



DECRIMINALISED PARKING ENFORCEMENT

Guidance on the issue, enforcement and
cancellation of Penalty Charge Notices by
Swindon Borough Council.

Please note that these notes are for
guidance only – they do not restrict Swindon
Borough Council staff from exercising
discretion. Each case will be considered on
an individual basis taking all circumstances
into account.

1. Introduction.

In this document we have tried to give an insight into our procedures and guidelines. From the types of contraventions and the amounts you may need to pay through to reasons why the Penalty Charge Notice would be cancelled. This document is not meant to be an exhaustive guide and further help and information can be obtained by telephoning us on 01793 445506 or calling at our One Stop Shop in Wat Tyler House, Princes Street.

If a Civil Enforcement Officer has reasonable cause to believe that a vehicle has committed a parking contravention he will issue a Penalty Charge Notice. He must either affix the notice to the vehicle or hand it to the person who appears to be in charge of the vehicle. The Notice will give full details of the contravention, the vehicle and what you can do next.

If you wish to query the issue or the validity of a Penalty Charge Notice with the Issuing Authority the process falls into two periods.

Before the Notice to Owner

At this stage you may make an Informal Representation (usually called a Challenge). If accepted the Penalty Charge Notice will be cancelled and you will have nothing to pay.

If it is rejected and we received your Challenge within fourteen days of the date of service of the Penalty Charge Notice our reply will explain why we have not accepted your Challenge. We will also offer you a further 14 days to pay at the reduced rate. After this time the charge will revert to the issue amount of either £50 or £70. That letter will also explain that if refused you may wait for the Notice to Owner form to be sent to the Registered Keeper of the vehicle.

Link to On line Challenge:

https://www.swindon.gov.uk/info/20034/parking_tickets_and_bus_lane_fines/318/appeal_against_a_penalty_charge_notice

If your Challenge is refused we will not enter into further correspondence until the Notice to Owner is sent.

After the Notice to Owner

The issue of the Notice to Owner is the beginning of the 'formal' appeal process. It allows you to make Representations against the Penalty Charge Notice. This can eventually include a hearing before an independent adjudicator. This Authority will consider any Representations even where it has previously concluded that the evidence did not merit cancellation of the Penalty Charge Notice. Please be aware that it is not possible to appeal to the Parking Adjudicator without going through the process of making a formal representation.

Link to On line Representation:

<http://www.swindon.gov.uk/ts/ts-parking/ts-parking-enforcement/Pages/ts-parking-enforcement-challenge.aspx>

Please don't ignore the Penalty Charge Notice.

The system allows disputes to be settled quickly, in a cost effective manner for all concerned. Please follow the procedure. If you do not feel that the Notice should be upheld make your Representation to us. Alternatively if you think you should pay the Notice prompt payment may attract a discount.

Do not ignore it. We will write to the registered keeper and the charges will rise and can eventually involve bailiff action and that can increase the initial amount by a great deal.

Further Useful links:

Traffic Penalty Tribunal : <http://www.trafficpenaltytribunal.gov.uk>

Joint Committee for England & Wales for the civil enforcement of Parking and Traffic Regulations : <http://www.patrol-uk.info>

2. The Regulations

Under the Traffic Management Act of 2004 Swindon Borough Council are authorized to operate Decriminalized Parking within the Borough. The restrictions in force such as waiting and loading bans, resident parking schemes, car park regulations etc. are authorized through Traffic Regulation Orders.

To make the restrictions clearer and easier to understand Swindon use a map based system which we expect shortly to be available on this website together with copies of our Traffic Regulation Orders.

3. The Contraventions

Here we have shown the contravention description and code number in use by Swindon Borough Council. Further contraventions may be added. The time the Civil Enforcement Officer will observe before he can issue a Penalty Charge Notice is shown in the left hand column. The rate that the contravention is charged at is colour coded

On-Street Offence Codes

Differential Parking

Red = Higher charge applies (£70 - 50% discount £35)

Blue = Lower charge applies (£50 - 50% discount £25)

Obs Time	Offence Code	Offence Name (Long Legal Description)
5	01	Parked in a restricted street during prescribed hours
0	02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
0	05	Parked after the expiry of paid for time (allow 5 minutes after expiry)
2	06	Parked without clearly displaying a valid pay & display ticket or voucher
LOG	07	Parked with payment made to extend the stay beyond initial time
5	12	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place
5	19	Parked in a residents' or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay & display ticket
0	21	Parked in a suspended bay or space or part of bay or space
LOG	22	Re-parked in the same parking place or zone within one hour* of leaving
5	23	Parked in a parking place or area not designated for that class of vehicle
0	24	Not parked correctly within the markings of the bay or space
5	25	Parked in a loading place during restricted hours without loading
LOG	30	Parked for longer than permitted
0	40	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner
0	45	Parked on a taxi rank
0	46	Stopped where prohibited (on a red route or clearway)
0	47	Stopped on a restricted bus stop or stand
0	48	Stopped in a restricted area outside a school when prohibited
0	49	Parked wholly or partly on a cycle track or lane
0	99	Stopped on a pedestrian crossing or crossing area marked by zigzags

