

### Enforcement and Appeals process for Bus Lanes

Reference to Bus Lanes includes Bus gates and Bus Streets.

The Transport Act 2000 provides local authorities with the powers to use camera enforcement on bus lanes. The County Council has applied for the relevant powers as part of the Pennine Reach scheme and the Penalty Charge Notice (PCN) has been set at £60 with a 50% discount if paid within 14 days. This charge differs from the PCN charge for parking contraventions which is either £50 or £70 depending on the contravention.

The camera enforcement will be carried out by fixed cameras which monitor a given section of the bus lane, known as the trigger point, in order to provide sufficient evidence that a contravention has taken place. The only relevant contravention for bus lanes is Code 34: Being in a Bus Lane\*. This code covers vehicles driving in a bus lane or those who go through a designated bus gate.

The cameras will record the details of all vehicles that pass the trigger point along with footage covering a 20m section of road in order to demonstrate that the vehicle has contravened the bus lane restriction.

Cameras only record if a vehicle has gone through the trigger point which means that there is not a continuous recording to be reviewed but simply a number of discrete sections of footage where the camera detects that a contravention may have been made. This footage can then be refined by being referenced against a pre-set list of Vehicle Registration Marks (VRM) for vehicles that are permitted within the bus lane. One example would be VRM of busses that are likely to be in service on this route. Other examples would be local authority waste collection vehicles and local police vehicles provided it is considered appropriate that such vehicles can use the bus lane in that location.

Footage must be reviewed by a trained and qualified Civil Enforcement Officer (CEO) as only a CEO can issue a PCN. The CEO will review each section of footage in order to determine whether or not a contravention has taken place. The VRM list would be kept under review so that enforcement is as efficient as possible.

On reviewing the footage the CEO will seek to determine that a contravention occurred and that there are no obvious mitigating circumstances and will consider the following in this regard:

- The vehicle has stopped to pick up or set down a passenger and if so every effort was made to move out of the bus lane as soon as it was safe to do so
- The vehicle was loading or unloading (if allowed by the order – must be signed as no loading if loading is not permitted)
- The vehicle made any marginal use of the bus lane for a short period
- The vehicle proceeds in the bus lane for more than 20m
- The vehicle was gaining an advantage over other road users
- The vehicle did not enter the bus lane in order to avoid an accident

- The vehicle was making way for an emergency vehicle to pass

Once the CEO has determined that a contravention has occurred then all the details of the contravention will be downloaded onto the notice processing system that the County Council parking services team currently use for processing PCNs issued for parking contraventions.

From this point the process is similar to the process for PCNs issued for parking contraventions. A request will be made to the DVLA for the keeper detail and once these have been received a PCN will be sent in the post to the registered keeper.

There is a three stage appeals process for PCNs issued directly to vehicles (classed as a Regulation 9 PCN) for parking contraventions, but where a PCN is issued by post (classed as a Regulation 10 PCN) the PCN is also classed as a Notice to Owner meaning that the first stage of the appeals process, the informal challenge, is not available. Bus Lane PCNs are classed as Regulation 10 PCNs and therefore are subject to a two stage appeals process. Therefore those who receive a bus lane PCN will be able to make a formal representation to the County Council and if this is rejected they will be afforded the opportunity to make an appeal to the Traffic Penalty Tribunal (TPT).

The County Council will consider representations and will determine whether to uphold or cancel the PCN based on the evidence of the case. Each case will be determined on its individual merits.

The Bus Lane Contraventions (Penalty Charge Adjudication and Enforcement) (England) Regulations 2004 (SI No 2757) sets out seven grounds on which representations to the County Council can be made. These are listed below:

- The alleged contravention did not occur
- The circumstances leading to the issue of the Penalty Charge Notice are subject to criminal proceedings or a Fixed Penalty Notice has been issued.
- I was not the owner/keeper of the vehicle at the time of the alleged contravention
- I was not the hirer of the vehicle at the time of the alleged contravention
- I was the registered owner/keeper of the vehicle at the date of the alleged contravention but the vehicle:
  - Was on hire to someone else, who had signed a statement taking liability
  - Kept by a motor trader; or
  - Was being used without my consent at the alleged time of the incident.
- The penalty charge exceeds the relevant amount
- Other grounds - The County Council will also consider mitigating circumstances

If the keeper fails to pay the PCN or make an appeal to the TPT then a Charge Certificate will be issued which increases the charge from £60 by 50% to £90. Ultimately if this charge remains unpaid the charge will be registered as a debt and forwarded to Enforcement Agents to enforce the warrant.

\*These are standard contravention codes used nationally and set by the Joint Committee for England Wales for the civil enforcement of Parking and Traffic Regulation Outside London (PATROL) – see <https://www.patrol-uk.info/contravention-codes/>