



# Watch this space

New laws, which come into force in March, aim to make parking fairer, but will they make any difference to motorists?

One issue guaranteed to make drivers' blood boil is parking tickets. Since local councils took over enforcing most parking regulations 17 years ago, motorists have been fighting against what they see as confusing rules and overzealous parking attendants.

## Changes on the way

In response, sweeping changes are planned for England and Wales from this month, promising 'to make parking enforcement more motorist-friendly'.

But just what are these new laws and are they really that 'motorist-friendly'?

## New penalties

From 31 March, all councils have to operate a two-tier system of parking charges when issuing penalty charge notices (PCNs) – the most common kind of parking ticket.

**New changes to the rules seem fair but there's a sting in the tail**

Drivers who park where parking is always forbidden will face higher fines, while those who, for example, exceed their time limit will face lower fines.

Keith Banbury, Chief Executive of the British Parking Association, which represents organisations in the traffic management industry, says the new rules will be a straightforward transition for motorists.

'We do not see this having a great effect on motorists who will be required to pay the fee for the contravention,' he says. 'Although, hopefully, they will believe that this is fairer and reasonable to all.'

Clamping will be discouraged and the recommended grace period after which a clamp can be fitted will be extended from 15 minutes to half an hour after a PCN has been issued. 'This makes for fairer parking enforcement too,' Mr Banbury says. 'As always, the key is to use the enforcement powers available in a firm but fair way.'



'The important point to remember here is why the power is necessary,' explains Keith Banbury, citing motorists who persistently evade parking regulations or act violently towards enforcement staff, and areas where vehicles stopping can cause serious traffic-flow problems.

## Appealing changes

Motorists issued with a PCN they feel is unfair have the right to appeal (see 'Checklist', opposite). This system allows them to complain to the local council, and, if they don't receive a satisfactory result, to one of four independent parking adjudication services that serve different parts of the UK.

Adjudication services are independent tribunals where lawyers consider appeals that have been formally rejected by councils. Up to now, there have been only six types of cases that can be taken to adjudication. These include cases where parking contravention did not happen or the vehicle had been taken without consent (a full list is on the National Parking Adjudication website – see 'Contacts', p44).

## Tickets by post

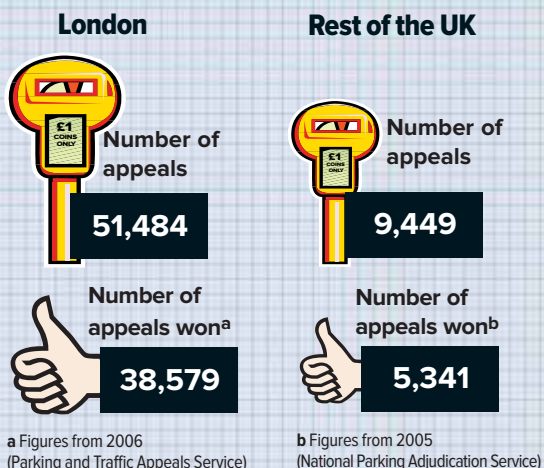
These two changes may seem fair enough but there's a sting in the tail. Councils in England and Wales will also be able to issue PCNs by post, either for contraventions caught on CCTV or if a motorist prevents a ticket being issued at the scene.

Barrie Segal, founder of independent parking ticket appeal service Appeal Now, believes this will make it more difficult for people to lodge appeals and defend themselves by collecting evidence at the time of the contravention. 'Currently, a PCN has to be given to the person believed to be the driver and there are very good reasons for this,' he says. 'People will suddenly wake up one morning and find they're being issued with tickets for alleged contraventions, and it will feel like being hit by a sledgehammer.'

The authorities contend that postal tickets will make enforcement not only easier but also more transparent and consistent.

## IT PAYS TO APPEAL

**Latest figures for London show that more than two thirds of all appeals were won by motorists. In the rest of the UK in 2005, more than 50 per cent of appeals succeeded**



The new legislation will let adjudicators consider mitigating circumstances outside these six statutory grounds of appeal.

But there's a twist. Adjudicators cannot cancel tickets – they can only refer the case back to the council and recommend that the ticket is overturned. Therefore, the council still takes the ultimate decision.

### Consistently inconsistent

Statistics on appeals show the proportion of motorists disputing tickets and also whether councils are able to effectively defend the tickets they issue.

Figures from the Parking and Traffic Appeals Service for 2006-07 reveal that in London more than two thirds of appeals were won by motorists. Almost one third of these were not even contested by the council, which suggests that many authorities are failing to enforce parking rules correctly.

This situation is similar outside London, where 2005 figures show that 29 per cent of appeals were not contested and a further 27 per cent were allowed by adjudicators (see 'It pays to appeal', opposite).

### Who's to blame?

Existing rules encourage councils to make money to pay for parking enforcement, leading many authorities to set parking attendants ambitious targets for collecting fines.

From 31 March, parking enforcement will no longer be expected to pay for itself, but, as the government expects any shortfall to be made up by local authorities' existing budgets, it's debatable whether the new guidance will have a real effect on the number of unfair and incorrect tickets.

### The verdict

The new laws will force councils to look again at their parking policies, but we won't know how effective they are until the parking ticket figures for 2008 are released.

In the meantime, if you receive a ticket that you think is unfair, use our 'Checklist', right, to help you appeal or contact Which? Legal Service (see details below).

### LET WHICH? HELP YOU

#### Which? Legal Service

Our legal team provide advice on appealing parking, speeding and clamping for only £9.75 per quarter for Which? members. For more details, call 01992 822828.

## ONE MEMBER WHO KNOWS HER APPEALS

### Kim Rayner 62, freelance media analyst

Having successfully fought two unfair parking tickets, Kim is very familiar with the parking appeals process.

