



# **Civil Parking Enforcement Policy**

## **(Off Street)**

### **A Civil Parking Enforcement Policy and Guidance on the Processing of Off Street Penalty Charge Notices in Epping Forest District Council**

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# Introduction to Epping Forest District Council's Enforcement Policy

The advice contained within this document is intended to both assist the public in understanding how parking is enforced in the Council owned and managed car parks to support both the Council and contracted employees when undertaking civil parking enforcement and in particular when assessing representations/appeals.

Through the EFDC Parking Partnership Board, the document will be subject to rigorous and frequent review to ensure that it reflects current best practice nationally. This in turn will enable enforcement to be carried out consistently and clearly across the district. It is stressed however, that it is only guidance; each case will be assessed fairly and reasonably on its merits and it is not appropriate to prescribe a response for every set of circumstances.

This local guidance is not intended to replace or replicate national guidance but to complement it. The national guidance referred to in the document is the Secretary of State's 'Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions' (February 2008) and the associated 'Parking Policy and Enforcement Operational Guidance to Local Authorities' (March 2008). These are referred to as 'National Guidance' within the text.

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## **Glossary of Abbreviations:**

EFDC	Epping Forest District Council
CEO	Civil Enforcement Officer
CC	Charge Certificate
PCN	Penalty Charge Notice
NTO	Notice To Owner
HHC	Hand Held Computer
DVLA	Driver & Vehicle Licencing Agency
TPT	Traffic Penalty Tribunal
TEC	Traffic Enforcement Centre
VRM	Vehicle Registration Mark
RTRA	Road Traffic Regulation Authority
TM	Traffic Management Act
DFT	Department for Transport

## **Contravention codes:**

### **Off-street Higher Level Contraventions:**

#### **Code Description:**

- 74 Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.
- 81 Parked in a restricted area in a car park.
- 85 Parked in a permit bay without clearly displaying a valid permit.
- 87 Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge.
- 89 Vehicle parked exceeds maximum weight and/or height and/or length permitted in the car park.
- 91 Parked in a car park or area not designated for that class of vehicle are they the same thing.
- 92 Parked causing an obstruction

### **Off-street Lower Level Contraventions:**

#### **Code Description**

- 73 Parked without payment of the parking charge.
- 80 Parked for longer than the maximum period permitted.
- 82 Parked after the expiry of paid for time.
- 83 Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock.
- 84 Parked with additional payment made to extend the stay beyond time first purchased.
- 86 Not parked correctly within the markings of a bay or space.
- 93 Parked in car park when closed.
- 95 Parked in a parking place for a purpose other than the designated purpose for the parking place.
- 96 Parked with engine running.

## **Off Street Enforcement:**

### **1.0 Introduction:**

The policy guidance has been agreed by Cabinet.

This document does not seek to prescribe a response for every set of circumstances. It does, however, indicate likely responses to typical representations that occur and in doing so, will assist the public to understand how their case will be approached and what evidence they should provide to support their representation.

Epping Forest District Council is committed to making sure that it provides Equality of Opportunity in how its services are delivered. This commitment has been translated into its core values by ensuring that different groups and individual needs are reflected in the delivery of service.

### **1.1 Parking Enforcement Policy:**

Epping Forest District Council's Civil Parking Enforcement Policy is a policy statement, designed to help to manage parking by providing a clear framework for effective off street parking management activities throughout the Epping Forest District.

On street parking enforcement throughout the District Council area is the responsibility of Essex County Council and is delegated to the North Essex Parking Partnership (NEPP) under the terms of an Agency Agreement. Epping Forest District Council only has powers to enforce in its own off street areas.

The policy is based upon prioritising clearly identified needs, such as those of people with disabilities, residents, visitors and businesses and will help to manage off street parking in Epping Forest on a fair and consistent basis.

The policy helps support a better and safer environment and will generally improve parking conditions in Epping Forest by:

- meeting the needs of those wishing to park in off street car parks owned or managed by EFDC;
- supporting effective parking management;
- seeking to improve sustainable access;
- meeting environmental objectives;
- focussing on customer needs; co-ordinating and being compatible with neighbouring Civil Authorities and providing a clear strategy for effective enforcement
- The policy seeks to meet the needs of all road users and to clearly prioritise different parking enforcement requirements in Epping Forest. The aim is to manage parking in Epping Forest on a fair and consistent basis.

