

**CITY AND COUNTY OF SWANSEA**  
**CIVIL PARKING ENFORCEMENT**  
**STRATEGY, POLICY AND PROCEDURES**  
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# **CITY AND COUNTY OF SWANSEA**

## **PARKING ENFORCEMENT STRATEGY, POLICY AND PROCEDURES**

### **PART A: STRATEGIC OBJECTIVES**

#### **1. INTRODUCTION**

The City and County of Swansea is a 'Civil Enforcement Area' and Special Parking Area' under the Traffic Management Act 2004.

The City and County of Swansea is therefore responsible for the enforcement of parking regulations, both on and off-street, and of other minor traffic offences throughout the Authority area.

Although parking contraventions have been de-criminalised, they have not been de-legalised. It therefore remains an illegal act to park in contravention of the restrictions imposed by the Traffic Regulation Orders. However these Orders will be enforced via civil law.

Civil enforcement officers (CEO) enforce parking regulations and minor traffic offences throughout the Authority area.

#### **2. OBJECTIVES**

Civil Parking Enforcement will:

- Maintain and, where possible, improve the flow of traffic, thereby making the City and County of Swansea a more pleasant and environmentally safe place to live and visit.
- Take into account the needs of local residents, shops and businesses within the framework of the whole community, thereby sustaining the City and County's economic growth.
- Actively support the needs of disabled people bearing in mind that, in some cases, they are unable to use public transport and are entirely dependent upon the use of a car. This will help disabled people to have access to all facilities.
- Actively discourage indiscriminate parking that causes obstruction to other motorists, public transport, pedestrians, cyclists and people with disabilities. This will help ensure that the City and County of Swansea remains accessible to all, equally and safely.

### **3. LEGISLATION**

The statutory Acts, Regulations and Orders governing parking and parking enforcement are:

- The Road Traffic Regulation Act (1984)
- Traffic Management Act 2004.
- Welsh Assembly Government Statutory Instrument 1896 of 2008 'The Civil Enforcement of Parking Contraventions(City and County of Swansea) Designation Order 2008
- Welsh Assembly Government Statutory Instrument 359 of 2013 'The Civil Enforcement of Traffic Contraventions (Representations and Appeals)(Wales)Regulations 2013
- Welsh Assembly Government Statutory Instrument 362 of 2013 "The Civil Enforcement of Traffic Contraventions (General Provisions)(Wales) Regulations 2013
- Welsh Assembly Government Statutory Instrument 360 of 2013 "The Civil Enforcement of Traffic Contraventions(Approved Devices) (Wales) Order 2013
- Welsh Assembly Government Statutory Instrument 361 of 2013 "The Civil Enforcement of Traffic Contraventions (Representations and Appeals) Removed Vehicles(Wales) Regulations 2013
- Welsh Assembly Government Statutory Instrument 613 of 2008 'The Civil Enforcement of Parking Contraventions (Guidelines on Level of Charges) (Wales) Order 2008
- Welsh Assembly Government Statutory Instrument 616 of 2008 'The Civil Enforcement Officers (Wearing of Uniforms)Regulations 2008

In addition Traffic Regulation Orders which prohibit or restrict parking are periodically consolidated into one order.

When a request for information concerning this legislation is made, the Council will make reference to specific, relevant paragraphs and will quote them verbatim within any correspondence. The Council will not supply full copies of the relevant acts, nor Traffic Orders. These can be obtained from the HMSO or, in the case of the 2004 act, accessed via the internet.

Details of Traffic Orders are available from the Authority.

If the driver or registered keeper of a motor vehicle subject to a **Penalty Charge Notice** (PCN) queries the authority behind a specific restriction, reference should be made to the relevant Traffic Regulation Order, held by the Council. Prior to any correspondence with the keeper, this order should be checked to ensure the validity of the PCN. If any doubt exists then the PCN should be cancelled and the decision communicated to the keeper.

#### **4. STATEMENT OF INTENT**

- (i) The City and County of Swansea will enforce parking regulations fairly, lawfully and without discrimination.
- (ii) The Authority will comply with the Welsh Government's document 'Operational and Statutory Guidance to Local Authorities'. Any variance from this document will be subject to approval of the Cabinet and signed off by the Director of Environment.
- (iii) It is the policy of this Authority to enforce parking regulations on every day of the year.
- (iv) The Authority will not routinely clamp and remove vehicles, but has the legal powers to do so. Vehicles which are parked causing an obstruction or which are classed as persistent offenders (with 5 or more penalty charge notices) may be removed. The removal of vehicles will be undertaken by the Council's contractor and stored at their depot.

N.B. The Authority's policy in respect of the removal of abandoned vehicles is not affected by this policy.

