



## De-Criminalised Parking Enforcement

Councils can apply to the Secretary of State to de-criminalise parking within their jurisdiction, this covers basic parking offenses though different council can ask the Secretary of State to expand the offenses which they can enforce, this can lead to variations between different de-criminalised parking areas.

In these areas the police are still responsible for moving violations, obstruction and any endorsable offenses.

The key differences are:

- the majority of parking offences, including parking on yellow lines and in parking bays, are no longer criminal
- Local authorities enforce parking controls and keep the income from parking tickets. This money can be used to improve local transport.
- A new type of parking ticket, called a Penalty Charge Notice, has been introduced.

Example offences dealt with by the council:

- Parking on double or single yellow lines
- Parking in designated residents' parking areas without a permit
- Parking in limited waiting areas for longer than specified
- Parking in disabled bays without a disabled badge
- Parking on a taxi rank or bus stop
- Failing to 'pay and display' or overstay in an off-street car park or on-street parking bay
- Parking outside of a marked bay in an off-street car park
- Loading or unloading during prohibited hours

## Two Systems of Parking Enforcement

In one area non-compliance with the parking regulations brands the driver a criminal and a £30 Fixed Penalty may be issued by the police. In another area, the same act might be dealt with through a civil process administered by the

local council. This would lead to the issue of a Penalty Charge of between £40 and £100 depending on location.

The detailed processes of the two regimes are also quite different. Under the *criminal enforcement regime*, traffic wardens, employed by the police, issue Fixed Penalty Notices to drivers alleged to have committed parking offences. The standard penalty charge is £30. No discount for early payment is allowed. Should the motorist wish to challenge the issuing of a Fixed Penalty Notice, informal representations may be made to the police ticket processing office.

Where the Fixed Penalty Notice is neither paid nor cancelled, a 'Notice to Owner' is sent to the driver, with options to pay the charge, or nominate an alternative driver name, or request a hearing at the Magistrates' Court. In arriving at a judgement the Court is able to consider issues of mitigation and proportionality, and can give an absolute or conditional discharge. If convicted at the Magistrates' Court, an appeal to the High Court on a point of law remains possible. If the charge is still not paid, the penalty charge is increased by 50 per cent and can be pursued by the bailiffs, or a sentence of imprisonment may be required as a last resort.

Under *de-criminalised parking enforcement* the local authority employs parking attendants to issue Penalty Charge Notices (PCN) to vehicle owners who have allegedly contravened the parking regulations and these are enforced through the civil justice system. The Secretary of State for Transport sets the charge levels outside London, while the Mayor determines them within London. Charges are currently set at £40, £50, and £60 outside London, and the higher level of £60, £80 or £100 within London boroughs. The local authority retains the revenue from the penalty charge.

Should the motorist wish to challenge a Notice, this is done first through making representations to the local authority, and following that, by making an appeal to the independent parking adjudication service. The adjudication service cannot consider mitigation; although it can request a local authority to reconsider its judgment on the basis of new information. The recourse for the still aggrieved appellant is to apply to the High Court for Judicial Review.

For more information please contact the FSC:

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