## **1.2 Parking Management:**

Parking management includes the enforcement of off-street parking regulations.

Illegal parking is inconsiderate, and it can be dangerous. Under civil enforcement, the Council is directly responsible for all off street parking enforcement in Epping Forest.

The policy supports effective parking management by:

- Coordinating off-street parking enforcement management to ensure a comprehensive approach.
- Allocating parking permits/waivers/season tickets with clear conditions of use based on transparent and consistent principles.
- Promoting a policy that gives priority in accordance with the defined hierarchy of parking enforcement; and:
- Maximising the potential of the Council's information technology system to support an effective and efficient parking management operation.

Sensible and safe parking within Epping Forest will be encouraged, as will greater compliance with the Off-street Regulations and Traffic Regulations concerning parking. These regulations will not change as a consequence of the change in enforcement provider parking provision will become more responsive to the public's needs because Epping Forest District Council controls both the provision and management of off street parking.

The policy focuses on customer needs by:

- Ensuring an efficient, robust and customer-friendly parking system.
- Effective tackling of parking fraud, and abuse of the Blue Badge Scheme.
- Ensuring an effective, fair and consistent enforcement operation to maximise compliance with Epping Forest's parking regulations.
- Consulting and communicating with both internal and external stakeholders to inform parking management issues.
- Taking into account the needs of local residents, shops and businesses, thereby sustaining the District Council's economic growth.
- Actively supporting the needs of disabled people, bearing in mind that, in some cases, they are unable to use public transport and 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 within the District.
- Actively discouraging indiscriminate parking that causes obstruction to other motorists by being an active member of the Joint Committee of NEPP.

## **1.3 The policy will be regularly reviewed and will take into account:**

- a) Existing and predicted levels of demand for parking.
- b) The availability and pricing of off -street parking.

- c) The nature and extent of on-street parking restrictions
- d) The accuracy and quality of existing signs and bay markings
- e) The levels of compliance that Epping Forest District Council considers to be acceptable and the level of enforcement necessary to achieve them.
- f) The views of the Essex County Council, NEPP and others as appropriate.
- g) The provision of suitable parking facilities for disabled people and those with accessibility issues.
- h) The provision of suitable parking facilities for cyclists and motorcyclists.
- i) Consideration of the Council's overall aims with regard to the environment, fear of crime within the District and sustained economic growth of the District.
- j) Changes to the enforcement regime as a result of changes to legislation, statutory guidance or best practice.

#### **1.4 Implementation:**

It is the Council's intention that the implementation of this policy and Civil Parking Enforcement across EFDC will be undertaken by means of an Enforcement Contract with an external provider. At the time of drafting of this policy, the contract is with NSL Ltd., for a period of 5 years.

#### **1.5 The Council's Intentions**

The Council's intention is that it will operate the civil enforcement parking operation as a partnership with the residents, businesses and visitors. This has the dual aims of providing a better service and of developing a flow of information for the public.

It will also concentrate on learning from the bottom up, by ensuring that local activity and feedback will be continually reflected in the parking restrictions and the quality and services within the car parks.

The key channel of continual feedback will be from the Civil Enforcement Officers (CEOs) and parking related correspondence from the public.

The Council will approach the exercise of discretion objectively and publish policies on the exercise of discretion. This document is the key one relating to the exercise of discretion by staff when operating on-site. Another section within the overall policies concerns the exercise of discretion *after* a penalty charge notice has been issued, and should be read in conjunction with the content of this document.

#### **1.6 Pay & Display Tickets:**

All of the District Council's car parks operate as Pay & Display and or cashless parking areas.

Pay & Display requires the purchase of a ticket 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. (In some car parks the driver is required to enter the vehicle's registration numbers into the machine). These will also appear on the ticket and are designed to prevent illegal transfer of the ticket from one vehicle to another. The car park fee tariff is clearly displayed adjacent to each machine.

