



Department
for Transport

Simplifying the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

Government Response

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Introduction

Introduction

- 1 The purpose of this consultation was to consider technical changes to *The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007* (henceforth referred to as the "2007 Order").
- 2 The 2007 Order specified the penalty charge bands applicable to parking contraventions in civil enforcement areas, and assigned administrative 'contravention codes' in respect of specific higher-level contraventions. Today, the lower band has fallen into disuse, and some of the contravention codes have become outdated.
- 3 The consultation posed six questions on three proposals to amend the 2007 Order. Our proposals mainly addressed administrative technicalities and it is unlikely that they would have any visible impact on the motoring public.
- 4 The Department received a total of 32 responses to the consultation. Questions 2 and 5 were of greatest interest to respondents.

1. Responses in detail

Question 1 -

Do you believe the two band system should be dispensed with by removing the existing lower level Band 1? If not, please explain why and offer any alternative suggestion you may have.

- 1.1 All of the 32 respondents (100%) agreed with dispensing the two band system by removing the existing Band 1, which is not used. Several local authorities felt that it would be a mistake to impose a 'cap' without revising the levels of charges.
- 1.2 **Government response: in light of our decision on Question 2 below, the Government believes that the lower band should be retained as it gives local authorities the flexibility to set a lower level of penalty charges, should they ever wish to do so in the future.**

Question 2 -

Do you agree the higher and lower penalty levels in Band 2, £70 and £50, should be maximum levels rather than fixed values? If not, why?

- 1.3 Of the 32 responses received, 11 (or 34%) agreed that local authorities should be given the discretion to set penalty charge levels below a maximum limit.
- 1.4 The other 66% were of the view that having various penalty charges set for the same contravention across the nation would lead to inconsistency for motorists. They thought it would be a mistake to establish a cap without reviewing the penalty charge levels, which have remained unchanged since 2001. It was suggested that a complete review of the penalty charges should be undertaken instead, with the intention of increasing the penalty charge levels and offering discretion for local authorities to set lower penalty charges should they wish to do so.
- 1.5 It was questioned how the same contravention could warrant a different penalty charge because it took place in a different local area. It was also pointed out that the proposal could result in different penalty charges for the same contraventions occurring along the same road if the road crosses into a neighbouring local authority's area.
- 1.6 One respondent was of the view that the higher and lower penalty charge levels were intended to reflect the severity of the contravention but this principle would be undermined if local authorities were allowed to set penalty charges below a maximum limit. It was suggested that appellants would try to negotiate a lower penalty charge if they were aware of lower penalties for the same contravention in other boroughs.

- 1.7 **Government response: the Government recognises concerns that significant variations in penalty charge levels across different geographical areas might not be helpful to motorists and agrees that penalty charges should remain at fixed levels. While the Government is aware that it has been some time since the parking penalty charge levels have been reviewed, there are no plans at present to increase the levels of parking penalty charges.**
- 1.8 One respondent suggested that revenues for highway maintenance would be reduced if local authorities were to set lower levels of penalty charges.
- 1.9 **Government response: local authorities are expected to ensure that parking enforcement operations are self-financing and sustainable. Penalty charges are intended to deter parking contraventions, not to raise revenues.**

Question 3 -

Do you agree that the specific codes should no longer be set out in an Order? If not, why?

- 1.10 No respondents objected to the proposal to remove contravention codes from the 2007 Order.
- 1.11 One local authority stated that this approach would lead to greater consistency as any updates made by London Councils could be reflected in the codes that apply across the rest of England, without any need to amend legislation.
- 1.12 Some noted that the wording of the codes in the 2007 Order was not always aligned with the wording used in London Councils' contravention codes, and these subtle differences have led to appeals being upheld by the adjudicator.
- 1.13 Another authority stated that the proposed change would affect their process for making Traffic Regulation Orders.
- 1.14 A recommendation was made for a reduction in the number and description of codes, recommending only one code; for example, 'parked in contravention' followed by supplementary descriptions. It was pointed out that in the absence of a prescriptive list of codes in an Order, good guidance would be required, especially for the purposes of adjudication.
- 1.15 Another local authority agreed with the proposal, saying that it was up to local authorities to adhere to guidance.
- 1.16 One authority specifically recommended that the wording of 'non-electric vehicles parked in an electric vehicle charging bay' within the list of higher level contraventions, should be changed to 'an electric vehicle parked in an electric bay but not connected to the charging point'.
- 1.17 **Government response: the Government agrees that the contravention codes contained in the 2007 Order should be updated, and this is why we have proposed removing the prescriptive list of codes from the Order so that it can be easily updated and kept aligned with the version issued by London Councils. DfT will also consider the additional suggestions made in response to this question.**

Question 4 -

Do you agree in principle that England should adopt Wales' approach to setting contravention codes? If not, please explain why and offer your ideas for an alternative system.

