

# Immobilisation and Removal of Vehicles Parked in Contravention of On-Street and Off-Street Parking Places

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## **1. Introduction**

It is Dorset Council's aim to undertake a fair and transparent approach to the immobilisation and removal of vehicles on its highways and car parks. These guidelines outline the policy used in relation to immobilisation and removal of vehicles parked in contravention of on and off-street parking restrictions.

These guidelines are designed to deal with vehicles that are parked in contravention in the following circumstances:

- Persistent evader vehicles found parked in contravention
- Fraudulent use of disabled persons parking blue badges or an article that purports to be a disabled blue badge.
- Parked in a disabled persons parking bay without displaying a disabled blue badge.
- Parked using a fraudulent permit, scratch card or pay and display parking ticket; inclusive of cashless parking sessions and virtual permits
- Parked in a manner that causes serious obstruction to emergency services and other road users.

These guidelines comply with the statutory provisions of the Traffic Management Act 2004, which governs the enforcement of parking contraventions. It has also been developed in accordance with the Operational Guidance to Local Authorities: Parking Policy and Enforcement issued by the Department for Transport (DfT) in March 2008, revised November 2010, March 2015 and June 2020.

Parking contraventions are dealt with by the issue of a Penalty Charge Notice (PCN) and, in appropriate circumstances, the removal of the vehicles.

## **2. Dorset Council Priorities**

These guidelines contribute to the following Council Corporate Priorities:

- Unique Environment
  - improve access to our coast, countryside and greenspaces
- Strong, healthy communities
  - support communities to be connected, inclusive, safe and active
  - keep Dorset connected, with better transport and digital links between communities
- Economic Growth
  - improve the provision and use of sustainable transport

## **3. General Definitions**

### **3.1 Authorised Officers**

Officers as listed in Section 13 below are authorised to instruct immobilisation and removal of vehicles in contravention of the Traffic Management Act 2004.

### **3.2 Designated Parking Places**

For the purposes of these guidelines, the meaning of Designated Parking Places shall be the definition prescribed under section, 32 33, & 45 of the Road Traffic

Regulation Act (RTRA) 1984.

### 3.3 Parking Device

For the purposes of these guidelines, the meaning of Parking Devices shall be the definition prescribed under section 51 of the Road Traffic Regulation Act (RTRA) 1984

## 4 Persistent Evaders

- 4.1 A persistent evader is where a vehicle has three or more recorded contraventions for the vehicle and the PCN's are not paid, represented or appealed against within the statutory time limits; or their representations and appeals have been rejected but the penalty charge notices remain unpaid. A persistent evader's vehicle can be removed following the issue of a penalty charge notice when parked in contravention of the Traffic Management Act 2004.
- 4.2 The Traffic Management Act 2004, and regulations made under it, prohibit the Enforcement Authority from immobilising or removing a persistent evader vehicle until at least 15 minutes have elapsed following the issue of a penalty charge notice (PCN) parked in contravention **in a designated parking place**.
- 4.3 Persistent evader vehicles when parked in contravention on the highway but **not in a designated parking place** may be liable for instant immobilisation or removal by the Enforcement Authority immediately following the issue of a penalty charge notice (PCN).

## 5 Contravening the Blue Badge Scheme

- 5.1 Vehicles that are parked and are displaying a disabled person's parking blue badge but not in accordance with the regulations.

This may include vehicles displaying a disabled parking blue badge that is:

- Copied or Counterfeit
- Expired or Expired / Altered
- The Badge Holder is deceased
- The Badge has been reported lost or stolen
- The Badge has been cancelled by the Issuing Authority
- Abuse of a valid badge has been clearly established
- In the case of an Organisational Badge - the Organisation ceases to exist

- 5.2 Vehicles parked in contravention and in breach of the regulations **in a designated parking place**, the Traffic Management Act 2004 and Regulations made under it, prohibit the Enforcement Authority from immobilising or removing the vehicle until at least 30 minutes have elapsed following the issue of a penalty charge notice (PCN).

- 5.3 For vehicles parked in contravention and in breach of the regulations on the highway **not in a designated parking place** may be liable for instant immobilisation or removal by the Enforcement Authority immediately following the

issue of a penalty charge notice (PCN)

- 5.4 A vehicle parked in a disabled persons' parking place, without displaying a valid disabled person's badge, may be subject to immobilisation or removal.

