

## **Advice Note: Power to Use Cameras to Enforce Parking and Loading Restrictions within Mandatory Cycle Lanes**

1. On 22<sup>nd</sup> June 2020, SI 2020/548 came into force. This SI amended the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 to include in the list of circumstances where PCNs for parking contraventions may be issued by post on the basis of camera evidence: parking contraventions in a mandatory cycle lane.
2. This note provides some guidance on things to remember when enforcing against parking in mandatory cycle lanes. Advice on how to provide space for cycling within highways – including cycle lanes – is included in Local Transport Note 2/08.
3. Your attention is also drawn to [“The Secretary of State’s Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions”](#). That Guidance sets out the policy framework for Civil Parking Enforcement. It explains how to approach, carry out and review parking enforcement.
4. All enforcement authorities in England must have regard to this Guidance (as stipulated by section 87 of the Traffic Management Act 2004) when exercising their civil parking enforcement functions.
5. The Traffic Signs Regulations and General Directions 2016 (TSRGD) prescribes the appearance of mandatory cycle lanes; the road marking to [diagram 1049B in Schedule 9](#), is what defines a mandatory cycle lane. While TSRGD 2016 removed the requirement to place upright signs to [diagram 959.1 or 960.1](#) in conjunction with the 1049B marking, authorities should do so to indicate the times of operation; even when operational at all times. The upright sign to [diagram 958 in Schedule 11](#) gives advance warning of an oncoming mandatory cycle lane.
6. **It should be noted that, while vehicles are not permitted to be driven within the boundary of a mandatory cycle lane during its hours of operation, it is not an offence to park at these locations; unless there are also single or double yellow line markings in operation at the kerbside. Similarly, unless a loading restriction is in force, indicated by single or double yellow kerb marks to indicate part-time or full-time respectively, there is no offence caused by the act of boarding or alighting, loading or unloading (or other relevant exemption) at these locations.**
7. **We have not changed the nature of the parking contraventions, the new SI merely allows local authorities to use approved camera devices (like those they already use to enforce parking in bus lanes, red routes, parking restrictions near schools, and bus stop/stand clearways) to enforce standard parking restrictions that happen to be located within the solid white line of a mandatory cycle lane.**
8. In enforcing parking restrictions referred to in paragraph 6 that may be present in mandatory cycle lanes, the local authority will now be able to collect evidence of the contravention from either direct observation or from the record of an approved device<sup>1</sup>. Any such device must<sup>2</sup> be certified by the Secretary of State. To comply with certification the system must be used in accordance with the Guidelines issued by the Vehicle Certification Agency. Information about how the legal requirements will be assessed, and how to apply for certification is available from [www.vca.gov.uk](http://www.vca.gov.uk)

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<sup>1</sup> A device specified in SI 2007/3486

<sup>2</sup> SI 2007/3486 and SI 2007/3483, Regulation 10

9. The Secretary of State recommends that approved devices are used only where enforcement by a civil enforcement officer (CEO) is not practical. A camera system should be well publicised and indicated with prescribed traffic signs.
10. It is recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the penalty charge notice.
11. Approved devices should not be used where permits or exceptions (such as Blue Badges) not visible to the equipment may apply. In such circumstances, the camera may be useful in helping to gather evidence – for example cameras could be used to help identify potential contraventions to which a CEO could be dispatched.
12. In addition, the authority will need to be satisfied whether a vehicle is being used for picking up or setting down passengers and their luggage; which is permitted where parking and loading restrictions are in operation. It is well established that, where a passenger needs to be assisted to their destination because of age or infirmity, the vehicle might need to be left unattended. An observation period is therefore recommended, both to safeguard the reputé of the enforcement regime and to minimise the risk of challenge.
13. Where enforcement is based on CCTV surveillance, authorities should make sure that operators have specialised training.
14. Each enforcement authority should have procedures in place to preserve the integrity of evidence from CCTV cameras and handle and store it securely. The procedures should satisfy the community over the competence and honesty of the system and its operators and compliance with data protection requirements.
15. The CCTV User Group<sup>3</sup> also provides members with general advice and model documents on the use of all types of CCTV systems. These model documents include CCTV User Group Code of Practice and Model Procedures Manual.
16. Authorities should design a system so that fully trained staff are able to:
  - Monitor traffic in accordance with a Code of Practice published by the local authority;
  - Identify the registration number, colour and type of a vehicle contravening traffic restrictions;
  - Support the serving of a PCN to the registered keeper of a vehicle contravening the restrictions;
  - Record evidence of each contravention to ensure that representations and appeals can be answered fully;
  - Produce timed and dated pictorial evidence of any unauthorised driving or stopping to be produced as information to the registered keeper and for any subsequent representations or appeals; and
  - Immediately despatch a CEO and removal truck for targeted enforcement of vehicles contravening traffic restrictions.
17. Authorities must<sup>4</sup> give a discount period – currently 21 days – for a PCN issued based on evidence from an approved device. This is because the PCN also serves as the Notice to Owner, so the motorist does not have the opportunity to make informal representations against it. Paragraph 2 of the Schedule to The Civil Enforcement of

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<sup>3</sup> [www.cctvusersgroup.com](http://www.cctvusersgroup.com)

<sup>4</sup> SI 2007/3483, Schedule, paragraph 3

Parking Contraventions (England) General Regulations 2007 gives details of what must be stated in the PCN.

18. It is recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN. The authority must<sup>5</sup> comply within a reasonable time to requests to see the record of the contravention or send a copy of the still images. Authorities must<sup>6</sup> calculate the date of service of a postal PCN. Unless proved otherwise, service is taken to have been on the second working date after posting.
19. A working day excludes Saturdays, Sundays, New Year's Day, Good Friday, Christmas Day and any other English bank holidays. The date of posting is not necessarily the same as the date on which the back-office staff prepare the PCN. Authorities should make sure that their procedures take account of this.
20. Local authorities using surveillance camera systems in exercising civil parking enforcement must have regard to the guidance in the Surveillance Camera Code of Practice issued by the Surveillance Camera Commissioner under the Protection of Freedoms Act 2012 (s33.1). The requirement to have regard to the code applies to all surveillance camera systems including CCTV, Body Worn Video and Automatic Number Plate Recognition used by your authority. The Code states:  
**'The duty to have regard to this code also applies when a relevant authority uses a third party to discharge relevant functions covered by this code and where it enters into partnership arrangements.'**
21. The Commissioner has developed a suite of [guidance, tools and templates](#) to help organisations comply with the requirements under the Protection of Freedoms Act 2012 and Surveillance Camera Code of Practice.
22. Lastly, Section 1.16 of the code states:  
**'This code is admissible in evidence in criminal or civil proceedings, and a court or tribunal may take into account a failure by a relevant authority to have regard to the code in determining a question in any such proceedings.'**

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<sup>5</sup> SI 2007/3482, regulation 3(6)

<sup>6</sup> S.I. 2007/3483, regulation 3