



Weymouth & Portland  
Borough Council

## **Annual report on parking enforcement operations 2018/2019**



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## Introduction

Welcome to Weymouth & Portland Borough Council's (the Council) twelfth and final annual report on parking enforcement operations, which covers the year from 1<sup>st</sup> April 2018, to 31<sup>st</sup> March 2019.

The Council, which has provided more than thirty off-street car parks for use by the public, will cease to exist on 31<sup>st</sup> March 2019, as will Dorset County Council, East Dorset District Council, North Dorset District Council, Purbeck District Council and West Dorset District Council. With effect from 1<sup>st</sup> April 2019 they will all be replaced by a single new unitary council, Dorset Council, which will deliver services throughout the whole of the areas previously administered by those aforementioned councils.

Most towns within the new Dorset Council's area already have their own Town Councils. These will continue to provide some local services and to champion local issues with the new unitary authority. Portland has had a Town Council for many years and I am pleased to report that, as part of this local government re-organisation process, a new Weymouth Town Council is being created.

Whilst I am saddened by the loss of this Borough Council, It is hoped that, over the next few years, the new Dorset Council will deliver considerable financial and efficiency savings, as well as improved services. The new council will have responsibility for both on and off-street parking matters and I hope that, following the amalgamation of the various parking departments, parking matters will continue to be handled professionally, efficiently and in a fair and open manner.

As in previous years, sections 1 and 2 of this report give general advice and guidance concerning parking in car parks and contain details of the parking policies and guidelines which Weymouth & Portland Borough Council had set for both those of its staff who issued Penalty Charges ('parking tickets') and for those of its staff who dealt with motorists' appeals against those charges.

Section 3 of this report deals with the Council's parking related statistical and financial performance over the period from 1st April 2018 until its final day of operation on 31<sup>st</sup> March 2019.

For local authorities, the provision of car parks, the setting of charges and regulations for their use and issues relating to the enforcement of those regulations can lead to some controversy. I am however grateful to have had the opportunity to have been closely involved with this area of the Borough Council's operations and I hope that those members of staff who have been employed in our Parking Services Department will be able to continue to deliver a high quality service from within the new Dorset Council.



**Councillor Colin Huckle**  
**Briefholder for Transport and Infrastructure**  
**Weymouth and Portland Borough Council**

**31<sup>st</sup> March 2019**

## Abbreviations

The following abbreviations are used in this report;

<b>CEA</b>	Civil Enforcement Area
<b>CEO</b>	Civil Enforcement Officer
<b>CPE</b>	Civil Parking Enforcement
<b>DfT</b>	Department for Transport
<b>DVLA</b>	Driver and Vehicle Licensing Authority
<b>NPAS</b>	National Parking Adjudication Service
<b>NtO</b>	Notice to Owner
<b>PCN</b>	Penalty Charge Notice
<b>PPA</b>	Permitted Parking Area
<b>RTA 91</b>	Road Traffic Act 1991
<b>SPA</b>	Special Parking Area
<b>TEC</b>	Traffic Enforcement Centre
<b>TMA 2004</b>	Traffic Management Act 2004
<b>TPT</b>	Traffic Penalty Tribunal
<b>TRO</b>	Traffic Regulation Order

# Section 1

## Parking restrictions

### 1.1 Parking enforcement – The legal background

The Road Traffic Regulation Act 1984 authorised local authorities to make Traffic Regulation Orders in order to control traffic movements and parking provision within their areas. Under that Act the Council's scope for parking control was mainly limited to the issuing of Excess Charge Notices for mostly off-street (car park) offences. Responsibility for other offences (such as parking on 'yellow lines') remained with police officers and traffic wardens. The income from Fixed Penalty Notices issued by police forces, and by the traffic wardens employed by them, was not retained locally, it was instead paid to the Exchequer.

The police service was increasingly unable to provide the resources necessary to either deal directly with parking offences, or to fund and manage the traffic warden service. A number of forces indicated their support for another agency taking on responsibility for parking enforcement. The consequences of the lack of enforcement, in terms of road safety and congestion, were deemed unacceptable and, in order to address the problem, the Government introduced the Road Traffic Act 1991 (RTA 91).

This enabled local authorities to establish Permitted Parking Areas and Special Parking Areas, within which non-endorsable parking offences would be decriminalised. Civil enforcement of those parking contraventions could then be undertaken by parking attendants employed directly, or indirectly, by the local authority. Penalty Charge Notices (PCNs) could be issued for perceived breaches of the parking restrictions within those areas and, unlike the previous system, the local authority would retain the income from those PCNs to help fund their enforcement operations.

The aim was that those de-criminalised enforcement operations would in effect be self funding. Whilst raising revenue was not to be an objective of enforcement, should their enforcement operations produce a surplus of funds at the end of the financial year, those funds could be spent to either improve off-street parking provision, or on specified transport related matters.

Adoption of RTA 91 powers was mandatory for London boroughs but optional for other local authorities. Following consultations with the Dorset Police and with Dorset County Council, in order to further Dorset County Council's transportation policies through the effective control of parking, Weymouth and Portland Borough Council (the Council), took on these powers on 25<sup>th</sup> November 2002. Dorset County Council is the local Highway Authority and, when enforcing on-street parking restrictions within Weymouth and Portland, this Council did so on behalf of the County Council, under the terms of an agency agreement.

Subsequently, the introduction of the parking related sections of Part 6 of the Traffic Management Act 2004 (TMA 2004) on 31<sup>st</sup> March 2008 again changed the legal framework. It widened the scope of local authority parking enforcement, it aimed to introduce greater openness and professionalism within parking operations and it largely harmonised the regulations applicable to authorities inside London with those pertaining to authorities outside of the Capital. Under the new Act de-criminalised parking enforcement became Civil Parking Enforcement, Permitted Parking Areas and

Special Parking Areas became Civil Parking Areas and Special Enforcement Areas and Parking Attendants were re-named Civil Enforcement Officers (CEOs).

The regulations accompanying TMA 2004 urged greater communication by local authorities of their parking policies, guidelines and performances and recommended that this could partly be achieved through the publication of annual reports, such as this one.

The on-street parking agency agreement was terminated by the County Council in 2015. Since then the County Council's own officers have patrolled and enforced the parking restrictions on the Borough's streets, whilst the Borough Council's officers have continued to patrol and enforce the restrictions within the Borough Council's off-street car parks.

## 1.2 Parking policies

Parking policies are an integral part of the Council's local authority transport strategy. In accordance with the Department for Transport's "*Full Guidance on Local Transport Plans*" the Council's policies are aimed at tackling congestion and changing travel behaviour.

In setting those policies the Council has taken account of existing and projected levels of demand for parking by all classes of vehicle and the availability and pricing of on-street and off-street parking places.

With regards to enforcement operations, the Council has set and continues to appraise;

- The optimum level of compliance with parking controls.
- The level of enforcement necessary to secure that compliance.
- The levels of penalty charges.
- The need to effectively resource the operation and to ensure that all parking staff are appropriately trained.