Pay & Display Tickets must be:

- Clearly displayed whilst the vehicle is parked.
- For the date shown.
- Valid for the duration parked
- For the car park indicated.
- For the vehicle indicated – where applicable.

Representations made because the driver failed to correctly display a valid ticket even though one was held will not be allowed as it is incumbent upon the driver to ensure that the ticket is clearly displayed throughout the time that the vehicle is parked. Exceptions to this may be permissible where the ticket can be identified as being vehicle specific through recording of the Vehicle Registration Mark (VRM) and that it covers the time of the alleged contravention.

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

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

Where cashless parking is available and is the chosen method of payment, then the need to pay and display is removed. Vehicle details will always be checked against the cashless database system in real time by the Parking Officer where there is nothing on display. Should such a check show that payment by means other than pay and display has not occurred or the vehicle is parked beyond the paid for time, then a PCN shall be issued.

## **1.7 Permits:**

### **Resident's Permits:**

- Failure to display a 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 permit within another car park, on another vehicle or after its expiry date is also an offence for which a PCN will be issued. The PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

### **Visitors Permits:**

- Visitor's permits are obtained by residents and issued to genuine visitors to their homes. Full instructions on how to use and display them are printed on the permits. Permits are valid only within the car park printed on its face.
- Failure to display a visitor's 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 permit within another car park, on a vehicle other than that indicated on the permit and on a date other than that indicated on the permit 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.

## **1.8 Car Park Season Tickets**

- These may be issued in the same manner as resident Permits and are valid only in the specified car park, for the vehicle and before the expiry date printed on the face of the season ticket.
- Failure to display a season ticket 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 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.

## **1.9 Business Permits**

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

## **1.10 Exemptions, dispensations and suspensions**

Section 1 of the Department of Transport Statutory Guidance contains information on how enforcement is undertaken by Civil Enforcement Officers. It details the contraventions that may give rise to issuing a PCN and the usual exemptions to these. Exemptions are signed for each individual car park and stated in the relevant Off Street Parking Places Order.

### **Suspensions:**

Designated parking bays, off-street, may be suspended for the following reasons:

- To allow maintenance of adjacent property where access is required for deliveries, essential vehicles, skips, scaffolding etc. (Cars will not be considered as "essential vehicles" and will be expected to park in accordance with parking restrictions).
- Maintenance to trees.
- At the request of the Police.
- For security reasons.
- Any other reason accepted by the Council.

Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Car Park and Street Furniture Team. The Council's decision is final.

If granted, suspensions of parking bays / spaces will be clearly signposted by means of temporary signs which will indicate the exact location and extent of the suspension, with the start and finish dates and times. These signs will be displayed at least a day before the suspension comes into operation.

Vehicles parked in contravention of a suspension will receive a PCN.

## **Dispensations:**

The following vehicles will receive automatic dispensation from restrictions:

Police, Fire Rescue Service or Ambulances, only whilst attending emergencies.

Vehicles displaying valid disabled permits (see appropriate Section 32 on Blue Badges).

Dispensations may be granted on prior approval for the following:

- Maintenance to adjacent buildings.
- Any other similar reason accepted by the Council.

If granted, dispensations will be issued to the applicant by way of written/virtual authority, which must be clearly displayed on the vehicle whilst parked. A copy will be held by the patrolling Parking Officer and a further copy kept, with the application, by the Car Parks and Street Furniture Team.

A charge, per vehicle per day/per bay, may be made at the discretion of the Authorised Officer.

## **Disabled Drivers/Passengers:**

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 who is not him/herself being transported in the vehicle.

Blue badges must be clearly and properly displayed whilst the vehicle is parked.

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.

Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park in accordance with details provided on the car park information boards.

Disabled Badge Holders are not allowed to park in any area where there is a loading restriction. Parking must always be in accordance with the Blue Badge Scheme.

Parking Officers now have the right to inspect Blue Badges for authenticity.

## **Council Car Parks:**

For an unlimited or specified time, wherever possible the driver should park in designated disabled bays. The conditions of use may vary from car park to car park but will be clearly signed.

