

Code of Practice

*Use of Closed Circuit Television (CCTV) cameras
for civil parking enforcement*

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To provide feedback or to request a copy of this document in a different format, such as large print, please contact the Parking Services team:

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Queries and complaints about this Code or its general operation should be sent to the address given above.

Queries or appeals against any specific Penalty Charge Notice (PCN) shall be made to the address shown on that PCN.

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1.0 Purpose

The purpose of this Code of Practice is to describe the objectives of using a Closed Circuit Television (CCTV) camera system for the civil enforcement of parking contraventions. The Code also describes the rules that will be followed so that the system is operated in a way that ensures privacy, integrity and fairness.

1.1 Scope

This Code specifically relates to use of CCTV systems for the purposes of enforcing parking regulations. Mobile, transportable and handheld cameras may be used to carry out enforcement and the Council will use vehicles with CCTV cameras fitted. The use of such cameras will be governed by this Code of Practice and any procedures ancillary to it. The systems used are intended only to view activity on public carriageways and footways and will not be used to invade the privacy of any persons in domestic, business or other private premises, buildings or land.

1.2 Commitment & Responsibility

This Code has been developed within the existing framework of relevant legislation and is designed to complement national guidance and recommended practice¹. The Council is committed to ensuring that all data captured by CCTV camera systems is processed fairly and in accordance with the law. Appropriate security measures will be taken to prevent unauthorised access to, alteration, disclosure or destruction of personal data and against accidental loss or destruction of personal data.

2.0 Background

Parking restrictions are designed to manage traffic including by tackling indiscriminate and unsafe parking. This brings benefits for communities by helping to:

- improve road safety for pedestrians, cyclists and motorists
- minimise inconvenience to residents
- reduce traffic congestion
- ensure clear routes for emergency vehicles
- improve journey times for all, including public transport users

¹ For a list of relevant legislation and related guidance documents see Appendix 1.

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2.1 Why use CCTV cameras for enforcement?

Cheshire West and Chester Council is authorised to enforce a range of parking restrictions in the areas formerly managed by Chester City Council and Ellesmere Port & Neston Borough Council. The primary legislation governing parking enforcement is the Traffic Management Act 2004. This Act and subsidiary legislation allows Penalty Charge Notices (PCNs) for contraventions detected with an approved camera system to be issued.

The use of Officers patrolling on foot to detect and gather evidence of parking contraventions is not always effective or practical. For example on school 'keep clear' areas where motorists, on seeing an Officer approaching, drive off only to return and commit the same breach again later. The Traffic Management Act provides a solution to this problem by allowing the use of CCTV enforcement in areas where Officer enforcement is difficult, sensitive or impractical. In addition to carrying out parking enforcement through Officers on foot patrol, the Council will use CCTV enforcement.

The Act provides an approval scheme system for camera systems used for parking enforcement known as 'approved devices'. The CCTV enforcement system used by Cheshire West and Chester Council for parking enforcement will be certified as an 'approved device'.

2.2 How are CCTV camera systems used for enforcement ?

CCTV cameras will be used by specially trained staff to detect and to gather evidence of parking contraventions. Cameras may be mounted on vehicles or may be hand-held. Signs or other appropriate means of publicity will normally be used to advise motorists that CCTV camera enforcement is taking place in the local area. CCTV vehicles will also be clearly marked. Wherever possible advance notice will also be given of the specific location e.g. by publishing the details on the Council's website www.cheshirewestandchester.gov.uk and in the local press.

Contraventions will be detected and evidence gathered using a CCTV system in two ways - either whilst an Officer is present or whilst an Officer is absent. The system is designed so that the enforcement vehicle can be parked at an appropriate location with the camera surveying and recording data without an Officer present. Cameras will be positioned to detect and capture evidence of parking contraventions and will not be used to invade the privacy of any persons in domestic, business or other private premises, buildings or land.