When formulating and appraising policies the Council consults locally with individuals and with businesses who have a range of parking needs. It takes into account the views of the police and, where possible, works with neighbouring authorities to achieve a consistent approach.

The Council's parking control policies are to;

- Improve traffic flows.
- Increase and improve pedestrian and cyclist mobility.
- Encourage public transport usage.
- Safeguard the needs and requirements of residents, businesses/ organisations and visitors.
- Regulate and control parking
- Encourage the use of car parks (particularly for longer visits).
- Provide sufficient short-stay parking facilities to support shops/ commercial organisations and leisure activities.
- Preserve and improve the current infrastructure and general environment.



Whilst all of the ticket machines in Weymouth and Portland will accept payment by coins, the newer machines will also accept credit/debit card payments. The roll-out of these newer machines continues, but they are not yet available on all sites.

Where pay and display charges apply, payment can also be made via mobile phone. Details of how to do so are displayed on the ticket machines and details of a transaction made in this way (vehicle registration number and parking time purchased) will be electronically forwarded directly to the CEOs patrolling those areas, so there is no requirement to display a ticket on the vehicle. The service can provide the motorist with a reminder message near to the expiry of the time they have paid for and (unless the parking place is subject to a maximum period of stay restriction) enables motorists to pay to further extend their stay should they wish to, without having to return to the car park to do so.



When using any of Weymouth and Portland Borough Council's car parks please be aware that;

- Where marked parking bays are provided, vehicles are to be parked wholly within those bays. Pay and display/Pay by Phone charges apply in respect of each space wholly or partially occupied by a vehicle.
- If it is indicated, either by surface markings and/or by signage, that a parking bay or an area within a car park is reserved for use either by specific users (permit holders only, disabled badge holders only, motorcycles only etc), or for specific purposes (loading only, pick-up and set-down only etc), then only the

vehicles of those specified users, or those being actively used for the specified purpose, are permitted to park within those bays.

- Parking on double yellow lines, on hatched areas, or in such a manner as to cause an inconvenience or obstruction to other car park users, including pedestrians, is not permitted (applies to all motorists, including disabled badge holders).
- If the car park's signage indicates that vehicles are subject to a maximum period of stay, then vehicles must not be left within the car park for longer than the stated period. If a 'no return' period is also stated, vehicles which have left the car park must not return until the 'no return' period has expired (eg. 'Maximum stay 3 hours, no return within 3 hours').
- The car park signage will indicate the types of vehicle which are permitted to use the car park and those which are not. Only those types of vehicle which are shown as authorised on that signage are to be parked in those car parks.

These regulations apply to all car park users, including disabled badge holders. Other restrictions may apply to the use of a particular car park, so please ensure that you read the car park signage before deciding whether to leave your vehicle there.

Details of the locations of our car parks, of the charges for their use, the numbers and types of spaces provided and of the types of vehicles permitted to use them can be found under 'car parks' in the 'Parking' section of the "Dorset for You" website; <https://www.dorsetforyou.gov.uk/parking/parking.aspx> Details of Weymouth's Park and Ride service, which is operated by Dorset County Council (with the bus service provided by First Buses), can also be found there.

As well as the Council's car parks, there are also a number of other car parks within the Borough (mainly near to Weymouth's town centre) which are owned and run by private companies. These include supermarket/retail centre car parks, the multi-storey car park on Commercial Road, the railway station car park and the car park to the rear of 'Brewers Quay'.

The Council is sometimes contacted in respect of parking fines issued by private parking enforcement companies working on behalf of the owners of these sites. Whilst such matters are for the parties involved to resolve and not something which the council can either assist with or offer advice on, readers may be interested to know that an independent service has been set up to determine appeals in respect of fines issued to vehicles parked on private land (other than local authority car parks). The service is known as Parking on Private Land Appeals, or POPLA, and their website gives useful information regarding such fines, the relevant legislation and the appeals procedure <http://www.popla.org.uk/>

## 1.4 Parking by Blue Badge holders



Details of the scheme, the concessions applicable and the responsibilities of Blue Badge holders can be found in the Department for Transport's booklets;

- *"Can I get a Blue Badge?"*
- *"The Blue Badge Scheme: rights and responsibilities in England"* and
- *"The Blue Badge Scheme; Guidance for blue badge holders and their drivers on the power to inspect blue badges being displayed on motor vehicles"*

The first booklet is aimed at potential applicants for a badge whilst the other two are issued to badge holders with their new or renewed Badges. Copies can be found in the "Blue badge scheme" section of the Department's website [www.dft.gov.uk](http://www.dft.gov.uk) Alternatively, they can be obtained from your local badge issuing authority. In our case, this is the Adult and Community Services Department of Dorset County Council (Tel: 01305 251000), further details can be found in the "Disabled Parking (Blue Badge)" section of the 'Dorset for You' website <https://www.dorsetforyou.gov.uk/parking/parking.aspx>

It is very important that all badge holders carefully read these booklets before attempting to use their badges. Whilst certain concessions are offered, particularly with regards to where on-street waiting restrictions (yellow lines) apply, the scheme does not provide a blanket exemption from all on-street parking restrictions.

It should also be noted that this national scheme applies to on-street parking only. It does not apply to off-street car parks. Most car park operators provide parking spaces for disabled people, but it is up to the car park owner to decide whether or not their charges will apply to badge holders.



Whenever using a car park (whether council operated, or privately owned), badge holders should therefore always check the car park information boards to see whether there are any concessions available to them. They should not assume that their badge entitles them to park free of charge, as this may not be the case.

Blue Badge holders parking in Weymouth and Portland Borough Council's pay and display car parks are subject to the same pay and display charges as apply to other car park users. Whenever parking in one of these car parks, please ensure that a valid pay and display ticket is clearly displayed on the dashboard of your vehicle, so that the side which shows the ticket details (time, date, amount paid etc) can be easily read from outside of the vehicle. Alternatively, payment can be made via the 'pay by phone' system, details of which will be displayed within the car park. However, provided that at least the minimum tariff payable has been paid, disabled persons' vehicles are entitled to park for a maximum period of one hour in excess of the period of parking time which has been paid for.

On those car parks which have marked parking bays, all vehicles are to be parked within the bay markings. The pay and display charges apply in respect of each space which is either wholly or partly occupied by a vehicle. Parking on double yellow lines or hatched areas within the car parks is not permitted.

On most Weymouth and Portland car parks extra-wide designated 'Disabled' parking spaces have been provided. In order to prevent abuse of this facility, all vehicles which are parked within these 'Disabled' spaces must have a valid Blue Badge clearly displayed on their dashboard (as well as a pay and display ticket, on car parks where such charges apply).



## **Section 2**

### **The enforcement of parking restrictions**

#### **2.1 Civil Enforcement Officers – Policies and guidelines**

Regrettably, experience has shown that, where motorists perceive that there is either no active enforcement of a restriction, or that enforcement levels are limited, it is far more likely that they will 'take a chance' and ignore the restriction. For restrictions to have their desired effect, it is therefore necessary for them to be enforced.

