

## **KILDARE COUNTY COUNCIL**

### **ROADS TRANSPORTATION AND PUBLIC SAFETY**

#### **PARKING APPEALS POLICY AS ADOPTED - January 2013**

##### **Introduction**

The Roads Transportation and Public Safety Directorate proposed the adoption of a Policy on Parking Fine Appeals and this was adopted by the Elected Members of Kildare County Council

Heretofore such Appeals have been made and considered under guidelines formulated by this Directorate. However, with the discernible increase in such Appeals it is deemed appropriate that a Policy was adopted to reinforce and consolidate uniformity of applications, consistency of deliberations and transparency of outcomes.

##### **Uniformity of Applications**

Increasingly applications for Appeal are being made to the wrong office, at the wrong time, for the wrong reason, with the wrong documentation and by the wrong method. The Policy stipulates the address(es) to which an Appeal must be submitted, the timeframe for submission of the Appeal, the acceptable grounds for an Appeal, the documentation to be submitted with an Appeal and indicating that non-compliance renders the Appeal invalid will resolve this problem and also eliminates any spurious Appeals. In addition, the stipulation that Appeals must be made in writing or by e-mail removes the mistaken assumption that a verbal Appeal by telephone or by voicemail is adequate or acceptable.

##### **Consistency of Deliberations**

The absence of a Policy renders deliberation of an Appeal open to interpretation and, therefore, open to accusations of inconsistency. Guidelines, by their nature, are not rules and thus allow latitude for flexibility of interpretation. A Policy which stipulates the procedures to be adhered to, without exception, provides clarity for decision-makers and removes the possibility of accusations of inconsistency from appellants.

##### **Transparency of Outcomes**

The adoption of a Policy which stipulates the procedures to be applied to every Appeal without exception provides confidence that the outcome is transparently and demonstrably the logical result of the application of those procedures to the particular circumstances of each Appeal.

## **Appeals Policy**

It is Kildare County Council Policy that -

Appeals must be made in writing or by e-mail;

Appeals must be sent to Kildare County Council, Parking Fines Section, Roads Transportation and Public Safety, Level 4, Aras Chill Dara, Naas, County Kildare or e-mailed to [parkingfines@kildarecoco.ie](mailto:parkingfines@kildarecoco.ie)

Appeals must be received within 28 days of the date of the alleged offence;

Appeals received outside of the 28 day period will be deemed invalid and will be rejected;

Appeals against Fixed Charge Notices (Fines) issued in the towns of Newbridge, Kildare, Celbridge, Leixlip and Maynooth will be referred to Kildare County Council's Pay Parking Contractor for decision;

If the appellant believes the Contractor's decision is not justified based on the evidence submitted by the appellant then a further Appeal can be submitted directly to Kildare County Council provided the original Appeal had been received within the stipulated 28 day period. The appeal to the Council must be received within the 28 day period from the date of the reject appeal letter issued by the Contractor;

Appeals against Fixed Charge Notices (Fines) issued in County Kildare, including the towns of Naas and Athy, excluding the four towns above, will be decided by Kildare County Council;

All decisions made by Kildare County Council in relation to Appeals are final;

All Appeals must include the Name, Address and Contact Telephone Number of the appellant;

All Appeals must include the Fixed Charge Notice (Fine) Number;

All Appeals must include one or more of the acceptable Grounds of Appeal stipulated in this Policy;

All Appeals will be treated as invalid and will be rejected if any of the above information is omitted;

All Appeals will be treated as invalid and will be rejected if the Grounds of Appeal are other than those stipulated in this Policy;

Any correspondence relative to any Appeal will issue by post to the Registered Owner of the vehicle (as entered in the Department of Transport Vehicle Owners Register) unless otherwise requested in writing;

If an appellant does not receive a decision within 28 days from the date of receipt of the Appeal the onus is on the appellant to contact Kildare County Council;

All Fixed Charge Notices (Fines) stand unless/until Kildare County Council or it's authorised servants and/or agents confirm otherwise in writing;

Kildare County Council and/or it's authorised servants and/or agents will not accept any responsibility for non-delivery of post;

## **Nominations**

If the Registered Owner was not in driving the vehicle when the alleged Offence (to which the Fixed Charge Notice (Fine) relates) was committed then the Registered Owner must, within 28 days of the date of issue of the Fixed Charge Notice (Fine), nominate to Kildare County Council the person who was in charge of the vehicle at that time;

