

Introduction

The policies contained in this document are designed to help ensure the Council adopts a fair and consistent approach to parking enforcement and to assist Council employees when assessing representations.

This document is intended for guidance only; each case will be assessed fairly and reasonably on its own merits and it is not appropriate to prescribe a response for every set of circumstances. This Guidance does, however, indicate likely responses to typical representations that occur and so assists the understanding of how individual cases will be approached. It also gives an indication of what evidence should be provided by anyone who wishes to make representations against a Penalty Charge Notice.

Parking Enforcement

Enforcement is necessary to:

- Maintain and, where possible, improve the flow of traffic thereby making the Borough of Cheshire West and Chester a safer place to live, work in and enjoy.
- Consider the needs of local residents, shops and businesses, thereby sustaining the Borough's economic environment.
- Actively support the needs of disabled people bearing in mind that, in some cases, they are unable to use public transport and so are entirely dependent upon the use of a car. This will ensure that people with disabilities are able to have equal access to all facilities across the Borough.
- Discourage indiscriminate parking that causes obstruction to other motorists, public transport, pedestrians, cyclists and people with disabilities. This will ensure that the Borough remains accessible, open and inclusive.

The policies contained in this Guidance will be reviewed regularly and will take into account:

- a) Existing and predicted levels of demand for parking.
- b) The availability and pricing of both on and off-street parking.
- c) The nature and extent of on-street parking restrictions.
- d) The accuracy and quality of existing signs and plates.
- e) The levels of compliance that the Council considers to be acceptable and the level of enforcement necessary to achieve them.
- f) The views of the public who shall be actively consulted on all matters relating to the extension of parking restrictions.
- g) The views of the Cheshire Constabulary.
- h) The provision of suitable parking facilities for disabled people.
- i) The provision of suitable parking facilities for cyclists and motorcyclists.
- j) Consideration of the council's overall aims with regard to the environment, fear of crime and the sustained economic growth of the Borough.

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Key to abbreviations used in this document	
CC	Charge Certificate document
CEO	Civil Enforcement Officer
DVLA	Driver and Vehicle Licensing Authority
HHC	Hand Held Computer Terminal – used by CEO
NtO	Notice to Owner document
PCN	Penalty Charge Notice
RTA	Road Traffic Act
RTRA	Road Traffic Regulation Act
TMA	Traffic Management Act
TPT	Traffic Penalty Tribunal
VQ5	DVLA response with owner/keeper/hirer details

SECTION 1 - Enforcement

This section contains information on how enforcement is undertaken on the highway and in Council car parks by Civil Enforcement Officers. It details the contraventions that may give rise to the issuing of a Penalty Charge Notice (a PCN) and describes the usual exemptions to these.

CIVIL ENFORCEMENT OFFICERS:

- 1.0 Civil Enforcement Officers are the public face of parking enforcement. They are deployed by the Council to enforce parking restrictions both on-street and off-street in car parks. They wear an appropriate uniform identifying them as Borough Council Enforcement Officers. The hours of operation and the beats are flexible to address parking management issues that vary between the towns and city centre.
- 1.1 The beats of the Civil Enforcement Officers are established by the Management Team taking full consideration of traffic management and road safety concerns.
- 1.2 Requests from the public for targeted enforcement will be addressed where appropriate. Priority will be given to requests received from the Police and the Highways Agency where the request relates to a Trunk Road. These agencies may from time to time fund coordinated enforcement to address particular traffic management or road safety issues.

DISCRETION:

- 2.0 The Civil Enforcement Officers issue Penalty Charge Notices to vehicles where they consider a parking contravention has occurred. To prevent Civil Enforcement Officers being open to criticism of inconsistency, favouritism or bribery, it is not appropriate for them to be able to exercise discretion. The only exception to this will be cases where the driver returns to the vehicle before a PCN has been issued and in the opinion of the CEO, the contravention was not causing a road safety problem. In this situation, a verbal warning may be more appropriate.

OBSERVATION:

- 3.0 Prior to a PCN being issued, a Civil Enforcement Officer may allow an appropriate period to elapse between first observing the vehicle and issuing a PCN. This is to satisfy themselves that loading or unloading is not taking place. Typically 20 minutes maximum is allowed for legitimate loading or unloading of goods vehicles on-street. There will, however, be incidents where longer is needed because of the nature of the delivery. With certain contraventions, however, this observation time is not appropriate and in all cases Civil Enforcement Officers will take into consideration road safety for all users. Furthermore, the Council reserves the right to reduce or remove the observation time to address local problems. An example would be where drivers persistently contravene parking restrictions to access a cash point.

PENALTY CHARGES:

- 4.0 The list of all current parking contraventions together with the appropriate code and observation times is shown in the following tables. Penalty Charge Notices are issued at a Higher or Lower rate depending upon the severity of the contravention. The higher or lower charge is dictated by the contravention and is not at the discretion of the Council.

GV – Goods vehicle PMC – Private motor car		TABLE 1 – On Street Contraventions, Penalty Charge Levels & Observation Periods.	
On Street Code	Observation Time	Contravention	Penalty Charge Level
01	GV 20 min PMC 5 min	Parked in a restricted street during prescribed hours.	Higher
02	0 min	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force.	Higher
12	5 min	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place.	Higher
16	5 min	Parked in a permit space without displaying a valid permit.	Higher
18	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.	Higher
19	5 min	Parked in a parking place without clearly displaying the required permit or pay and display ticket.	Lower
21	0 min	Parked in a suspended bay/space or part of bay/space.	Higher
22	0 min	Re-parked in the same parking space within one hour of leaving.	Lower
23	0 min	Parked in a parking place or area not designated for that class of vehicle.	Higher
24	0 min	Not parked correctly within the markings of the bay or space.	Lower
25	GV 20 min PMC 5 min	Parked in a loading place during restricted hours without loading.	Higher
26	0 min	Vehicle parked more than 50cm from the kerb and not within a designated parking place.	Higher
30	0 min	Parked for longer than permitted.	Lower
35	5 min	Parked in a disc parking place without clearly displaying a valid disc.	Lower
36	5 min	Parked in a disc parking place for longer than permitted.	Lower
40	0 min	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge.	Higher
42	0 min	Parked in a parking place designated for police vehicles.	Higher
45	0 min	Parked on a taxi rank.	Higher
46	0 min	Stopped where prohibited (on a red route or clearway)	Higher
47	0 min	Parked on a restricted bus stop/stand.	Higher
48	0 min	Stopped in a restricted area outside a school.	Higher
49	0 min	Parked wholly or partly on a cycle track	Higher
57	0 min	Parked in contravention of a coach ban.	Higher
99	0 min	Stopped on a pedestrian crossing or a crossing area marked by zigzags	Higher

An 'instant' PCN may always be issued in circumstances where the Civil Enforcement Officer concerned has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for the minimum periods indicated. Evidence will usually be on road safety grounds.

GV – Goods vehicle PMC – Private motor car		TABLE 2 – Off Street (Car Park) Contraventions, Penalty Charge Levels & Observation Periods.			
Code	Observation Time	Contravention	Penalty Charge Level	Comment	
70	GV 20 min PMC 5 min	Parked in a loading area during restricted hours without reasonable excuse.	Higher		
73	5 min	Parked without payment of the parking charge	Lower		
74	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher		
80	0 min	Parked for longer than the maximum period permitted.	Lower		
81	0 min	Parked in a restricted area in a car park.	Higher		
82	0 min	Parked after the expiry of paid for time.	Lower	If ticket expiry > 10mins, issue instant PCN	
83	5 min	Parked in a pay & display** car park without clearly displaying a valid pay & display ticket.	Lower		
84	0 min	Parked with additional payment made to extend the stay beyond time first purchased.	Lower		
85	0 min	Parked in a permit bay without clearly displaying a valid permit.	Higher		
86	0 min	Parked beyond the bay markings.	Lower		
87	0 min	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge.	Higher		
90	0 min	Re-parked within one hour of leaving a bay or space in a car park.	Lower		
91	0 min	Parked in an area not designated for that class of vehicle.	Higher		
92	0 min	Parked causing an obstruction.	Higher		
95	5 min	Parked in a parking place for a purpose other than the designated purpose for the parking place.	Lower		

An 'instant' PCN may always be issued in circumstances where the Civil Enforcement Officer concerned has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for the minimum periods indicated. Evidence will usually be on road safety grounds.

** Motorists are not permitted time to obtain change away from the immediate area of the P&D machine or car park. Civil Enforcement Officers should observe queues at ticket machines and/or pedestrians who may be seeking change or returning to the vehicle in question, before issuing a PCN

PENALTY CHARGE NOTICE (PCN) CONTENT:

5.0 In accordance with statutory requirements and national best practice, the PCN must contain the following details;

- The date on which the notice is served.
- The name of the enforcement authority.
- The registration mark of the vehicle involved in the alleged contravention
- The date and time of the alleged contravention.
- The grounds on which the CEO serving the notice believes that the penalty charge is payable.
- The amount of the penalty charge.
- That the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN was served.
- That if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the notice is served the penalty charge will be reduced by the amount of any applicable discount - currently by 50%.
- Payment methods.
- That if the penalty charge is not paid before the end of the period of 28 days beginning with the date on which the PCN was served a Notice to Owner (NtO) may be served by the enforcement authority on the owner of the vehicle.
- That a person to whom an NtO is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected.
- If representations against the penalty charge are received at the specified address before the NtO is served they will be considered.

The Civil Enforcement Officer shall also record all other relevant details on the Hand-Held Computer (HHC) including Tax Disc number and valve positions if appropriate. In addition the Civil Enforcement Officer will take a number of photographs to clearly show the registration number, the parking contravention and the PCN affixed to the windscreen.

Service of a Penalty Charge Notice by post

There are three circumstances in which a PCN (a “regulation 10” PCN) may be served by post:

1. Where the contravention has been detected on the basis of evidence from an approved device;
2. If the CEO has been prevented by violence from serving the PCN either by affixing it to the vehicle or by giving it to the person who appears to be in charge of that vehicle;
3. If the CEO had started to issue the PCN but did not have enough time to serve it before the vehicle was driven away and would otherwise have to write off or cancel the PCN.

In any of these circumstances a PCN is served by post on the owner (whose identity is ascertained from the DVLA), and also acts as the Notice to Owner. Postal PCNs are required to be sent within 28 days of the contravention, but best practice is for the PCN to be sent within 14 days. We aim to send PCNs within 14 days.

Prevention of Service by violence etc.

A PCN may be served by post if the CEO attempted to serve it by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person. This includes situations where the person who appears to be in charge of the vehicle is abusive or prevents service indirectly through intimidation or directly through threats or actual physical force.

In such circumstances, the actual PCN issued by the CEO on patrol cannot be served by post because the information it gives is insufficient. The regulation 9 PCN issued by the CEO should be cancelled and a regulation 10 PCN served by post. Enforcement authorities should ensure that they have sufficient primary and supporting evidence to deal with any subsequent representations and appeals and will wish to obtain a witness statement from the CEO. Back-office staff should trace the relevant registered keeper's address via the DVLA. In these circumstances the motorist will be given a 14 day discount period for payment of the PCN.

Prevention of service by "drive away"

A PCN may also be served by post if the CEO had begun to issue it i.e. had completed his/her observation and had either started to write the PCN or input data to the HHC and would, in other circumstances, have to cancel the PCN - but the vehicle was driven away from the place in which it was parked before the CEO had finished issuing the PCN or been able to serve it.