Within Weymouth and Portland, the Council have decided that parking enforcement will be undertaken by Civil Enforcement Officers who are directly employed by the Council. By keeping this function 'in house', the Council is better able to ensure that all aspects of its parking enforcement operations are undertaken by well trained, high quality staff, whose performance can be effectively monitored against the standards and guidelines which the Council has set for them to follow.

Whilst the Council will monitor the performance of its CEOs, it will not set any targets with regards to the numbers of PCNs which they will issue. They are salaried employees of the Council, who receive no performance related bonuses or other performance related incentives. The Council deploys its CEOs in such a manner as to provide coverage of all of its car parks, although it is of course also necessary to prioritise those car parks which are busiest.

The Council has set the following Code of Practice for the standards and guidelines which its Civil Enforcement Officers must follow;

- As required by law, whenever conducting their enforcement duties they must wear the uniform which is issued to CEOs by the Council. The uniform will clearly show the name of the Council, the personal identity number of the CEO and that the CEO is engaged in parking enforcement. There is no requirement for CEOs to be wearing headgear when they are issuing PCNs.
- CEOs are to check that vehicles within their patrol area are parked in accordance with the parking regulations and, where they are not, CEOs will enforce the parking regulations by issuing PCNs as appropriate.
- In order to protect them from allegations of inconsistency, favouritism or suspicion of bribery, once CEOs have issued PCNs they do not have the discretion to either cancel or withdraw them (although they may be re-issued if necessary). If a motorist wishes to dispute a PCN which has been issued, they must follow the appeals procedure which is detailed on the notice.
- Motorists are expected to park correctly, with due regard to any parking restrictions which are in force. On finding a vehicle which has been parked in contravention of such restrictions, the CEO will enforce the restriction. It is not their job to attempt to track down motorists in order to ask them to park their vehicles properly.

- Whilst motorists will sometimes leave a note on their vehicle advising that it has “broken down”, unless there is obvious damage to the vehicle which would prevent it from being moved, a CEO cannot be sure of the validity of such a claim. Whilst they are expected to record the presence of such notes, they are to issue PCNs as appropriate. It will be for the motorist to subsequently appeal against the PCN if they wish to do so. With regards to a broken down vehicle, a motorist will usually be able to provide some form of documentary evidence of the nature of the problem to accompany their appeal and this will of course be taken into account in deciding whether or not payment of the PCN will be required.
- CEOs are to conduct their enforcement duties in a thorough, fair, consistent and professional manner and to treat all motorists equally, without showing favour, bias, or prejudice.
- In addition to parking enforcement, it is an integral part of the Council's CEOs' duties to assist the public by providing them with advice and guidance on parking, or on tourism related matters.
- They will inform the police of suspected criminal activity and their high profile, uniformed patrols will hopefully help to dissuade such activity. In cases of accident or emergency, they are to assist the police when required, but must not put their own safety at risk to do so.
- Whilst on patrol, they will look out for and report;
  1. Potential dangers to the public (to the Council, or to the emergency services as appropriate).
  2. Suspected abandoned vehicles.
  3. Faults with parking equipment (pay and display ticket machines, signage, or markings) which they cannot rectify themselves. With regards to ticket machines, the replenishing of ticket stocks, the checking and setting of clocks, and the clearing (where possible) of jammed tickets or coins is part of their daily duties.

As stated above, when finding a vehicle which appears to be parked in contravention of a parking restriction, it is the duty of a Civil Enforcement Officer to issue a Penalty Charge Notice to that vehicle and they have no powers to subsequently cancel or withdraw those notices. However, there will be certain circumstances under which, even though a parking contravention appears to have occurred, it would not be appropriate for them to issue a PCN. The Council has therefore set the following policy;

Civil Enforcement Officers have the discretion not to issue PCNs under the following circumstances;

- When a motorist's vehicle has been parked with the permission of, or at the direction of, either a police officer in uniform, or of a Civil Enforcement Officer employed by the Council (whilst on duty).

- When a vehicle has been prevented from proceeding by circumstances beyond the driver's control, or has been stopped in order to avoid injury or damage to persons or property.
- When the driver is still with the vehicle and, upon request by the CEO, immediately either removes their vehicle, or takes such steps as may be required to ensure that the parking regulations are complied with.
- When the driver returns to their vehicle either during the CEO's observation period, or whilst the PCN is being prepared, but before it can be issued, then the CEO may issue a verbal warning instead (provided that, in response to the warning, the motorist then removes the vehicle or takes steps to comply with the parking regulations).
- When a CEO believes that their personal safety would be threatened if they were to do so. Under the TMA 2004 legislation, if a CEO is prevented from issuing a PCN either indirectly through abusive behaviour or intimidation, or directly through threats or actual physical force, then the PCN may instead be issued by post. Additionally, the Council will not tolerate threats, intimidation, or assaults on its staff and will therefore not hesitate to initiate criminal prosecutions in respect of such behaviour.

Parking regulations are there for good reasons and the Council aims to ensure that its Civil Enforcement Officers deliver enforcement of those regulations fairly and in accordance with the law. The Council's CEOs conduct duties which are intended to benefit the public and the Council expects that they will perform their enforcement duties efficiently and with proper regard to the rights of the motorist.

CEOs work throughout the year, in all weathers and often in difficult circumstances. CEOs are required to work on a 7 days a week shift basis, to give the widest possible enforcement coverage. Whilst their efforts may not be appreciated by those motorists whose vehicles have been issued with PCNs, it should be emphasised that those who park correctly, in accordance with the car park regulations, will not be liable to such charges.

The purpose of issuing PCNs is to dissuade motorists from breaking parking regulations. It is hoped that, through the efforts of its CEOs, the Council will be able to improve levels of compliance in order to achieve its parking control policies specified earlier in this report.

## **2.2 Penalty Charges**

Wherever the Council has introduced regulations/ restrictions pertaining to the use of its car parks, vehicles which appear to have been parked other than in accordance with those restrictions may be issued with penalty charges.

The Secretary of State for Transport decided that (with effect from 31<sup>st</sup> March 2008) local authorities would be required to issue two different levels of penalty charges in their enforcement areas. A higher level charge for parking in places where parking is prohibited (such as on yellow lines or in a disabled bay without displaying a valid

badge) and a lower level charge in respect of contraventions relating to places where parking is permitted (failing to display a pay and display ticket, overstaying the permitted time etc), as the latter are mostly deemed to be less serious. Previously, all contraventions received the same penalty, regardless of the seriousness of the offence and this was perceived by many as being unfair.

There is a single nationwide standard list of the parking contraventions for which CEOs may issue Penalty Charge Notices, but not all of the contraventions will be relevant in every local authorities' individual area (for example this council currently only enforces those contraventions which relate to parking in off-street car parks). The full list can be found in the "Parking" section of the PATROL (Parking and Traffic Regulations Outside London) website [www.patrol-uk.info](http://www.patrol-uk.info) It is the Secretary of State for Transport who decides which of these parking contraventions will be subject to which of the two levels of charge.

