

Appendix 14

Removals and Clamping for Parking Contraventions

Introduction

1. It is Oxfordshire County Councils aim to undertake a fair and transparent approach to the removal of vehicles where there is a parking contravention and civil enforcement applies.

Scope of Policy

2. The Policy is designed to deal with the removal of vehicles where there is a contravention of a Traffic Regulation Order (which for the purposes of this policy means any order made under the Road Traffic Regulation Act 1984) or other parking contravention subject to civil enforcement, and in particular vehicles which are parked dangerously or causing an obstruction on the public highway. It applies to all areas subject to Civil Parking Enforcement within the boundaries of Oxfordshire, including the adopted public highway and any land owned or leased by the Local Authority. For the purposes of this policy, the meaning of "road" shall be the definition as contained in the Road Traffic Regulation Act (RTRA) 1984 and Traffic Management Act (TMA) 2004.
3. The removal of abandoned vehicles and untaxed vehicles will not be covered in this policy. Similarly, this policy does not cover the removal of vehicles obstructing footways unless this is a contravention of a relevant parking restriction covered by a Traffic Regulation Order or otherwise subject to civil enforcement. Thames Valley Police is responsible for dealing with all cases of obstruction or dangerous parking not covered by Civil Enforcement..
4. Oxfordshire County Council does not consider there to be a benefit in immobilising (i.e. by use of vehicle clamps) a vehicle contravening parking restrictions as to do so would exacerbate the impact that vehicle has. It is therefore not the county council's policy to immobilise vehicles.
5. The policy is designed to set out how the county council, or its agents, will remove and transfer to a compound, and prioritises the removal of vehicles that are parked in/by:
 - a. contravention of a parking, waiting or loading restriction and causing a hazard or obstruction; or
 - b. A persistent evader

General Definitions

6. *Persistent Evader* -

- Whereby a vehicle with three or more recorded contraventions for the vehicle and the PCN's for them have not been paid, represented against or appealed against within the statutory time limits or their representations and appeals have been rejected but they have still not paid within the defined timescales or;

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- Those vehicles where the vehicle keeper is not registered, or is not correctly registered, on the DVLA database (i.e. registered name and address is not available, therefore no Notice To Owner has been sent).
7. **Parking Contravention** - The action of doing something that is not allowed by law and which is regulated by civil enforcement including in contravention of a Traffic Regulation Order.. (A definitive definition for a parking contravention is contained within the Traffic Management Act 2004, Schedule 7, Part 1, paragraph 4).
 8. **Obstruction** – Whereby a vehicle is parked in a way that significantly inhibits the movement of other road users and/or emergency service vehicles.
 9. **Serious Parking Contravention** – Whereby a vehicle is parked in such a way to have the potential to have a detrimental impact on the movement of traffic or to cause a hazard as specified in paragraph 10c.

Prioritisation

10. Removals should not be carried out in an ad-hoc or uncontrolled manner. The following circumstances are considered to be the priority order for authorising removal:
 - a. Dangerous Position when parked in contravention of a Traffic Regulation Order or other parking contravention subject to civil enforcement; and
 - i. In a position causing or likely to cause danger to other road users
 - b. Serious Obstruction when parked in contravention of a Traffic Regulation Order or other parking contravention subject to civil enforcement; and
 - i. Preventing access by emergency vehicles; or
 - ii. Causing serious obstruction to traffic or pedestrians flow; or
 - iii. On or adjacent to a footway causing obstruction to pedestrians, particularly if over or next to dropped kerbs for assisting pedestrians crossing the road; or
 - iv. In a bus or cycle lane when in operation; or
 - v. On a bus stop during restricted times.
 - c. Serious Parking Contraventions when parked in contravention of a Traffic Regulation Order or other parking contravention subject to civil enforcement; and
 - i. On an urban clearway during restricted times; or
 - ii. On a clearway where stopping is prohibited; or
 - iii. In a restricted street subject to and during hours of a loading ban; or
 - iv. In a disabled bay without a valid blue disabled badge; or