In such circumstances, the actual PCN issued by the CEO on patrol cannot be sent by post because the information it gives is insufficient. The regulation 9 PCN issued by the CEO shall be cancelled and a regulation 10 PCN served by post. Enforcement authorities should ensure that they have sufficient primary and supporting evidence to deal with any subsequent representations and appeals and will wish to obtain a witness statement from the CEO. The Secretary of State recommends that the CEO records the excise license number of the vehicle and informs the motorist of the contravention before they drive away. Authorities will wish to keep a record of which CEOs ask for a regulation 10 PCN to be issued and considers whether there is anything in the way in which the Officer is working that has contributed to this. Back-office staff should obtain the relevant registered keeper's home address from the DVLA. In these circumstances the motorist will be given a 14 day discount period.

The PCN, which serves also as the NtO **must** be served using first class post and state:

The date of the notice, which must be the date on which it is posted.
The name of the enforcement authority.
The registration mark of the vehicle involved in the alleged contravention.
The date and time at which the alleged contravention occurred.
The amount of the penalty charge.
The payment methods.
The grounds on which the enforcement authority believes that a penalty charge is payable.
That the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served.
That if the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the PCN was served, it will be reduced by the amount of any applicable discount - currently by 50%.
That if after the last day of the period of 28 days no representations have been made and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge - currently 50% - and take steps to enforce payment of the charge as so increased.
The amount of the increased penalty charge.
That the PCN is being served by post because a CEO attempted to serve a PCN by affixing it to the vehicle or giving to the person in charge of the vehicle but was prevented from doing so by some person.
That representations may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days beginning with the date on which the PCN is served may be disregarded.
The basis on which representations may be made.
The address (including any e-mail address) to which representations must be sent.
The form in which representations must be made
That if the representations are not accepted by the enforcement authority the recipient of the PCN may appeal against the authority's decision to an adjudicator.

It is recommended that the PCN also gives:

- vehicle make and colour (if evident);
- detailed location of vehicle (full street name);
- the contravention code;
- observation start and finish times (where appropriate);
- PCN number (all PCNs should be uniquely identifiable);
- CEO's identification number

A PCN may not be served by post if the motorist returns to the vehicle before the CEO has started to issue the PCN. If the CEO is observing the vehicle s/he has NOT started to issue the PCN. Jotting down details is not classed as starting to issue the PCN. It is only when the CEO starts to create the PCN and would otherwise have to formally cancel it that s/he has started to issue the PCN. If the CEO has not started to issue the ticket and the motorist returns, the CEO should establish whether the vehicle is parked in contravention (for example, if loading/unloading is taking place). If the vehicle is in contravention, the CEO should ask the motorist to bring him/herself inside the restrictions.

Enforcement by Approved Devices

Traffic Management Act Regulations give the power to authorities throughout England to issue PCNs for contraventions detected with a camera and associated recording equipment (approved device). The Secretary of State must certify any device used solely to detect contraventions (i.e. with no supporting CEO evidence). Once certified they may be called an 'approved device'.

A discount period - currently set at 21 days – is given for a PCN issued on the basis of evidence from an approved device. This is because the PCN also serves as the Notice to Owner and so the motorist does not have the opportunity to make an informal representation only a formal representation.

EXEMPTIONS TO CONTRAVENTIONS

Automatic exemptions and dispensations:

- 6.0 **Exemptions:** The following vehicles will receive automatic exemptions from waiting restrictions in accordance with the provisions of the Traffic Regulation Order (TRO):
- a) Vehicles used for Police, Fire Brigade and Ambulance purposes.
 - b) Vehicles involved in contracted highway maintenance, improvement or reconstruction where there is a need for them to be parked adjacent to the work site.
 - c) Vehicles carrying out statutory authorised powers and duties if they cannot be used for such purposes in any other road.
 - d) Post Office and other vehicles engaged in the delivery of postal packets and bearing a livery used by a universal service provider within the meaning ascribed by the Postal Services Act 2000. This does not include private vehicles used by postmen/women whilst carrying out letter deliveries.
 - e) Electricity Board, Gas Board, Water Authority, British Telecom or other telecommunications (and/or their appointed contractors), whilst actively laying, altering or undertaking repairs to pipes, cables or other apparatus.
 - f) Furniture vans whilst moving furniture to and from a dwelling, office or depository. These vehicles should not however be parked in contravention of a loading restriction without the prior permission of the Team Leader, Parking. For other furniture removal (not using furniture vans), an application must be made to the Team Leader, Parking.
 - g) Bullion vehicles and specially adapted Security vans involved in the delivery or collection of cash and other high value goods.
 - h) Vehicles displaying valid disabled parking permits (blue badges) where permitted by the prevailing parking restrictions (see paragraph 9.0).
 - i) Hackney carriages whilst waiting in a duly authorised taxi stand.

Any PCNs issued will only be revoked with the production of appropriate evidence that an automatic dispensation was applicable.

Discretionary exemptions and dispensations:

- 6.1 **Discretionary** conditional dispensations may be granted by the Team Leader, Parking for the following:
- Maintenance, building, excavation and demolition work
 - Furniture Removals.
 - Glaziers involved in **emergency** repair work.
 - Plumbers, electricians and gas fitters on **emergency** call-outs
- 6.2 Applications for dispensations must be received at least 5 working days prior to the required date (where possible) and must be made to the Parking Services section. The Council's decision is final.
- 6.3 If granted, dispensations will be issued to the applicant by way of written authority, which must be clearly displayed in the vehicle whilst parked. Vehicles not displaying a valid dispensation will be liable to receive a penalty charge notice.

Suspensions:

- 7.0 Designated parking bays, on or off-street, may be suspended for the following reasons:
- To allow maintenance of adjacent property where highway access is required for deliveries, essential vehicles, skips etc. (Cars will not be considered as "essential vehicles" and will be expected to park in accordance with parking restrictions).
 - To allow highway maintenance, improvements or reconstruction, the removal or repair of any sewer or any main pipe or apparatus for gas, water, electricity or telecommunications and traffic signs.
 - At the request of the Police.
 - For security reasons.
 - Any other reason accepted by the Council.
- 7.1 Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Team Leader, Parking. The Council's decision is final.
- 7.2 If granted, suspensions of parking bays/spaces will be clearly signposted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates and times. Where possible these signs will be displayed at least three days before the suspension comes into operation.
- 7.3 Any vehicle parked in contravention of a suspension will receive a PCN.

BROKEN DOWN VEHICLES:

- 8.0 A note left in the windscreen, stating that "the vehicle has broken down", will not be accepted by the Civil Enforcement Officer as a reason for not issuing a PCN. With the exception of where a vehicle is in the process of being repaired at the roadside, a CEO will issue a PCN and the driver will be required to include within the representation details of the breakdown for consideration. Further details on the appropriate supporting evidence are given in Section 3.

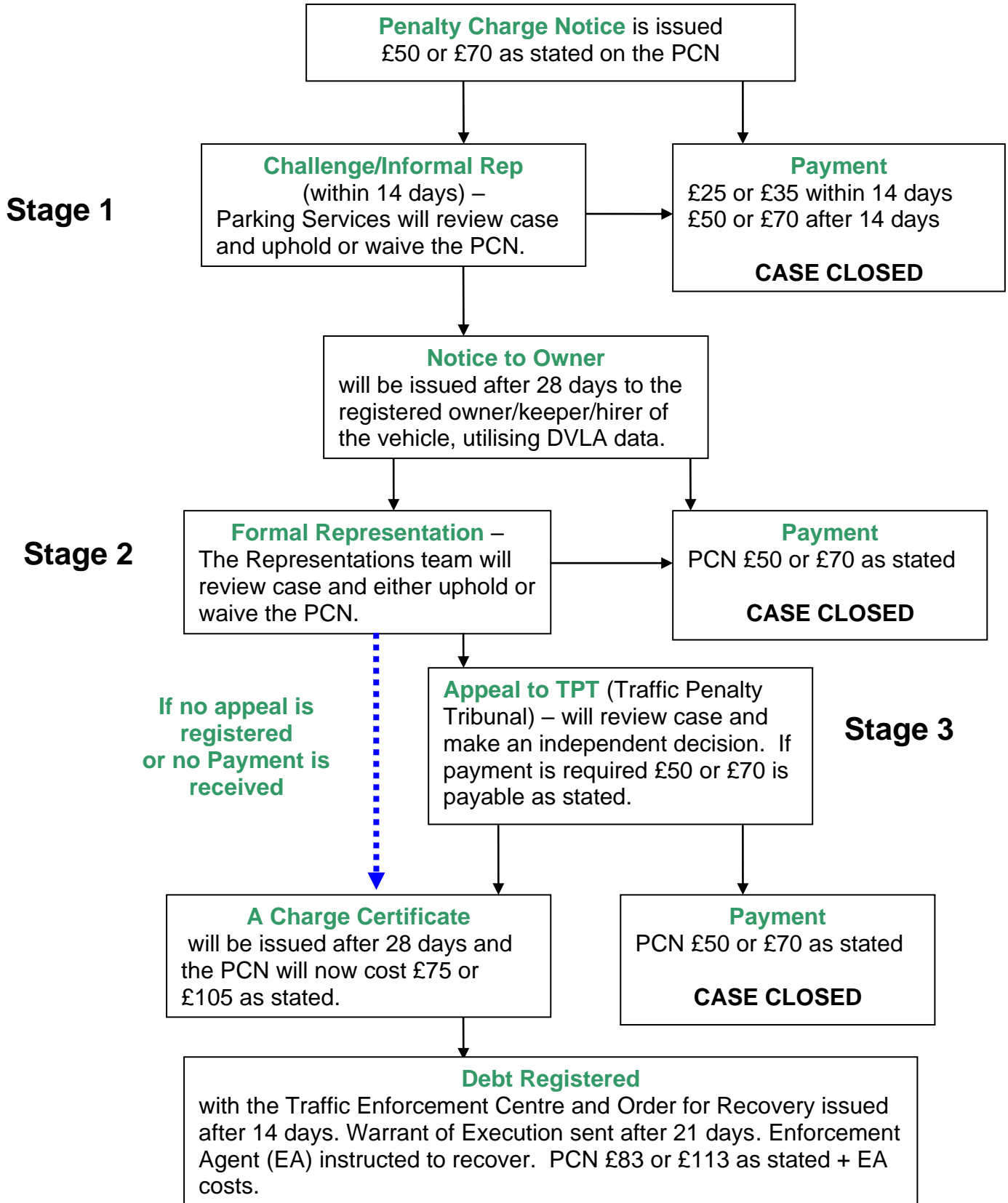
DISABLED DRIVERS/PASSENGERS:

- 9.0 Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport the disabled person. It is not permitted to use the badge for any other purpose e.g. shopping for the disabled person when they, themselves, are not being transported in the vehicle.
- 9.1 Blue badges must be clearly and properly displayed whilst the vehicle is parked so that the expiry date and serial number are clearly visible from the outside of the vehicle.
- 9.2 Failure to do so will result in a PCN being issued for the contravention of the appropriate parking restriction. Where a time limit is enforced the blue clock must be used with the blue badge and set at the time of arrival. Further details on how any representations will be addressed by the Council are covered in Section 2.
- 9.3 Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park:
- On Street**
- Limited Waiting Bays for any length of time.
 - On Street pay and display bays: free of charge without time limit.
 - On Street Disabled Parking Bays: please see accompanying time plate for whether a time limit is in place.
 - Yellow Lines: For a period not exceeding 3 hours.
- Off Street**
- Council Car Parks: In accordance with details provided on the car park information boards. Vehicles should only park within the bays provided.
- 9.4 Disabled Badge Holders are not allowed to park in any area where there is a loading restriction in place – marked with kerb tabs or kerb markings.
- 9.5 Disabled Badge Holders are not allowed to park in a permit holder's bays or a bay intended for specific users i.e. Loading Bay, Doctors Bay, Taxi Bay, Bus Stop etc. However Disabled Badge Holders may park in a resident zone / bay if the terms and conditions for the Residential Scheme for that area allow it. For more details please read the blue booklet supplied with the disabled badge and the accompanying letter. Alternatively please contact Parking Services on 0300 123 7024.
- Parking must always be in accordance with the Blue Badge Scheme.
- 9.6 Civil Enforcement Officers have the right to inspect Blue Badges for authenticity.