## **2.0 Legal framework:**

The Traffic Management Act Statutory Guidance issued by the Department of Transport states:

*“The Secretary of State considers that the exercise of discretion should, in the main, rest with back office staff as part of considering challenges against Penalty Charge Notices and representations against Notice to Owners. This is to protect CEOs from allegations of inconsistency, favouritism or suspicion of bribery. It also gives greater consistency in the enforcement of traffic regulations.*

*However, the enforcement authority may wish to set out certain situations when a CEO should not issue a PCN. For example, an enforcement authority may wish to consider issuing a verbal warning rather than a PCN to a driver who has committed a minor contravention and is still with, or returns to, the vehicle before a PCN has been served. The enforcement authority should have clear policies, instructions and training for CEOs on how to exercise such authority. These policies should form the basis for staff training and should be published.*

*Enforcement authorities should ensure that CEOs are properly trained to enforce parking controls fairly, accurately and consistently. As well as formal training, it is recommended that authorities include some supervised on-street training to familiarise CEOs with the area and any special parking provisions. Enforcement authorities should make sure that CEOs understand all relevant exemptions, such as those applying to diplomatic vehicles and the Blue Badges issued to disabled people. CEOs should be aware of their powers to inspect Blue Badges and the sensitivity required should they need to exercise them.”*

### **2.1 Legislation**

The statutory acts governing parking enforcement are: The Traffic Management Act (2004) and The Road Traffic Regulation Act (1984).

If a driver is querying the legislation it should be explained to him/her in simple terms. There is no need to supply specific reference, unless especially requested.

When such a request is made the Council will make reference to 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 Her Majesty’s Stationary Office (HMSO) or, in the case of the 2004 Act, accessed via the internet

If the keeper is specifically querying the authority behind a specific restriction then reference should be made to the relevant Off Street Parking Places 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.

### **2.2 Abandoned Vehicles Clamping & Removal**

It is not the intention to carry out Clamping & Removal in Epping Forest District Council at this time although this decision may be reviewed in the future

Where a vehicle remains parked, in a Car Park area, for a period during which multiple PCN’s are issued (multiple = 3) for the same contravention. The Parking Officer will report the vehicle as potentially abandoned and it will be dealt with by the District Council’s abandoned vehicle section under the provisions of Refuse Disposal (Amenity) Act 1978.

Criteria used in identifying Abandoned Vehicles:

1. Untaxed.
2. General poor condition.
3. No evidence of movement
4. Multiple PCN's attached to the vehicle

Whilst the vehicle is being dealt with as potentially abandoned no further PCN's will be issued. Issued PCN's will be enforced against the registered keeper of the vehicle in the normal way. The District Council and Essex Police abandoned vehicles protocols shall continue to apply.

### **3.0 The Civil Enforcement Officer (CEO) and their role**

The Councils have established criteria for the use of traffic management controls which are represented on the ground by signs and lines made through the mechanism of traffic regulation orders (TROs). It is important for all of the public that these are enforced; that will reduce accidents, improve traffic flow, help residents and create better facilities for both shoppers and business. In the off street car parks the terms and conditions of the car parks are made by EFDC in their Off Street parking Places Orders under the powers granted by the Road Traffic Act Regulation 1984.

The role of the CEO is defined by the Council and its enforcement contractor and they will all attend recognised training courses. It is important that there is a public understanding that they are not there to "just issue tickets", but are trying to ensure consistent compliance in respect of the parking controls. They have no targets, and in fact the ideal solution would be total compliance with the parking regulations and no parking tickets being issued. All CEOs and Enforcement staff are employed at the time of approval of this policy by NSL Ltd. The Back Office staff dealing with appeals and challenges are employees of the Council.

Civil Enforcement Officers (CEOs) are the public face of parking enforcement and for the purpose of this document are referred to as Parking Officers. They are deployed from the enforcement contractor approved by Epping Forest District Council to enforce parking restrictions in off-street car parks. They wear an appropriate uniform displaying the badge of the Council and the Contractor, the hours of operation and the beats are flexible to address parking management issues that vary between town and district centres.

The beats of the Parking Officers are established by the approved Council contractor in agreement with the Council's Car Park Manager.