Off-Street Offence Codes

Obs Time	Offence Code	Offence Name (Long Legal Description)
0	80	Parked for longer than the maximum period permitted
0	81	Parked in a restricted area in a car park
LOG	82	Parked after the expiry of paid for time (allow 5 minutes after expiry)
2	83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock
LOG	84	Parked with additional payment made to extend the stay beyond time first purchased
0	85	Parked in a permit bay without clearly displaying a valid permit
0	86	Parked beyond the bay markings
0	87	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner
0	89	Vehicle parked exceeds maximum weight or height or length permitted in the area
LOG	90	Re-parked within one hour* of leaving a bay or space in a car park
0	91	Parked in a car park or area not designated for that class of vehicle
0	92	Parked causing an obstruction

4. The Council's Cancellation Policy

In the Borough of Swindon there are eight statutory grounds that, if proved, mean that the Council must, by law, cancel the Penalty Charge Notice. In addition the Council must also fully consider any mitigation put forward by the driver and these 'other reasons' will be considered in the same way as the statutory grounds. On the pages following are the grounds that may be put forward by the motorist together with the Council's likely response.

The grounds are:

1. The alleged contravention did not occur
2. I was never the owner of the vehicle OR
I had ceased to be the owner before the date on which the contravention occurred OR
I became the owner after the date on which the contravention occurred
3. The vehicle had been driven by a person without the consent of the owner
4. We are a vehicle-hire firm and the vehicle was on hire under a hiring agreement and the hirer has signed a statement acknowledging liability for any Penalty Charge Notice issued during the hire period
5. The Penalty Charge exceeded the amount applicable in the circumstances of the case
6. There has been a procedural impropriety by the enforcement authority
7. The order which is alleged to have been contravened is invalid
8. The Penalty Charge Notice has been paid either in full or at the discounted rate
9. Other Grounds

1. The alleged contravention did not occur

1.1 Motorist states that loading/unloading taking place.

May Accept Representation:

Where evidence is provided to show:

1. Goods being delivered or collected were cumbersome.
2. Vehicle was parked adjacent to the premises concerned.

May Reject Representation:

1. Where vehicle is parked on clearways, bus stops, zebra crossing zigzags, in designated bays, e.g police or taxi, adjacent to tactile paving.
2. Where stopping is not permitted; usually signed with double kerb markings.

1.2 Where the motorist states that the pay & display machine was out of order

May Accept Representation:

1. If record of machine confirms fault
2. If other drivers have reported similar fault

May Reject Representation:

1. If no evidence of fault
2. If other users have obtained tickets around the same time
3. If cash reconciliation for that day showed a balance

1.3 Where motorist states that restriction is not adequately signed

May Accept Representation:

1. Signage is missing, defaced or obscured
2. Lines are missing or defaced

May Reject Representation:

1. Civil Enforcement Officer notes confirm signage and lines adequate to draw the attention of the reasonable motorist to the restriction
2. Photographic evidence that signs/lines adequate to draw the attention of the reasonable motorist to the restriction

1.4 The Penalty Charge Notice was not correctly served

May Accept Representation:

1. If Penalty Charge Notice has not been attached to windscreen or handed to the person apparently in charge of the vehicle

May Reject Representation:

1. If Civil Enforcement Officer notes or photographs confirm that the Penalty Charge Notice was correctly served

1.5 Vehicle not parked in location at the time/date on Penalty Charge Notice

May Accept Representation:

1. If photograph taken by Civil Enforcement Officer confirm wrong details recorded

May Reject Representation:

1. If photograph taken by Civil Enforcement Officer confirms that correct details recorded

1.6 Valid authorization to park had been issued

May Accept Representation:

1. Owner should provide copies of the pay & display ticket or blue badge or permit or dispensation details or details of Pay by Phone transaction which are valid at the time of the contravention.

May Reject Representation:

1. If copies of the pay & display ticket or blue badge or permit or dispensation details are not provided or are not valid at the time and/or location of contravention
2. If the motorist had made a similar representation before and had a previous Penalty Charge Notice cancelled in similar circumstances
3. If the Civil Enforcement Officer noted that the motorist obtained their ticket from another motorist in the car park.