Nominations must be made in writing or by e-mail;

Nominations must be sent to Kildare County Council, Parking Fines Section, Roads Transportation and Public Safety, Level 4, Aras Chill Dara, Naas, County Kildare or e-mailed to [parkingfines@kildarecoco.ie](mailto:parkingfines@kildarecoco.ie)

All Nominations must include the Name, Address and Contact Telephone Number of the person making the Nomination (in the case of a corporate/non-incorporated entity this should be an authorised officer of the entity ie Business Name Owner, Company Secretary or Company Director);

All Nominations must include the Name, Address and Contact Telephone Number of the nominee;

All Nominations must include the Fixed Charge Notice (Fine) Number;

All Nominations must include the Vehicle Registration Number;

All Nominations must be signed by the person making the Nomination;

All Nominations will be deemed invalid and will be rejected if any of the above information is omitted.

## **Acceptable Grounds of Appeal**

Only the following acceptable grounds of Appeal will be considered –

### **Pay and Display Offences**

That the appellant was in possession of a valid Pay and Display ticket or a valid Disabled Badge when a Fixed Charge Notice (Fine) was issued for illegally parking in a parking bay but

Appeals will only be considered where a valid Pay and Display ticket has been purchased prior to issue of the Fixed Charge Notice (Fine) and

The Pay and Display ticket covers the period for which the Fixed Charge Notice (Fine) was issued and

The valid Pay and Display ticket is submitted with the Appeal.

### **Disabled Parking Offences**

Appeals WILL NOT be considered where a valid Disabled Badge was not clearly displayed on the vehicle but is submitted with the Appeal

### **Expired Residential/Visitor/Long Term Permit Offences or No Residential/Visitor/Long Term Permit Offences**

That the appellant had applied for a first/renewed Residential/Visitor/Long Term Permit but had not received the Permit when a Fixed Charge Notice (Fine) was issued for illegally parking in a Residential/Visitor/Long Term parking bay but

Appeals will only be considered where the appellant can prove that a completed application form with full payment had been submitted to Kildare County Council prior to the date and time of the alleged Offence and

That the Permit for which application had been submitted covered the location, date and time for which the Fixed Charge Notice (Fine) was issued.

### **Other Offence**

That the vehicle was broken down and could not be moved when a Fixed Charge Notice (Fine) was issued for illegally parking in a parking bay but

Appeals will only be considered where a letter from a garage and/or towing company confirming the dates the vehicle was retained for repair is submitted with the appeal and

A letter from a garage and/or towing company indicating the time and date the vehicle was retrieved from the parking bay (if applicable) is submitted with the Appeal and

A copy of a receipt from a garage and/or towing company in respect of the recovery of the vehicle from the parking bay (if applicable) is submitted with the Appeal and

A copy of all receipts from a garage and/or towing company in respect of labour and parts for repair of the vehicle is submitted with the Appeal.

#### Non Display of Current Motor-Tax Offences

a/ That the vehicle to which the alleged Offence relates had been recently purchased and a Motor Tax Disc was awaited when a Fixed Charge Notice (Fine) was issued for non-display of Motor Tax but

Appeals will only be considered where a copy of the Vehicle Registration Book indicating that the vehicle was purchased within the previous month is submitted with the Appeal and

A copy of the current Motor Tax Disc and a receipt from the Motor Tax Office indicating that all arrears have been paid from date of purchase to date (if applicable) the period of validity of which includes the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal.

b/ That prior to the time of the alleged Offence an application for Motor Tax had been lodged with the Motor Tax Office and a Motor Tax Disc was awaited when a Fixed Charge Notice (Fine) was issued for non-display of Motor Tax but

Appeals will only be considered where a copy of the Motor Tax Renewal Form from the Motor Tax Office indicating the date the application was received by the Motor Tax Office and which must be prior to the date of the alleged Offence is submitted with the Appeal and

A copy of the current Motor Tax Disc and a Receipt from the Motor Tax Office indicating that all arrears have been paid to date (if applicable) the period of validity of which includes the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal.

c/ That the vehicle was taxed on-line prior to the alleged Offence and a Motor Tax Disc was awaited when a Fixed Charge Notice (Fine) was issued for non-display of Motor Tax but