- (v) PCNs will be issued to vehicles that do not display the disabled badge correctly. Consideration will be given to the cancellation of the notice if representation is subsequently made by the badge holder or driver of the vehicle. This course of action reinforces the correct procedure for displaying the blue badge and clock, and avoids misunderstanding at a later date.
- (vi) The Authority will maintain the accuracy and quality of sign plates and road markings to make restrictions clear and enforceable.

#### **5. PENALTY CHARGES**

The Welsh Government has directed the Authority to issue two different levels of penalty charges. These charges are set at the following rates:

High Level Penalty Charge	Lower Level Penalty Charge
£70	£50

Details of the contraventions applicable to both the higher and lower charges are contained within Appendix 'A'.

Any variances in the penalty charges approved by the Welsh Government will be applied in Swansea from a minimum of 14 days after publication.

## **6. TRAFFIC REGULATION ORDERS**

Traffic Regulation Orders proposals, and reviews of existing Traffic Regulation Orders, will take into account:

- Existing and predicted levels of demand for parking.
- The availability and pricing of off -street parking.
- The provision of suitable parking facilities for disabled people.
- The provision of suitable parking facilities for cyclists and motorcyclists.
- The provision of suitable parking facilities for heavy goods vehicles and coaches.
- Consideration of the Council's overall aims with regard to the environment, fear of crime within the City and County and the sustained economic growth of the City and County of Swansea.

## **7. METHODS OF ENFORCEMENT**

Enforcement will be undertaken by uniformed Civil Parking Enforcement Officers or through use of camera enforcement.

In accordance with the Traffic Management Act and associated guidance, approved devices (such as mobile CCTV vehicles) will be used in problem areas where enforcement is difficult or sensitive and enforcement by Civil Parking Enforcement Officers is not practical.

## **8. NUMBER OF CIVIL PARKING ENFORCEMENT OFFICERS**

The number of Civil Parking Enforcement Officers will be regularly reviewed and will take into account:

- The levels of compliance that the City and County of Swansea considers to be acceptable and the level of enforcement necessary to achieve them.
- The views of the public who are routinely consulted on all traffic order proposals.
- The views of the South Wales Police.

## **PART B: PROCEDURES**

### **8. SUMMARY OF PROCEDURE**

Vehicles parked in contravention of parking regulations will be issued with a Penalty Charge Notice, (PCN). This will be served on the vehicle by affixing to the vehicle or, should the driver be present, by handing it to the driver.

The PCN can also be served by post if the Enforcement Officer has attempted to serve the notice but the actions of the driver have prevented the PCN being either handed to the driver or placed on the vehicle. PCNs may also be sent by post where camera enforcement is used.

A photograph of every contravention will be taken in order to prove the contravention and corroborate the records of the enforcement officer. When applicable it will also prove that the PCN was legally placed on the vehicle.

A discount of 50% will apply to all PCN's paid within the discount period.

All representations will be investigated on their merits, and mitigating circumstances will be taken into account. Proof of these circumstances will be requested wherever possible. If representations relating to the issue of a PCN is received within 14 days of the PCN being issued, and following an investigation the grounds do not constitute grounds for cancelling the PCN, then the discounted rate will be held for a further 14-day period from the date of service<sup>1</sup> of the rejection letter.

If no payment has been received within 28 days after the issue of the PCN, (irrespective of whether the driver/owner has made representations relating to the PCN) 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 the person legally responsible for payment of the charge.

Upon receipt of these details from the DVLA a Notice to Owner (NtO) will be sent via first class post to the registered owner/keeper. The purpose of the NtO is to ensure that the PCN was received by the vehicle owner, remind the vehicle owner that the PCN is now due to be paid in full, and if it is not paid within a further 28 days it will incur an increase of 50%. It also gives the owner an opportunity to make formal

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<sup>1</sup> Service of correspondence contained in a letter which has been properly addressed, prepaid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.



representations against the penalty charge. The NtO should be issued between 28 and 56 days after the issue of the PCN. However the ultimate time limit in exceptional circumstances is six months.

If the formal representation in respect of the PCN is not accepted then a formal notice of rejection will be issued to the appellant. This correspondence will contain details of the steps that can be taken by the appellant, if they wish to appeal to the Traffic Penalties Tribunal<sup>2</sup>.

The Authority will contest every formal appeal to the Traffic Penalties Tribunal unless the appellant produces additional evidence that was not previously forthcoming.

After twenty-eight days following the issue of the NtO, should the PCN remain unpaid a Charge Certificate will be sent to the registered owner/keeper of the vehicle, which will increase the original charge by 50%.

A minimum of 14 days after the issue of the Charge Certificate, Parking Services will register the debt at The Traffic Enforcement Centre, Northampton County Court (TEC). This action will increase the charge by a further £5, which is the court fee for this service. The registered owner/keeper will be informed of this debt registration, and if no response is received within 21 days of the registration, then Court Enforcement Officers will be instructed to recover the debt on our behalf.

Court Enforcement Officers will recover the debt to the Authority and their own costs.