SECTION 2 - Penalty Charge Notice Processing

This Section provides details of how PCNs are processed in accordance with statutory requirements and local performance targets. It details information on typical representations and mitigating circumstances.

OVERVIEW OF THE PENALTY CHARGE NOTICE PROCESS



10.0 ADMINISTRATIVE PROCESS

- 10.1 At the date of this guidance, the PCN rate in the Borough is set at £70/£50 for both on and off-street contraventions. In accordance with statutory requirements, a discount amount of 50% of the penalty charge is available within 14 days of PCN issue.
- 10.2 Payment of the PCN is accepted in a variety of ways. The PCN contains information on how to pay via the internet, by telephone or by post to the Council. Once full payment is made the payment details are passed to the Parking Services team, the case is closed and all further enforcement action ceases.
- 10.3 As a general rule Parking Services do not offer either extended time in which to pay PCNs nor will they enter into instalment payment arrangements. Exceptions to this are only made in cases of demonstrated, genuine financial hardship agreed with the Manager of Lifetime Services & Car Parking (or in their absence the Head of Regulatory Services). However such arrangements will not be considered if a Bailiff Warrant(s) has been issued for recovery of the amount due. Application must be in writing and will be responded to within 8 working days. In order for the application to be considered it must contain proposal for payment and be accompanied by any evidence supporting the claim of financial hardship.

For all cases, the following procedures will normally be followed and detailed in the Councils response;

- **Discounted rate** (i.e. the lower charge paid within the discounted period) Instalment agreements can only be made in respect of the discounted amount if all of the payments are made before the expiry of the discounted period.
 - **Full rate** (i.e. paid after discount period has expired) A minimum payment of £12.50 or £17.50 per week per penalty charge notice (according to the level of contravention) will be accepted as an instalment payment of the full charge.
 - Non-payment of any cheque will result in enforcement action being recommenced and the un-banked cheque being returned to the drawer with a letter stating that the arrangement is cancelled.
 - Payments by postal order or credit card can also be accepted, although card payments may carry a handling charge.
- 10.4 The penalty charge is usually payable by the owner/keeper of the vehicle except if the vehicle was hired at the time of the contravention. The charge is not payable if criminal proceedings have been taken because a Fixed Penalty Notice was issued by the Police.
- 10.5 If no payment or challenge (see paragraph 10.14) is received, a Notice to Owner will be issued no sooner than 28 calendar days after the PCN was issued. Details of vehicle ownership will be supplied by the DVLA.
- 10.6 Should a PCN be issued on a vehicle with a diplomatic registration plate, then the Notice to Owner will not be sent but a record of the fine will be kept and passed to the Foreign and Commonwealth Office annually for pursuit.

- 10.7 If the PCN has not been paid within 28 days of the Notice to Owner being issued and no representation or appeal is being considered then a Charge Certificate will be issued. This will increase the Penalty Charge from £70/£50 to £105/£75.
- 10.8 If the penalty charge is not paid 14 days after the pre-debt registration letter has been issued, the authority will apply to the Traffic Enforcement Centre at Northampton County Court to register the debt. The current registration fee of £5 is added to the debt.
- 10.9 If payment continues to be withheld, the debtor is sent an Order for Recovery and Witness Statement advising of a further 21 day period to either pay the debt or swear a Witness Statement.
- 10.10 There are 4 grounds for making a Witness Statement;
- The Notice to Owner was not received. If this is accepted by the Court, the issuing authority will re-issue the Notice and re-set the penalty charge to £70/£50.
 - A formal representation was made to the issuing authority but the rejection notice was not received. If accepted, the council will refer the case to the Traffic Penalty Tribunal.
 - An appeal was made to Traffic Penalty Tribunal (TPT) but no response has been received. If accepted, all paperwork is to be forwarded to TPT to for a decision/response.
 - The Penalty Charge has been paid in full.
- 10.11 Failure to either pay or complete a Witness Statement will result in the authority applying for a Warrant of Execution from the Traffic Enforcement Centre.
- 10.12 Once a Warrant of Execution is issued, the authority will instruct approved bailiffs to collect the debt on their behalf.
- 10.13 The vehicle owner may dispute the issuing of the PCN at three stages;
- After the PCN has been issued but before the Notice to Owner is issued. This is known as the **informal representation or challenge**
 - After the Notice to Owner has been issued. This is known as the **formal representation**
 - If the formal representation is rejected, the vehicle owner may then **appeal** to the **Traffic Penalty Tribunal**

DISPUTING A PENALTY CHARGE – THE PROCESS

- 11.0 This section contains information on how appeals are addressed by the Council. This is not prescriptive guidance as each case will be assessed on its own merits. All grounds for cancellation submitted will be considered fairly and objectively. The advice that follows should therefore be regarded as guidance only on the likely grounds for appeal and the type of evidence that would best support each case.
- 11.1 The Council will take into account the individual circumstances of each case and has discretion to cancel PCNs at any point in the process, even if it establishes that a contravention did occur. Where a decision has been made not to waive a penalty; a written explanation will be provided and information advising how to dispute the penalty further will be given.
- 11.2 The PCN is issued with advice on how the motorist can appeal if they wish to do so. In the first instance, this will be via informal representation or challenge.

Stage 1 - INFORMAL REPRESENTATION or CHALLENGE

- 11.3 Within 14 days of issue of a PCN being issued, the driver of the vehicle may make a written challenge against the issue of the PCN. As well as challenging the validity of the PCN (s)he can mention any mitigating circumstances within this challenge.
- 11.4 The Council will respond, in writing, within 8 working days of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge.
- 11.5 If a challenge is rejected the written notification from the Council must give precise reasons why this decision has been reached. Providing the written challenge was received within 14 days of the PCN being issued the discounted rate will be restarted and last for 14 days from the date of the rejection notice.
- 11.6 If a challenge is received later than 14 days from the date of the PCN the discount period will not be held.
- 11.7 The making of a challenge in no way detracts from the ability of the keeper to make a subsequent formal representation against the issue of the PCN to the Council or to TPT.

Stage 2 - FORMAL REPRESENTATION

11.8 When a Notice to Owner is issued, the vehicle owner will be provided with information on the statutory grounds for appeal. As with informal representations, formal representations must be in writing. The statutory grounds to appeal are as follows;

- (a) that the recipient —
 - (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
- (b) that the alleged contravention did not occur;
- (c) that the vehicle had been permitted to remain at rest in the parking place by a person who was in control of the vehicle without the consent of the owner;
- (d) that the relevant designation order is invalid;
- (e) that the recipient is a vehicle-hire firm and —
 - (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice fixed to the vehicle during the currency of the hiring agreement;
- (f) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (g) that there has been a procedural impropriety on behalf of the authority.
- (h) In the case where a PCN was served by post on the basis that a CEO was prevented by someone from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle that the CEO had not been so prevented.
- (i) The NtO should not have been served because the Penalty Charge Notice had already been paid.

In addition to the statutory grounds for appeal the Council is also obliged to consider any mitigating circumstances. The owner/keeper is required to give full details and supporting evidence of any such circumstances.

More detail on grounds for appeal is given in the next section together with supporting evidence that would be appropriate to the case.

Stage 3 – APPEAL to the TRAFFIC PENALTY TRIBUNAL

- 11.9 Within 8 working days of receipt of a formal representation from the keeper of the vehicle a written Notice of Acceptance or Rejection will be sent by the Council:
- (i) Notice of Acceptance: This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled.
 - (ii) Notice of Rejection: This formally rejects the representation and gives detailed reasons why the Council have come to this conclusion. The rejection is also accompanied with the necessary forms and instruction on how a further representation can be made to the independent Traffic Penalty Tribunal (TPT). This representation must be made within 28 days of receipt of the notice of rejection.
- 11.10 Should the appellant decide to progress the appeal to TPT, they will be able to decide whether to proceed with a written appeal or to attend a hearing to put their case forward. An independent adjudicator from TPT will consider the case in due course and his or her decision is considered final. Further information on the appeals procedure can be found on the TPT website at www.trafficpenaltytribunal.gov.uk

12.0 PERSONS AUTHORISED TO CANCEL PENALTY CHARGE NOTICES

- 12.1 The Team Leader, Parking is authorised to give permission to cancel Penalty Charge Notices and will carry out this duty as part of their substantive role.
- 12.2 Before deciding whether to cancel a Notice the Team Leader will take into account the circumstances of the individual case and will apply the policies set out in this Guidance.
- 12.3 Where appropriate the Team Leader will seek guidance from either the Manager, Lifetime Services & Parking or from the Head of Regulatory Services.
- 12.4 The Team Leader, Parking will appoint a Deputy to cover in his/her absence. This Deputy should not be any member of staff who is directly responsible for issuing Penalty Charges Notices.
- 12.5 The Team Leader will regularly review any cancellations granted and relevant Traffic Penalty Tribunal decisions. The findings of these reviews will be shared with staff who may be appointed as Deputy and with the Manager, Lifetime Services & Car Parking and the Head of Regulatory Services
- 12.6 The Manager, Lifetime Services & Parking and the Head of Regulatory Services may grant permission to cancel a Penalty Charge Notice.

SECTION 3 – Grounds for appeal

This section provides detail of grounds for appeal against a Penalty Charge Notice. It also provides advice on mitigating circumstances. It is recognised that each case will be different and that sometimes situations are beyond the control of the motorist and in which case it would be unreasonable to pursue the PCN. The list provided is not exhaustive, but instead offers guidance on likely scenarios that would lead to a Penalty Charge Notice being cancelled.

It is the responsibility of the person making representations to support any claims they make. The Council will not normally engage in gathering evidence on behalf of the person who wishes the PCN to be cancelled.

STATUTORY GROUNDS FOR APPEAL

CAR OWNERSHIP

13.0 The recipient has never been the owner of the vehicle in question

Representations are likely to be accepted if the DVLA confirms that the motorist was not the registered keeper at the time of the contravention.

13.1 The recipient had ceased to be the owner before the date of the contravention

Representations are likely to be accepted if the current registered keeper is able to provide proof that the vehicle was sold or otherwise disposed of before the date of the contravention. Such documentation could include a bill of sale, registration or insurance documents or a letter from the DVLA. Furthermore, the registered owner should be able to provide details of the new owner to whom, if verified, a new Notice to Owner can be sent.

13.2 The recipient had become the owner after the date of the contravention

Similarly, representations are likely to be accepted if the current registered keeper is able to provide proof that the vehicle was purchased after the date of the contravention. Such documentation could include an invoice, registration or insurance documents or a letter from the DVLA. The new owner should be able to provide details of the previous owner whereupon a new Notice to Owner can be issued.