Requests from the public for targeted enforcement will be addressed where appropriate. Priority will be given to requests received from the Police.

#### **3.1 What is it that they cannot do?**

The CEOs cannot comment on:

- The parking regulations on street.
- The off street regulations in the car parks.
- Whether other motorists have found the signing difficult to understand.
- Whether a penalty charge notice which has been issued, may be cancelled.
- The Council's declared policies.

#### **3.2 What can the CEOs do?**

- Listen to the motorist.
- Write down their concerns.
- Take a name and address for correspondence to answer questions.

- Use their common sense in deciding on a course of action.
- Explain to the motorist that if they wish to escalate their issue it must be in writing as per the details on the rear of the PCN.

### **3.3 CEO Uniforms**

Civil Enforcement Officers shall wear such uniform as the Secretary of State may determine when exercising prescribed functions, and shall not exercise any of those functions when not in uniform.

The Secretary of State has determined that: Civil Enforcement Officers' uniforms must be readily distinguishable from those worn by the Police and must include the following:

- Clear identification that the wearer is a Parking Officer.
- Clear identification of the Local Authority on whose behalf the Parking Officer is acting.
- A personalised number to identify the Parking Officer which may contain letters as well as numbers.

Epping Forest District Council's Enforcement Contractors Parking Officers will wear a uniform which will consist of:

- Reflective Vest and/or Coat showing "Parking" on the back.
- Hat – in green.
- Transferable epaulettes showing Enforcement Officers number.
- All Enforcement Officers will carry appropriate ID cards.
- Body Cameras.

### **3.4 What do we mean by the exercise of discretion?**

The Council, having agreed that CEOs should be alert to local situations and environment, and should not be over zealous in ticket issuing, have developed evidential and observational criteria and special considerations in respect of penalty charge notice issue.

It is important to identify that there are certain contraventions of regulations that will not be tolerated, except under exceptional circumstances; for example, we will always enforce against dangerous or particularly selfish acts such as:

Parking in bays for Blue Badge holders with no badge displayed.

The policy on discretion follows on from the above. The list below is not exhaustive but indicative, and relies on the individual CEO to exercise his or her discretion in particular circumstances. Should a penalty charge notice still be issued in a particular circumstance, the parking office staff will provide a detailed explanation of why it was issued, as well as options for paying the charge, or appealing against it.

They will be alert to a range of issues to assist the exercise of their discretion relating to the issue of penalty charge notices. The following list is not exhaustive but demonstrates what the Council have agreed as base lines, and from this the CEO will make their decision about the possible issue of a PCN. It should be noted that they will always be gathering evidence of a possible contravention, including the taking of digital photos (but only vehicles and location) as well as notes in their pocket book. This is to demonstrate fairness and equality to their managers and Council Officers and not any bias or favouritism which may lead to suspicion of bribery.

They will be aware of:

- An adult struggling with shopping.
- Difficulty being experienced with a number of children.
- A person with a disability or a passenger with a disability.
- Marginal time lapse in obtaining a pay and display ticket.
- Non functional pay and display equipment.
- Breakdowns waiting for assistance.

This CEO discretion policy is based on these basic rules:

- The CEOs will show a duty of care to the public overall when carrying out enforcement.
- They will enforce in a sensible manner.
- They will recognise that they are operating within a democratic process.
- They will recognise that they are allowed to show discretion.
- They will report matters back to their Supervisor so that considered decisions from information gathered on the ground can be taken.

### **3.5 Civil Enforcement Officers' Pocket Book / Notebook**

The Parking Officers shall maintain a separate pocket book in which they shall note daily details of their patrols, PCN's issued etc. These books shall be kept in addition to any details entered into their handheld computers. They will be made available to the adjudicators in the event of a PCN being challenged through the independent adjudication process and will assist the investigation of any challenge or representation received by Epping Forest District Council.

Each Pocket Book will be numbered and when issued to the Parking Officer the number of the previous book used by that Parking Officer entered on its cover along with the Parking Officers name. Similarly when a pocket book is full the serial number of the new book issued will be entered on the cover.

All completed pocket books will be retained in the office of the enforcement contractor in numerical order. Each completed pocket book should have the Parking Officer's name, the serial number of the previous book and the serial number of the next book written on the front cover.