A CEO will usually serve a PCN by either attaching it to the vehicle, or by handing it to the person who appears to be in charge of the vehicle. There are also certain circumstances under which, if the CEO has been unable to do this, the PCN may be served by post.



The PCN will specify the contravention which is alleged to have occurred and the amount which is payable. Amongst other information, it will also detail the available options and methods for either payment or appeal. Unless a successful appeal has been made, the penalty charge must be paid within 28 days of the date on which it was served (if paid within 14 days, the amount of the charge will be reduced by the statutory amount - currently 50%). If it is not paid within 28 days, the Council may then serve a Notice to Owner on the owner of the vehicle.

### **2.3 The appeals process**

Where a parking contravention occurs, it is the 'owner' of the vehicle involved who is legally obliged to pay the penalty charge. The 'owner' means the person by whom the vehicle is kept, which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 (c.22) is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered (at the DVLA). It is therefore essential that any changes of vehicle ownership are immediately notified to the DVLA.

When allowing other persons to use their vehicles, vehicle owners should bear in mind that it is still they, the vehicle's owner and not the vehicle's driver, who will be liable to pay any penalty charges incurred in respect of parking contraventions.

The only exception to this is where the vehicle was hired from a firm under a hiring agreement and the person hiring it had signed a statement of liability in respect of any penalty charge notice served in respect of the vehicle during the currency of the agreement.

Vehicle owners may dispute the issuing of a PCN at three stages:

1. They can make an informal 'challenge' or 'representation' before the Council issues a Notice to Owner (NtO) (this does not apply in the case of a PCN issued by post, as the PCN then also acts as the NtO). As a challenge at this stage will be made by the person who has received the PCN, it may be that the person submitting the challenge was the driver of the vehicle, rather than the vehicle's owner.
2. Once an NtO has been served, they can make a formal representation against the NtO (this can still be done if an informal challenge has previously been made and been rejected). The legislation sets out specific grounds on which formal representations against the NtO may be made (these will be specified upon the Notice), however, whether or not those grounds apply, representations may also be made on the basis that, in the particular circumstances of the case, there are compelling reasons for the cancellation of the penalty charge.
3. If the formal representation is rejected, the Council will issue a Notice of Rejection. The appellant then has the right to appeal, within 28 days of the date of issue of the Notice of Rejection, to an adjudicator of the Traffic Penalty Tribunal.

The adjudicators have a judicial position. They are appointed with the agreement of the Lord Chancellor and they are wholly independent. Their decisions are final (subject to their own power to review a decision) and they have the power to award costs against either party. No further challenges can be made, other than on a point of law through an application to the High Court for Judicial Review. Appellants may choose to appear before the adjudicator at a personal hearing, they may elect for the hearing to be conducted by telephone, or they may wish for the adjudicator to reach a decision based upon the written evidence supplied by the two parties and to then notify both parties of their decision by post. Appellants can lodge their cases with the Tribunal either by post or on-line. Full details of the adjudication service and of the appeals process can be found on their website [www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk)

General information about parking and the associated rules and regulations which may assist motorists in deciding whether to pay or to challenge a PCN, can be found on the 'Parking and Traffic Regulations Outside London' website [www.patrol-uk.info](http://www.patrol-uk.info)

## **2.4 Policies for the handling of appeals.**

The process of considering challenges, representations and defence of appeals is a legal process. It is necessary for the Council to keep a full and accurate record of all challenges which have been made and of the responses given in respect of those challenges. This is why the Council asks that all representations are made in writing (by letter, e-mail, or by completing one of its 'Challenge Forms' which are available at the Council's Offices).

The Council has the discretion to cancel a PCN at any point in the appeals process and has set out the following policy with regards to the handling of appeals and to the exercise of that discretion;

- All challenges and representations will be considered and each case will be decided upon its own individual merits. Any extenuating or mitigating circumstances will be taken into account.
- The staff who issue PCNs will not handle representations which are made against PCNs.
- Representations will only be dealt with by staff who have been trained in the handling of such representations. Those staff shall be authorised to exercise the Council's discretion to cancel PCNs.
- Elected members and unauthorised staff will play no part in deciding the outcome of challenges or representations.
- Every case will be looked into individually and supporting evidence may be requested before a decision on the outcome of an appeal can be made. Whilst every case will differ, it may be appropriate for the Council's discretionary power to cancel penalty charges to be used in the following circumstances;
  1. Where the vehicle could not have been moved due to an accident or breakdown.
  2. Where the vehicle had been stopped and left on the instructions of a police officer or of a Civil Enforcement Officer employed by the Council (whilst on duty).
  3. Where the Council is satisfied that the driver of the vehicle was prevented from returning to it by circumstances which were beyond their control and which could not have been foreseen (such as due to accident or injury).
  4. In cases where the PCN was issued in respect of the non-display of a pay and display ticket, if a ticket had in fact been purchased and it is subsequently produced. Provided that it is confirmed that the ticket would have been valid for use on that vehicle, in that parking place, at the time of the alleged contravention.



5. In cases where the vehicle was being used by a disabled badge holder, but their blue badge had either not been displayed, or had not been

properly displayed, if the badge is later produced. Provided that the badge is confirmed as being valid and that, had it been properly displayed at the time of the alleged contravention, the PCN would not have been issued.

Whilst each case will be considered on its own merits, if the Council uses its discretion to cancel a PCN, it may be less inclined to exercise that discretion again if the same vehicle owner incurs a subsequent PCN in similar circumstances.

- All representations made against a NtO (within 28 days of the NtO having been served) will be considered. Representations received after the expiry of the 28 day time limit will not be disregarded if evidence (such as a postmark) indicates that they were made within that period. The law requires that the Council must then serve notice of its decision on the person making the representation within 56 days. The Secretary of State considers that decision notices should in fact be served within 21 days, but the Council will normally aim to reach a decision and to issue a decision notice in respect of all representations within 14 days of their receipt. If for any reason there is likely to be a delay in providing the Council's response, the appellant will be advised accordingly.
- Where an informal representation has been rejected, if a subsequent informal or formal appeal is received, this will usually be handled by a different officer. They will re-examine all of the facts, circumstances and evidence of the case and will then make a decision independent of the one which was previously given.
- Where an informal representation is made within the 14 day discount period, if it is rejected, the discount period will be re-offered for a further period of 14 days.
- Every representation will be handled in a timely and professional manner and in accordance with the requirements of relevant legislation.

If a duly authorised officer of the Council considers that the evidence or circumstances in relation to either an informal appeal, or to a formal representation, provide sufficient grounds to warrant the cancellation of the PCN, then s/he will cancel the charge and will advise the appellant accordingly. If any monies have already been paid, these will be refunded.

## **2.5 The recovery of unpaid penalty charges**

Where a Notice to Owner has been served on a vehicle owner and either;

1. 28 days have passed since the NtO was served and no representation or appeal is under consideration, or
2. representations have been rejected, 28 days have passed since the Notice of Rejection was served and no appeal has been made to an adjudicator, or

3. an appeal was made to an adjudicator but was withdrawn before the hearing and 14 days have passed since the date on which it was withdrawn, or
4. an appeal which was made to an adjudicator was refused and 28 days have passed since the date on which the adjudicator's decision was served on the appellant,

and the penalty charge has still not been paid, then the Council may issue a Charge Certificate.