## **9. CONSISTENCY AND PROPORTIONALITY**

All Civil Parking Officers are trained to the same standards, by way of an in-house manual, formal training and on-going monitoring.

Civil Parking Officers cannot retract a Penalty Charge Notice once they have commenced recording the details in the HHC or on the written ticket.

At any of the legal stages throughout the enforcement process, representation is allowed and mitigating circumstances will be considered.

Whenever correspondence is sent to a registered owner/keeper, then that person will be advised of the next course of action that will be

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<sup>2</sup> \* Further information about the Traffic Penalties Tribunal service is given on page 8 under item 7 - "Rights of Appeal".

taken against them and details of how they can challenge these procedures.

Parking Services will use whichever databases are lawfully available to them to pursue details of drivers that have committed a contravention to the parking regulations.

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 for national security or to prevent or detect crime.

Parking Services will endeavour to ensure that patrols take place throughout the Authority area on a regular basis. Enforcement can only take place as resources permit, and some areas may not be patrolled when resources are limited.

The process of dealing with challenges and representations against the issue of PCNs is well documented and will be carried out in a fair, unbiased and equal manner. These procedures include the ultimate right of all appellants to refer the matter to the Traffic Penalties Tribunal.

To preserve the integrity of these procedures they will be managed by the Parking Manager. No undue external pressure shall be brought, by either elected Members of the Council or other senior officers, to influence the decisions by virtue of their position. Assembly Members and Members of Parliament are similarly expected not to seek to influence decisions.

## **10. RIGHTS OF APPEAL**

Specific rights of appeal are set out in each of the notices referred to in the above Procedure.

- The procedure for dealing with parking appeals is set down in Traffic Management Act, and Welsh Assembly Government Statutory Instrument 359 of 2013 'The Civil Enforcement of Traffic Contraventions (Representations and Appeals)(Wales)Regulations 2013

The Traffic Penalties Tribunal exists as an independent body to determine appeals against Penalty Charge Notices. If a driver chooses to appeal to the Traffic Penalties Tribunal, then he/she forfeits the right to pay the charge at the reduced rate.

The service is free to motorists and appeals may be held either by post or in person. Personal appeals will be held locally at a premises agreed between the Authority and the Traffic Penalties Tribunal as being suitable and convenient to all parties.

The Traffic Penalties Tribunal has the power to award costs, either to the appellant or to the Council, if either party are found to have behaved in a vexatious or frivolous manner.

The adjudicator's decision is final and neither the Council nor the driver of the vehicle can pursue their case in another court at a later date. In certain limited circumstances an adjudicator's decision can be reviewed; if an adjudicator errs in law the decision may be reviewed in the High Court.

The Traffic Penalty Tribunal may only allow an appeal if one of the statutory grounds for appeals applies. Where a contravention has taken place but the Tribunal considers that the enforcement authority should have used its discretion to cancel the PCN the Tribunal may refer the case back for the authority to reconsider. Such cases will be directed to the office of the Chief Executive.

Following receipt of a referred case the Authority will within 35 days reconsider its original decision and communicate its decision to the appellant and the Traffic Penalties Tribunal.

## 11. **COMPLAINTS**

The City and County of Swansea operates a corporate complaints system. This is available where any individual who is not satisfied with the standard of a Council service, and who has not been able to resolve his/her complaint with the relevant manager, wishes to make a formal complaint to the Council.

<http://www.swansea.gov.uk/index.cfm?articleid=709>

This process will not investigate matters surrounding the issue of a penalty charge notice, nor the appeal proceedings. This is subject to a statutory processes and a regulated adjudication body.

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 which has been properly taken but which the complainant does not agree with.

In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer his/her complaint to the **Public Services Ombudsman for Wales**, 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).

## **PART C: POLICY ISSUES**

### **12. ON STREET PARKING**

Public on-street parking supply is defined as parking on the public highway, usually at the roadside. Public on-street parking is often unrestricted however at some locations roadside controls restrict waiting and loading. On-street parking may also be in designated bays and charges may or may not be levied.

Traffic Regulation Orders provide the Authority power to:

- Prohibit and / or restrict parking
- Enforce the regulations.

Whilst some regulations relate to 24 hour prohibitions others are subject to restricted hours. The hours during which restrictions are in force may vary and if there is any doubt, the relative Traffic Regulation Order should be consulted.

Generally Restrictions are as follows:

**Permitted Parking Bays:** As per signing.

**Yellow Lines:**

- Single: No waiting during times shown on adjacent sign.
- Double: No waiting at any time except where adjacent signs indicate otherwise. i.e. seasonal

**Loading Restrictions – Yellow Kerb Markings:**

- Two Lines: No loading at any time.
- One Line: During the working day or as specified by adjacent signs.

