



## Report to Policy Committee

**Author/Lead Officer of Report:** Emma Barker/Sabia Hanif

**Report of:** Executive Director Operational Services  
**Report to:** Waste & Street Scene Policy Committee  
**Date of Decision:** 27 September 2023  
**Subject:** Civil Parking and Bus Lane Enforcement Policy

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? 2303				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				

### Purpose of Report:

The report seeks approval of an updated Civil Parking and Bus Lane Enforcement Policy.

The policy provides updated information and guidance on

- National regulations and government guidance
- How enforcement is carried out for parking and bus lane contraventions
- Service objectives for enforcement
- The appeals process that motorists must follow to dispute a parking or bus lane ticket and a guide to our cancellation policies.

This is aimed at ensuring our policies:

- reflect national regulations and guidance.
- are transparent.
- are consistent.

**Recommendations:**

That the Waste & Street Scene Policy Committee

Approve the updated Civil Parking and Bus Lane Enforcement Policy.

**Background Papers:**

*(Insert details of any background papers used in the compilation of the report.)*

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Adrain Hart
		Legal: Richard Cannon
		Equalities & Consultation: Louise Nunn
		Climate: Sustainability team – sign off by Head of Service – Ben Brailsford
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>SLB member who approved submission:</b>	Ajman Ali
3	<b>Relevant Policy Committee</b>	Waste & Street Scene Policy Committee
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> Sabia Hanif	<b>Job Title:</b> Parking Services Manager
	<b>Date: 12.09.23</b>	

## 1. PROPOSAL

- 1.1 Sheffield City Council has existing teams who carry out parking and bus lane enforcement and who consider appeals against Penalty Charge Notices (PCNs) issued by the Council.
- 1.2 In 2020 the Persistent Evader and Parking Removals Policy was added to the enforcement policy (Appendix B).
- 1.3 Aside from the above update, other aspects of previous policies need review to account for changes in legislation, associated regulations and statutory guidance. This includes rolling out enforcement of contraventions that the Council has powers to do but which had not been in the previous policy such as:
  - Parking in front of dropped kerbs and double parking – the enforcement team currently have to refer drivers to the police for such issues; this would enable us to be more responsive to such complaints.
  - Enforcement against heavy commercial vehicles wholly or partly parked on a footway, verge or land between two carriageways.
  - Enforcement of 24/7 loading bans that are just shown by road markings but do not have signs. This is permitted by the Traffic Signs Regulations and General Directions 2016 and mentioned in Chapter 3 of the Department for Transport Traffic Signs Manual. At some locations (such as outside entrances and egresses) the provision of a sign is not always practical, but the area needs to be kept clear of parked vehicles.
  - Enforcement against vehicles parked in correctly signed cycle tracks.
  - CCTV parking enforcement for parking to include no waiting / no loading restrictions in mandatory cycle lanes and in bus lanes.
- 1.4 Grace periods **must**<sup>1</sup> be allowed in certain circumstances and are covered in the Civil Enforcement Officer (CEO) handbook and appeals guidance (Appendices A and C)
- 1.5 Civil Enforcement regulations were amended in 2022<sup>1</sup> and this is reflected in the updated policy. Key changes included timescales for bus lane PCN discount payments (21 days instead of 14), the introduction of a fixed time for local authorities to respond to bus lane representations and changes to the way motorists can oppose a bus lane PCN debt registration.

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<sup>1</sup> The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 and The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

1.6 Other policy changes have been proposed to improve the effectiveness of enforcement, whilst balancing the quality and fairness of this activity. This includes:

- Reducing warning notice periods. Enforcement use warning notices to educate drivers when new restrictions are introduced to alert them that they may be issued a PCN in future where they regularly park in a particular location, or drive a certain route, and may not have noticed sign changes.

Currently warning notices attached to vehicles on street and in new car parks are issued over two weeks. The proposals are to reduce this to one week as drivers will generally return to their vehicle within this time and should park correctly next time. Should a motorist be away during the warning notice period and receive a PCN without realising the change in restrictions an appeal could still be made.