THE CONTRAVENTION DID NOT OCCUR

14.0 The recipient claims that the alleged contravention did not occur

This means that the penalty charge notice was issued incorrectly because no illegal parking took place. For example, an appellant may claim that the Civil Enforcement Officer was wrong because:

- a) The motorist was **loading or unloading** at a time when it is allowed but the Civil Enforcement Officer did not notice this.

Representations are likely to be accepted if it is proven that the goods delivered were heavy, bulky or so numerous that it would not be reasonable to use a legal parking place. Furthermore, such loading would need to be close to the premises concerned and timely. However, appellants should be aware that where the prevailing Traffic Regulation Order specifically prohibits loading, on taxi ranks, bus stop clearways or in car parks where a valid ticket has not been purchased then such activity is unlikely to warrant cancellation of the PCN.

- b) The motorist had a **permit or ticket** but the Civil Enforcement Officer did not see it.

Assuming that the valid ticket can be produced and the Civil Enforcement Officer confirms that a ticket was in evidence that could not be clearly seen then representations are likely to be accepted. However, appellants should note that this reason will only be accepted if it is the first such representation on these grounds from that person. Repeat claims for subsequent PCNs for the same contravention are unlikely to be cancelled.

- c) The motorist had a **disabled badge on display** but the Civil Enforcement Officer did not see it.

As with parking tickets, it is the motorist's duty to ensure that disabled badges are clearly displayed so that the expiry date and serial number are clearly visible. However, proof of ownership and a first occasion for that contravention is likely to warrant cancellation of the PCN.

- d) The **signs / markings** were not in the correct position or had been damaged or were not visible.

Claims of this nature will be investigated with a site visit and the existing traffic signs and lines will be checked against the appropriate legislation. An assessment will then be made as to the validity of the PCN. Any subsequent cancellation on the grounds of incorrect signs and/or lines will result in prompt rectification of the problem. A partly worn line, utility gap or missing end bar will not normally be accepted as a reason for cancellation. Consideration may be given to the position of the vehicle in relation to markings.

- e) The **date** or **registration number** is **incorrect**.

The appellant will be asked to provide a copy of their current valid tax disc which will be checked against the serial number recorded by the Civil Enforcement Officer. If this is shown to be different, then the PCN is likely to be cancelled.

- f) A **PCN was never served** on the vehicle.

It is accepted that PCNs are sometimes removed from vehicles either by a third party or weather conditions. The Civil Enforcement Officer should have photographic evidence to support the correct serving of the PCN where further evidence or investigations support the claim that the PCN was removed the motorist will be given the opportunity to pay at the discounted rate for a period of 14 days from receipt of the notice of rejection.

- g) The motorist claims that the adjacent **pay and display machine was not working**.

Claims of this nature can be verified from the service records of the appropriate machine. However, if there was another ticket machine available nearby that was working correctly and evidence confirms that other users had been able to purchase tickets at this time then the PCN is unlikely to be cancelled.

- h) The motorist was **carrying out building works nearby** and **had a valid dispensation** issued from the appropriate local authority. As with other tickets and disabled badges, the receipt of a valid waiver that matches the details of the vehicle is likely to result in a cancellation of the PCN for a first offence for this contravention.

VEHICLE TAKEN WITHOUT CONSENT

- 15.0 That the vehicle had been permitted to remain at rest in the parking place by a person who was in control of the vehicle without the consent of the owner**

Representations should in this instance be accompanied with a valid police crime report reference number. Claims that a family member or friend had unauthorised use of the vehicle will also need supporting with evidence that the police were contacted prior to or soon after the issuing of the PCN.

INVALID TRAFFIC REGULATION ORDER

16.0 RELEVANT DESIGNATION ORDER IS INVALID

Claims made on these grounds are infrequent and are specifically concerned with the correct legal procedure for the making of the Traffic Regulation Order. Claims are likely to be upheld if proof can be provided that the relevant Order that the vehicle was parked in contravention of was not properly constructed. For example, the correct consultation process had not been followed.

HIRE VEHICLE

17.0 RECIPIENT IS A VEHICLE-HIRE FIRM AND —

- (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and**
- (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice fixed to the vehicle during the currency of the hiring agreement;**

Representations are likely to be accepted if the hire company can provide proof that the vehicle was hired at the time of the contravention (with a signed hire agreement that includes the appropriate liability clause for PCNs) and the company can provide the full name and address of the person who hired the vehicle. In these instances, a new Notice to Owner will be sent to the person named by the hire company.

NON -STATUTORY GROUNDS FOR APPEAL

Although the statutory grounds will cover most of the grounds for the cancellation of a PCN, there are many other mitigating circumstances where it would be appropriate to consider cancelling the PCN. Equally, in certain circumstances it would be correct for the authority to continue to claim the penalty charge.

The list that follows is in alphabetical order and provides details of circumstances when PCNs might be cancelled. Also included in the list are general policies and guidance on enforcement issues and the issuing and the processing of PCNs.

18.0 ABANDONED VEHICLES:

18.1 Where a vehicle remains parked, in a restricted area, for a period during which multiple PCNs are issued (multiple = 3) for the same contravention.

18.2 Criteria used in identifying Abandoned Vehicles:

1. Untaxed or showing out of date tax disc.
2. General poor condition.
3. No evidence of movement.
4. Multiple PCNs attached to vehicle.

18.3 Whilst the vehicle is being dealt with as potentially abandoned no further PCNs will be issued.

18.4 Issued PCNs will be enforced against the registered keeper of the vehicle in the normal way.

19.0 BAILIFFS:

19.1 Bailiffs, as agents of the court, are court officers. Of the many functions they perform, executing Warrants is one that is likely to concern us most. These are court orders for the collection of money and/or goods of sufficient value to produce the required amount. For this purpose the bailiff will always have an appropriate vehicle nearby.

19.2 For their other activities bailiffs do not need a vehicle nearby, e.g. If they are serving a summons or Warrant (not enforcing it). In such circumstances they would be expected to comply with parking restrictions.

19.3 When bailiffs are taking goods or high values in cash, we can exercise discretion where it appears reasonable to do so. Bailiffs are not exempt from legislation, however, and an official badge or permit should be displayed on the vehicle and, furthermore, the act of loading/unloading should be observed as taking place. Once goods have been seized the bailiff is required to list them prior to leaving the premises and this could legitimately take some time. In such circumstances we should ask for a warrant number,

identification and confirmation of the nature of goods being seized before the PCN is either issued or subsequently cancelled.

20.0 BANK HOLIDAYS – RESTRICTIONS APPLICABLE:

- 20.1 Waiting and loading restrictions, as indicated by yellow lines / markings on the carriageway and/or kerbs may be in force throughout the year.
- 20.2 It is only in designated parking bays (limited waiting, loading, shared use bays, pay & display etc.), that restrictions may be lifted on Bank Holidays. Reference should be made to the relative Traffic Regulation Order.
- 20.3 Motorists cannot assume that restrictions do not apply to Bank Holidays unless this is specifically stated in the relative signage. Enforcement on Bank Holidays should pay particular attention to known problem areas such as Car Boot sales etc.

21.0 BANK VISITS:

- 21.1 Claims from individuals or companies that because money is being taken to or from a bank PCNs should not be issued will not be accepted as a reason to cancel. If restrictions are in place adjacent to a bank these must be complied with by all motorists. Motorists should be advised to contact the bank about future security arrangements.
- 21.2 It is appreciated that difficulty may be experienced when visiting banks but the exemption that may apply is in relation to bullion vehicles whilst loading / unloading large quantities of coin and cash boxes.

22.0 BLOCKED ACCESS:

- 22.1 Drivers who claim that they were unable to gain access to their private or commercial property are not entitled to park in contravention of any parking restriction. The exception to this is when a driver has to collect a key to unlock a barrier that prevents access. This, however, should take no longer than 5 minutes in most circumstances.
- 22.2 Where access to a property is being blocked and no parking restriction is in place the matter should be referred to the Police as the offence of Obstruction is only enforceable by them.
- 22.3 Where a restriction is in place a PCN may be issued to the vehicle providing it is parked in contravention of the restriction.

23.0 BROKEN DOWN VEHICLES: (See also Vandalised Vehicles)

- 23.1 Claims of alleged breakdown should be accepted if they appear to be unavoidable and, if supporting evidence in the form of one or more of the following is produced:
 - Garage receipt, on headed paper, properly completed and indicating repair of the alleged fault within a reasonable time of the contravention.
 - Till receipt for purchase of seemingly relevant spare parts purchased on or soon after the date of contravention.

- Confirmatory letter from the RAC, AA or other similar motoring organisation.
- Confirmation from the CEO that the vehicle was obviously broken down.

Each case will ultimately be considered upon it's own merits although previous cases where breakdowns have been accepted as mitigating circumstances should also be considered.

23.2 A note left in the windscreen, stating that "the vehicle has broken down", will not be accepted, by the CEO, as a reason for not issuing a PCN.

23.3 Listed below are some areas of contention relative to the alleged breakdown of vehicles:

23.3.1 FLAT BATTERY:

- The receipt for the purchase of a new battery or parts that could cause a flat battery (alternator, solenoid etc.), should be requested. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.
- In cases where it is alleged that the vehicle was bump/jump started and no other evidence received, the PCN should be enforced. (NB. Vehicles with automatic transmission cannot be bump started).
- If no evidence is forthcoming, the PCN should be enforced.
- Consideration should also be given as to how the vehicle became illegally parked in the first instance i.e. was it pushed from an unrestricted area or was parked in contravention of a restriction before the breakdown occurred?

23.3.2 FLAT TYRE:

- It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle's wheel. If the vehicle is left unattended a PCN will be issued and will be cancelled only if it subsequently transpires that the driver had gone to obtain assistance. In such instances evidence from the assisting party is required.
- If the wheel could not be changed because of a mechanical difficulty evidence must be produced from the attending breakdown service supporting this.
- Failure to carry a spare wheel is not sufficient reason to cancel a PCN.

23.3.3 OVERHEATING:

- All cases where it is claimed that the vehicle had overheated due to lack of water should be enforced unless it is directly attributable to a mechanical fault such as: broken fan belt, cracked radiator, burst hose, faulty water pump or thermostat. In such cases evidence of repair must be produced.
- Overheating caused by heavy traffic or hot weather will not be accepted as a valid excuse.

23.3.4 RUNNING OUT OF PETROL:

- Unless this is due to a mechanical / electrical fault evidenced by repair all PCNs are to be enforced.
- NB. If it is apparent from previous records that the same driver is continuously trying to avoid liability for PCNs by claiming that his/her vehicle is broken down, this should be considered when deciding on whether or not to accept their representations
- Where representations are accepted on the second or subsequent occasion the keeper should be informed, in writing, that due consideration to previous incidents will be taken into account should another contravention be committed for the same reason.

24.0 BUILDERS / TRADESMEN:

- **Residential Parking Zones:** All trade vehicles parked within a controlled resident zone must display either a valid Visitor's Parking Permit (obtainable from the resident) or a Trade Exemption Parking Permit (if applicable obtainable from the Council).
- **Yellow Line Restrictions:** Parking will only be allowed whilst loading / unloading of tools and materials are taking place. At all other times the vehicle must be moved to a permitted parking area.