**Designated Loading Bays:** Indicated on adjacent signs.

**Taxi ranks:** Indicated on adjacent signs.

**Disabled Bays – Mandatory:** Indicated on adjacent sign.

**Bus Stops –** Usually 7.00am – 7.00pm any day but can vary – see adjacent sign.

### **13. ROAD SIGNS / MARKINGS – MISSING, OBSCURED OR BROKEN**

**YELLOW LINES:**

- Where it is claimed that a yellow line(s) is worn away or has been covered by a highway repair the area should be immediately inspected and remedial work undertaken as soon as practicable.
- Where weather conditions (i.e. snow) have obscured the lines then remedial action to clear them will be taken as soon as practicable. Streets so affected will not be subject to patrols.

- If it is confirmed that a claim on the above grounds is valid, the PCN should be cancelled. Where the lines can be clearly seen, even though they may be partially worn, the PCN should be enforced but remedial action to renew the lines should be undertaken.<sup>3</sup>

#### KERB MARKINGS: (LOADING RESTRICTIONS).

- As per yellow lines above.

#### OBSCURED SIGNS:

- Information signs accompanying waiting and loading restrictions must be clearly visible at all times. If it is claimed that a sign was obscured and could not be read (graffiti, weather or overhanging trees etc.) the sign should be inspected as soon as practicable and remedial action taken. If the claim is proved to be correct the PCN should be cancelled.
- If the sign can be easily read then the PCN should be enforced but the sign should be returned to pristine condition as soon as possible.<sup>3</sup>

#### MISSING SIGNS:

- If a sign is claimed to be missing the location should be inspected as soon as practicable and, if confirmed, arrangements made for its replacement. Where a sign is missing and the distance to the nearest adjacent sign is excessive the PCN should be cancelled.

## 14. **PAY & DISPLAY TICKETS**

The Council's surface car parks operate as pay & display, whilst the three multi storey car parks and Clarence Terrace car park operate a pay on foot and barrier system.

Pay & Display requires the purchase of a ticket at the time of parking for the amount of time required. All tickets display the expiry time and date along with the fee paid, serial number and car park. The car park fee tariff is clearly displayed adjacent to each machine.

Pay & Display Tickets must be:

- Clearly displayed in the front windscreen whilst the vehicle is parked.
- Valid for the date shown.
- Not time expired
- Purchased in the car park indicated

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<sup>3</sup> Photographic evidence supporting the decision should be obtained and retained with the case papers. This evidence will be required should the matter progress to the Independent Adjudication Service.

PCN's will be issued for:

- Failing to display a valid ticket.
- Displaying a ticket that has expired.

It is incumbent upon the driver to ensure that the ticket is clearly displayed throughout the time that the vehicle is parked. Failure to do so will result in a PCN being issued.

Representations made because the driver did not have change will not be upheld.

Representations made because of delays returning to the car park will be dealt with in accordance with 'mitigating circumstances'.

Where it is claimed that a machine is not working then reference must be made to both the maintenance records, the officer's notes and machine test records (machines are tested before every patrol). If it is confirmed that the machine was not working at the time then consideration should be given to cancelling the PCN.

If there was an alternative machine, in working order and in close vicinity then it is reasonable to expect that the drivers would use this machine.

## **15. UNIFORMS – CIVIL ENFORCEMENT OFFICERS**

Civil Enforcement Officers (CEO) will wear uniform which will be readily distinguishable from those worn by the police and Traffic Warden Services and must display the following:

- Clear identification that the wearer is a CEO employed by the City and County of Swansea.
- A personalised number to identify the CEO which may contain letters as well as numbers.

City & County of Swansea Civil Enforcement Officer (CEO's) will wear a uniform that will consist of:

- Navy top coat with class 2 reflective banding
- Navy trousers or skirt
- White Shirts
- Navy ties (male) or cravats (female)
- Navy jumper
- Peaked cap (male) or bowler hats (female)
- Black shoes

During the summer months and in appropriate weather conditions enforcement staff will patrol in shirt sleeves, and ties or cravats may be removed.

Additionally for working during poor visibility, a reflective vest will be supplied.

All items of uniform will carry the City and County of Swansea logo and in addition epaulets will carry the officer's personal identification number.

CEOs will carry and operate hand held computers into which the details of the contravention will be entered and which will produce the P.C.N. They will also carry a digital camera and will photograph all vehicles in situ thereby maintaining a visual record of the contravention.

**16. WORKING HOURS**

Civil parking enforcement officers will patrol as appropriate, to ensure a consistent approach to enforcing regulations. Patrols will take place throughout the streets and car parks of the City and County of Swansea. They will have the benefit of being contactable via radio or mobile telephone. They will therefore be capable of responding to parking issues which may arise during their tour of duty.

**17. POCKET BOOK / NOTEBOOK**

The CEO shall maintain a separate pocket book in which they shall note additional details of their patrols. These books shall be kept in addition to any details entered into their handheld computers. They will be made available to the Traffic Penalties Tribunal in the event of a PCN being challenged through the independent adjudication process and will assist the investigation of any challenge or representation received.