Warning notices issued by post for contraventions recorded by CCTV (such as for new bus lanes) are currently issued for a two-month period. Most of these cases are reviewed in two weeks or less and a warning notice would get posted within the third week. The proposal includes reducing the warning notice period for CCTV PCNs to one month.

- Reducing observation periods in car parks. Historically 5 minutes observation has been allowed but this would normally be to check for activity such as loading. Loading exemptions do not apply in car parks.
- Reduced observation periods in most circumstances on street where loading is allowed to 3 minutes. This would include removing a 10-minute observation period previously allowed for Transits and other larger vehicles where loading is permitted; operators of commercial vehicles should often be able to provide evidence to support appeals if they were engaged in such activity.

Not allowing any observation period in circumstances where loading is permitted (or for some bays where the driver may need to collect a visitor permit from adjacent premises), could result in more PCNs being issued to exempt vehicles / vehicles which the driver is trying to park correctly. This would lead to more parking appeals potentially at three stages – informal challenges, formal representations and appeals at the Traffic Penalty Tribunal (TPT). In turn, this increases workload for the notice processing team.

Based on current observation times of 5 minutes (10 minutes for larger vehicles) and excluding cases that went on to TPT in 2022-23, the notice processing team responded to 713 appeals made to the Council where loading was a reason given for disputing the PCN. 27% of these

were upheld and the PCN was cancelled by the Council based on the evidence. The remainder of appeals were dismissed and out of these there was a roughly 50/50 split of those refused outright (these would include contraventions where the vehicle was parked where loading is not allowed and instances where it seemed the driver was doing something else) and those that were invited to send evidence to support their claim but the evidence was either insufficient or not forthcoming.

From a snapshot of vehicles seen by CEOs on restrictions with loading exemptions, about 1 in 10 vehicles were when first approached seen to be loading and no further action was taken. A further 28% of vehicles were seen to be loading before a PCN was issued; the majority of these had loading observed within the first 3 minutes (less than 6% had activity observed in the fourth or fifth minute).

61% were issued a PCN after at least a 5-minute observation period during which no loading activity had been seen.

- The policy also allows CEO discretion to issue an instant PCN (or reduce the normal observation period) if they have reason to believe the vehicle is being used for a purpose it is not exempt for.

The updated policy is aimed at providing clear and transparent information to motorists. Areas covered in more detail in the policy include explanations of the rules about footway parking and when PCNs may be issued for doing so.

- 1.7 The policy explains different types of restriction but also puts an onus on drivers to make sure they keep up to date with current traffic signs they may encounter. The Department for Transport publication for motorists 'Know Your Traffic Signs' says:

*Traffic signs play a vital role in directing, informing and controlling road users' behaviour in an effort to make the roads as safe as possible for everyone. This makes a knowledge of traffic signs essential. Not just for new drivers or riders needing to pass their theory test, but for all road users, including experienced professional drivers.*

The policy also includes a clear summary of the main exemptions that apply to different restrictions. Restrictions are generally set by Traffic Regulation Orders (TROs). The exemptions to those restrictions are also set out in the TROs. Exemptions often vary between different local authorities creating inconsistent rules for drivers. The policy provides a guide on these for those visiting Sheffield.

Certain restrictions may be enforced without a TRO being required. These are set out within the relevant legislation and apply as though a TRO had been made containing those restrictions. The exceptions to those restrictions are also set out accordingly. For example, the

dropped kerb parking restriction is provided in section 86 of the Traffic Management Act 2004, as are the exceptions to that restriction (such as being a vehicle used for fire brigade or police purposes).

