

APPENDIX 1

BUS LANE ENFORCEMENT

Guidelines for the issue, enforcement and cancellation of Penalty Charge Notices by Portsmouth City Council for Bus Lane contraventions.

1. Introduction

The council has introduced bus lane enforcement cameras for the purposes of improving public transport. All bus lanes in Portsmouth may from time to time be subject to enforcement action by the council using camera technology.

If an unauthorised vehicle is in a bus lane or bus only street it will be committing an offence and the vehicle keeper may be sent a Penalty Charge Notice under Section 144 of the Transport Act 2000.

Cameras will recognise vehicles by using automatic number plate recognition technology, with the registration numbers of exempt vehicles logged within the system.

Where unauthorised drivers are caught either driving or parking in bus lanes, or driving through bus gates, the registered keeper of the vehicle (as confirmed by the DVLA) will receive a Penalty Charge Notice of £60, with a discount to £30 if paid within 14 days or an increase to £90 if not paid within 28 days. These rates are subject to legislative change.

If a Penalty Charge Notice is issued, the keeper will have the choice of paying the charge or making a representation against its issue.

2. Payment of Penalty Charge

The keeper will have 14 days from the date the Notice is served (this is presumed to be two working days from the date of the issue of the Notice) to pay at the discounted rate, 50% of the Penalty Charge. If payment is not received by the council within that time, the chance to pay at the reduced rate will be lost and the full amount will become payable.

Payment will close the Notice and no further correspondence will be sent.

If payment is not received within 28 days, the amount outstanding will be increased by 50% and a Charge Certificate issued.

If the charge remains unpaid then the council may, if a county court so orders, recover this increased charge as if it were payable under a county court order. This

may involve issuing a warrant to an Enforcement Agent (formerly called bailiffs) and additional fees incurred as a result of recovering the debt will also be payable.

3. Representations/Appeals against the Penalty Charge Notice

Representations against a bus lane Penalty Charge Notice can be made online or in writing by post.

Footage of the alleged contraventions will be available for viewing.

3.1 The statutory grounds which, if proved, must be accepted by the Council are:

a: ***the alleged contravention did not occur***

For example:

- the signs and lines in the bus lane were wrong
- the vehicle was permitted to be in the bus lane
- the vehicle was not in the bus lane.

b. ***the alleged contravention is the subject of criminal proceedings or a fixed penalty notice has been issued***

For example:

The police are already taking action

c. ***the recipient was not the owner of the vehicle***

For example:

- They never owned it
- They sold it before - or bought it after - the date of the contravention. The appellant should provide information about the transaction, including the new or former owner's name and address, if known.
- Some long-term leasing arrangements have the effect of transferring keepership from the registered keeper to the lessee.

e. ***The owner is a vehicle hire firm and:***

(i) the vehicle was on hire under a qualifying hiring agreement; and

(ii) the hirer had signed a statement of liability for any PCN issued during the hire period.

This ground applies only to formal hire agreements where the hirer has signed an agreement accepting liability for penalty charges. The requirements are specific. They are contained in Schedule 2 to the Road Traffic (Owner Liability) Regulations 2000 and Section 66 of the Road Traffic Offenders Act 1988. The appellant should provide the hirer's name and address and a copy of the agreement.

f. *The appellant was the hirer of the vehicle at the time but did not enter into an agreement assuming liability for any contraventions*

This applies when the PCN has been served on the appellant on the basis that they had the vehicle on hire under an agreement that placed liability for any contravention on them, but there is no such agreement.

g. *When the bus lane contravention occurred, the vehicle was kept by a trader*

This applies if, although the appellant owned the vehicle at the time, the vehicle was kept by a vehicle dealer, auctioneer, scrap yard, insurer or had been repossessed.

h. *When the bus lane contravention occurred, the vehicle had been taken without the appellant's consent*

This ground covers stolen vehicles and vehicles used without the owner's consent. It could apply, for example, to a vehicle taken by "joy-riders". It does not generally apply to vehicles in the possession of a garage or borrowed by a relative or friend. The appellant should supply a Crime Reference Number from the police.

i. *The penalty exceeded the relevant amount*

This means that the city council has asked for more than it was entitled to under the relevant Regulations.

3.2 Mitigating Circumstances

In addition, Portsmouth City Council will consider any mitigation put forward. These are not mandatory grounds for cancellation and will include;

a. *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.

b. *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.

c. *Due to actions of other road users.*

Where the driver is forced into the bus lane to prevent an accident.

d. *Emergency Response.*

When the driver assists during an emergency situation. Documentary evidence will be required.

3.3 Appeals to an independent adjudicator

If the city council rejects the representation then the appellant has the opportunity to make an appeal to the independent adjudication service. Full details of how to do this are provided at the appropriate time.

4. Discretion in Enforcement

Portsmouth City Council staff will exercise discretion in the enforcement of bus lane contraventions. Each case will be considered on an individual basis taking all circumstances into account.