25.0 BUS STOPS:

25.1 Bus stops can either be restricted or unrestricted:

- **Restricted:** A restricted bus stop will show yellow lines and a time plate showing the hours of operation.
- **Unrestricted:** An unrestricted bus stop will not have a time plate but may show advisory road markings.
- A bus stop restriction cannot be transferred to a temporary bus stop unless the Temporary bus stop is fully signed in accordance with the regulations.

25.2 PCNs issued to any vehicle, other than buses, waiting in a restricted bus stop should be enforced.

26.0 CARE ORGANISATIONS:

26.1 **Parking in Residential Parking Zones:** The Council will issue permits allowing genuine carers to park within Residential Parking Zones to enable them to care for residents. Permits are issued upon application, which must be supported by an official letter from the care organisation or, in the case of a private carer (relative etc) confirmation from the resident's GP that he/she is in need of regular, permanent care within their home. Any abuse of such permits will result in them being withdrawn immediately.

26.2 **Parking in Council Car Parks:** It is not felt that there is a need for carers to park within Council car parks free of charge. Consequently permits are not issued for this purpose.

26.3 **Parking on Yellow Lines:** Carers are not exempt from yellow line restrictions and must not contravene them. No dispensation will be issued to carers to enable them to park on a yellow line.

27.0 CHALLENGE/INFORMAL REPRESENTATION AGAINST ISSUE OF PCN:

27.1 Within 14 days of issue of a PCN being issued, the keeper of the vehicle may make a written challenge against the issue of the PCN. For more details about this process see paragraphs 11.3 to 11.7

28.0 CHALLENGE/REPRESENTATIONS ACCOMPANIED BY PAYMENT:

28.1 To avoid the loss of the discount period or to avoid County Court action keepers may opt to enclose settlement of the PCN with a challenge or formal representation. In such circumstances The Council will act in good faith and deal with the challenge/representation in a fair and equitable manner. At the same time the Council will comply with its own financial regulation regarding the banking of cheques.

28.2 Challenges and representations accompanied by a payment will be dealt with as a priority and responded to within a maximum of three working days. If the challenge/representation is successful the payment will be returned to the keeper with the letter of acceptance. If the challenge is unsuccessful the payment will be immediately banked and the keeper duly notified that we have accepted it in full or part settlement as part of the rejection notice.

28.3 Where an investigation is required that will take more than five days a letter should be sent to the keeper stating this. Should the challenge/representation be upheld the Council would immediately make arrangements for a refund to be issued to the keeper. Any letter of acceptance or rejection sent to the keeper must make specific reference to the fate of the payment.

29.0 CHILDREN / ELDERLY PEOPLE:

29.1 Claims are often made by people, accompanied by young children or elderly people, that they were delayed because of them. This should not be considered as a reason to cancel a PCN because allowance should be made for this when purchasing parking time.(see also emergencies below).

29.2 Claims that PCNs issued whilst children were being dropped-off or collected from schools etc., should not be cancelled unless a reasonable amount of time was not allowed by the CEO. The normal 5-minute observation period should be enough time in such circumstances.

30.0 COMPLAINTS AGAINST CIVIL ENFORCEMENT OFFICERS:

- 30.1 Allegations that an enforcement officer has made an error whilst issuing a PCN will be investigated under the normal Representations or Challenge procedures and a formal written notice of acceptance or rejection will be sent within the stipulated timescale.
- 30.2 Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with by the Team Leader, Parking. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. Also included will be advice of how to invoke the Council's Formal Complaints Procedure should the findings not be acceptable to the complainant.

31.0 COUNCIL OFFICERS & MEMBERS ON DUTY:

- 31.1 All council officers and members on duty are expected to fully comply with parking regulations:

Parking in Council Car Parks

Staff or Members using their own cars to carry out their official council duties may only park in designated Council car parks if they have the relevant parking permit and ensure that it is displayed whilst parked. **At all other times** staff and members must comply with any restrictions e.g. by purchasing a pay & display ticket.

Parking in Residential Parking Zones

Staff using their own cars who have the need to park in a residential zone in order to carry out official Council duties may only do so if they display a staff parking permit; a valid visitor's permit or resident's permit.

Failure to comply with any of the foregoing will result in a PCN being issued.

- **Parking on Yellow Lines:** No dispensation will be given to allow staff or Members to park on yellow lines. In such cases PCNs will be issued and pursued.
- **Request for Cancellation of PCN:** This will only be considered in case of emergency and must be supported by written confirmation from the relative Corporate Director.

32.0 COURT ATTENDANCE – DEFENDANTS:

- 32.1 The conditions applying to Jury Members and Witnesses equally apply to defendants. However, there have been instances when a defendant has unexpectedly been given a custodial sentence and, as a direct result, is unable to remove his/her vehicle from a Council car park. In such instances the Council will expect that the vehicle will be removed, as soon as is reasonably possible, by the defendant's family, friends or legal representatives. Any PCN issued will not be enforced providing supporting evidence is supplied by the defendant's legal representative.

33.0 COURT ATTENDANCE – JURY SERVICE OR WITNESS:

33.1 The length or timing of any court hearing or trial cannot be guaranteed and often Jury members and/or witnesses find that they are unable to leave court to purchase further pay & display time in a car park. This often leads to overstay and to PCNs being issued. To counter this the Courts issue clear instructions to all Jury members and witnesses advising them as to how and where they should park.

33.2 The courts will not pay any PCN issued to a witness or Jury member whilst carrying out their legal duties even if they are delayed by the court.

33.3 In such circumstances the Council will enforce PCNs against the keeper unless evidence is produced to support the fact that they were delayed to an extent that could not have been reasonably foreseen; i.e. moved to a hotel overnight.

34.0 DELAYS: Delays due to queues at shops, banks etc., meetings taking longer than expected, caught up in crowds etc., are not considered as valid reasons to cancel a PCN. Allowance should be made for such delays when purchasing parking time as they are a regular occurrence and part of normal life (see emergencies below).

35.0 DENTAL / DOCTORS APPOINTMENTS:

35.1 If the claim is made that, due to a delay in the appointment time or that treatment took longer than anticipated and this resulted in a PCN being issued for overstaying the parking time purchased on arrival, consideration should be given to the validity of the claim.

35.2 Such claims should be supported by written confirmation from the dentist or doctor that the delay was caused for reasons outside of the driver's control. However, the Council must be satisfied that the parking time purchased was reasonably sufficient to allow for normal delays experienced whilst attending such appointments.

36.0 DESCRIPTION OF VEHICLE – ON PCN:

36.1 When issuing a PCN the CEO will note the make, colour and registration number of the vehicle, which will appear on the PCN. He/she will also note other details such as tax disc number and positions of tyre valves, which will form part of the supporting records.

36.2 **Incorrect colour:** If the colour is incorrectly recorded consideration should be given to cancellation of the PCN as follows:

- **Similar Colours:** Similar colours are often mistaken for each other especially in poor light. Many metallic colours can be seen differently by different people i.e. Silver as Blue, Black as Grey. Solid colours such as white differ widely from model to model and can be seen as Cream. Many

blues can be seen as green and vice-versa. Where there is a close relationship between the colours then the PCN should be pursued.

- **Widely differing Colours:** A blue car recorded as red car, obviously, cannot be explained by the above and serious consideration should be given to cancellation of the PCN. This error may, however, indicate a re-spray not advised to DVLA.

36.3 **Incorrect make:** Although many manufacturers produce different models that look very similar it would be very difficult to enforce a PCN issued to a Vauxhall which turned out to be a Ford. In such cases serious consideration must be given to cancelling the PCN.

36.4 **Tax Disc Number:** The one thing that is unique to the vehicle is the tax disc number, which is recorded by the CEO at the time of the PCN issue. If these match then the Council has good grounds to pursue the PCN irrespective of any other error regarding colour or make.

37.0 **DIPLOMATIC VEHICLES:**

37.1 These fall into two categories: those with 'D' plates, which indicate that the driver has full diplomatic immunity, and those with 'X' plates, which indicate limited immunity.

- **'D' PLATES:** PCNs issued to 'D' plate vehicles should automatically be cancelled upon input to the processing system although, should the driver subsequently decide to make payment, it will be accepted. Details of these PCNs will be taken up with the Foreign & Commonwealth Office and payment may be obtained later.
- **'X' PLATES:** In effect these PCNs should be cancelled upon input. If correspondence is received from the driver and enforcement seems appropriate a request for payment should be made.

38.0 **DISABLED DRIVERS/PASSENGERS:**

38.1 Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport the disabled person. It is not permitted to use the badge for any other purpose e.g., shopping for the disabled person when they, themselves, are not being transported in the vehicle.

38.2 Blue badges must be clearly and properly displayed whilst the vehicle is parked, the expiry date and serial number should be clearly visible. The blue clock should be used where a time limit or time restriction is in place.

38.3 Failure to do so will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or badge holder for failure to display a disabled badge. Where no previous

contravention has occurred the representation should be allowed, providing proof of the existence of a valid badge is supplied. In such circumstances the

letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

38.4 Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park:

On Street

- Limited Waiting Bays for any length of time.
- On Street pay and display bays: free of charge without time limit
- On Street Disabled Parking Bays: please see accompanying time plate for whether a time limit is in place.
- Yellow Lines: For a period not exceeding 3 hours.

Off Street

- Council Car Parks: In accordance with details provided on the car park information boards. Vehicles should only park within the bays provided. Blue Badges cannot be used on double yellow lines inside a Car Park.

38.4.1 Disabled Badge Holders are not allowed to park:

- **Any area where there is a loading restriction.**
- **Any area specifically reserved for other vehicles or purpose i.e. Taxi Ranks, Bus Stops or Goods vehicle loading bays etc.**
- **In any area where they may cause an obstruction or danger to other road users.**

Parking must always be in accordance with the Blue Badge Scheme.

39.0 DOUBLE PARKING AND DROPPED KERBS:

39.1 Double Parking - The contravention of double parking applies when a vehicle parks on any part of the carriageway of a road where no part of the vehicle is within 50 cm of the edge of the carriageway, subject to the exemptions in the Traffic Management Act.

39.2 Dropped Kerbs - The Highway Code advises drivers "DO NOT stop or park

.... where the kerb has been lowered to help wheelchair users and powered mobility vehicles, in front of an entrance to a property or where you would obstruct cyclists' use of cycle facilities ... except when forced to do so by stationary traffic".

39.3 The contravention of parking on a part of a road adjacent to a dropped or raised kerb (subject to specified exemptions - emergency services, alighting, unloading, building works, road works, etc) applies where a vehicle parks on the carriageway adjacent to a footway, cycle track or verge where the footway, cycle track or verge has been lowered to the level of the carriageway (or where the carriageway has been raised to meet the level of the footway, cycle track or verge) for the purpose of -

- assisting pedestrians crossing the carriageway
- assisting cyclists entering or leaving the carriageway
- assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge.

The contravention does not apply where a vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises. This exception does not apply in the case of a shared driveway. This exception suggests that enforcement action should not be taken where a vehicle is parked outside residential premises unless and until the enforcement authority has been asked to do so by the occupier of the property. The Council will seek to establish the bona fide of any individual making such a request.

39.4 The Local Authority has the power to take action against vehicles which are double parked or parked adjacent to a dropped footway in a Special Enforcement Area, subject to following exceptions:

- vehicles parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised
- vehicles used by the fire, ambulance or police services
- loading and unloading
- vehicles used for waste collection, building works or road works.