2. The named owner did not own the vehicle at the time

2.1 Named owner was never the owner

May Accept Representation:

1. Where no other evidence is available a sworn affidavit to the effect that the vehicle has never been driven, owned or registered by the named owner.

2.2 Named owner had ceased to be owner before the Penalty Charge Notice date

May Accept Representation:

1. Written proof of disposal and details of the purchase.

May Reject Representation:

1. In the absence of this DVLA confirmation or confirmation from driver's insurance company that named owner was not keeper at that time

2.3 Named owner became the owner after the Penalty Charge Notice date

May Accept Representation:

1. Written proof of purchase and details of the previous owner. In the absence of this DVLA confirmation or confirmation from driver's insurance company that named owner was not keeper at that time

3. Vehicle was used without the owner's consent

3.1 Owner/Keeper states that vehicle was stolen

May Accept Representation:

1. The owner should supply the Police Station concerned together with the crime reference number.

May Reject Representation:

1. If the time and date of the contravention are later than those of the theft and, if applicable, before the vehicle was recovered.

4. Owner is a vehicle hire / leasing organisation

4.1 Vehicle was hired or leased to a third party at the time of the Penalty Charge Notice

May Accept Representation:

1. Documentary evidence (such as a hire agreement) that the vehicle was hired at the time of the contravention.

May Reject Representation:

1. If hire agreement does not contain all details required under the Act:
 - Full Name of hirer
 - Date of birth of hirer
 - Permanent address of hirer
 - Address at time of hiring (if different from above and stay is likely to be more than two months from date of hiring)
 - Details of driving licence i.e. country of issue (if not U.K), serial number or driver's number, date of expiry of licence
 - Registration mark of vehicle
 - Make and model of vehicle
 - Time and date of commencement of original hiring period
 - Expected time and date of expiry of hiring period

5. The Penalty Charge exceeded the amount applicable in the circumstances of the case

5.1 Penalty Charge Notices are subject to differential charges. Details of the applicable amounts are shown above.

May Accept Representation:

1. Where the PCN and/or Notice to Owner showed the incorrect amount of penalty charge.

May Reject Representation:

1. Where the amount is correct.

6. There has been a procedural impropriety by the enforcement authority

6.1 The owner considers that the Council has failed to comply with a requirement imposed by legislation

May Accept Representation:

1. Where the Council has failed to comply with the requirements of Traffic Management Act 2004 including failing to reply to correspondence within the set periods.
2. Where documentation has not been served within the time limits set by the Traffic Management Act 2004.

May Reject Representation:

1. If requirements under Traffic Management Act 2004 are complied with.
2. If documentation has been correctly dealt with.

7. The order which is alleged to have been contravened is invalid

7.1 The owner believes that the Traffic Regulation Order was not correctly prepared and introduced.

May Accept Representation:

1. If the Order is found not to be enforceable at the relevant location.

May Reject Representation:

1. If Order is correctly prepared and introduced.

8. The Penalty Charge Notice has been paid either in full or at the discounted rate

8.1 The Notice to Owner should not have been served because the amount of the Penalty Charge Notice has already been paid.

May Accept Representation:

1. Where documentary proof of payment, e.g. copy of receipt is provided
2. Where evidence of payment, e.g. bank statement is provided, internet reference or similar

May Reject Representation:

1. If nothing to support that payment made

9. Other Grounds

9.1 The Council will carefully consider any matters brought to its attention by way of mitigation. There follows examples of grounds that may be put to the Council. This is not a prescriptive list and other reasons can be forwarded where the driver feels that the Penalty Charge Notice should not be enforced. Although documentary evidence is requested it is stressed that Parking Services will consider all grounds put forward.

1. Where the vehicle has broken down.

Ideally the owner should provide an engineer's invoice or statement from the removal organisation. If the driver carried out repairs himself a receipt from the motor shop detailing parts in question should be provided. The vehicle should not be left for an excessive period and its removal is the responsibility of the owner.

2. Where the driver/passenger is ill.

The owner should provide a letter from their own or the passenger's doctor either confirming that they have a medical condition that can result in the need for urgent stops or that such an incident is known to have happened on the date and time.

3. Where the driver has been recently bereaved/attending funeral

Parking Services staff will be sympathetic to such circumstances. It may be helpful if a copy of the death certificate is provided.

4. The driver left his car in a pay & display car park while he went to obtain change

It is the responsibility of the driver to have change to pay for parking. No time is allowed to obtain change and a Penalty Charge Notice issued in these circumstances is unlikely to be cancelled.

5. Where the vehicle is displaying an out of date permit/blue badge etc.

It is the driver's responsibility to ensure that documentation is in date and current. However we will be sympathetic towards delays due to administrative errors on the part of the Council.