The certificate tells the vehicle owner that the penalty charge has been increased by the statutory amount (currently 50%) and that, if it is not paid within 14 days, the Council may apply to the Traffic Enforcement Centre (TEC) at Northampton County Court to register the Charge Certificate and recover the increased charge as if it were payable under a county court order.

Once registered, the TEC will send the Council an authority to issue an order for the recovery of the amount outstanding (the unpaid penalty charge, any costs awarded against the motorist by an adjudicator, plus the registration fee (presently £5). The Council must then send an order informing the motorist that, within a further 21 days from receipt of the order, s/he must either pay the amount outstanding or send to the TEC a Witness Statement to refute the need to pay the penalty charge (the order will state the grounds on which a Witness Statement can be made).

If the motorist fails to either pay the outstanding amount or to submit a Witness Statement, the Council can ask the TEC for authority to prepare a Warrant of Control. This authorises an Enforcement Agent (previously called Bailiffs) to seize and sell goods belonging to the motorist to the value of the outstanding amount, plus the cost of executing the Warrant. Whilst this is the normal means of collecting unpaid debts, there are circumstances in which an authority can use other means, such as an attachment of earnings order, a garnishee order or a charging order.

The Council would emphasise that it would prefer to see matters settled at as early a stage as possible (either through payment of the penalty charge, or by way of a successful appeal against it), rather than having to resort to the use of these powers.



## **Section 3 Performance**

### **3.1 Developments during 2018/19**

The Council has provided more than thirty off-street car parks for use by the public, with twenty of those operating on a pay and display basis (providing some 5,600 spaces). For many visitors to the area, whether heading for the shops, beaches or tourist attractions, a car park will be their first 'stopping off' point. Those car parks have also had to cater for the parking needs of local residents, businesses and commuters.

The Council was a member of the Dorset Councils Partnership, under which North Dorset District Council, West Dorset District Council and Weymouth and Portland Borough Council combined all of their staff into a single workforce, which served the needs of all three sovereign councils. In addition to operating this Council's car parks, the Partnership's Parking Service was therefore also responsible for operating the car parks of the other two member councils (more than eighty car parks in total). Dorset County Council dealt with all on-street parking matters throughout the Partnership's area.

However, as mentioned in the introduction to this report, all of those councils, and others, will be replaced by a new unitary authority, Dorset Council, on 1<sup>st</sup> April 2019. With effect from that date, it is that new authority which will assume responsibility for both on and off-street parking matters in this area

Over the last 12 months this has resulted in the Parking Service largely having to focus on the operation of its existing sites and on preparations for the imminent amalgamations of services and workforces, rather than embarking on major new projects.

The Council had to continue to provide car parks which were safe for the public to use, so maintenance of the surfaces, fencing and vegetation continued as usual, as did the upkeep and improvement of signage, markings, lighting and ticket machines.

As part of the local government re-organisation, on 1<sup>st</sup> April a number of the Borough Council's car parks on Portland which have provided 'free' parking, and one which has operated on a pay & display basis, will be transferred to the ownership of Portland Town Council. The two Radipole Park Drive car parks in Weymouth, which have provided 'free' parking for visitors to Radipole Gardens, will be transferred to the ownership of the new Weymouth Town Council, along with the gardens themselves.

The majority of the Borough council's car parks will however come under the ownership of the new Dorset Council. Whilst car park users should generally find it 'business as usual' over the coming months, whether Dorset Council will propose any significant changes concerning the future operation of those car parks, or to the regulations and tariffs which apply to their use remains to be seen.

## 3.2 Financial performance

The Council's financial performance with regards to off-street parking over the last twelve months was as follows;

### Report on Weymouth and Portland Borough Council's off-street parking income and expenditure for the financial year ended 31<sup>st</sup> March 2019

	2017/18 (£)	2018/19 (£)
<b>Income</b>		
Off-street parking charges (pay & display)	2,480,758	2,629,639
Off-street parking charges (pay by phone)	340,832	405,605
Penalty Charges (PCNs)	128,468	156,758
Car park permits and scratch-cards sold	31,251	29,259
Car park season tickets sold	102,432	145,658
Contribution to works (Chesil car park)	30,000	0
Miscellaneous sales	0	4,055
Insurance claim income	0	2,907
<b>Total income</b>	<b>3,113,741</b>	<b>3,373,881</b>
<b>Expenditure</b>		
Employees	295,336	272,265
Premises	696,880	772,047
Transport	18,668	12,795
Supplies and services	415,346	153,718
Service recharges	154,088	160,276
Capital charges	92,901	114,960
<b>Total expenditure</b>	<b>1,673,219</b>	<b>1,486,061</b>
<b>Surplus/Deficit</b>	<b>1,440,522</b>	<b>1,887,820</b>

The substantial surplus funds raised through the provision of off-street parking facilities are used to off-set the costs to the Council of providing services to the public. Without these surplus funds, those costs would have to be met through the Council Tax.

