

## Parking Issues

Information received 05/01/2016

From Barnt Green's local policing team based in Rubery:

We are aware that there have been concerns expressed in the past with regards to vehicles and the parking situation at school times. Local authorities are now responsible for enforcing on-street parking regulations and not the police. Civil Parking Enforcement was introduced into Bromsgrove on the 30th May 2013 and parking offences were decriminalised.

You can report vehicles parking on double yellow lines to the Bromsgrove Civil Enforcement team on **01386 565009**.

With regards to the photograph of the vehicles you sent in. It is not illegal to park partially or completely on the pavement or grass verges (except for in London)... **The Greater London Council (General Powers) Act 1974 - Section 15, sub-section 12** does give a local council (in this case Bromsgrove District Council) the legal power to introduce and enforce bans on pavement parking. Unfortunately they have chosen not to implement this policy.

Unfortunately it is not an offence to park in front of an entrance to a property (see: Highway Code:Rule 243). It is not illegal to park partially or completely on the pavement or in front of an entrance to a property unless it cause an **actual** rather than a potential obstruction. This is where it gets complicated...

The main pieces of legislation that give the police power are:

**Section 137 of the Highways Act 1980 makes it an offence to wilfully obstruct the highway.**

137(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence.

and

**Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 creates the offence of unnecessary obstruction.**

103. No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road so as to cause any unnecessary obstruction of the road.

For the purpose of the legislation a highway is a road and a footpath.

West Mercia police no longer issue fixed penalty fines for vehicle obstruction offences. As with all offences there are specific points to prove in order to satisfy that the criteria for the offence has been met. With regards to the powers of the police, when we have sufficient evidence that the offence has indeed been committed we complete a WMRT10 Form and report the driver of the offending vehicle for consideration to be sent to court for the offence (no on the spot fines anymore). In light of this we (the officer reporting) may be requested to attend court and give evidence as to why we have reported the person...

Case law has set a precedent for this kind of offence and it is the first thing a solicitor will refer to. To give you an idea the following information is on the "Police National Legal Database" (PNLD).

### Question

What is the legal position in respect of motor vehicles parked on pavements? What offences may be revealed?

## Answer

Proceedings for obstructing the highway could be instituted under the [Highways Act 1980](#) and the [Road Vehicles \(Construction and Use\) Regulations 1986](#) depending on the circumstances.

A number of cases demonstrate what might amount to an obstruction.

The case of [Nagy v Weston \(1965\)](#) is regarded as being the authoritative case on obstruction. In this case, it was held that while there must be proof of unreasonable use, whether or not use amounting to an obstruction was or was not unreasonable use, was a question of fact, depending on all the circumstances, including the length of time the obstruction continued, the place where it occurred, the purpose for which it was done and whether it caused an actual as opposed to a potential obstruction. The decision in this case was followed in *Evans v Barker* (1971) and other subsequent cases.

Whilst the public are fully entitled to the use of the whole of the footpath available to them, the obstruction must be something more than a mere, trifling obstruction ([Hertfordshire County Council v Bolden \(1987\)](#)). Where a serious obstruction is caused, obviously the offence will be made out;

[Evans v Baker \(1971\)](#) In this case it was held, that for the purpose of the Regulation 103 offence, leaving a car for a reasonable time, although amounting to an obstruction, did not amount to an unnecessary obstruction.

As you can see it is not a simple issue... Basically it is a "here and now offence". An officer must see it. The person reporting the obstruction must of been caused an actual obstruction. We are going to have to ascertain how they had been obstructed and how it has caused something more than a mere, trifling obstruction. Me personally, I will want a statement from the person effected because a defence solicitor will likely ask "You have reported my client for causing an obstruction under.....(Legislation)... can you please confirm who was actually caused an obstruction and in what way?"... the person caused the obstruction may also be required to attend court to give evidence.

Please consider, a male sees a parent with a pushchair having to walk around a car because its blocking the pavement. That male then phones the police and complains about the car. We attend the location and manage to speak with that parent and they say to us "yes I had to walk around the car, it did not cause me any kind of major delay and I had to wait for the traffic to pass by. It was annoying but I'm not really that bothered"...

Think case law.

- Did it occur for only a brief period? [Evans v Baker \(1971\)](#)
- Did it create considerable problems for other road users or pedestrians? [Hertfordshire County Council v Bolden \(1987\)](#)
- Did it actually cause an obstruction? [Nagy v Weston \(1965\)](#)

We will ALWAYS do our best to act proactively! but generally when we are on patrol and people see us they will not park inconsiderately. With regards to someone being obstructed an officer would need to witness a person being obstructed in the first instance and then consider all the factors involved.

We will however monitor the situation and despite the governments austerity cuts we will try our best to proactively patrol the area when we are available.

Kind regards

PCSO Stuart Taylor