Each pocket book will be issued against the CEO signature. The book shall be numbered and when issued to the CEO the number of the previous book used by that CEO entered on its cover along with the CEO name. Similarly when a pocket book is completed the serial number of the new book issued will be entered on the cover.

All completed pocket books will be retained by the parking manager in numerical order. Each completed pocket book should have the CEO name, the serial number of the previous book and the serial number of the next book written on the front cover.

**18. OBSERVATION PERIOD – PRIOR TO ISSUE OF PCN**

There is no legal requirement for contraventions to be subject to an observations period prior to the issue of a PCN. When a CEO considers the contravention to be unnecessary and resulting in congestion and /or obstruction s/he may issue a PCN immediately.

As a general rule, prior to the issue of a PCN the officers will, allow a period of up to five minutes to elapse and between first observing the vehicle illegally parked and the issue of the PCN. No observation period will be applied in respect of parking at bus stops, outside schools or where an immediate hazard or obstruction is caused.



The details of the vehicle will be entered into the officer's Hand Held Computer (HHC) when first seen and the computer will prevent issue of the PCN within 5 minutes of that time. This may be overridden by the officers where necessary.

The officers will be able to continue with their patrols and then return to the contravening vehicle. The PCN issue time will appear on the face of the PCN itself and will be recorded by the enforcement software system.

#### **19. DROPPING OFF - PICKING UP PASSENGERS**

Except on designated clearways **and on zig-zag markings at schools and pedestrian crossing** or where there are loading ban restrictions any vehicle will be allowed a reasonable amount of time to drop-off or pick up passengers irrespective of any waiting restriction in force. It is deemed that two minutes is sufficient allowance for this unless it involves the elderly, disabled persons, young children or large amounts of luggage etc. Special consideration will be given to Hackney Carriages or Private Hire Vehicles who will need additional time to announce their arrival and accept payment. The CEO will exercise reasonable discretion in such circumstances.

#### **20. DISABLED DRIVERS/PASSENGERS**

The Blue Badge scheme provides a range of parking benefits for disabled people who travel either as drivers or as passengers. The badge holder must be present for the concessions to apply.

Blue badges must be clearly and properly displayed whilst the vehicle is parked.

Failure to do so will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or badge holder for failure to display a disabled badge. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid badge is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

Providing the Disabled Badge is clearly and properly displayed the Badge Holder **can park in:**

- Limited parking areas: For an unlimited time.
- Yellow Lines: For a period not exceeding 3 hours.

Disabled Badge Holders **are not allowed to park:**

- Outside of marked bays

- Any area specifically reserved for other vehicles or purpose i.e. Taxi Ranks, Bus Stops, Goods vehicle loading bays, Residents Parking bays, etc.

Parking with a Blue Badge must always be in accordance with the current Blue Badge Scheme guidance.

The United Kingdom and a number of other European countries have established reciprocal arrangements so that disabled visitors from participating countries can take advantage of the concessions provided in the host country by displaying the disabled person's badge under their own national scheme. CEOs should treat vehicles displaying a disabled person's badge of a participating country as if it were displaying a UK Blue Badge. Details of the scheme are contained in the *European Parking Card for People with Disabilities* leaflet published by the Department for Transport.

## **21. PENALTY CHARGE NOTICE (PCN)**

All PCN's will be uniquely identifiable.

In accordance with the Welsh Language Act all PCN will be issued bilingually.

The PCN will identify the City and County of Swansea as the enforcement authority and will contain the following information:

- The date on which the notice is served.
- The registration mark, make and colour of the vehicle involved.
- The date & time and place of the alleged contravention.
- The grounds on which the CEO serving the notice believes that the penalty charge is payable and the contravention code.
- Observations start and finish time.
- CEO identification number.
- The amount of the penalty charge.
- That the penalty charge must be paid before the end of the 28day period beginning with the date of the contravention.
- That if the penalty charge is paid before the end of the period of 14 days beginning with the date of the contravention, the penalty charge payable will be reduced by 50%.
- Payment methods.
- That a Notice to Owner may be served on the owner of the vehicle if the penalty charge is not paid before the end of the 28 day period beginning with the date of the alleged contravention.
- That representations received before the issue of the NtO will be considered.
- The address to which representations before the issue of the Notice to Owner should be sent.
- If a Notice to Owner is served despite those representations, further representations against the penalty charge must be

made in the form and manner and at the time specified in the NtO.

- That the recipient of the NtO may make representations against the penalty charge and appeal to the Traffic Penalty Tribunal if those representations are rejected.

## **22. TIME TO PAY / INSTALMENT PAYMENTS**

As a general rule the Council will not enter into instalment payment arrangements.

Exceptions to this are only made in cases of demonstrated, genuine financial hardship. Application must be in writing (see Appendix 2).

The application must contain proposal for payment and be accompanied by any evidence supporting the claim of financial hardship.