- 1.8 Updates also clarify that drivers parking in a bay where the nearest machine is out of order should use an alternative method of paying.
- 1.9 The Guidance Policies for issued Parking and Bus Lane PCNs and Appeals document adds that “we may make some allowance in a limited number of circumstances if the restriction is not indicated in the Highway Code or Know Your Traffic Signs”. This recognises that there are sometimes discrepancies between information published for drivers and how authorities are permitted to sign restrictions. This does not prevent us from enforcing, but for appeals made due to such signs being used offers the chance to exercise discretion and educate the driver so they are aware for the future.

As an example, Know Your Traffic Signs says “A double kerb mark means no loading at any time and is always supplemented by a “no loading at any time” plate”. Signage regulations for local authorities now allow for the restriction to be provided with just clear double kerb markings. Under the updated policy we would enforce if there are double kerb markings but no sign. However, if an appeal was made by a driver who said they did not see a sign a first-time cancellation may be considered with the reply informing the driver only the markings are now required for this restriction.

Providing a ‘no loading at any time’ restriction without a sign was trialled on Bishop Street on a section of restrictions outside Wickes car park entrance. In 2022 nineteen PCNs were issued to vehicles here. As of April 2023, only one had been appealed and fourteen had been paid.

Other examples of when first-time discretion may be applied in the updated policy are for signs which the Council has been authorised to use by the DfT but are not in Know Your Traffic Signs. The keys ones being suspension signs and temporary no waiting and loading restrictions (which have temporary correx signs).

Under previous policy first-time cancellations are still allowed for drivers who parked in Restricted Parking Zones (RPZs) and say they did not understand the signs. Originally local authorities had to get special DfT authorisation for these, but RPZ signage is now standard. These appeals would be upheld in the updated policy.

## **2. HOW DOES THIS DECISION CONTRIBUTE ?**

- 2.1 The policy is designed to provide clear, consistent, and concise guidance to all those who need to use it:

- CEOs issuing PCNs
- Members of the notice processing team when considering PCN appeals
- Drivers wanting to find out more information about restrictions and if they have received a PCN the appeals process and policy.

2.2 The policy is aimed at supporting better enforcement, including additional contraventions and should improve compliance. Clear priorities allow focus on key enforcement issues which have the greatest impact (safety, congestion, improving streets for other uses – not just other drivers).

Fewer vehicles breaching parking rules improves the appearance of neighbourhoods; improved footway parking enforcement protects footway users as well as reducing damage to flagstones caused by vehicles. Improved compliance can help the turnover of parking spaces for those visiting local businesses.

### 3. HAS THERE BEEN ANY CONSULTATION?

3.1 A Citizenspace online survey was run between 13 March and 28 March 2023. 429 responses were received. Out of these:

- 55% respondents had experienced vehicles blocking their drive at least once a month
- 23% experienced this more than once a week on average
- Over 50% said they also experience vehicles blocking pedestrian dropped kerbs where there was tactile pavement (surfaces with raised patterns to help visually impaired pedestrians) at least once a week or more on average
- Only 77% experience problems with vehicles double parking

3.2 Many restrictions are introduced by the implementation of a Traffic Regulation Order (TRO). TROs are subject to their own regulated consultation process before they can be made and the restrictions within them then enforced. Restrictions that do not rely on a TRO are ordinarily covered by primary and secondary legislation made either by parliament or under its authorisation. They can be enforced without a TRO needing to be made first.

### 4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

#### 4.1 Equality Implications

4.1.1 Policy covering enforcement against vehicles parked on cycle tracks and CCTV enforcement for vehicles parked in mandatory cycle lanes and bus lanes (with relevant parking restrictions) benefits a cross section of people including cyclists, commuters, public transport users,

Reduced observation times should improve parking problems near schools for example and benefit young people.

More transparent information about footway parking rules, the implementation of issuing PCNs to HGVs on the footway (as well as enforcement for other vehicles that wrongly park on the footway), should benefit pedestrians on footways. This includes those pushing buggies, with visual impairments, or with restricted mobility). Similar groups should benefit from the enforcement of dropped kerbs.