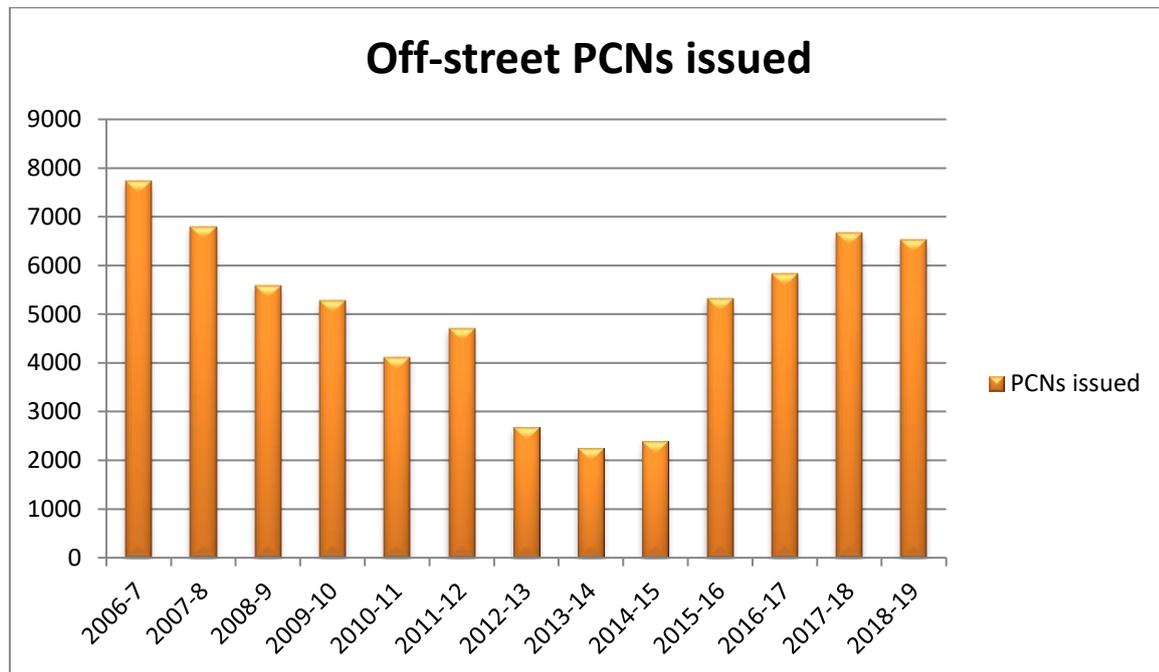
### 3.3 Statistical performance

#### 1. Penalty Charge Notices issued

As mentioned in Part 1 of this report, there is a national list of the parking contraventions for which CEOs are empowered to issue PCNs. Below is a table giving a detailed breakdown of the numbers of PCNs which the Council's CEOs issued in respect of each type of contravention during 2018/19. Figures for 2017/18 have been included for comparison purposes and it is indicated whether the individual contravention codes are subject to the higher rate or lower rate of penalty charge.

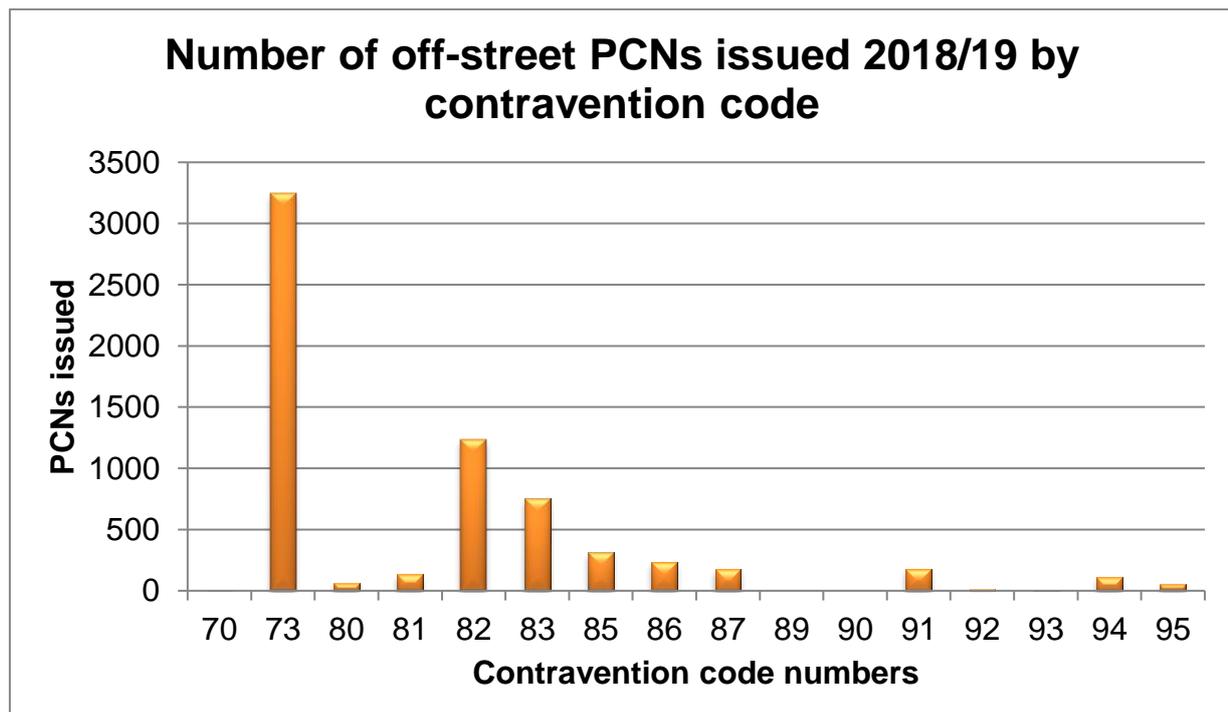
<b>Off-street (car park) parking contraventions</b>			
<b>Code</b>	<b>Contravention description</b>	<b>PCNs 2017/18</b>	<b>PCNs 2018/19</b>
<b>70</b> (High)	Parked in a loading area during restricted hours without reasonable excuse	3	5
<b>73</b> (Low)	Parked without payment of the parking charge	3,860	3,247
<b>80</b> (Low)	Parked for longer than permitted	98	66
<b>81</b> (High)	Parked in a restricted area in a car park	140	133
<b>82</b> (Low)	Parked after the expiry of paid for time	1,583	1,233
<b>83</b> (Low)	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	96	752
<b>85</b> (High)	Parked in a permit bay without clearly displaying a valid permit	288	313
<b>86</b> (Low)	Not parked correctly within the markings of a bay or space	146	232
<b>87</b> (High)	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	167	174
<b>89</b> (Low)	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	0	0
<b>90</b> (Low)	Re-parked in the same car park within the prescribed time period after leaving	5	0
<b>91</b> (High)	Parked in a car park or area not designated for that class of vehicle	125	178
<b>92</b> (High)	Parked causing an obstruction	15	16
<b>93</b> (Low)	Parked in car park when closed	19	9
<b>94</b> (Low)	Parked in a pay & display car park without clearly displaying multiple valid pay & display tickets when required	78	108
<b>95</b> (Low)	Parked in a parking place for a purpose other than that designated	48	53
	<b>Number of higher rate off-street PCNs issued</b>	<b>738</b>	<b>819</b>
	<b>Number of lower rate off-street PCNs issued</b>	<b>5,933</b>	<b>5,700</b>
	<b>Total number of off-street PCNs issued</b>	<b>6,671</b>	<b>6,519</b>

As can be seen, there was little change in the overall number of PCNs issued compared with 2017/18. The following table shows the year on year numbers of PCNs issued on the Council's car parks;



The Borough Council ceased issuing on-street PCNs on 30<sup>th</sup> June 2015, when responsibility for on-street parking enforcement was passed to Dorset County Council. It can be seen how the cessation of on-street enforcement and the resultant re-focusing on off-street enforcement has led to an increase in off-street PCN levels.