40.0 DRINK DRIVING OR OTHER ARREST:

40.1 If the driver of a vehicle has been arrested and, as a direct result, has been forced to leave the vehicle in contravention of a parking restriction any resultant PCN should be enforced.

40.2 In all cases of arrest claims the driver will be asked to provide date, time and evidence of arrest including custody number, officer and Police Station involved.

40.3 Where written evidence of the arrest cannot be supplied, the Council will not cancel the PCN before receiving confirmation from the appropriate Police Station. If supporting evidence of the arrest is not obtained the PCN will be enforced.

41.0 DROPPING OFF - PICKING UP PASSENGERS:

41.1 Except on designated clearways and zigzag and no loading (schools and pedestrian crossing) restrictions any vehicle will be allowed a reasonable amount of time to drop-off or pick up passengers irrespective of any waiting restriction in force. It is deemed that two minutes is sufficient allowance for this unless it involves the elderly, disabled persons, young children or large amounts of luggage etc. Consideration will be given to Hackney Carriages or Private Hire Vehicles who will need additional time to announce their arrival and accept payment.

41.2 Representations / challenges should be accompanied by documentary evidence giving the date, time, the pick-up and drop-off locations for the trip and a description of the passenger (Elderly, Disabled, Post-Operative etc.).

42.0 EMERGENCIES:

42.1 An emergency is an unforeseen situation that prevented the driver from moving his/her vehicle. They are usually of a medical nature and leniency should be exercised where it can be seen that the driver could not have foreseen the situation. Wherever possible such claims should be supported by independent evidence.

43.0 EMERGENCY DUTIES:

43.1 Doctors, nurses, midwives and first responders engaged on emergency duties are, wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be issued it will be cancelled only upon evidence of the emergency being provided.

43.2 Regular or programmed visits will not be considered an emergency.

44.0 ESTATE AGENTS:

44.1 Estate agents visiting a client's property within a residential parking zone should either display a valid Visitors or Business/Property Owner Permit if available.

44.2 Estate agents are not exempt from parking restrictions and PCNs should be enforced.

45.0 EXEMPT VEHICLES:

45.1 The following vehicles are considered to be exempt from parking restrictions:

- Fire and Rescue Service Vehicles
- Marked Police Vehicles
- Ambulances.

46.0 FOOTWAY PARKING

46.1 It is not generally an offence for a vehicle to be **parked** on a footway. The exceptions to this are;

- HGV's (Sect.19, RTA 1988).
- Cycle Tracks (Sect.21, RTA 1988).
- Where a Traffic Regulation Order (TRO) exists.

46.2 However **driving** on the footway and **obstruction** of the footway remain endorsable offences and are enforceable by the Police.

46.3 Although the Highway Code states that drivers should not park partially or wholly in the pavement unless signs permit it, there is no national legislation which bans the parking of all vehicles on the pavement.

47.0 FUNERALS, WEDDINGS & CIVIL PARTNERSHIPS

47.1 Vehicles actively involved in a funeral, wedding or civil partnership will be given due consideration and respect and PCNs will not be issued.

47.2 Vehicles belonging to mourners, wedding or civil partnership guests that are not actively involved in the funeral or wedding will not be able to park in contravention of any yellow line restriction or permit holders only bay without a valid permit.

48.0 GARAGES – VEHICLES LEFT UNATTENDED:

48.1 When a garage employee parks a vehicle on a highway, in contravention of a parking restriction, whilst maintenance of the vehicle is being carried out (i.e. to facilitate vehicle movement within the workshop) any PCN issued should be paid by the garage or driver responsible.

48.2 However, the ultimate responsibility for the PCN rests with the registered keeper of the vehicle.

48.3 As Garages have no right to utilise the highway in such a manner PCNs should always be enforced in such cases.

49.0 GLAZIERS:

49.1 Claims from glazier companies that a vehicle needed to be parked close to the location of an emergency repair should be treated leniently providing it is confirmed, from the CEO's notes, that such activity was taking place at the time of the issue of the PCN.

49.2 PCNs will not be cancelled when issued to vehicles that are not actively involved in the work.

50.0 GOVERNMENT DEPARTMENT VEHICLES:

- 50.1 Unless the reason for parking the vehicle was under exceptional circumstances PCNs issued to vehicles owned or operated by Government Departments should be enforced.
- 50.2 They are not exempt purely by virtue of the fact that they are operated by a Government Department.
- 50.3 If the vehicles are involved in exceptional activities such as surveillance by Customs & Excise or the Benefits Agency evidence to support this, in the form of a written statement from a senior manager on headed notepaper must be supplied.
- 50.4 Wherever possible Government Agencies involved in such activities should be encouraged to give the Council advance notice and details if the vehicle(s) involved.

51.0 HACKNEY CARRIAGES / PRIVATE HIRE VEHICLES:

- 51.1 Hackney Carriages and Private Hire Vehicles operating within the Borough are licensed by the relevant Council and carry a numbered licence plate that must be displayed on the rear of the vehicle.
- 51.2 There is a distinct difference between Hackney Carriages and Private Hire Vehicles (PHV). PHV's are not allowed to ply for hire on the street or display a "TAXI" sign.
- 51.3 Hackney Carriages licensed by local authorities are not allowed to ply for hire within another local authority area.
- 51.4 Hackney Carriages and PHV's, like all vehicles, may stop to allow passengers to board or alight for as long as is reasonably necessary for the purpose. It is not an exempted activity to assist passengers into premises and to leave the carriage unattended. If a licensed Hackney Carriage or PHV is left unattended it is liable to receive a PCN.
- 51.5 Each case, especially those involving elderly, infirm or disabled passengers should be treated on its merits and due allowance should be made in such incidences.
- 51.6 It should be borne in mind that when a Hackney Carriage or PHV is called to an address to pick up passengers the driver must be allowed time to announce his/her arrival.
- 51.7 Representations / challenges should be accompanied by documentary evidence giving the date, time, the pick-up and drop-off locations for the trip and a description of the passenger (Elderly, Disabled, Post-Operative etc.).

52.0 HAZARDOUS CHEMICALS / SUBSTANCES:

- 52.1 Claims by companies that toxic or dangerous substances were being delivered or collected from a premise and, as a result, a PCN was incorrectly issued to the vehicle being used should be given careful consideration.
- 52.2 If the PCN was issued for contravention of a no waiting restriction it can be established from the Enforcement Officers notes whether the activity of loading was taking place. If so the PCN should be cancelled. If no loading activity was taking place the PCN should be enforced. There is no reason, in this case, to differentiate between toxic and non-toxic deliveries as it is the driver's responsibility to ensure that the vehicle is moved immediately the loading / unloading activity is complete. (See definition of Loading / Unloading at paragraph 57.0).
- 52.3 If the PCN was issued for contravention of a no loading restriction then, once again, the enforcement officers notes should be viewed to establish whether the loading activity was taking place.
- 52.4 If so then serious consideration should be given to the cancellation of the PCN in view of the Health & Safety of the public.
- 52.5 Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

53.0 HIRING AGREEMENT:

- 53.1 It is within the legislation that, in the case of a hired vehicle, responsibility for a PCN is that of the hirer of the vehicle at the time.
- 53.2 Consequently, in this case, the responsibility does not rest with the registered keeper, the Hire Company, providing they make formal representation to the Council once the Notice to Owner is received. This representation must be accompanied by a copy of the relative hire agreement.
- 53.3 In all cases this agreement must clearly state: The name and address of the hirer, the start and finish dates for the hire period and the hirer's signature. It must also include a statement regarding the hirer's liability for any PCNs incurred during the hire period. Should any of the foregoing be unclear, absent or in contradiction of the date / time of issue of the PCN then the PCN will be enforced against the Hire Company and a notice of rejection of the representation sent to them with the reasons clearly stated.

54.0 HOLIDAYS:

- 54.1 Vehicles are often left parked in one place whilst the keeper is away on holiday. In such cases a PCN could be issued for being parked in a suspended parking place or for failing to display a valid Visitors permit in a residential parking zone:

54.1.1 Suspended Bay:

- The Council has the power to suspend parking within a designated parking bay to allow access by a specific vehicle or highway / bay maintenance to be carried out. In such cases advance notice is placed alongside the bay and is distributed to nearby properties giving the date, times and length of the suspension.
- If the notice is posted and distributed after the keeper departed on holiday then any PCN issued should be cancelled. Evidence must be provided showing departure date and time (i.e. Flight tickets etc.). This should be compared with records relative to the display and distribution of the notices. In essence the Suspension cannot operate retrospectively.

54.1.2 Residential Zone Parking using a Visitors Permit:

- It is sometimes the case that friends, holidaying together, will use one vehicle and the second vehicle is parked for the duration of the holiday. This occasionally results in a vehicle, belonging to a non-resident, being left in a Residential Parking Zone displaying a visitor's permit.
- Visitor's permits are designed for genuine visitors to a resident's property. Display of permits continuously in this manner is considered to be invalid and PCNs will be issued for this reason.
- The Council considers these vehicles belong to people who are not genuinely visiting the residential property and, therefore, the PCNs will be enforced.

55.0 HOSPITAL CAR SERVICE:

55.1 The display of a "Hospital Car Service" badge does not automatically exempt the holder from parking restrictions. However all representations or challenges against the issue of a PCN should be given due consideration bearing in mind that this is a voluntary service provided for the elderly and sick so that they can be transported to and from hospitals.

55.2 Generally such consideration should extend to:

- Allowing sufficient time to enable the driver to make his/her presence known to the passenger(s).
- Allow sufficient time to assist the passenger(s) between the vehicle and their home(s), bearing in mind that they may be elderly, infirm, disabled or unwell. This may well involve sufficient time to ensure that the passenger is comfortably settled within his or her own home prior to departure by the driver.

55.3 Representations / challenges should be accompanied by documentary evidence giving the date, time, the pick-up and drop-off locations for the trip and, wherever possible, a description of the passenger (i.e. Elderly, Disabled, Post-Operative etc.).

56.0 INTERVENTION IN CHALLENGE & REPRESENTATION PROCESSES BY MEMBERS AND OTHER OFFICERS:

- 56.1 The process of dealing with challenges and representations against the issue of PCNs is well documented and will be carried out in a fair, unbiased and equal manner. These procedures include the ultimate right of all appellants to refer the matter to an independent arbitrator (TPT).
- 56.2 To preserve the integrity of these procedures they will be managed and carried out by Parking Services and no undue external pressure shall be brought, by either members of the Council or other senior officers, designed to unduly influence the decisions by virtue of their position alone.

57.0 LEGISLATION:

- 57.1 The statutory acts governing parking enforcement are: The Road Traffic Act (1991), The Road Traffic Regulation Act (1984) and the Traffic Management Act (2004).
- 57.2 Where a driver queries the legislation it should be explained to him/her in simple terms. There is no requirement to supply specific reference unless especially requested.
- 57.3 If a request is made for specific reference the Council will make refer the enquirer to the specific, relevant paragraphs and will quote them verbatim within any correspondence. The Council will not supply full copies of the relevant acts, which can be obtained from the HMSO or, in the case of the 1991 and 2004 act, accessed via the internet.
- 57.4 If the keeper is specifically querying the authority behind a specific restriction then reference may be made to the relevant Traffic Regulation Order, held by the Council. Prior to any correspondence with the keeper this Order should be checked to ensure the validity of the PCN. If any doubt exists then the PCN should be cancelled and the decision communicated to the keeper.