The Council's response will signify acceptance or rejection of the proposal. The Council will not consider such arrangements if Bailiff warrant(s) has been issued for recovery of the amount due although the bailiff may enter into such an arrangement.

## **23. MITIGATING CIRCUMSTANCES**

It is important to recognise that each case will be considered on its own merits, matters of proportionality, objectivity, fairness and reasonableness should be paramount. The following are few guidelines:

**DELAYS:** Delays due to queues at shops, banks etc., meetings taking longer than expected, caught up in crowds etc., are not considered as valid reasons to cancel a PCN. Allowance should be made for such delays when purchasing parking time as they are a regular occurrence and part of normal life. (see emergencies below).

Claims are often made by people, accompanied by young children or elderly people, that they were delayed because of them. Again this should not be considered as a reason to cancel a PCN because allowance should be made for this when purchasing parking time. (see emergencies below).

Claims that PCNs issued whilst children were being dropped-off or collected from schools etc., should not be cancelled unless a reasonable amount of time was not allowed by the officer. The normal observation period should be enough time in such circumstances.

**EMERGENCIES:** An emergency is an unforeseen situation that prevented the driver from moving his/her vehicle. They are usually of a medical nature and leniency should be exercised where it can be seen that the driver could not have foreseen the situation. Wherever possible such claims should be supported by independent evidence.

## **24. CAR PARK SEASON TICKETS**

These are valid only in the specified car park, for the vehicle and before the expiry date printed on the face of the season ticket.

Failure to display a season ticket will result in a PCN being issued which should not be cancelled unless there are mitigating reasons why the permit was not displayed.

Use of a season ticket within another car park, on another vehicle or after its expiry date is also an offence for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

## **25. COMPLAINTS AGAINST PARKING OFFICERS**

Allegations that an officer has made an error whilst issuing a PCN will be investigated under the normal representations procedures and a formal written notice of acceptance or rejection will be sent within the stipulated timescale.

Any separate allegation of misconduct or rudeness made against a member of the Parking Services Department will be investigated and dealt with by the Parking Services Manager. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. If the outcome is not acceptable to the complainant advice of how to progress the matter via the Corporate Complaint process will be provided.

## **26. VISITORS TO BRITAIN**

If a PCN is issued to a vehicle displaying foreign registration plates it should automatically be recognised by the processing system as the registration number will not be in DVLA format.

Consideration should be given to cancellation of the PCN but, should payment be made then it should be accepted in the normal way. Equally all correspondence and representations should be dealt with in the normal way.

If a PCN is issued to a UK registered vehicle, which has been borrowed or driven by a foreign resident, the PCN should be enforced against the registered keeper(s) as they remain liable for it.

## **27. DISPENSATIONS & SUSPENSIONS**

The following vehicles will receive automatic dispensation from waiting restrictions:

Police, Fire and Rescue Service or Ambulances **only** whilst attending emergency situations or in accordance with their duties.

Vehicles involved in contracted Highway Maintenance where there is a need for them to be parked adjacent to the work site. Liveried Council vehicles carrying out statutory duties such as refuse collection, street cleansing and verge maintenance.

Vehicles displaying valid disabled permits. (see appropriate section on Blue Badges).

Dispensations may also be granted for the following:

- Funerals – For the hearse and cortege vehicles.
- Weddings – Bridal Vehicles.
- Maintenance to adjacent buildings.
- Furniture Removals.
- Any other similar reason accepted by the Council.

Applications for dispensations must be received at least 10 working days (5 days in the case of a funeral) prior to the required date and must be made to the Parking Services Department. The Council's decision is final.

If granted, dispensations will be issued to the applicant by way of written authority, which must be clearly displayed on the vehicle whilst parked. A copy will be held by the patrolling officer and a further copy will be retained with the application.

Designated parking bays, on or off-street, may be suspended for the following reasons:

- To allow maintenance of adjacent property where highway access is required for deliveries, essential vehicles, skips etc. (Cars will not be considered as "essential vehicles" and will be expected to park in accordance with parking restrictions).
- Maintenance to highway trees.
- At the request of the Police.
- For security reasons.
- Any other similar reason accepted by the Council.

With the exception of security measures applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Council's Parking Service section. The Council's decision is final.

If granted suspensions of parking bays / spaces will be clearly signposted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates

and times. These signs will be displayed before the suspension comes into operation.

Vehicles parked in contravention of a suspension will receive PCNs.

A charge, per bay / space, may be made and is payable upon application.

The placement of builders skips on the highway is subject to separate legislation.

## **28. ABANDONED VEHICLES**

Where a vehicle remains parked, in a restricted area, for a period during which multiple PCN's<sup>4</sup> are issued for the same contravention, officers will report the vehicle as potentially abandoned and it will be dealt with by the Council's abandoned vehicle policy.