- 1.18 Of the 32 responses received, 28 (88%) agreed in principle that the Welsh model should be adopted to define the contravention codes.
- 1.19 One of the councils suggested that the guidance would need to include enforcement not available outside London.
- 1.20 Another noted that retaining the existing codes would lessen the administrative burden.
- 1.21 One council had mixed views and hoped that the proposal would ensure the codes could be updated more easily than at present.
- 1.22 Another council disagreed with the proposal, suggesting that a simpler system with a more explicit definition of the codes should be adopted for the benefit of motorists.
- 1.23 **Government response: it should be noted that the Government's proposal will simplify the system, and will provide the flexibility to amend the code descriptions if justified.**

Question 5 -

If you answered yes to Question 4, would the list of codes in Table 2 meet the needs of local authority parking operators, or do you have suggestions for an amended list?

[Note: it is proposed that 2(d)&(e) and 11(e)&(f) would include, among other situations, on-street and off-street respectively, where a non-electric vehicle is parked in an electric vehicles charging bay or an electric vehicle is parked but not charging]

- 1.24 Of the 32 respondents, 18 (56%) thought the list of codes in Table 2 met the requirements of their local authority and 14 (44%) disagreed. Only five respondents (15%) did not provide any details of why they disagreed.
- 1.25 Among the comments received from those who disagreed were: "the list should contain all the higher level contravention codes, and the code, 'without displaying a valid pay and display ticket' is currently a lower level contravention and it is not clear why it should be a higher level contravention".
- 1.26 It was pointed out that the list should include a contravention code for parking in a cycle lane, parking in a bus lane, and clarity was needed to confirm whether 2(d) could be used to enforce temporary Traffic Regulation Orders (TROs).
- 1.27 It was also pointed out that Code 92 was missing from the list and that the current codes were adapted for the benefit of London which could be problematic for authorities outside London. It was proposed that a consultation should be undertaken on how applicable the London contravention codes are, and updated on an ongoing basis.

- 1.28 Clarification was requested on whether 2(a) (regarding pay and display tickets) applies where bays are not shared use. One respondent thought there was inconsistency with similar contraventions occurring on-street and off-street, and noted that the list did not cover off-street obstructions. It was suggested that the wording with regard to “an electric vehicle is parked but not charging” is too broad as technically that would include an electric vehicle where the charging cycle had finished. Therefore, the wording should be about an electric vehicle parked in an electric vehicles charging bay but not connected to the charging point.
- 1.29 **Government response: It should be acknowledged that where Question 5 referred to the list of codes in Table 2 it should, in fact, have referred to the list of higher level contraventions in Table 2 (though this should have been apparent from the heading of Table 2). Table 2 shows the higher level contravention types that we propose to include in an Order and is similar to what is done in Wales, with which respondents have agreed. The actual list of contravention codes would be published in guidance. This should give respondents reassurance that the points mentioned above can be considered when the list of codes is published in guidance after the legislation is put in place. Furthermore, as the publication of codes will become an administrative procedure not requiring future legislative changes, it can be easily amended as and when necessary to reflect changing circumstances.**

Question 6 -

If you do not agree with England adopting Wales' approach, please explain why.

- 1.30 Nine respondents thought it was a redundant question as it was similar to Question 4. One respondent said the proposal would require councils to amend their TROs to reflect the new definition of what constitutes a higher level contravention.
- 1.31 **Government response: it is for local authorities to determine the contents of their Traffic Regulation Orders.**

Other general comments

- 1.32 A general comment was made requesting legislation to enforce school keep clear markings without the requirement for TROs.
- 1.33 **Government response: the Traffic Signs Regulations and General Directions 2016 removed the need for a Traffic Regulation Order for the school keep clear marking and linked the offence to Section 36 of the Road Traffic Act 1988. However, as the school keep clear marking is not listed in Part 4 of Schedule 7 of the Traffic Management Act 2004, we advise local authorities outside London to continue with TROs as they are unable to enforce unless a TRO is in place.**
- 1.34 One respondent expressed disappointment about the penalty charge levels not being increased while planning fees were increased.
- 1.35 **Government response: the Government has no plans to increase the penalty charge levels for parking contraventions.**

2. Conclusion

- 2.1 The lower band of penalty charges will be retained, as this gives local authorities the discretion to reduce their parking penalties, if elected councillors wish to adopt such a policy. This allows for more proportionate parking enforcement, reflecting the Government's broader policy of tackling unreasonable and over-zealous parking practices.
- 2.2 Most respondents agreed with our proposal to adopt the Welsh model of listing higher level contravention types in an Order while publishing the specific contravention codes in guidance. The Government will therefore seek to amend the 2007 Order to this effect.