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- v. Parked in contravention of a restriction with fraudulent use of a blue disabled badge (i.e. deceased persons badge being used, fraudulent/copy or changed badge details); or
 - vi. In a suspended designated parking place; or
 - vii. Unauthorised vehicle in a limited availability parking place, e.g. in a doctor's bay; or
 - viii. Adjacent to a dropped footway when contravention code 27 applies. This contravention is applied to vehicles parked (on the carriageway) next to where the footway has been lowered, (for example crossing points for vulnerable road users or cycle tracks). The Council would not normally remove vehicles parked in front of dropped footways providing access to a private property.
- d. Persistent Evasion when parked in contravention of a Traffic Regulation Order or other parking contravention subject to civil enforcement; and
- i. Persistent evasion of payment of penalty charge notices; or
 - ii. Persistent offending where penalisation by normal means is not available due to vehicle being unregistered or not correctly registered.
- e. Other Parking Contraventions when parked in contravention of a Traffic Regulation Order or other parking contravention subject to civil enforcement; and
- i. In a restricted street when no loading or unloading is apparently taking place; or
 - ii. Unauthorised vehicle in a widely available parking place, (e.g. in a residents' parking place, limited time bay) and the vehicle has been left for longer than 1 day and 3 PCNs have been issued to the vehicle with a minimum of 24 hours between each PCN issued; or
 - iii. In a taxi bay marked subject to a restriction; or
 - iv. In a pay and display parking place when the initial charge has not been paid and the vehicle has been left for longer than 3 days and 3 PCNs have been issued to the vehicle with a minimum of 24 hours between each PCN issued; or
 - v. In a pay and display bay where the vehicle has been left for longer than 3 days after the expiry of paid time and 3 PCNs have been issued to the vehicle with a minimum of 24 hours between each PCN issued; or
 - vi. Parked on a pedestrian crossing or crossing area marked by white zigzags.

Authorisations

11. Where a vehicle is to be removed for a matter of safety, serious obstruction, traffic management or for persistent evasion/ offending (i.e. prioritisation categories a-d above) then the vehicle may be removed immediately after the necessary processes have been

completed and following the authorisation of the Civil Enforcement Manager (or similar position within a delegated agents organisation) or more senior line manager and an appropriately trained Civil Enforcement Officer (CEO). A vehicle should not be removed by contractors unless a suitably trained CEO is present to confirm that the contravention falls within the policy.

12. Where there is a parking contravention but the vehicle is not creating a danger, serious obstruction or persistent evasion/ offending, then the vehicle will only be removed following the receipt of a complaint and the approval of a nominated Senior Manager or more senior line manager who considers that removal will give clear traffic management benefits (as well as the approval of an appropriately trained CEO). A vehicle should not be removed by contractors unless a suitably trained CEO is present to confirm that the contravention falls within the policy.
13. Where vehicles are removed, the authorising officers shall ensure that Thames Valley Police are contacted and advised of the time, place, vehicle registration number, and pound to attend for retrieval so they can deal with queries from motorists who report their vehicle stolen.

Exceptions

14. Vehicles displaying a valid Blue Badge will not, in normal circumstances, be removed. In exceptional circumstances (for example, where a vehicle displaying a Blue Badge is causing a safety hazard), the vehicle may be moved to a safe spot nearby, where possible within sight of its original location. In such circumstances Thames Valley Police will be informed.
15. Vehicles displaying diplomatic registration plates marked with a D or an X, or have personalised plates composed of a country's initials or an abbreviation of its full name will not, in normal circumstances, be removed. In exceptional circumstances (for example where such a vehicle is causing a safety hazard), the vehicle may be moved to a safe spot nearby, where possible within sight of its original location. In such circumstances Thames Valley Police will be informed and the authority will not seek the reimbursement of the cost of removal.
16. Where a vehicle displaying diplomatic plates marked with an X has been identified as a persistent evader then the vehicle may be removed.

Specific Conditions for Removal

17. In certain circumstances a time period must be allowed to elapse prior to removal of a vehicle.
18. This time period applies where a vehicle is in a parking place and a PCN has been served in respect of;

Failure to pay a parking charge; or

Failure to properly display a ticket or parking device; or

Failure to remove a vehicle prior to the expiry of the period, for which the appropriate charge was paid.

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In those circumstances 30 minutes minimum must be allowed to elapse between the issue of the Penalty Charge Notice and removing of the vehicle, or 15 minutes in the case of a persistent evader [As defined by Regulations] in the circumstances set out at paragraph 19..