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In all cases images captured by the CCTV system will be reviewed by a trained and experienced member of staff who will decide whether a Penalty Charge Notice (parking ticket) should be issued. Penalty Charge Notices will never be issued without this review first taking place.

Where a Penalty Charge Notice (PCN) is issued the details of the registered keeper will be obtained from the Driver and Vehicle Licensing Agency (DVLA) by following their enquiry procedure. The PCN will be sent to the registered keeper by post. The Regulations governing civil parking enforcement via the use of CCTV camera systems, require PCNs to be sent by post. Therefore PCNs for contraventions detected using CCTV systems will never be placed directly on the vehicle nor will they be handed to the person in charge of the vehicle.

CCTV enforcement will be used where enforcement by Officers on foot is difficult, sensitive or impractical. The CCTV system will be used to detect the types of contraventions where a Penalty Charge Notice might ordinarily be issued instantly. A list of the type of contraventions detectable by an approved device (CCTV system) is provided in Appendix 2. CCTV enforcement will not normally be used where permits or exemptions (such as residents permits or Blue Badges) not visible to the equipment may apply, in these circumstances enforcement will instead be carried out by Enforcement Officers on foot patrol.

2.3 The CCTV system used will be an approved system

The CCTV system used will be certified by the Secretary of State as an 'approved device', suitable and permitted for civil parking enforcement. In order to achieve approved status the device (the camera and recording system) must satisfy certain requirements including:

- A camera which is connected by secure data links to a recording system.
- A camera which is capable of producing, in one or more pictures, a legible image (or images) of the vehicle in relation to the contravention, showing its registration mark and enough of the location to show the circumstances of the contravention.
- A recording system in which recordings are made automatically from the output from the camera; which is secure and reliable and which records at least 5 frames per second.
- A recording system which enables each frame of all captured images to be timed in hours, minutes and seconds and which is dated and sequentially numbered automatically.

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2.4 Ownership, control and release of recordings

All recordings made using the CCTV system are the property of Cheshire West and Chester Council.

A copy of the recording will be made (this will be known as the working copy) and the original recording (master copy) will be logged in a register and placed in secure storage. Both the master and the working copy will be held in a secure, restricted-access room.

The recording of alleged contraventions will be reviewed by only those Officers trained in the operation of the camera system and who have knowledge and understanding of parking contraventions. The Officer will review recordings in a secure, private and restricted-access location and will determine whether a Penalty Charge Notice is to be issued.

Although there is no legal requirement for the Council to send a copy of the record of the contravention, it will nonetheless aim to include a copy of the captured image with the Penalty Charge Notice wherever possible. Where the image includes personal details of a party other than the recipient of the Notice these details will be obscured before a copy of the image is released.

In all other cases data captured by the CCTV system will not be released to or for viewing by any individual except in the specific circumstances described below. Recordings will not be copied or released without the formal agreement of the Team Leader, Parking (or their nominated deputy).

1. To the recipient of the Penalty Charge Notice (or their appointed representative). The Council will comply with written requests from the recipient (or appointed representative) to be provided with still images from the record captured by the approved device (i.e. the CCTV system) or to view (or for their representative to view) the record within a reasonable time and no charge will be made in respect of this request. The Council will arrange for the viewing of the record to take place in a secure and private location during normal office hours. To ensure that records are seen only by individuals who are authorised and entitled the viewing of recordings will only be arranged following formal agreement by the Team Leader, Parking (or their nominated deputy). All viewings will be supervised by an officer nominated by the Team Leader. Proof of identity will be required before

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viewing can take place. Details of requests made and of viewings that have taken place will be maintained by Parking Services.

2. To authorised Parking Services staff in order for parking enforcement activity (including activity associated with the issuing and processing of Penalty Charge Notices) to take place. This includes responding to appeals or representations which can involve the submission of evidence to the Traffic Penalty Tribunal.
3. Where the data is required by a law enforcement agency e.g. to the police. Any recording released to an enforcement authority shall not be used for anything other than the purpose specified and identified when released to that enforcement authority.
4. Where a court order so requires.
5. To allow an audit by senior staff to take place.
6. For training purposes.