Her first appeal to Worcester City Council was prompted by poorly signposted regulations that she noticed only after she had been issued a PCN. 'I walked carefully along the pavement looking for road markings and eventually saw a plaque right down near the ground. The parking regulations applied only to about ten yards of the street and there was no way you could have noticed it,' she says.

Kim responded with a letter of complaint. 'I pointed out that Worcester was a lovely city but what a pity it was that it expected unsuspecting tourists to pay for it.' Her payment was subsequently returned.

Despite vowing to investigate regulations more carefully, she was caught out again, this time in Brighton. 'There was a pre-pay voucher system in operation, so after parking we popped into a pub to find out how to buy



some,' she recalls. 'By the time we returned to the car with a voucher, we'd got a ticket.'

After Kim explained the situation to the council, the ticket was withdrawn.

## Checklist

### The step-by-step approach to appealing unfair tickets

■ **Written appeal** Start your appeal informally by writing to the council explaining in detail why you disagree with the ticket and enclosing any evidence to support your case. If you write within 14 days of receiving the notice, the early-payment discount period will usually be frozen until you receive a response.

■ **Formal representation** If your informal appeal is rejected, you'll be sent a notice to owner (NTO) that officially orders you to pay the original charge. It

also tells you how to present further formal representations to the council. If you've received a postal parking ticket, this will also act as an NTO, so your appeal will start at this stage. You have 28 days from the date of the NTO to either pay or lodge a formal appeal.

■ **Notice of appeal** If you are successful, the council will send you confirmation that the ticket is cancelled. If you're unsuccessful, you'll receive a notice of rejection of representations along with an independent adjudication 'Notice of Appeal' form. You can either pay the charge or use this form to make your appeal within 28 days.

There are four independent adjudication services for different parts of the UK. The Notice of Appeal form will tell



you which one to write to, and also has information about how to present your appeal.

You'll be able to opt for either a postal or personal hearing; adjudication service staff will then send you formal acknowledgement that your appeal has been received and registered. The council must also send you a copy of its evidence within 21 days.

■ **Final decision** If you've asked for a postal decision, you will be notified of the week in which your appeal is due to be decided. If you have asked for a personal appeal, you'll usually receive at least 21 days' notice of the date, time and location.



## PARKING TICKETS EXPLAINED

**Penalty charge notices are the most common type of tickets, but you could be issued any of the following**

For a complete guide to fighting all kinds of tickets, read our consumer rights guide at [www.which.co.uk/parkingfines](http://www.which.co.uk/parkingfines).

### Fixed penalty notice

The police and police traffic wardens enforce more serious parking rules, such as vehicles likely to endanger road users, with fixed penalty notices (FPNs). FPNs are also issued for a wider range of parking offences



in areas that do not operate decriminalised parking, such as rural parts of Scotland.

These tickets are enforced through the criminal justice system, which means the only official system of appeal is usually to opt to have your case heard in court and plead not guilty.

### Standard charge notice / excess charge notice

Some local authorities issue these in their own car parks or in paid bays on the street. They are processed by the local council, and enforcement takes place in the local magistrates' court if there's a dispute.

Appeal processes vary, but in general you'll need to write to the issuer explaining why the notice is unfair or wrong. If it's rejected, you'll usually be able to appeal again to a more senior council official. These tickets are not eligible for independent adjudication services.

### Private parking tickets

If you break the terms of most privately operated car parks, such as those run by NCP or ECP, you'll be given a ticket (sometimes called a parking charge notice or penalty control notice) but there's no standardised system of appeals. Most companies have their own system, which will be detailed on the parking notice.



## INSIDER INFORMATION

**Our Which? Legal Service experts answer your questions about parking appeals**

**Q** How can I increase my chances of winning an appeal?

**A** Reply within 14 days, including the PCN number in your letter. Make sure that you are using one of the six prescribed defences listed at [www.parking-appeals.gov.uk](http://www.parking-appeals.gov.uk). Although councils can use their discretion where the circumstances warrant it, they don't have to.

**Q** I've received a postal PCN as I was caught by a CCTV camera. I was actually loading in an area where



loading was permitted. What should I do?

**A** Appeal in writing, setting out the reasons for appeal. If possible, take a photograph of the sign permitting loading.

**Q** I want to go to independent adjudication but I'm scared of losing my early-payment discount. What should I do?

**A** You cannot pay under protest. You have to either accept the fine or follow the appeals process. If the appeal is rejected by the adjudicator, you will have to

pay the higher fine and possibly costs.

**Q** I received a parking ticket in a private car park. Can I complain to the council?

**A** No. Tickets issued for breaking the terms of a private car park (or for parking on private land) are subject to completely different rules. You will need to complain directly to the ticket issuer.



## Contacts

**Appeal Now**  
020 7193 0985  
[www.appealnow.com](http://www.appealnow.com)  
**Department for Transport**  
020 7944 8300; [www.dft.gov.uk](http://www.dft.gov.uk)  
**National Parking Adjudication Service**  
0161 242 5252  
[www.parking-appeals.gov.uk](http://www.parking-appeals.gov.uk)  
**Scottish Parking Appeals Service**  
0131 221 0409  
**Traffic Penalty Tribunal (Northern Ireland)**  
028 9072 8938; [www.tptni.org](http://www.tptni.org)

## The future

**The days of pay and display could be numbered**

Westminster City Council is set to do away with meters by the end of this year in favour of 'pay by phone' parking. This enables motorists to pay by text message. It hopes the system will provide greater flexibility and help motorists avoid unnecessary fines. The council has been at the forefront of pioneering cashless payment systems, installing the UK's first Chip and Pin pay-and-display machines in 2006.