19. Persistent Evaders vehicles can be removed within 15 minutes (in circumstances where ordinarily there is a 30 minute time lapse) if all of the following criteria have been met;
- a. Four or more unpaid PCNs have been issued; and
 - b. At least 3 PCN's have had DVLA enquires which confirms that the vehicle is not registered or that it is registered but the name and address of the keeper of the vehicle are incorrect, and all reasonable steps have been taken to ascertain the keeper of the vehicle with the result that a Notice to Owner cannot be served; and
 - c. All statutory timescales have been met; and
 - d. A PCN has been issued for a contravention occurring at the time of removal.
- Or
- a. Three or more unpaid PCNs¹; and
 - b. of those 3 PCNs there must be no representations or appeals outstanding And Notice to Owners and Charge Certificates have been served; and
 - c. A PCN has been issued for a contravention occurring at the time of removal.
20. If there is a parking contravention and the vehicle is displaying an invalid disabled blue badge the vehicle will be liable for removal. This will include a blue badge which is:
- a. Fraudulent/copy; Badge details have been changed;
 - b. The blue badge holder has deceased or no longer is authorised to use the blue disabled badge;
 - c. Reported stolen

For the avoidance of doubt, Civil Enforcement Officers only have the power to inspect blue badges (Section 94 of the Traffic Management Act 2004). It is an offence for an individual to fail to produce a badge when asked to by a Civil Enforcement Officer without reasonable cause. However, this power can only be exercised when a person is in the vehicle or when they are leaving or returning to a vehicle displaying a badge and only in connection with civil enforcement of parking contraventions. Only a police officer has the power to seize a Blue Badge.

Vehicle Removal Contractors

¹ Unpaid means PCN outstanding as set out in paragraph 2 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

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21. A vehicle will not be released from storage until payment has been made in full or by the authority of the Civil Enforcement Manager (or similar position within a delegated agents organisation) or more senior line manager.
22. Upon full payment of all due charges applying to the PCN issued at the time of removal, and outlined in paragraph 24, or on the authorisation of the Civil Enforcement Manager, or more senior manager, the vehicle will be released without unreasonable delay (no more than 2 hours after receiving the full payment) during the hours of 08.00 hrs and 17.00 hrs Monday to Friday. No extra storage charges will be applied if the full payment is received and a vehicle cannot be collected during the weekend or Bank Holiday due to inaccessibility to the vehicle pound.
23. Proof of ownership has to be produced before the vehicle can be released.
24. Prescribed charges for the removal and storage of vehicles in Oxfordshire under SI 2007/3487 are set as:
 - i. £105 for vehicle removal;
 - ii. £12 for vehicle storage for each day or part of a day during which the vehicle is impounded;
 - iii. PCN £70/£50 (discounted if paid within 14 days of removal)
25. Vehicle removal will only be undertaken by a company/ organisation under contract of the Parking Authority or its agents to a designated storage place.
26. If a driver returns whilst removal is taking place, then the vehicle is to be released, unless all wheels are on board the removal vehicle or 2 wheels if a rear drop cradle is used. The PCN will still be considered to be a valid PCN requiring payment or representation.
27. Release of the vehicle as described in paragraph 25 shall not apply to persistent offenders (i.e. where penalisation by normal means is not available due to vehicle being unregistered or not correctly registered). In these instances the Police and Department of Vehicle Licence Agency will be informed for their appropriate action.
28. On the release of the vehicle from the vehicle pound the authority must immediately inform the vehicle owner or persons in charge of the vehicle about their right to make representations and their subsequent right to appeal against representations that are rejected [in accordance with regulatory requirements].

Adoption/ Amendment of Policy

29. The Policy shall be enforced from the date of its adoption and deemed to supersede previous policies. It shall remain in force until formally revoked or superseded.
30. Any current legislation, or changes to legislation which impose specific requirements upon the authority with regards to vehicle removal or which are at variance with this policy will be deemed to be immediately adopted as policy.
31. All removals can attract an appeal from the owner/keeper; these will be treated in the comparable 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.

32. This Vehicle Removal Policy has been developed in line with the Secretary of State's recommendation and in conjunction with the following documents: The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (SI 2007/3483); The Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007 (SI 2007/3482); Statutory Guidance from the Department for Transport (DfT); The Removal and Disposal of Vehicle Regulations 1986 as amended 2007. It is also in accordance with: The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487); Traffic Management Act 2004.