2.5 Data Protection

All personal data obtained by virtue of the Scheme, shall be processed fairly and lawfully and, in particular, shall only be processed in the exercise of achieving the stated objectives of the Scheme. In processing personal data there will be total respect for everyone's right to respect for his or her private and family life and their home. The storage and security of the data will be strictly in accordance with the requirements of the Data Protection Act 1998 and additional locally agreed procedures.

The 'data controller' is Cheshire West & Chester Council and the day to day responsibility for management and control of the data will be devolved to the Team Leader, Parking.

All data will be processed in accordance with the principles of the Data Protection Act, 1998 which, in summarised form, includes, but is not limited to the following principles:

- i) All personal data will be obtained and processed fairly and lawfully.
- ii) Personal data will be held only for the purposes specified.
- iii) Personal data will be used only for the purposes, and disclosed only to the people, shown within this code of practice.

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- iv) Only personal data will be held which are adequate, relevant and not excessive in relation to the purpose for which the data are held.
- v) Steps will be taken to ensure that personal data are accurate and where necessary, kept up to date.
- vi) Personal data will be held for no longer than is necessary.
- vii) Individuals will be allowed access to information held about them and, where appropriate, permitted to correct or erase it.
- viii) Procedures will be implemented to put in place security measures to prevent unauthorised or accidental access to, alteration, disclosure, or loss and destruction of, information.

Requests for information (subject access requests)

Any request from an individual for the disclosure of personal data which he/she believes is recorded will be directed in the first instance to the Team Leader, Parking.

The principles of Sections 7 and 8, 10 and 12 of the Data Protection Act 1998 (Rights of Data Subjects and Others) shall be followed in respect of every request. Those Sections are reproduced as Appendix 3 to this Code. If the request can only be complied with by identifying another individual, permission from all parties must be considered (in the context of the degree of privacy they could reasonably anticipate from being in that location at that time) in accordance with the requirements of data protection legislation.

Any individual making a request must be able to satisfactorily prove their identity and provide sufficient information to enable the data to be located.

Exemptions to the Provision of Information

In considering a request made under the provisions of Section 7 of the Data Protection Act 1998, reference may also be made to Section 29 of the Act which includes, but is not limited to, the following statement:

Personal data processed for any of the following purposes -

- i) the prevention or detection of crime
- ii) the apprehension or prosecution of offenders

are exempt from the subject access provisions in any case 'to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection'.

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Freedom of Information

Any request made under the Freedom of Information Act 2000 in relation to any material captured stored or retained as a result of the use of CCTV cameras for civil parking enforcement will be considered paying full regard to any relevant personal data or other applicable exemptions.

2.6 Disposal of Records

Records will be periodically deleted or physically destroyed (e.g. shredded) once they are no longer required (5 years after the record was created).

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Appendix 1

List of relevant legislation and guidance documents

- The Traffic Management Act 2004
- The Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007
- The Data Protection Act 1998
- The Freedom of Information Act 2000
- Information Commissioner's Office CCTV Code of Practice revised edition 2008
- DfT 2008 Traffic Management Act: Guidance to Local Authorities on Civil Enforcement of Parking Contraventions
- Operational Guidance to Local Authorities: Parking Policy & Enforcement March 2008

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Appendix 2

Types of contravention detectable by an approved device

- Stopped in a restricted area outside a school.
- Parked on a taxi rank.
- Stopped on a pedestrian crossing or a crossing area marked by zigzags.
- Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force.
- Parked wholly or partly on a cycle track.
- Parked on a restricted bus stop/stand.
- Stopped where prohibited (on a red route or clearway).
- Not parked correctly within the markings of the bay or space/ Parked beyond the bay markings.
- Parked in contravention of a coach ban.
- Parked in a suspended bay/space or part of bay/space.
- Parked causing an obstruction off street. Parked in a parking place or area not designated for that class of vehicle.
- Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.