Criteria used in identifying Abandoned Vehicles:

1. Untaxed or showing out of date tax disc.
2. General poor condition.
3. No evidence of movement.
4. Multiple PCN's attached to vehicle.

Whilst the vehicle is being dealt with as potentially abandoned no further PCN's should not be issued.

Issued PCN's will be enforced against the registered keeper of the vehicle in the normal way.

Members of the public who wish to report an abandoned vehicle can do so on the following links.

<http://www.swansea.gov.uk/index.cfm?articleid=14723>

## **29. FOOTWAY PARKING**

It is not generally an offence for a vehicle to be parked on a footway. The exceptions to this are;

- H.G.V.'s (Sect.19, RTA 1988).
  - Cycle Tracks (Sect.21, RTA 1988).
- Where a Traffic Regulation Order (TRO) exists.

Driving on the footway and obstruction of the footway remain endorsable offences and may only be enforced by the Police

The following vehicles are exempt from any such prohibition only under the circumstances indicated:

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<sup>4</sup> Multiple relates to 3 or more

- Marked Vehicles used by Police, Fire and Rescue Service and Ambulance services whilst carrying out their duties.
- Vehicles used for Street / Street Light cleaning and Refuse Collection providing that they are actively involved in the function.
- Vehicles actively involved in road works.

Most waiting and loading restrictions cover the whole highway – boundary to boundary and this includes all footways and verges. A PCN can only be issued to a vehicle parked in such a manner if the restriction is specifically incorporated in the relevant TRO or the road is subject to a waiting / loading restriction, in which case the PCN should be issued for contravention of the restriction.

### 30. LOADING / UNLOADING

Vehicles will be permitted to park in contravention of waiting restrictions, including Resident Parking Zones, whilst carrying out the legitimate activity of Loading or Unloading provided: **This exception does not however apply to disabled parking bays.**

- Activity, involving the vehicle, is observed by the officer whilst the vehicle is parked. The observation period should be for at least five minutes and a PCN should only be issued if no activity is seen during this period.
- Generally a maximum of 20 minutes will be allowed to enable loading / unloading to take place. Exceptions will be made when the nature of the goods being loaded / unloaded require more time, i.e. House moving or very heavy goods being handled.
- Due allowance will be given to allow the driver to complete delivery paperwork.
- Where a PCN is issued a challenge will be considered if supported by evidence confirming that the driver was delayed or was involved in moving heavy goods.

### 31. UNTAXED VEHICLES

Failure to display or using a motor vehicle without a valid vehicle excise licence is an offence under Section 1 of the Vehicle Excise and Registration Act 1994. It is thus beyond the authority of CEO to issue PCN's for such offences.

It is, however, clearly in the public interest for untaxed vehicles to be reported to the DVLA and it is equally important for the Council to foster good relations with DVLA by such reporting. CEO are required therefore to note the location and V.R.M.'s of such vehicles and the information is conveyed to DVLA on a witness statement form known as a CLE 2/6 where the vehicle is found on the highway, or INV101 where the vehicle is found off street. Enforcement itself is carried out by the DVLA and although it is possible that the CEO may be required

subsequently to give evidence in a magistrates' court this is extremely rare.

## 32. DIPLOMATIC VEHICLES

Special arrangements apply to diplomatic registered vehicles. When enforcing parking regulations, an authority should follow accurately the procedures used by the police when dealing with diplomatic registered vehicles. Where a CEO comes across a diplomatically registered vehicle parked in contravention of a civil parking control, before taking any action s/he should contact a manager or supervisor who should then follow the procedures set out below.

Diplomatic registered vehicles will have one of three types of plate:-

- **□D Registration Plates** (e.g. 123 D 321) may be carried by vehicles belonging to diplomats, members of the administrative and technical staff of Missions and certain senior staff of international organisations. They may also be carried by official vehicles of Diplomatic Missions. They indicate that the owners of the vehicles are entitled to diplomatic immunity.
- **Personalised Diplomatic Registration Plates** may, for example, indicate a country's initials or an abbreviation of its full name, are sometimes issued for the official cars of Heads of Diplomatic Missions, who have full diplomatic immunity.
- **X Registration Plates** (e.g. 987 X 789) may be carried by certain consular staff or staff of international organisations. They indicate that the owner is entitled to limited diplomatic immunity.

Article 31.1 of the Vienna Convention on Diplomatic Relations, to which the UK is a party, gives accredited diplomat's immunity from the criminal jurisdiction of the host nation's law. The Article is given the force of law in the United Kingdom by section 2 of, and Schedule 1 to, the Diplomatic Privileges Act 1964. The issuing of parking tickets, whether **Fixed Penalty Notices**, (FPN's) or PCNs, is not considered to be an exercise of criminal jurisdiction within the terms of Article 31.1 of the Convention, nor is the removal of diplomatic vehicles where the action can be justified as a last resort to relieve obstruction or danger and the driver cannot be located quickly. However, wheel clamping and removing those vehicles in other circumstances is considered to be an exercise of such jurisdiction and is therefore ruled out. The White Paper on Diplomatic Immunities and Privileges (Cmnd 9497, April 1985) commits the Government to ensuring that these principles are followed by agencies enforcing parking controls.

