

Royal Borough of Windsor And Maidenhead

Parking Services

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Persistent Evaders Guidelines And Procedure



Introduction of Removals

This manual is intended to provide clear guidance and procedure with regards the removal of vehicles that have been issued with a Penalty Charge Notice and identified as persistent evaders. This process meets the necessary legislation and guidance provided by the Department for Transport.

The Council's Parking Enforcement is being undermined by a growing number of motorists who continue to park in contravention of the traffic regulations, causing an obstruction to the flow of traffic and occupying parking places reserved for residents, disabled blue badge holders and other permit holders.

The majority of these persistent evaders do so knowing that we cannot trace them, as the DVLA is unable to supply the name and address of the registered keeper.

Obtaining the registered keepers details to release a vehicle and make payment for the most recent Penalty Charge Notice served enables us to collect these details **and** to start the process of reclaiming any further outstanding Penalty Charge Notices.

The Royal Borough of Windsor and Maidenhead have the authority under Section 6 of (PROHIBITION AND RESTRICTION OF WAITING AND LOADING AND PARKING PLACES)(WINDSOR AND ETON URBAN) ORDER 2008, (PROHIBITION AND RESTRICTION OF WAITING AND LOADING AND PARKING PLACES) (WINDSOR RURAL) ORDER 2008, (PROHIBITION AND RESTRICTION OF WAITING AND LOADING AND PARKING PLACES)(MAIDENHEAD URBAN) ORDER 2008, (PROHIBITION AND RESTRICTION OF WAITING AND LOADING AND PARKING PLACES)(MAIDENHEAD RURAL) ORDER 2008, (PROHIBITION AND RESTRICTION OF WAITING AND LOADING AND PARKING PLACES)(ASCOT, SUNNINGHILL AND SUNNINGDALE) ORDER 2008 and (OFF STREET PARKING PLACES) ORDER 2008 to remove a vehicle once a Penalty Charge Notice has been served.

These guidelines and procedures will be followed once a vehicle has been served a Penalty Charge Notice and authorised for removal.

PERSISTENT EVADER

The Department for Transport provide the following definition of a Persistent Evader:

'a vehicle owner with three or more recorded contraventions for the vehicle and the Penalty Charge amount for these have not been paid, represented against or appealed against within the statutory time limits, or the representations and appeals have been rejected but they have still not paid.'

Section 6

Removal of vehicle

111. Where a Civil Enforcement Officer has removed or caused to be removed a vehicle in accordance with Articles 64 or 102,
- (a) he / she shall provide for the safe custody of the vehicle;
 - (b) the Council shall be entitled to recover from the person responsible such charges in respect of the removal, storage and disposal of the vehicle as it might prescribe from time to time;
 - (c) the provisions of the Act of 1984 as amended shall apply to the disposal of such vehicles removed by or on behalf of the Council pursuant to this Article.
112. Nothing in Articles 64, 102, or 110 shall apply in respect of a vehicle displaying in a relevant position a valid disabled person's badge.
113. The restrictions imposed by this Order shall be in addition to and not in derogation from any restriction or requirements imposed by any regulations made or having effect as if made under the Act or by or under any other enactment.

WHAT ARE THE AIMS OF THE REMOVAL OF PERSISTENT EVADERS

The aims of this process are:

- To remove vehicles identified as persistent evaders with 3 or more outstanding Penalty Charge Notices.
- To obtain payment for most recent Penalty Charge Notice served, the release of vehicle and to obtain conformation of owner's details.
- To deal effectively with traffic obstruction and congestion.
- Obtaining owners details enables RBWM to commence process of reclaiming any additional outstanding Penalty Charge Notices served to that particular vehicle.
- Removal of persistent evaders witnessed on street acts as a deterrent for other motorists.
- Will benefit residents whose resident bays are continually parked in by non-resident permit holders who are aware that we will be unable to trace them through the DVLA and we are therefore unable to claim payment.
- Gain public support for removal through the press and promotion of the scheme at resident meetings.
- Inform Police of vehicles removed, and subsequently collected, that do not appear on the DVLA database, have no Tax or insurance documents / evidence.