58.0 LOADING / UNLOADING:

- 58.1 Vehicles will be permitted to park in contravention of waiting restrictions, including Resident Parking Zones, whilst carrying out the legitimate activity of Loading or Unloading provided that :
- Activity, involving the vehicle, is observed by the attendant whilst the vehicle is parked. The observation period shall be for at least five minutes for private motor cars and a PCN shall only be issued if no activity is seen during this period.
 - Generally a maximum of 20 minutes observation will be allowed to enable loading / unloading to be observed for goods vehicles (dependant on size). Due allowance will be given to allow the driver to complete delivery

paperwork. It is reasonable to expect the CEO to be able to observe some loading during this period of observation.

- Where a PCN is issued a challenge will be considered if supported by evidence confirming that the driver was delayed or was involved in moving heavy goods.

59.0 LOCATION – INCORRECT:

59.1 When a PCN is issued the location of the vehicle is stated on the PCN itself. If this is recorded incorrectly then this is deemed to be a material error and the PCN should be cancelled.

60.0 LOST KEYS:

60.1 Where it is claimed that car keys have been lost, stolen or locked in a car thus preventing removal of the car from a parking area which in turn resulted in the issue of a PCN, then due consideration should be given to its cancellation. When considering this the representation should be accompanied by any supporting evidence from the police, motoring organisations or relatives.

60.2 The following should also be considered: If the vehicle was parked in a pay & display car park, did the loss of the keys prevent purchase of additional parking time? If the vehicle was parked on a yellow line, should it have been parked there in the first place?

61.0 MIS-SPELLING OF KEEPER'S NAME:

61.1 The mis-spelling of the keeper's name and/or address on the Notice to Owner does not invalidate it or discharge the liability of the person receiving it. It is the responsibility of the genuine keeper to deal with the matter.

61.2 Names and addresses are, in most cases, obtained from the DVLA and are supplied by the keepers themselves. It is also incumbent upon the keeper to ensure that these are correct.

61.3 If any mis-spelling is discovered then alterations must be made immediately to ensure that future notices are sent out correctly.

61.4 When the mis-spelling is severe and is radically different from the correct spelling consideration should be given to the cancellation of the PCN.

62.0 MOTORCYCLE BAYS:

62.1 These are not mandatory bays but are exemptions to the normal restrictions either on street or in car parks. Consequently any vehicle, other than a motorcycle, parked in such a bay is parked in contravention of the surrounding restriction (and not for being parked in a motorcycle bay).

63.0 OBSERVATION PERIOD – PRIOR TO ISSUE OF PCN:

63.1 Prior to the issue of a PCN the Enforcement Officers will, for most

contraventions, allow a period of at least five minutes to elapse and between first observing the vehicle illegally parked and the issue of the PCN.

63.2 The details of the vehicle will be entered into the officers Hand Held Computer (HHC) when first seen. If in areas where loading/unloading is permitted, an Officer attempts to issue the PCN within 5 minutes of the initial sighting the HHC will alert the Officer to this fact.

63.3 The officer will be able to continue with their patrols and then return to the contravening vehicle. The observation time and the PCN issue time will appear on the face of the PCN itself and will be recorded by the enforcement software system.

64.0 PAY & DISPLAY – DID NOT REALISE MACHINE WAS THERE:

64.1 Claims from keepers that they did not see or realise that they had to use a pay & display machine should be dismissed providing that they are clearly sign posted.

65.0 PAY & DISPLAY MACHINES – NOT WORKING:

65.1 Where it is claimed that a machine is not working then reference must be made to the maintenance records, the enforcement officers notes and any customer complaint logs received. If it is confirmed that the machine was not working at the time then consideration should be given to cancelling the PCN.

65.2 If there was an alternative machine, in working order and in close vicinity then it is reasonable to expect that the drivers would use this machine.

66.0 PAY & DISPLAY TICKETS:

66.1 Pay & Display requires a ticket to be purchased at the time of parking for the amount of time required. All tickets display the expiry date and time on them along with the fee paid and car park machine number. The car park fee tariff is clearly displayed adjacent to each machine.

66.2 Pay & Display Tickets must be:

- Clearly displayed whilst the vehicle is parked.
- For the date shown.
- Un-expired.
- For the car park indicated
- For the vehicle indicated – where applicable.

66.3 PCNs will be issued for:

- Failing to display a valid ticket; meter feeding or
- Displaying a ticket that has expired.

66.4 The PCN will be issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or driver/owner for failure to display a valid Pay and Display ticket clearly. Where no previous contravention has

occurred the representation should be allowed, providing proof of the existence of a valid ticket is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

66.5 Representations made because the driver did not have change will not be upheld.

66.6 Representations made because of delays returning to the car park will be dealt with in accordance with 'mitigating circumstances' above.

67.0 PAY & DISPLAY TICKETS – FREE AFTER 3 & SIMILAR SCHEMES

67.1 The Council may provide schemes such as 'Free After 3' which allows parking without charge at certain times. The schemes may require parkers to obtain a ticket from a machine and to display that ticket to show the time they arrived. Signs at individual car parks will indicate whether customers should obtain a ticket. If a ticket is required then it must be:

- Clearly displayed whilst the vehicle is parked.
- For the date shown.
- Un-expired.
- For the car park indicated.
- For the vehicle indicated – where applicable.

67.2 PCNs will be issued for:

- Failing to display a valid ticket or
- Displaying a ticket that has expired.

67.3 The PCN will be issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or driver/owner for failure to display a valid Pay and Display ticket clearly. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid ticket is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

68.0 PENALTY CHARGE NOTICE – DISCOUNT PERIOD:

68.1 The PCN rate is currently set at £70/£50. If the PCN is paid within 14 days of issue a discounted amount of £35/£25 (50%) will be accepted in full settlement of the matter.

68.2 If a challenge is received from the keeper within 14 days of issue of the PCN

the discounted period will be held pending the Council's decision. Should the challenge be rejected the discount period will restart from the date of the notice of rejection. This fact should be included within the notice itself.

68.3 If the challenge is received more than 14 days from issue of the PCN the discount period will not be held and the full amount of £70/£50 payable in the event of the challenge being rejected.

68.4 If a Notice to Owner (NtO) is sent to the keeper who subsequently states that the PCN was not received at the time of the offence the discounted amount will be accepted if paid within 14 days. This should be communicated in writing to the keeper with the restarted discount period starting from the date of the letter.

68.5 When it is claimed that the PCN was not received the notice processing system will be interrogated to ensure that previous such claims have not been made by the same person. If there is a history of such claims the discounted period should not be restarted and the full amount paid.

69.0 PENALTY CHARGE NOTICE, EARLY ISSUE OF:

69.1 Claims that a PCN was issued before the time that an offence is deemed to be committed will require careful investigation.

69.2 The issue of PCNs is controlled by Hand Held Computers carried by each enforcement officer. These computers have in built clocks, which are calibrated each morning prior to commencement of the patrols. They will usually impose a five-minute observation period (where applicable – see Figures 1 and 2 in section 1) prior to allowing a PCN to be issued. These times will appear on the PCN itself. The computer system will prevent any subsequent alteration to these times.

69.3 The normal procedure is for an enforcement officer to enter the observation details into the computer, then to continue with his/her patrol before returning to the vehicle to complete the issue of the PCN. In most cases a minimum of five minutes must be allowed between observation and issue.

70.0 PENALTY CHARGE NOTICES – TIME TO PAY / INSTALMENT PAYMENTS:

70.1 As a general rule Parking Services does not offer either extended time in which to pay PCNs nor will they enter into instalment payment arrangements. For more details about this see paragraph 10.3

71.0 PENALTY CHARGE RATE:

71.1 The implementation of Part 6 of the Traffic Management Act 2004 on 31st March 2008 saw the introduction of differential charges. Penalty Charge Notices are issued at a Higher or Lower rate depending upon the severity of the contravention. The higher or lower charge is dictated by the contravention and code used and is not at the discretion of the Council.

71.2 The PCN rate has been set at £70/£50 for Cheshire West and Chester, any increase will only be possible by guidance from Central Government and will require proper advertisement prior to introduction.

71.3 If paid within 14 days of issue the PCN rate is discounted by 50% and £35/£25 will be accepted in full settlement.

72.0 PERMITS:

72.1 RESIDENT'S PERMITS:

- A resident's permit is issued to a vehicle that is "kept" (registered to an address) within the parking zone and is accompanied by full instructions that it must be clearly displayed on the windscreen of the vehicle. Permits are only valid in the zone, for the registration number and until the expiry date printed on its face.
- Failure to display a valid permit will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or driver/owner for failure to display a valid permit clearly. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid permit is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.
- Use of a permit within another zone, on another vehicle or after its expiry date is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

72.2 VISITORS PERMITS:

- Visitor's permits are those permits which are obtained by residents and issued to genuine visitors to their homes. Full instructions on how to use and display them are provided with the permits.
- Failure to display a valid permit will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or driver/owner for failure to display a valid permit clearly. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid permit is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

- Use of a permit within another zone, after its expiry date is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

72.3 TRADE EXEMPTION PERMITS

- These may be issued to a tradesman that is actively involved in maintenance or renovations to a resident's property. Documentation will be required from the resident to support the application and documentation from the tradesperson will be required to confirm the work being undertaken, the length of time the permit is required and the vehicle for which the permit is required.
- Failure to display a valid permit will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or driver/owner for failure to display a valid permit clearly. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid permit is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

72.4 PROPERTY OWNER/LANDLORD PERMITS

- These may be issued to property owners/landlords according to the local Residential Parking Scheme.
- They are subject to the terms and condition of use as set out in the relevant Residents' Scheme.

72.5 BUSINESS PERMITS:

- These may be issued to companies/traders that are actively involved in, genuinely, carrying out their businesses within the Residential Parking Zones.
- They are subject to the same terms and condition of use as Resident's permits.

73.0 CAR PARK SEASON TICKETS/ COMMUTER & CONTRACT PERMITS

- These may be issued in the same way as Resident permits and may be valid only in the specified car park or in a group of car parks, for the vehicle and before the expiry date printed on the face of the season ticket, commuter or contract permit.
- Failure to display a season ticket or commuter/contract permit is an offence and will result in a PCN being issued which should not be cancelled unless there are mitigating reasons why the permit was not displayed.

- Use of a season ticket or commuter/contract permit within another car park, on another vehicle or after its expiry date is also an offence for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

74.0 PLUMBERS, ELECTRICIANS, GAS FITTERS:

74.1 EMERGENCY CALL OUT:

74.1.1 An emergency is considered to last as long as it takes to make the premises safe i.e. turn off the main supply. After which any vehicle should be moved to a permitted parking place before any subsequent repairs are undertaken.

75.0 POLICE OFFICERS ON DUTY:

75.1.1 PCNs should not be issued to marked police vehicles when on official duty.

75.1.2 Requests for cancellation of any PCN issued to an unmarked police vehicle must be made by the Officer's Area Inspector or equivalent. They should contain confirmation that the officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

75.1.3 PCNs issued to unmarked police vehicles regularly parked outside of a police station should not automatically be cancelled as this can be deemed to be parking at a place of work and therefore is no different from any other employed person.

76.0 POLICE OFFICER GAVE PERMISSION TO PARK:

76.1 Where details of the officer concerned are given, confirmation should be sought prior to cancellation of the PCN.

76.2 Where these details are not given then the PCN should be enforced unless they are supplied subsequently.

77.0 PREGNANCY- MOTHERS WITH YOUNG CHILDREN:

77.1 Generally pregnancy is not considered to be a disability and delays caused by young children should not normally lead to the cancellation of a PCN.

