

# FAREHAM BOROUGH COUNCIL

## Fareham Parking Enforcement Policy

### 1. Introduction

#### Traffic Regulation Orders

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:

- Promote the safe use of highways
- Manage the competing demands for road space, e.g. traffic movement, bus stops, loading for access to premises and parking
- Give priority when considered necessary to different classes of users, e.g. disabled people, residents.

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

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

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.

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.

Fareham Parking Enforcement is now 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 dropped kerbs which causes obstruction, also double parking on the highway and persistent offenders.

### Public Accountability

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.

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

Traffic Regulation Orders to control parking are introduced by the Council and enforcement of the regulations is undertaken in order to:

- Make Fareham Borough a safer place, to drive, walk or cycle through
- Ensure that pedestrians may walk safely without fear or obstruction, especially in pedestrianised areas and outside schools
- Keep traffic flowing freely
- Ensure good access to properties adjoining highways for loading and unloading
- 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
- 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.
- 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
- 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.
- Minimise parking on verges and footways where there is a restriction on parking on the highway for road safety, maintenance and environmental reasons

## **3. Legislation**

The enforcement of parking regulations by Fareham Borough Council will be carried out within the relevant powers under the following Acts:

The Traffic Management Act 2004 (as amended) of which has now superseded;

The Road Traffic Regulation Act, 1984 (as amended)

The Road Traffic Act, 1991 (as amended)

Also by the following Traffic Regulation Orders (TROs):

The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire) (Borough of Fareham) Order 2007

The Borough of Fareham (Waiting Restrictions and Street Parking Places) (Consolidation) Order 2007 (as amended)

Borough of Fareham (Off Street Parking Places) (Consolidation) Order 2007 (as amended)

Any other order made or any other Act, Regulation, which enables enforcement by the Council to achieve the objectives set out in this policy.

#### **4. Special Provisions**

##### Blue Badge holders

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

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.

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

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.

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

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.

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.

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

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.

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.

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

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

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.

Fareham Borough Council will 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.

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.

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

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.

## **5. Statement of Intent**

- (i) The Council will introduce orders regulating parking as appropriate to meet local needs as outlined above.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) 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. 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.
- (vii) 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.
- (viii) 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.

- (ix) 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.

## **6. Summary of Enforcement Procedure**

### Management

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.

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.

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.

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.

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.

Where a vehicle is parked in contravention of a prohibition, restriction or conditions of parking a penalty charge becomes payable.

A Civil Enforcement Officer (CEO) has a duty to serve a Penalty Charge Notice; if there is sufficient evidence that a contravention has occurred.

Anyone has the opportunity to make an informal challenge to the penalty charge notice or to pay the penalty charge. An informal challenge is the initial letter or e-mail of appeal. This will be investigated and all evidence and mitigating circumstances considered.

Should no challenge to the PCN be received, FBC will pursue the registered keeper of the vehicle for the debt.

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.

Independent Adjudication is achieved through the Traffic Penalty Tribunal, 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.

The Traffic Penalty Tribunal procedure replaces the previous role of the Magistrates' Court in resolving civil disputes for parking contraventions.

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)

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*.

### Service of a Penalty Charge Notice (PCN)

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.

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.

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.

### Challenge of PCN

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.

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.

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.

### Notice to Owner (NTO)

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).

The registered owner/keeper of the vehicle is legally the person responsible for payment of the charge.

A Notice to Owner (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

This form is served if the Civil Enforcement Officer 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

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.

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 Notice to Owner 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 Traffic Penalty Tribunal by post asking them to consider the late appeal and request the Council to re-consider, (contact the Council for details).

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.

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)

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.

Fareham Borough Council will not pursue enforcement of PCN simply to test whether the appellant will progress the challenge to the Traffic Penalty Tribunal.

Members of the public are able to access this web site [www.patrol-uk.info](http://www.patrol-uk.info) for further information of appeals to the Traffic Penalty Tribunal 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

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.

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

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.

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 Court Enforcement Officers (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 Bailiff acting for the Council and any payment or correspondence must be sent to them.

## **7. Consistency and Proportionality**

All Civil Enforcement Officers and Parking Office Support staff is trained to the same standards by way of an in-house manual, formal training in the form of NVQ qualification or equivalent and on-going monitoring and refresher training.

Civil Enforcement Officers cannot retract a Penalty Charge Notice once it has been lawfully served. This is to complete an audit trail with the penalty charge number being traceable.

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.

This Authority has a policy of allowing a short 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.

This Authority also has a policy to allow a short observation period for pay and display and limited waiting parking areas to allow for a short delay in returning to the vehicle.

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.

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 corporate timescales or before. Further advice is available on the Council website; [www.fareham.gov.uk](http://www.fareham.gov.uk)

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.

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.

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.

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.

Measurement of performance of the Parking Enforcement function will take place regularly through the service plan monitoring process applicable to all Council departments.

## **8. Rights of Appeal**

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

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

The Traffic Penalty Tribunal 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 Traffic Penalty Tribunal, then the right to pay the charge at the reduced rate will be forfeited. There is no additional charge to motorists for this service.

Appeals must be in writing and the adjudication may be requested either by post or in person. Personal appeals would normally be heard in Portsmouth 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 Notice to Owner has been served.

The Traffic Penalty Tribunal 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

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.

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.

## **9. Contacts**

For further information on this policy, please contact the Fareham Parking Enforcement Service on 01329 236100, or visit [www.fareham.gov.uk](http://www.fareham.gov.uk)

## **10. Complaints**

### Corporate Complaints Procedure

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.

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).

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).

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

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

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”*.

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.

### **11. Reviews**

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.

The Council publishes its standards in responding to letters of all kinds and will report annually on standard indicators in parking enforcement. This will also advise on the issue/cancellation and income within the Parking Service.

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.

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

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.

All Civil Enforcement officers are now required to wear Body Worn Video Cameras (BWV) whilst carrying out their duties.

### **13. Contacts and responsibility**

Head of Community Safety and Enforcement,  
Department of Regulatory and Democratic Services,  
Civic Offices,  
Fareham,  
Hants, PO16 7AZ

Tel: 01329 236100

Email: [parkingservices@fareham.gov.uk](mailto:parkingservices@fareham.gov.uk)