PROCEDURE

REMOVALS POLICY OF PERSISTENT EVADERS

A vehicle identified as having 5 or more outstanding Penalty Charge Notices will be brought to the attention of the Contract Monitoring Team through Legion Control when found parked in contravention. Each month a list of vehicles will be added to the HHCTs message board via the Chipside system. **Once a Penalty Charge Notice has been served** to the relevant vehicle the Civil Enforcement Officer will inform Parking Administration Team.

Before the vehicle is authorised for the removal the Penalty Charge Notice served must be checked by a Parking Supervisor Civil Enforcement Officer (SCEO) to ensure the Penalty Charge Notice has been served correctly. Parking Administration Team must also check the appropriate Traffic Regulation Order.

Once this has been completed Parking Administration Team will then notify a member of the Parking Management Team to seek formal authorisation of removal.

The decision to remove will only be made on the authority of an authorised Council member of staff. Under no circumstances will a Civil Enforcement Officer or an Ontime Recovery be in a position to authorise a removal. This is to ensure that the responsibility for authorisation of removal is separate from the contractor employed to remove the vehicle and to avoid any possible claims of acting for private gain.

AUTHORISED COUNCIL STAFF

Post	Post holder	Office Contact	Mobile Contact
Parking Manager	Neil Walter	01628 796485	07771 663469
Parking Operations Manager	Mark Davis	01628 796342	07990 804352
Parking Technical Manager	Iain Wallace	01628 796788	07775 737129
Parking Team Leader	Andrew Shurey	01628 796604	

IT IS IMPORTANT TO NOTE THAT A REMOVAL WILL NOT BE AUTHORISED IN ALL CASES. A vehicle will only be removed when sufficient resources are available to deal effectively with the vehicle and to provide the high standard of customer care required. A selective process will be implemented, controlled directly by the Parking Management Team. Only certain vehicles will be removed based upon the following. Factors taken into account include the location of the vehicle, time of day and the nature/seriousness of the contravention occurring.

A vehicle will not be removed when:

- A valid Blue Badge is correctly and properly displayed
- Vehicles belonging to the emergency services or Diplomatic vehicles
- Public service vehicles including removal vehicles, construction vehicles whilst they are being used for their intended purpose. If known provide vehicle owner details to contractor.

The Parking Management Team will then contact the approved appointed Vehicle Removal Contractors Control room

ON STREET REMOVAL

All removals will be witnessed by a member of the either a SCEO or Parking Management Team. The Senior Member of the Council Team is responsible for undertaking the following duties:

- Additionally verify the PCN was served correctly to the vehicle
- Take sufficient photographs as additional evidence. Photographs must include the following:
 - The vehicle (including the Penalty Charge Notice fixed to the windscreen/handed to the owner)
 - The vehicle in context with its surroundings (including lines and signs in location)
 - All 4 sides of the vehicle (including wheels) to establish any damage prior to removal
- Deal with any immediate challenge to the removal from member(s) of public
- Decide, if necessary, to release the vehicle if the owner of the vehicle is on site or returns prior to the removal commencing.

It is the responsibility of the Council Officer to notify the following to ensure that when the vehicle driver returns to where he/she parked their vehicle, the relevant departments are aware vehicle has been removed and taken to the secure pound:

- Thames Valley Police 08458505505
- RBWM Customer Service Centre 01628 683880
- RBWM Control Room 01628 796863

A vehicle authorised for removal will not usually be removed within the first 30 minutes following the issue of the relevant Penalty Charge Notice. However if the vehicle is causing a hazard or is parked where parking is always prohibited then the vehicle can be removed as soon as the relevant Penalty Charge Notice has been served.

CUSTOMER SERVICE

One of the responsibilities of the Senior Council Officer is to deal effectively with any subsequent enquiry from any member of the public.

In the event that the driver is on site/returns to the vehicle and contests the PCN served, the Senior Council Officer will consider the facts and decide whether to halt the removal process. Whilst there may be circumstances to halt the removal, the PCN will not be cancelled on site. The owner must still contact Parking administration to appeal the PCN through the normal channels.

Once the removal has begun it will normally continue until completed. The start of the removal will be considered to be when all the wheels of the vehicle have left the ground.

There may be occasions when the owner or driver of the vehicle will ask for the removal to be stopped. Mitigating circumstances will be considered but normally disregarded and will be recorded by the Council Officer. Advice should be sought by the Council Officer if ever unsure whether to proceed with a removal.