#### 4.2 Financial and Commercial Implications

- 4.2.1 If a reduction of footway parking could be achieved this could save some maintenance costs.
- 4.2.2 Ensuring drivers who use pay and display bays use alternative ways to pay to park would contribute to improved income.
- 4.2.3 Reducing warning notice periods will still enable drivers to be educated about new restrictions but would result in those that do not change their behaviour receiving penalty charges more promptly.
- 4.2.4 Some of the appeals decisions referred to in 1.9 would result in some additional cancellations but these may also be offset by other cases that would currently be cancelled being upheld. The appeals process needs to be fair and proportionate though rather than based on income collection.
- 4.2.5 Reductions in some observation times before PCN issue should enable CEOs to observe more vehicles overall and where such vehicles are not parked in compliance with the rules to issue more PCNs.

#### 4.3 Legal Implications

- 4.3.1 Section 87 of the Traffic Management Act 2004 states that statutory guidance regarding the Council's enforcement of traffic contraventions may be published by the national authority. This is the Department for Transport's 'Statutory guidance for local authorities in England on civil enforcement of parking contraventions'. It sets out a policy framework which the Council's updated Civil Parking and Bus Lane Enforcement Policy also incorporates.
- 4.3.2 The Council already carries out the civil enforcement of traffic contraventions in accordance with the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 and The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022. However, the updated Civil Parking and Bus Lane Enforcement Policy is intended to reflect best practice with these regulations in mind.



- 4.3.3 Section 21 of the Road Traffic Act 1988 ('the 1988 Act') states that it is an offence for any person to park a mechanically propelled vehicle wholly or partly on a cycle track. Paragraph 4 in part 1 of schedule 7 in the Traffic Management Act 2004 states that this offence is a parking contravention which is subject to civil enforcement. This means that the Council may issue a PCN where the contravention is observed.
- 4.3.4 Section 19 of the 1988 Act states that it is an offence for any person to park a heavy commercial vehicle wholly or partly on the verge of a road, any land situated between two carriageways (which is not a footway) and on footway. Again, the Traffic Management Act 2004 states that this offence is a parking contravention which is subject to civil enforcement.
- 4.3.5 Sections 85 and 86 of the Traffic Management Act 2004 ('the 2004 Act') set out powers for enforcement of dropped kerbs and double parking, as well as the applicable exceptions. They are prohibitions that may be enforced as if imposed by an order under section 1 of the Road Traffic Regulation Act 1984 – a TRO. As sections 85 and 86 impose restrictions on parking, contravention of those restrictions (as if they were included in a TRO) may be regarded as parking contraventions and are therefore subject to civil enforcement per section 73 of the 2004 Act.

#### 4.4 Climate Implications

- 4.4.1 The inclusion in the policy of enforcement parking on cycle tracks, and the inclusion of CCTV options for parking restrictions in mandatory cycle lanes and bus lanes should improve sustainable transport options

#### 4.4 Other Implications

- 4.4.1 Before enforcement of some of the additional options is implemented it would be necessary to review that any necessary signage and required orders are correct.
- 4.4.2 Appropriate methods for reporting vehicles parked across dropped kerbs for driveways would need to be developed with correct information management processes.
- 4.4.3 Updated guidance and training for the policy changes would need to be rolled out to enforcement and appeals teams.

### 5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Leave the observation period for restrictions where loading exemptions apply at 5 minutes but just reduce this to 3 minutes for yellow lines near schools. Initial patterns noted from observations carried out by CEOs suggest that most loading activity is spotted within the first few

minutes. Applying 3 minutes generally is more consistent than doing so just at certain locations and would contribute to more efficient enforcement.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 The Department for Transport sets out that civil enforcement policies should be consistent, fair and effective. The existing policies need updating to reflect current regulations and enforcement options available to the local authority.

It is recommended that Members approve the policy in order for the updated recommendations to be implemented.

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<sup>i</sup> The Civil Enforcement of Parking Contraventions (England) General (Amendment) Regulations 2015