### **3.6 Complaints against Civil Enforcement Officers (Parking Officers)**

Allegations that a Parking 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.

Any allegation of misconduct or rudeness made against a member of the Contractor's enforcement staff will be investigated and dealt with through the Authorised Officer. The outcome of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. Should the findings not be acceptable to the complainant, advice on how to invoke the Council's Formal Complaints Procedure will be given.

The 'Authorised Officer' of the District Council should be informed of the number of complaints being handled, the basis of the complaint and their current status or outcome on a monthly basis.

### 3.7 Observation

Prior to a PCN being issued, a Parking Officer may allow a period of 10 minutes to elapse between first observing the vehicle and the issue of the PCN. This is to satisfy national guidance as set out in the Deregulation Act 2015. With certain contraventions, however, this observation time is not appropriate (parking in a disabled bay is an instance). Furthermore, the Council reserves the right to reduce or remove the observation time to address local problems.

### 3.8 Enforcement Agents

Enforcement Agents, 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 enforcement agent will always have an appropriate vehicle nearby.

### 4.0 Penalty Charge Notices (PCN)

In Epping Forest District Council, all Penalty Charge Notices issued in the off street car parks are dealt with by the Car Parks and Street Furniture Team. The main advantage of this is that it ensures a clear and consistent approach to processing across the District. An Authority that issues the PCN is responsible for determining any formal appeal to the Traffic Penalty Tribunal (TPT) and is involved accordingly.

The following Section details how PCN's are processed in accordance with statutory requirements and local performance targets. It will give information on typical representations and the mitigating circumstances that are considered when dealing with these. In accordance with guidance. **All statutory correspondence will be sent by first class post.**

#### 4.1 Penalty Charge Notice - Content

In accordance with the 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 Parking Officer 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 on 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.

But if an NtO is served notwithstanding those representations received against the penalty charge before the NtO is served, those representations must be made in the form and manner and at the time specified in the NtO:

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

The Parking Officer shall also record all other relevant details on the hand held computer terminal (HHCT) and pocket book, and valve positions if appropriate. In addition the Parking Officer will take a number of photographs to clearly show the registration number, the parking contravention and the PCN affixed to the windscreen.

#### **4.2 Service of a PCN by post**

There are two circumstances in which a PCN (a "regulation 10" PCN) may be served by post:

- If the Parking Officer 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.
- If the Parking Officer 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 PCN's should be sent within 14 days of the contravention.

#### **4.3 Prevention of Service by violence etc.**

A PCN may be served by post if the Parking Officer 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 Parking Officer on patrol cannot be served by post because the information it gives is insufficient. The regulation 9 PCN issued by the Parking Officer 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 Parking Officer. Back-office staff should trace the relevant registered keeper's address via the DVLA. In these circumstances the motorist gets 14 days discount period for payment of the PCN.

#### **4.4 Prevention of service by "drive away"**

A PCN may also be served by post if the Parking Officer had begun to issue the PCN - i.e. had completed his/her observation and had either started to write the PCN or input data to the HHCT 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 Parking Officer had finished issuing the PCN or been able to serve it.

In such circumstances, the actual PCN issued by the Parking Officer on patrol cannot be sent by post because the information it gives is insufficient. The regulation 9 PCN issued by the Parking Officer 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 Parking Officer. The Secretary of State recommends that the Parking Officer informs the motorist of the contravention before the drive away. Authorities will wish to keep a record of which Parking Officers 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 DVLA.

In these circumstances the motorist gets 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 Parking Officer attempted to serve a PCN 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.
- 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.

A PCN **may not** be served by post if the motorist returns to the vehicle before the Parking Officer has started to issue the PCN. If the Parking Officer is observing the vehicle she/he has NOT started to issue the PCN. Jotting down some details is not part of starting to issue the PCN. It is only when the Parking Officer starts to create the PCN and would otherwise have to formally cancel it that she/he has started to issue the PCN. If the Parking Officer has not started to issue the ticket and the motorist returns, they should establish whether the vehicle is parked in contravention. If the vehicle is in contravention, the Parking Officer should ask the motorist to bring him/herself inside the restrictions.