Guidance provided by the Department of Transport identifies a number of valid reasons when consideration should be given to halt the removal process. These are:

- Doctor on call
- Pregnant Lady/parent with disabled/special needs children
- Police officer/fireman/nurse reporting for duty
- Members of public attending a funeral
- Request from a police officer

Approved Removal Contractor

The Council has appointed an authorised removal contractor responsible for the safe custody of the vehicle from the place of contravention to the pound and whilst the vehicle remains within the pound

The approved contractor will arrive at the location and complete an independent vehicle condition checklist prior to removal. The recovery contractor will also complete an additional vehicle checklist once the vehicle has arrived safely at the pound. A copy of the required form is included within this document for reference.

Any claims relating to damage caused during the removal process will be forwarded to the contractor with the customer informed of such action.

The Parking Management Team must keep a record of any claims made against the recovery contractors.

The Contractors will undertake a complete investigation into any claim of damaged caused at the time of removal or whilst at the pound.

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RELEASE

The owner of the vehicle will attend secure pound to reclaim the vehicle.

When releasing a vehicle to a member of the public the contractor must first establish that the person requesting the release is the rightful driver of the vehicle or has clear authority to collect it on behalf of the owner (if different).

To establish proof of ownership and to obtain relevant owners details and address **at least one** of the following documents should be presented:

Vehicle registration document

Insurance document

Bill of sale

In addition a proof of the vehicle owners current United Kingdom address should be sought. This ought to ideally be one of the following, dated within the last three months. **The address on the proof of ownership should (in the majority of circumstances) match the proof of address.**

UK Driving Licence

A utility bill (Gas, Water, Electricity)

Benefits Agency Book

Council Tax Bill

Bank Statement / Insurance Statement

Passport

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Fax copies may be accepted although the Contractor /Parking Administration do have the right of refusal.

ENTERING VEHICLES TO COLLECT PROOF OF OWNERSHIP

If the owner states that the proof of ownership is within the vehicle **TWO** officers may accompany the owner to the vehicle to collect the documentation only. All items removed from the vehicle must be recorded on the vehicle release form.

ENTERING VEHICLES TO COLLECT PERSONAL BELONGINGS

Proof of Ownership Required

No unauthorised, unaccompanied access to the vehicle is permitted to collect personal belongings. If the owner requires access under medical grounds (to collect medication/ wheelchair) **TWO** members of staff must accompany the owner. All items removed from the vehicle must be recorded on the vehicle release form.

CUSTOMERS WITH NO VALID ID – Exceptional attention procedure

If a customer is not from the area of Windsor and Maidenhead and has no ID to connect them to the vehicle the following should be adhered to:

Is the customer in possession of keys?

Is the customer willing to pay for the release of the vehicle?

Can the customer identify 5 items in the vehicle?

Any other form of ID in their possession?

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PAYMENT

Payment must be made at the pound where the appropriate charges can be calculated. Payment will only be accepted upon providing acceptable proof of ownership and current address details. The Contractor will upon taking payment, notify Parking Services of the amount paid and by whom. All contact details and any documentation collected will be passed to Parking Services.

SCHEDULE OF CHARGES

(as provided in ' The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007-08-01)

Type of Charge	Amount of Charge	Notes
Vehicle Removal Charge	£195	
Vehicle Storage Charge	£20 up to 2500kg £30 2500kg to 3500kg for each day or part of day, during which the vehicle is impounded	Standard Charges reckoned from 24:00 midnight on the day following removal of a vehicle
Vehicle Disposal Charge	£55	

UNCLAIMED VEHICLES

If we do have the owners' details supplied by the DVLA then a letter will be sent advising the owner that the vehicle has been removed and is awaiting collection – providing a breakdown of the relevant charges outstanding.

If there is no response then a second letter will be sent 28 days after the date of the first letter to inform the owner that the vehicle has been removed and is awaiting collection – providing a breakdown of the relevant charges outstanding.

Any vehicle displaying a valid tax disc cannot be disposed of less than 3 months after removal.

The Council will, after a period of 3 months instruct the approved contractor to dispose of the vehicle. This will result in the vehicle being destroyed.