The Traffic Management Act provides for permitted parking at designated on-street parking places to be made civil offences and for this system to be applied to certain non-endorsable parking offences in **Civil Enforcement Areas** (CEAs). But wheel-clamping and removal



action associated with the enforcement of these controls still constitutes the exercise of criminal jurisdiction within the meaning of the Vienna Convention and the provisions of the Diplomatic Privileges Act 1964 continues to provide exemptions for diplomatic vehicle.

Although the owners of diplomatic registered vehicles are required to pay PCNs, they should not be issued with a Notice to Owner if the payment is not made within 28 days. The issue of such a Notice would trigger the procedures which could ultimately lead to action in a county court to recover the unpaid debt. Many diplomats are not subject to civil jurisdiction and there is no practical method for local authorities to distinguish between those who are and those who are not. Local authorities should therefore arrange to follow existing police practice and, instead of issuing a Notice to Owner, should ensure that a record is kept of the unpaid charge. The Foreign and Commonwealth Office (FCO) will request details of all unpaid PCNs on an annual basis and will pursue the relevant contraveners for payment at this time.

The FCO may ask for diplomats who persistently disregard the controls and refuse to pay the penalties to be withdrawn from duty in the United Kingdom. The FCO will also report once a year to Parliament on the number of outstanding PCNs issued in respect of diplomatically registered vehicles and provide a breakdown by country.

To ensure that the FCO is able to receive information on all outstanding penalties in respect of diplomatically registered vehicles annually, local authorities should ensure that appropriate contacts are notified to:

Team 1  
Diplomatic Missions and International Organisations Unit  
Protocol Directorate  
Room 1/61  
Old Admiralty Building  
LONDON  
SW1A 2AH  
Telephone 020 7008 0975

**CONTRAVENTIONS FOR WHICH THE HIGHER AND THE  
LOWER LEVEL  
PENALTY CHARGES SHOULD BE MADE**

**Higher Level Contraventions**

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 an electric vehicles' charging place during restricted hours without charging

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 residents' parking space without clearly displaying a valid residents' parking permit

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 cm. 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 diplomatic vehicles

Parked in a parking place designated for police vehicles

Parked on a taxi rank

Stopping where prohibited (on a red route or clearway)

Stopped on a restricted bus stop/stand

Stopped in a restricted area outside a school

Parked wholly or partly on a cycle track

A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban

Parked in contravention of a commercial vehicle waiting restriction

Parked in contravention of a coach ban

A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways

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

Parked in a loading area during restricted hours without reasonable excuse

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 restricted area in a car park

Parked in a permit bay without clearly displaying a valid permit

Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge

Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area

Parked in a car park or area not designated for that class of vehicle

Parked causing an obstruction

## **Lower Level Contraventions**

Parked without clearly displaying a valid pay & display ticket

Parked after the expiry of paid for time

Parked in a meter bay when penalty time is indicated

Parked with payment made to extend the stay beyond initial time

Parked at an out-of-order meter during controlled hours

Parked displaying multiple pay & display tickets where prohibited

Parked with engine running where prohibited  
Parked without clearly displaying two valid pay and display tickets when required

Parked without payment of the parking charge

Parked in a resident' parking space without clearly displaying a valid residents parking permit

Parked in a residents' or shared use parking place displaying an invalid permit, an invalid voucher or an invalid pay & display ticket

Re-parked in the same parking place within one hour of leaving

Not parked correctly within the markings of the bay or space

Parked for longer than permitted

Parked in a disc parking place without clearly displaying a valid disc

Parked in a disc parking place for longer than permitted

Parked without payment of the parking charge

Parked for longer than the maximum period permitted

Parked after the expiry of paid for time

Parked in a car park without clearly displaying a valid pay & display ticket

Parked with additional payment made to extend the stay beyond time first purchased

Parked beyond the bay markings

Re-parked within one hour of leaving a bay or space in a car park

Parked in car park when closed

Parked in a pay & display car park without clearly displaying two valid pay and display tickets when required

Parked in a parking place for a purpose other than the designated purpose for the parking place

Parked with engine running where prohibited

**CITY AND COUNTY OF SWANSEA**

**PARKING SERVICE DEPARTMENT**

**APPLICATION FOR TIME TO PAY / INSTALMENT PAYMENTS**

Penalty Charge Notice Reference Number.....

Date.....

Surname.....

Forename.....

Address.....

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Outline reasons for application:.....

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Proposed Payment Plan:.....

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Has Bailiffs warrant been issues: Yes / No

Authorised / Not Authorised .....Date.....

Letter to applicant sent Yes / No

Date.....