policy of Fareham Borough Council that Council members will not be part of the process of resolving challenges, representations or appeals. Member representation is however required on the Traffic Penalty Tribunal Joint Committee.



Fareham's representative is the Executive Member for Public Protection with the Executive Member for Street Scene as a deputy representative.

### **Reviews**

107. It is important that the Council should monitor its performance in applying its Corporate Enforcement Policies so that it can assess the impact and effectiveness of its Policies and ensure that those Policies are assisting the Council in meeting its aims and objectives in each respective service area.
108. The Council publishes its standards in responding to letters of all kinds and will report annually on parking enforcement. This will also advise on the issue/cancellation and income within the Parking Service.
109. The Fareham Parking Enforcement Policy will be reviewed biennially and this, alongside the Council's annual service plans, will provide a basis for measuring implementation and improvement of those policies and procedures. Policies will also be the subject of periodic consultation processes, e.g. with relevant bodies and organisations.

### **Staff Well Being and Health and Safety**

110. The Council takes the Health, Safety and Welfare of its staff very seriously and will take all appropriate legal action against any member of the community that either verbally or physically threaten or injure staff whilst in the execution of their duties.
111. All Civil Enforcement officers are now required to wear Body Worn Video Cameras (BWV) whilst carrying out their duties.

### **Contacts and responsibility**

For further information on this policy, please contact:

Head of Parking and Enforcement  
Department of Environmental Services  
Civic Offices  
Fareham  
Hampshire  
PO16 7AZ  
Tel: 01329 236100  
Email: [parkingservices@fareham.gov.uk](mailto:parkingservices@fareham.gov.uk)

**Last Reviewed: June 2015**