REPRESENTATIONS & APPEALS PROCESS

The approved removal contractor will provide the owner of the vehicle, or their duly authorised representative, in writing upon collection/payment for the release of the vehicle, details of how a representation can be made and the required timescale for filing representations with the Enforcement Authority ie RBWM

Representations must be received by the end of the 28th day after the date the owner was informed of the right to make a representation. (Correspondence received after this date may be ignored, however a letter must be sent informing the appellant that they failed to provide their representation within time).

Customers will be made aware that they may however appeal to TCP in full.

The Enforcement Authority will review and provide the appellant with a decision no later than 24 days after receiving the appeal. (Any representation not processed by the end of the 56th day will automatically be accepted).

If a representation is accepted then the Enforcement Authority will refund the Penalty Charge Notice fee (if applicable) and any additional charges including the removal and storage fee to the motorist.

The Enforcement Authority investigates, considers and will answer any challenges made about a PCN and a removal. They are highly trained and operate within well-defined guidelines; they consider each challenge on it's own merits and are able to exercise discretionary powers in certain circumstances.

The statutory or specified grounds on which representations may be made are set out below. It is important to provide all relevant information. If the Notice is cancelled any sums already paid will be refunded.

THE SPECIFIED GROUNDS

- a) The vehicle was not parked in circumstances in which a Penalty was payable – for example the signs and lines in place were wrong or that the vehicle was not parked as alleged.
- b) The Enforcement Authority had no power to remove the vehicle – for example they may not remove a vehicle if a current disabled person's Blue Badge is on display.
- c) The vehicle had been taken and parked without my consent – for example had the vehicle been stolen? In these circumstances would you be expected to supply a crime reference number as further evidence.

- d) The vehicle was not parked within the Civil Enforcement Area (CEA) – for example the vehicle was parked on land where the authority had no right to enforce parking.
- e) The Penalty Charge Notice, release or storage charge exceeded the relevant amount – the authority has asked for more than it was entitled to under the relevant regulations.
- f) The Penalty Charge Notice had not been served before the vehicle was removed.
- g) There was a procedural impropriety by the Enforcement Authority – for example the Penalty Charge Notice or some other document did not contain the required information or the authority did not respond to a challenge or responded too late.
 - This Statutory ground also applies to if the Penalty Charge was issued/served because there was no pay and display ticket or an expired pay and display ticket. The authority must wait 30 minutes after serving the PCN before removing the vehicle. This is reduced to 15 minutes in the case of a persistent evader (i.e. a vehicle with 3 or more open and outstanding Penalty Charge Notices issued). In other circumstances, the authority may remove the vehicle immediately.

If you wish to make representations to the Parking Enforcement Services this must be done in writing. Please quote the Penalty Charge Notice number and the vehicle's registration number and include as much evidence as possible to support your representations.

The representations may be made by:

Via Email to: parking@rbwm.gov.uk

By post to: Parking Section, Royal Borough of Windsor and Maidenhead, Town Hall, St Ives Road, Maidenhead, SL6 1RF

If you are unable to use any of these methods or have any other enquiries, please telephone 01628 683880 (during office hours Monday – Friday 8.45am – 5.15pm)

These representations should be made no later than the last day of the period of 28 days beginning with the date on which this Notice of Appeal is served and any representations that are made outside that period may be disregarded.

Upon receiving your representation the Enforcement Authority will confirm in writing whether your representation has been rejected or accepted. This Notice will be cancelled if one or more of the specified grounds are accepted.

This Notice may be cancelled for other compelling reasons even if none of the specified grounds apply. If the Enforcement Authority accepts your representation they will refund the fees you have paid for the release and storage of your vehicle and the Penalty Charge Notice if applicable. If your representations are received in time or are received late but are taken into account, the Enforcement Authority will let you know its decision in writing not later than the last day of the period of 56 days beginning with the date on which your representation was served on it. If it fails to do so, this Notice will be cancelled and any sums already paid will be refunded.

If the Enforcement Authority does not accept your representation you will have 28 days to appeal their decision to the National Independent Adjudicator. We will provide the relevant details of this right when rejecting your initial representation.

The Parking Enforcement Services policy about late representation and/or representations not covered by the statutory grounds can be found on www.rbwm.gov.uk/web/parking_index.htm

Further information about Civil Parking Enforcement (including PCNs) is available online at www.patrol-uk.info

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