## 6 Fraudulent Use of Parking Devices

- 6.1 A vehicle is parked in contravention whilst displaying a fraudulent parking device, inclusive of cashless parking sessions, virtual permits, and or a parking device which is:

- Copied or Hybrid or Wholly Counterfeit
- Expired and or Expired / Altered
- Reported lost or stolen
- Cancelled by the Issuing Authority
- Parking device is not issued for that vehicle
- Abuse had been clearly established
- The holder is no longer authorised to use the parking device
- In the case of a Business Permit - The business ceases to exist

A vehicle parked in contravention whilst displaying a fraudulent parking device **in a designated parking place**. The Traffic Management Act 2004 and Regulations made under it prohibit the Enforcement Authority from immobilising or removing the vehicle until at least 30 minutes have elapsed following the issue of a penalty charge notice (PCN).

- 6.3 Vehicles parked in contravention whilst displaying a fraudulent parking device on the highway but **not in a designated parking place** may be liable for instant immobilisation or removal by the Enforcement Authority immediately following the issue of a penalty charge notice (PCN)

## 7 Hazard or Obstruction

A vehicle is parked in contravention, in a way that is dangerous to other road users; and/or emergency service vehicles. Vehicles parked in contravention but not exclusive of the restrictions listed below will be deemed to be causing Hazard or Physical Obstruction.

<b>Contravention 01</b>	
Description	Parked on a restricted part of the highway during prescribed hours. The definition of road includes the verge or footway if it is also part of the Traffic Regulation Order.
<b>Contravention 02</b>	
Description	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
<b>Contravention 21</b>	
Description	Parked in a suspended bay or space or part of a space
<b>Contravention 26</b>	
Description	Parked in a special enforcement area more than 50cm from the edge of the carriageway and not within a designated parking place
<b>Contravention 47</b>	
Description	Stopped on a restricted bus stop or stand

<b>Contravention 48</b>	
Description	Stopped in a restricted area outside a school when prohibited.
<b>Contravention 99</b>	
Description	Stopped on a pedestrian crossing or crossing area marked by zigzags

### Exemptions:

- a) The Enforcement Authority will observe exemptions to the enforcement of the above parking contraventions for Emergency vehicles (Police, Fire, Ambulance Services); and or other vehicles carrying out emergency or statutory works.
- b) Vehicles displaying a valid Blue Badge must not be clamped and should not be removed. If such a vehicle is dangerously or obstructively parked, it should be repositioned nearby, preferably within view of its previous location.
- c) Diplomatic vehicles bearing a "D" or "X" vehicle registration mark or personalised registration plates with a "D" Vehicle Excise License. If such a vehicle is dangerously or obstructively parked, repositioning nearby is suggested. (Legal requirement - Diplomatic Privileges Act 1964).
- d) In the following circumstances after a PCN has been issued vehicles must not be clamped in situ. They could be removed, although in some circumstances re-positioning may be better:
  - i. When the vehicle is causing a major obstruction to traffic or a danger to pedestrians or other road users, or is parked on an operational bus lane, cycle lane, bus stop, or taxi rank. Consideration should also be given to the likely time lapse which will occur before a clamped vehicle is unclamped and moved. If such time delay is likely to extend the presence of the vehicle to a time when it will become an obstruction, e.g. the vehicle is in a non-operational bus lane, which is due to commence in an hour or so, then the vehicle should be removed instead of being clamped. For cases of obstruction where or when no parking restriction is in force, no action can be taken, and it will be necessary to seek the assistance of the police.
  - ii. When a vehicle is parked adjacent to a fire exit, across an access used by emergency vehicles or leading to private premises.
  - iii. When a vehicle is parked in a specially designated reserved parking bay, e.g. disabled person, doctor, or diplomatic bay.
  - iv. When a vehicle is parked in a suspended parking place.
  - v. When a vehicle is parked adjacent to a dropped footway or raised carriageway.
  - vi. When a vehicle is parked on zig zag lines.

## 8. Other Vehicle Removals

In addition to the reasons stated above, vehicles may also be immobilised or removed if they are considered abandoned or are untaxed. This is carried out under different legislation to the Traffic Management Act 2004.

## 9. Scope of the Guidelines

These Guidelines are designed to deal with persistent evader vehicles, vehicles parked in breach of the Blue Badge Scheme Regulations, vehicles using fraudulent parking devices, and vehicles that are parking dangerously or causing an obstruction on the public highway. The guidelines apply within the boundaries of Dorset Council including the adopted public highway and any land owned by Dorset Council.

For the purposes of these Guidelines, the meaning of “Road” shall be the definition as contained in the Road Traffic Regulation Act (RTRA) 1984 and Traffic Management Act (TMA) 2004.

All TMA 2004 removals can attract an appeal from the owner/keeper; these will be treated in the same manner as a PCN appeal. If successful in appeal, all money paid in respect of the removal and storage of the vehicle will be reimbursed.