77.2 However, this is a sensitive area and each case should be treated on its merits. i.e. If the delay was short or was caused by a minor medical emergency, child being sick or mother feeling unwell, leniency may be shown.

77.3 If the delay was caused by the mother not allowing additional time enough to deal with young children or her own condition, both of which she is fully aware of, then the PCN should be enforced.

78.0 PRIVATE PROPERTY:

78.1 Parking restrictions placed on private property are not the concern of Cheshire West and Chester Council and are outside the scope of its enforcement operation.

78.2 Private landlords, residents etc can impose restrictions on their own property i.e. the need for permits, clamping etc. Enforcement of such restrictions, however, is also their responsibility although it may be subcontracted to other companies including local authorities.

78.3 Any person querying such an area will be advise to contact the relevant landlord or resident.

79.0 PUBLIC UTILITY VEHICLES:

79.1 These vehicles will be exempt from restrictions if necessary if the following criteria apply:

- The vehicle is on an emergency call and is actually involved in the emergency work.
- The vehicle is involved in non-emergency maintenance of apparatus.
- A board or note showing the address and nature of the emergency is clearly displayed in the vehicle.
- The activity should normally be seen to be taking place.

79.2 If abuse is suspected a PCN should be issued and the Civil Enforcement Officer should note the reason why in his/her HHC. i.e. 'Vehicle parked, no activity observed, no indication of location of any emergency'.

79.3 In such cases the PCN should be enforced unless supporting evidence of the emergency / maintenance is supplied by the utility company.

79.4 Public Utility Vehicle is any vehicle involved in the mains supply of Gas, Electricity, Water or Telephone.

80.0 REGISTERED KEEPER'S LIABILITY:

80.1 Under the Road Traffic Act 1991 and Traffic Management Act 2004 the responsibility for any PCN rests with the Registered Keeper of the vehicle as recorded at the Driver & Vehicle Licensing Agency (DVLA).

80.2 If the keeper was not the driver at the time of the offence it remains his / her responsibility to pay the PCN and any recompense from the driver should be obtained by the Keeper.

81.0 RESTRICTED HOURS:

81.1 The hours during which restrictions are in force may vary and, if there is any doubt, the relative Traffic Regulation Order should be consulted. Generally Restrictions are as follows:

81.1.1 Permitted Parking Bays: As per signing.

81.1.2 Yellow Lines:

- Single: No waiting during times shown on adjacent sign
- Double: No waiting at any time except where adjacent signs indicate otherwise.

81.1.3 Loading Restrictions – Yellow Kerb Markings:

- Two Lines: No loading at any time.
- One Line: During the working day or as specified by adjacent signs.

81.1.4 Designated Loading Bays: Indicated on adjacent sign.

81.1.5 Doctor's Bays: Indicated on adjacent sign.

81.1.6 Permit Holders Bays: Indicated on adjacent sign

81.1.7 Disabled Bays - Mandatory: Indicated on adjacent sign.

82.0 ROAD SIGNS / MARKINGS – MISSING, OBSCURED OR BROKEN:

82.1 **YELLOW LINES:**

- Where it is claimed that a yellow line(s) is worn away or has been covered by a highway repair the area should be immediately inspected and remedial work undertaken as soon as practicable.
- Where weather conditions (i.e. snow) have obscured the lines then remedial action to clear them will be taken as soon as practicable.
- If it is confirmed that the claim is valid the PCN should be cancelled. Where the lines can be clearly seen, even though they may be partially worn, the PCN should be enforced but remedial action to renew the lines should be undertaken.

82.2 **KERB MARKINGS: (LOADING RESTRICTIONS):**

- As per yellow lines above.

82.3 OBSCURED SIGNS:

- Information signs accompanying waiting and loading restrictions must be clearly visible at all times. If it is claimed that a sign was obscured and could not be read (graffiti, weather or overhanging trees etc.) the sign should be inspected as soon as practicable and remedial action taken. If the claim is proved to be correct the PCN should be cancelled.
- If the sign can be easily read then the PCN should be enforced but the sign should be returned to pristine condition immediately if required.

82.4 MISSING SIGNS:

- If a sign is claimed to be missing it should be inspected as soon as practicable and, if confirmed, arrangements made for its replacement. Where a sign is missing the PCN should be cancelled.

83.0 ROYAL MAIL AND UNIVERSAL SERVICE PROVIDER VEHICLES:

- 83.1 Vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such.
- 83.2 Vehicles parked for long periods with no activity observed are subject to the same restrictions as ordinary motorists and a PCN should be issued.
- 83.3 Cancellation of a PCN will only be considered if written confirmation is received from the area manager that the vehicle was actively involved in the collection / delivery of mail.

84.0 SCHOOL RESTRICTIONS:

- 84.1 Zigzag markings outside of schools can be either restricted or unrestricted and are installed for the protection of the children. Any markings that are restricted are governed by the relative Traffic Regulation Order and have yellow lines and a time plate showing hours of operation. (An unrestricted bay will not have a time plate and will show road markings only).
- 84.2 Any vehicle parked in a restricted bay, during the times shown on the plate, will be issued with a PCN which will not be cancelled under any circumstances including the claim that the driver was picking-up or dropping-off children.

85.0 SECURITY:

85.1 The Chief Constable can, at any time, give notice to suspend the use of a parking space for up to 28 days where he/she considers such suspension as necessary for maintaining security in adjacent premises. PCNs issued for contravention of such suspensions should always be enforced.

86.0 SECURITY VANS:

86.1 Secure cash vans are occasionally required to park in close proximity to premises in order to effect safe delivery or collection of cash. PCNs issued under such circumstances should be cancelled upon receipt of a representation from the security company confirming such an activity at the time, unless it can be clearly shown that the vehicle was parked for longer than was necessary.

86.2 Security vans involved in the delivery of mail or other such low value items are expected to comply with parking restrictions.

87.0 SUSPENDED BAYS:

PARKING BAYS – RESIDENTS, BUSINESS, SHARED USE, DOCTORS, ETC:

87.1 Where a representation is received claiming that a vehicle was parked at the location without having received notice of the suspension being received and, upon investigation the claim is found to be valid the PCN should be cancelled, providing that a valid permit was displayed.

87.2 It is normally the case that the responsibility for ensuring a vehicle is parked in accordance with any possible suspension rests with the driver. However, when a vehicle is parked legally within a designated bay, which is subsequently suspended, it is deemed to be legally parked as it cannot be made illegal retrospectively by the suspension. Vehicles parked when the suspension was placed should be recorded at that time.

87.3 The keeper will have to demonstrate however that, if the vehicle remains parked in contravention of the suspension for a considerable time, (s) he remained unaware of the suspension (i.e. on holiday etc.).

88.0 TARIFFS / CHARGING LEVELS FOR PARKING ON-STREET:

88.1 The Council will, annually, review its charging levels for parking. Officers will conduct this review and any recommendations for change will be placed before members for their approval or otherwise.

88.1.1 The review will take into account the following:

- The need to maintain and, where possible, improve the flow of traffic.
- The need to improve safety and environmental conditions.
- Improving the quality and accessibility of public transport by discouraging the use of cars where road conditions and public transport facilities justify it.
- The needs of the local community including residents, shops and businesses.
- The particular needs of people with disabilities bearing in mind that some of these people are unable to use public transport.
- Existing and projected levels of demand for parking places.
- The financial viability of the enforcement scheme.

89.0 TAXI RANKS:

89.1 The Council shall make orders for Hackney Carriage Ranks.

89.2 Vehicles, other than Hackney Carriages, (including Private Hire Vehicles) parked in such ranks will be issued with a PCN. Any vehicle, including a Hackney Carriage, parked outside of the rank and in contravention of a parking restriction will be issued with a PCN.

89.3 Taxi ranks made by the Council under the Local Government (Miscellaneous Provisions) Act 1976 are enforceable under the Traffic Management Act 2004 as it enables enforcement of an offence under section 64(3) of the 1976 Act.

90.0 TIME/DATE CALIBRATION OF HAND HELD COMPUTERS AND PAY & DISPLAY MACHINES:

90.1 Prior to commencement of each shift the Enforcement Officers shall calibrate their hand held computers to ensure that they reflect the correct time and date.

90.2 Pay & Display machines are checked daily for any visual defects. Before patrolling the car park, the CEO will check the machine to see that the clock and display is working correctly and there are no coin jams in the coin slot. Maintenance records are kept regarding all machine defects and the machine maintenance team will rectify any problems.

91.0 UNAUTHORISED MOVEMENT OF A VEHICLE:

91.1 Movement of any vehicle by the police is considered to be authorised.

91.2 Unless there is clear evidence that a vehicle has been moved by an unauthorised person then all PCNs should be enforced.

- Stolen Vehicle: Confirmation from the police that the vehicle was reported stolen including the relative crime report number.
- Unauthorised use of a vehicle by another family member or a friend is difficult to substantiate and under these circumstances the PCN should be enforced unless it can be demonstrated that the matter was reported to the police prior to or just after the issue of the PCN. Subsequent report will not lead to the cancellation of the PCN.

92.0 UNIFORMS – CIVIL ENFORCEMENT OFFICERS:

92.1 The TMA states that Civil Enforcement Officers must wear a uniform determined by the enforcement authority and in accordance with guidelines issued by the appropriate national authority.

92.2 The Secretary of State has determined that uniforms should clearly show that:

- the wearer is engaged in parking enforcement
- the name of the Local Authority on whose behalf the CEO is acting
- A personalised number to identify the Civil Enforcement Officer

93.0 VANDALISED VEHICLE:

93.1 When a vehicle has been vandalised to an extent that prevents it from being safely moved any PCN issued will be cancelled providing acceptable supporting evidence is provided.

93.2 This evidence should be from either:

- The Police – quoting the recorded crime number.
- Motoring Organization / Garage Service who removed the vehicle from site.

93.3 CEO observation from his/her HHC must also be considered providing that it clearly states the extent of the damage.

93.4 Failure to provide supporting evidence or the absence of CEO observation will lead to the PCN being enforced.

94.0 VEHICLES LEFT UNATTENDED TO GAIN ACCESS:

94.1 When a driver has to collect a key to gain access to a property this should take no longer than 5 minutes and will be covered by the 5 minutes

attendant's observation time.

- 94.2 In such circumstances vehicles should not be left for longer periods or in contravention of a total 'no waiting' or loading restriction. However, each case should be considered on its merits and extenuating circumstances taken into account.

95.0 VEHICLE NOT AT SCENE:

- 95.1 Where a keeper receives a Notice to Owner and claims that his/her vehicle was not parked in the area at the time a written request should be made to the keeper to confirm the make, colour and tax disc serial number relative to the vehicle.

- 95.2 If these match the records of the Council the PCN should be enforced. If they do not then the PCN should be cancelled. The key element is the tax disc number, which is unique to the vehicle.

96.0 VISITOR TO BRITAIN:

- 96.1 If a PCN is issued to a vehicle displaying foreign registration plates it should automatically be recognized by the processing system as the registration number will not be in DVLA format.

- 96.2 Consideration should be given to cancellation of the PCN but, should payment be made then it should be accepted in the normal way. Equally all correspondence and representations should be dealt with in the normal way.

- 96.3 If a PCN is issued to a UK registered vehicle, which has been borrowed or driven by a foreign resident, the PCN should be enforced against the registered keeper(s) as they remain liable for it.

END OF DOCUMENT