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Appendix 3

Sections 7 and 8, 10 and 12 of the Data Protection Act 1998

7 Right of access to personal data

(1) Subject to the following provisions of this section and to sections 8 and 9, an individual is entitled—

(a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,

(b) if that is the case, to be given by the data controller a description of—

(i) the personal data of which that individual is the data subject,

(ii) the purposes for which they are being or are to be processed, and

(iii) the recipients or classes of recipients to whom they are or may be disclosed,

(c) to have communicated to him in an intelligible form—

(i) the information constituting any personal data of which that individual is the data subject, and

(ii) any information available to the data controller as to the source of those data, and

(d) where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.

(2) A data controller is not obliged to supply any information under subsection (1) unless he has received—

(a) a request in writing, and

(b) except in prescribed cases, such fee (not exceeding the prescribed maximum) as he may require.

(3) A data controller is not obliged to comply with a request under this section unless he is supplied with such information as he may reasonably require in order to satisfy himself as to the identity of the person making the request and to locate the information which that person seeks.

(4) Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless—

(a) the other individual has consented to the disclosure of the information to the person making the request, or

(b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.

(5) In subsection (4) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that subsection is not to be construed as excusing a data controller from communicating so much of the information sought by the request as can be communicated without disclosing the identity of the other individual concerned, whether by the omission of names or other identifying particulars or otherwise.

(6) In determining for the purposes of subsection (4)(b) whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual concerned, regard shall be had, in particular, to—

(a) any duty of confidentiality owed to the other individual,

(b) any steps taken by the data controller with a view to seeking the consent of the other individual,

(c) whether the other individual is capable of giving consent, and

(d) any express refusal of consent by the other individual.

(7) An individual making a request under this section may, in such cases as may be prescribed, specify that his request is limited to personal data of any prescribed description.

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(8) Subject to subsection (4), a data controller shall comply with a request under this section promptly and in any event before the end of the prescribed period beginning with the relevant day.

(9) If a court is satisfied on the application of any person who has made a request under the foregoing provisions of this section that the data controller in question has failed to comply with the request in contravention of those provisions, the court may order him to comply with the request.

(10) In this section—

- *“prescribed” means prescribed by the Secretary of State by regulations;*
- *“the prescribed maximum” means such amount as may be prescribed;*
- *“the prescribed period” means forty days or such other period as may be prescribed;*
- *“the relevant day”, in relation to a request under this section, means the day on which the data controller receives the request or, if later, the first day on which the data controller has both the required fee and the information referred to in subsection (3).*

(11) Different amounts or periods may be prescribed under this section in relation to different cases.

8 Provisions supplementary to section 7

(1) The Secretary of State may by regulations provide that, in such cases as may be prescribed, a request for information under any provision of subsection (1) of section 7 is to be treated as extending also to information under other provisions of that subsection.

(2) The obligation imposed by section 7(1)(c)(i) must be complied with by supplying the data subject with a copy of the information in permanent form unless—

- (a) the supply of such a copy is not possible or would involve disproportionate effort, or*
- (b) the data subject agrees otherwise;*

and where any of the information referred to in section 7(1)(c)(i) is expressed in terms which are not intelligible without explanation the copy must be accompanied by an explanation of those terms.

(3) Where a data controller has previously complied with a request made under section 7 by an individual, the data controller is not obliged to comply with a subsequent identical or similar request under that section by that individual unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

(4) In determining for the purposes of subsection (3) whether requests under section 7 are made at reasonable intervals, regard shall be had to the nature of the data, the purpose for which the data are processed and the frequency with which the data are altered.

(5) Section 7(1)(d) is not to be regarded as requiring the provision of information as to the logic involved in any decision-taking if, and to the extent that, the information constitutes a trade secret.

(6) The information to be supplied pursuant to a request under section 7 must be supplied by reference to the data in question at the time when the request is received, except that it may take account of any amendment or deletion made between that time and the time when the information is supplied, being an amendment or deletion that would have been made regardless of the receipt of the request.