Using the figures from the main table, the following chart illustrates the most common contraventions for which the Council's CEOs issued PCNs last year;





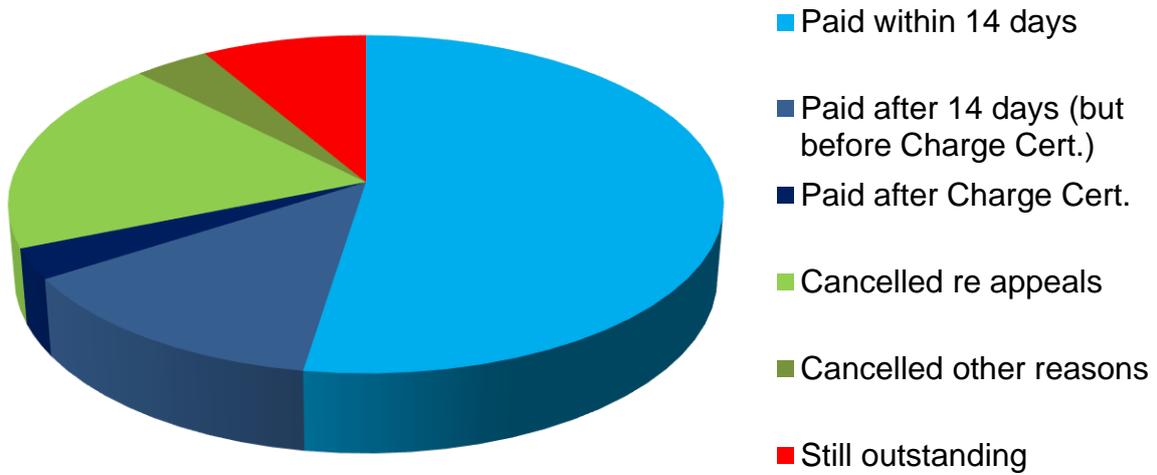
## 2. Progression of PCNs

The following table details the ways in which PCN cases had progressed by the 31<sup>st</sup> August subsequent to the end of the respective reporting years;

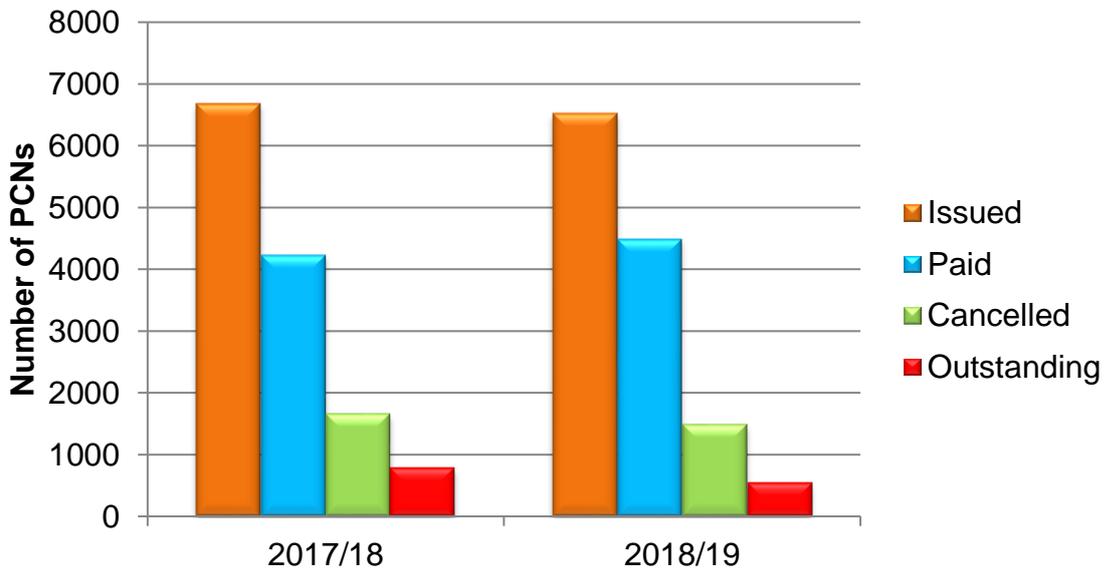
<b>Progression of cases</b>	<b>2017/18</b>	<b>2018/19</b>
<b>Total Number of PCNs issued</b>	<b>6,671</b>	<b>6,519</b>
Number of PCNs paid at the discount rate (within 14 days)	3,287 (49.2%)	3,420 (52.5%)
Number of PCNs paid after 14 days but before issue of charge certificate	764 (11.5%)	874 (13.4%)
Number of PCNs paid after issue of charge certificate	179 (2.7%)	191 (2.9%)
<b>Total number of PCNs paid</b>	<b>4,230 (63.4%)</b>	<b>4,485 (68.8%)</b>
Number of PCNs cancelled as a result of a successful informal or formal representation	1,521 (22.8%)	1,231 (18.9%)
Number of PCNs cancelled for other reasons (e.g. owner untraceable, Enforcement Agents unable to collect debt, or CEO error)	134 (2%)	253 (3.9%)
<b>Total number of PCNs cancelled</b>	<b>1,655 (24.8%)</b>	<b>1,484 (22.8%)</b>
<b>Number of PCNs not yet paid or cancelled</b>	<b>786 (11.8%)</b>	<b>550 (8.4%)</b>
Number of PCNs against which informal or formal representations (appeals) were made	2,180 (32.7%)	2,110 (32.4%)
Number of PCNs registered at the Traffic Enforcement Centre	920 (13.8%)	1,681 (25.8%)

The next charts are intended to further illustrate the information given in the above table;

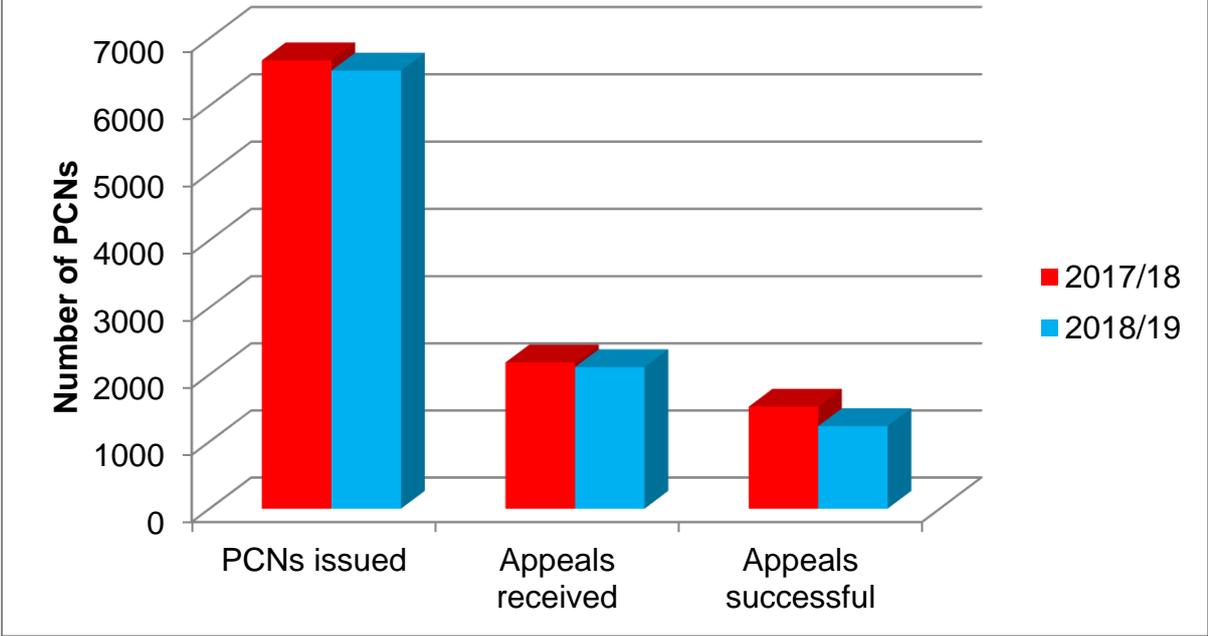
### Progress of 2018/19 PCNs to 31.08.19



### Progression of cases to 31st August



### Representations (appeals) to 31st August



### 3. Adjudication cases

As mentioned in Section 2, a motorist who has had their challenge against a PCN rejected by the Council has the right to appeal against that decision to an Adjudicator at the Traffic Penalty Tribunal (TPT). The TPT is an independent tribunal whose impartial, independent Adjudicators are lawyers who have been appointed to consider and decide upon appeals against parking penalties.