## 10. Legislation & Guidance

These Vehicle Removal Guidelines have been developed in line with the Secretary of State’s recommendations and in conjunction with the following documents:

- Traffic Management Act 2004 [Traffic Management Act 2004 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Road Traffic Regulation Act 1984 [Road Traffic Regulation Act 1984 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Refuse Disposal (Amenity) Act 1978 [Refuse Disposal \(Amenity\) Act 1978 \(legislation.gov.uk\)](http://legislation.gov.uk)
- The Removal and Disposal of Vehicle Regulations 2008 [The Removal, Storage and Disposal of Vehicles \(Prescribed Sums and Charges\) Regulations 2008 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Clean Neighbourhoods and Environment Act 2005 [Clean Neighbourhoods and Environment Act 2005 \(legislation.gov.uk\)](http://legislation.gov.uk)
- The Vehicles Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1994 (as amended). [The Vehicle Excise Duty \(Immobilisation, Removal and Disposal of Vehicles\) Regulations 1997 \(legislation.gov.uk\)](http://legislation.gov.uk)
- General Regulations for Clamping and the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007 [The Removal and Disposal of Vehicles \(Amendment\) \(England\) Regulations 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)
- The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007/3483) [The Civil Enforcement of Parking Contraventions \(England\) General Regulations 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007 (SI 2007/3482) [The Civil Enforcement of Parking Contraventions \(England\) Representations and Appeals Regulations 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)
- The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487) [The Civil Enforcement of Parking Contraventions \(Guidelines on Levels of Charges\) \(England\) Order 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)
- The Disabled Persons (Badges for Motor Vehicles) (England) Regulations 2000 [The Disabled Persons \(Badges for Motor Vehicles\) \(England\) \(Amendment\) Regulations 2007 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Department for Transport (DFT) Operational Guidance Traffic Management Act 2004 [How local authorities should enforce parking restrictions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Department for Transport (DFT) The Blue Badge Scheme Local Authority Guidance [Blue Badge scheme local authority guidance \(England\) - GOV.UK](http://www.gov.uk)

- [www.gov.uk](http://www.gov.uk)
- Parking Enforcement Guidelines 2015 [How local authorities should enforce parking restrictions - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Diplomatic Privileges Act 1964 [Diplomatic Privileges Act 1964 \(legislation.gov.uk\)](http://legislation.gov.uk)

## 11. Process

If payment is to be taken for the release of an immobilised vehicle or reclaiming a removed vehicle, the owner/keeper will be required to produce proof of identity, address, and vehicle ownership; pay the prescribed sums and charges for the vehicle removal and any incurred storage fees before the vehicle can be released.

Payment of the penalty charge notice issued prior to the vehicle removal remains payable under the standard procedures laid out on the notice.

## 12. Associated Costs

The associated costs for vehicle removal, storage and or disposal of vehicles removed for parking contraventions under Traffic Management Act 2004; are prescribed by The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487)

- £40 for release of immobilised vehicle
- £105 for vehicle removal
- £12 per day vehicle storage or each day or part day during which the vehicle is impounded
- £50 vehicle disposal

In addition to the prescribed sums and charges, the owner/keeper will be required to pay the amount payable for the penalty charge notice issued to that vehicle on the date the vehicle was removed.

All vehicle immobilisations and removals can attract an appeal from the owner or keeper of the vehicle. These appeals are to be treated the same as a PCN appeal, SI 2007/3482. If an appeal is successful, all monies paid in respect of the immobilisation, removal and storage of the vehicle will be reimbursed in full.

Whilst there is a legal obligation only to pay the PCN, the removal charge and any associated storage charges, the owner should be encouraged to pay all the outstanding charges when collecting the vehicle. When obtaining the name and address of the vehicle's keeper, it will be established when they took ownership of the vehicle if the outstanding PCNs date back further than 3 months.

A system will be in place to allow for payment of all monies owing as expediently as possible, linked to the Dorset Council Parking Administration back office system.

## 13. Conditions of Guidelines

The final decision to immobilise or remove a vehicle parked in contravention of this Policy & the Traffic Management Act 2004 will be taken by authorised officers. For the purpose of this policy, *Authorised Officer* includes:

- Duty Silver Officer
- Head of Highways or their deputy

- Service Manager for Parking Services or their deputy
- Parking Services Team Leader or their deputy
- Parking Enforcement Team Leader or their deputy

A senior authorised officer may immobilise or remove a vehicle without following this guidance if there are compelling grounds to do so.

**14. Disclaimers**

The Guidelines shall be enforced from the date of adoption and will remain in force until formally revoked or superseded. These Guidelines will be reviewed annually, or when legislation changes dictate.

## 15. Procedural Guidance