Appeals will only be considered where a copy of a Payment Confirmation Printout from Motor Tax On-Line confirming the date and time the vehicle was taxed and which must be prior to the time of the alleged Offence is submitted with the Appeal or

A letter from Motor Tax On-Line confirming the date and time the vehicle was taxed and which must be prior to the time of the alleged Offence is submitted with the Appeal and

A copy of the current Motor Tax Disc the period of validity of which must include the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal.

d/ That the vehicle was taxed but a Motor Tax Disc was inadvertently not displayed when a Fixed Charge Notice (Fine) was issued for non-display of Motor Tax but

Appeals will only be considered where a copy of a Motor Tax Disc indicating that the vehicle was taxed prior to the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal and

A copy of a Motor Tax Disc indicating that the vehicle was taxed on the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal and

A written explanation of the reason(s) for non-display of Motor Tax is submitted with the Appeal.

e/ That the Registered Owner was out of the country when a Fixed Charge Notice (Fine) was issued but

Appeals will only be considered where a copy of the current Motor Tax Disc and a Receipt from the Motor Tax Office indicating that all arrears have been paid to date (if applicable) the period of validity of which must include the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal and

A stamped passport/a boarding pass/flight tickets/ferry tickets indicating the date and time of departure from Ireland and the date and time of return to Ireland and confirming absence from Ireland at the time of the alleged Offence is submitted with the Appeal and

Proof of the date of booking (which must be prior to the date of the alleged Offence) is submitted with the Appeal.

f/ That the vehicle is a commercial vehicle and could not be taxed as a Department of Environment Test was awaited when a Fixed Charge Notice (Fine) was issued for non-display of Motor Tax but

Appeals will only be considered where the original appointment letter from the Department of the Environment Test Centre, which must be prior to the date of the alleged Offence, is submitted with the Appeal or

A letter from the Department of the Environment Test Centre stating the date and time (if applicable) the appointment was made, which must be prior to the date and time of the alleged Offence, is submitted with the Appeal and

A copy of the Pass Certificate issued by the Department of the Environment Test Centre as a result of the Department of the Environment Test is submitted with the Appeal and

A copy of the current Motor Tax Disc with a Receipt indicating that all arrears have been paid to date (if applicable) the period of validity of which must include the date of issue of the Fixed Charge Notice (Fine) is submitted with the Appeal.

### **Conclusion**

No gross departures from this Policy are permitted. However, minor departures may be permitted but only on a case-by-case basis and only with prior authorisation granted in each individual case by written direction.

### **Notes**

Note 1: it is an offence for the Registered Owner of a vehicle not to provide, within 28 days of the date of issue of the Fixed Charge Notice (Fine), all information stipulated above which is required to nominate a person (other than the Registered Owner) who was in charge of the vehicle when the Fixed Charge Notice (Fine) was issued or to provide information which is false or misleading, either of which, upon conviction, is punishable by a Fine not exceeding € 1,000;

Note 2: If convicted by a Court in respect of non-payment of a Fixed Charge Notice (Fine) the Offender may be liable to a fine not exceeding € 1,000 plus costs and a disqualification of the Offenders driving licence.

Note 3: Fixed Charge Notices (Fines) may be issued for a number of Offences including, but not solely –

Parking on a Double Yellow Line;

Parking on a Single Yellow Line;

Parking blocking an Entrance;

Parking in a Disabled Bay;

Pay and Display ticket expired;

No valid Pay and Display ticket or Pay Parking Permit;

Invalid Pay Parking Permit;

Overstay of Time Limit;

Parking in a Loading Bay (Private Taxed Vehicle);

Parking in a Loading Bay (Goods Taxed Vehicle);

Non display of current Road Tax;

Parking on a Footway;

Parking on a Grass Verge;

Parking on a Median Strip;

Parking in a Bus Stop;

Parking within 5 metres of a Road Junction;

Not parked within a Parking Bay;

Parking in a Clearway;

Parking in a Cycle Lane;

Parking within 15 metres of Traffic Lights (approach side);

Parking within 5 metres of Traffic Lights (exit side);

Parking in a Taxi Bay/ Rank;

Parking obstructing Other Traffic;

Parking endangering Other Traffic;

Parking at a School Entrance;

Parking on a continuous White Line.

**Issued by Roads Transportation and Public Safety Directorate**  
**15th February 2012**