The following tables illustrate the Council's performance with regards to adjudication cases, including the numbers of motorists' appeals allowed (upheld) by the Adjudicators and the numbers of those which were refused (found in favour of the Council).

The figures below have been provided by TPT. Those figures are in respect of appeals made to the independent adjudicators during financial years (1<sup>st</sup> April to 31<sup>st</sup> March), rather than during calendar years.



The TPT statistics give figures for each local authority, which enables comparisons to be made between their individual performances. It also combines all of those figures to give a set of national 'all councils' statistics in respect of all of the PCNs which were issued outside of London.

The first table below shows the national 'all councils' statistics over the last five years;

Year	Appeals received	PCNs issued	Rate of appeal per PCN	Not contested by council	Allowed by adjudicator	Total allowed (including not contested)	Refused by adjudicator (incl. out of time and withdrawn by appellant)	Consent order	Awaiting decision
<b>Appeals received by TPT for all councils</b>									
2017/18	9,566	TBC	TBC	2,188	3,231	5,419	3,814	170	162
2016/17	11,256	4,521,724	0.25%	2,915 26%	3,388 30%	6,303 56%	4,867 43%	77 0.7%	9 0.1%
2015/16	12,866	4,252,776	0.30%	3,494 27%	3,297 26%	6,791 53%	5,185 40%	108 0.8%	16 0.1%
2014/15	15,113	4,406,200	0.33%	4,206 29%	3,867 27%	8,073 56%	6,025 42%	30 0.2%	362 2.5%
2013/14	16,497	4,490,178	0.35%	4,701 30%	3,964 25%	8,665 56%	6,704 43%	83 0.5%	126 1%

The second table shows the Council's performance with regards to adjudication cases over the last five years, in order that these can be compared with the national 'all councils' statistics above;

Year	Appeals received	PCNs issued	Rate of appeal per PCN	Not contested by council	Allowed by adjudicator	Total allowed (including not contested)	Refused by adjudicator (incl. out of time and withdrawn by appellant)	Consent order	Awaiting decision
<b>Appeals received by TPT for Weymouth and Portland Borough Council</b>									
2017/18	6	6,671	0.09%	3 50%	2 33.3%	5 83.3%	1 16.7%	0 0%	0 0%
2016/17	7	5,838	0.12%	1 14.3%	2 28.6%	3 42.9%	4 57.1%	0 0%	0 0%
2015/16	9	6,610	0.14%	2 22.2%	1 11%	3 33%	6 67%	0 0%	0 0%
2014/15	11	8,146	0.14%	0 0%	2 18.2%	2 18.2%	9 81.8%	0 0%	0 0%
2013/14	15	7,940	0.19%	4 27%	1 7%	5 33%	10 67%	0 0%	0 0%

The figures for total PCNs issued by 'all councils' in 2017/18 were not yet available when this report was published.

The Statistics provided by TPT also enable a comparison to be made between the performance of this Council during 2017/18 (with regards to adjudication cases) and the performance of other Dorset local authorities;

Civil Parking Area	Appeals received	PCNs issued	Rate of appeal per PCN	Not contested by council	Allowed by adjudicator	Total allowed (including not contested)	Refused by adjudicator (incl. out of time and withdrawn by appellant)	Consent order	Awaiting decision
<b>Bournemouth</b>	91	38,700	0.23%	12 13%	32 35%	44 48%	46 51%	0 0%	1 1%
<b>Christchurch</b>	9	4,964	0.18%	2 22%	6 67%	8 89%	1 11%	0 0%	0 0%
<b>Dorset</b>	55	22,073	0.25%	6 11%	22 40%	28 51%	25 45%	2 4%	0 0%
<b>North Dorset</b>	0	1,692	0.00%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
<b>Poole</b>	14	20,180	0.07%	8 57%	3 22%	11 79%	2 14%	1 7%	0 0%
<b>West Dorset</b>	9	9,290	0.10%	1 11%	4 45%	5 56%	3 33%	1 11%	0 0%
<b>Weymouth &amp; Portland</b>	6	6,671	0.09%	3 50%	2 33%	5 83%	1 17%	0 0%	0 0%

(The figures for "Dorset" relate to PCNs issued by or on behalf of Dorset County Council in the areas of East Dorset, North Dorset, Purbeck, Wareham, West Dorset and Weymouth & Portland.)

Weymouth and Portland Borough Council's low rate of appeal per PCN would look to indicate that PCNs are being properly issued.

The tribunal's full annual statistics reports from 2008 onwards can be accessed on the tribunal's website: [www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk)

## Summary

The Council hopes that Sections 1 and 2 of this report will have given an insight into;

- The Council's parking policies
- Car park restrictions and their enforcement
- The associated appeals and debt recovery procedures

It is hoped that the information given may help some motorists avoid incurring penalty charges and will give others a clearer understanding of the legal procedures involved. In particular, motorists should be aware of their right to appeal against any PCN which they feel has not been justly issued.

Section 3 of the report detailed the Council's parking related financial and statistical performance during the last financial year. It also provided an insight into some of the projects which its parking section staff were involved with during that period. The Council hopes that the content of Section 3 will contribute towards achieving the Government's aim of introducing greater transparency and accountability into Civil Parking Enforcement.

Although the information contained in this report cannot be exhaustive, reference to the web-sites mentioned within it will provide further detail for those who require it.



Amongst their other duties, such as handling the processing of PCNs issued on its car parks, appeals made against those PCNs and the recovery of outstanding penalty charge payments, Weymouth and Portland Borough Council's Parking Services office staff have also dealt with;

- The issuing of season tickets and permits for the use of the Council's off-street car parks.
- Handling general enquiries regarding parking within the Council's car parks, particularly from potential visitors to the area.
- Making parking information available on the 'Dorset For You' website <https://www.dorsetforyou.gov.uk/parking/parking.aspx> .
- Removing abandoned vehicles from the highway.

**With effect from 1<sup>st</sup> April 2019, enquiries regarding parking in the Weymouth and Portland area should be addressed to the new Dorset Council's Parking Services Department;**

**Via the council's website:** [www.dorsetcouncil.gov.uk](http://www.dorsetcouncil.gov.uk)

**By e-mail:** [parking@dorsetcouncil.gov.uk](mailto:parking@dorsetcouncil.gov.uk)

**Or by post:** Parking Services  
Dorset Council  
South Walks House  
South Walks Road  
Dorchester  
Dorset  
DT1 1UZ