(7) For the purposes of section 7(4) and (5) another individual can be identified from the information being disclosed if he can be identified from that information, or from that and any other information which, in the reasonable belief of the data controller, is likely to be in, or to come into, the possession of the data subject making the request.

10 Right to prevent processing likely to cause damage or distress

(1) Subject to subsection (2), an individual is entitled at any time by notice in writing to a data controller to require the data controller at the end of such period as is reasonable in the circumstances to cease, or not to begin, processing, or processing for a specified purpose or in a specified manner, any personal data in respect of which he is the data subject, on the ground that, for specified reasons—

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- (a) the processing of those data or their processing for that purpose or in that manner is causing or is likely to cause substantial damage or substantial distress to him or to another, and*
- (b) that damage or distress is or would be unwarranted.*
- (2) Subsection (1) does not apply—*
- (a) in a case where any of the conditions in paragraphs 1 to 4 of Schedule 2 is met, or*
- (b) in such other cases as may be prescribed by the Secretary of State by order.*
- (3) The data controller must within twenty-one days of receiving a notice under subsection (1) (“the data subject notice”) give the individual who gave it a written notice—*
- (a) stating that he has complied or intends to comply with the data subject notice, or*
- (b) stating his reasons for regarding the data subject notice as to any extent unjustified and the extent (if any) to which he has complied or intends to comply with it.*
- (4) If a court is satisfied, on the application of any person who has given a notice under subsection (1) which appears to the court to be justified (or to be justified to any extent), that the data controller in question has failed to comply with the notice, the court may order him to take such steps for complying with the notice (or for complying with it to that extent) as the court thinks fit.*
- (5) The failure by a data subject to exercise the right conferred by subsection (1) or section 11(1) does not affect any other right conferred on him by this Part.*

12 Rights in relation to automated decision-taking

- (1) An individual is entitled at any time, by notice in writing to any data controller, to require the data controller to ensure that no decision taken by or on behalf of the data controller which significantly affects that individual is based solely on the processing by automatic means of personal data in respect of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct.*
- (2) Where, in a case where no notice under subsection (1) has effect, a decision which significantly affects an individual is based solely on such processing as is mentioned in subsection (1)—*
- (a) the data controller must as soon as reasonably practicable notify the individual that the decision was taken on that basis, and*
- (b) the individual is entitled, within twenty-one days of receiving that notification from the data controller, by notice in writing to require the data controller to reconsider the decision or to take a new decision otherwise than on that basis.*
- (3) The data controller must, within twenty-one days of receiving a notice under subsection (2)(b) (“the data subject notice”) give the individual a written notice specifying the steps that he intends to take to comply with the data subject notice.*
- (4) A notice under subsection (1) does not have effect in relation to an exempt decision; and nothing in subsection (2) applies to an exempt decision.*
- (5) In subsection (4) “exempt decision” means any decision—*
- (a) in respect of which the condition in subsection (6) and the condition in subsection (7) are met, or*
- (b) which is made in such other circumstances as may be prescribed by the Secretary of State by order.*
- (6) The condition in this subsection is that the decision—*
- (a) is taken in the course of steps taken—*
- (i) for the purpose of considering whether to enter into a contract with the data subject,*
- (ii) with a view to entering into such a contract, or*
- (iii) in the course of performing such a contract, or*
- (b) is authorised or required by or under any enactment.*
- (7) The condition in this subsection is that either—*

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(a) the effect of the decision is to grant a request of the data subject, or

(b) steps have been taken to safeguard the legitimate interests of the data subject (for example, by allowing him to make representations).

(8) If a court is satisfied on the application of a data subject that a person taking a decision in respect of him ("the responsible person") has failed to comply with subsection (1) or (2)(b), the court may order the responsible person to reconsider the decision, or to take a new decision which is not based solely on such processing as is mentioned in subsection (1).

(9) An order under subsection (8) shall not affect the rights of any person other than the data subject and the responsible person.