## **4.5 Penalty Charge Rate**

The implementation of Part 6 of the Traffic Management Act 2004 on 31<sup>st</sup> 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.

The PCN rate has been set at £70 /£50 for Epping Forest District Council. Any increase will only be possible by guidance from Central Government and will require proper advertisement prior to introduction. If paid within 14 days of issue the PCN rate is discounted by 50% and will be accepted in full settlement.

## **4.6 Penalty Charge Notice: Administrative Process**

At the date of this Guidance, the PCN rate in the District is set at £70 higher/£50 lower for 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.

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 District Council. Once full payment is accepted by the Council the case is closed on that date and all further enforcement action ceases.

As a general rule the Car Park and Street Furniture Team does 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 although such arrangements will not be considered if an Enforcement Agent warrant(s) has been issued for recovery of the amount due. Applications must be in writing and will be responded to within 8 working days and the application 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 response:

- Where the debt involves multiple PCNs the Council expects the settlement of at least one per month.
- Payments will be applied to the oldest PCN first thereby preventing the payment of discounted PCNs first.
- Wherever possible, payment to be made by post-dated cheques to be held by the Council for presentation on the due dates.
- Non-payment of any cheque will result in enforcement action being recommenced and all un-banked cheques being returned to the drawer with a letter stating that the arrangement is cancelled.
- Where payment by cheque is not available, payments by postal order or credit card will only be accepted by the Council.
- The Council will maintain a separate active file for each arrangement reached which will be reviewed by the Assistant Director Technical Services.

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 or a Fixed Penalty Notice issued with respect to the contravention.

If no payment or challenge (see below) 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. Included with the Notice to Owner will be copies of all evidence relating to the PCN issued to reduce the likelihood of unfounded representations.

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.

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.

14 days after the issue of a charge certificate, an informal pre-debt registration letter will be sent informing the vehicle owner that the matter will be passed to the Traffic Enforcement Centre for registration as a debt. This is not a legal requirement but is a procedure based on national good practice that often results in payment being received at this stage.

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 Northamptonshire County Court to register the debt. The current registration fee of £7 is added to the debt.

If payment continues to be withheld, the debtor is sent an Order for Recovery and Statutory Declaration advising of a further 21 day period to either pay the debt or swear a Late Witness Statement.

A Late Witness Statement must be witnessed by a Justice of the Peace or Commissioner for Oaths. It is a criminal offence to file a false statutory declaration knowingly or willingly. There are only 3 grounds for making a statutory declaration:

- The Notice to Owner was not received. If this is accepted by the Court, the issuing authority must re-issue the Notice and re-set the penalty charge to £50
- A formal representation was made to the issuing authority but the rejection notice was not received. If accepted, the issuing authority must then treat the case as a formal appeal and forward all relevant paperwork to the Traffic Penalty Tribunal (TPT).
- An appeal was made to TPT but no response has been received. If accepted, all paperwork is to be forwarded to TPT to determine.

Failure to either pay or complete a Statutory Declaration will result in the authority applying for a Warrant of Execution from the Traffic Enforcement Centre.

Once a warrant of Execution is issued, the authority will instruct approved Enforcement Agents to collect the debt on their behalf.

#### **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**.

#### **4.7 Penalty Charge Notice – Discount Period:**

The PCN rate has been set at £70 /£50 for off street parking contraventions. This is subject to regular review. This differential charge has been introduced so lesser contraventions carry a lower charge but more serious ones carry a higher charge. If the PCN is paid within 14 days of being served the PCN rate is discounted by 50% and payment of this amount will be accepted in full settlement.

If a challenge is received from the keeper within 14 days of issue of the PCN, the discounted period will be frozen 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.

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

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.

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.

#### **4.8 Pre-Debt Registration Letter:**

There is no requirement for a Local Authority to send a further reminder once a Charge Certificate has been issued. Epping Forest District Council, however, will send a Pre-Debt Registration Letter 17 days after the issue of the Charge Certificate to inform the debtor that unless the matter is settled within 14 days the debt will be formally registered at the Traffic Enforcement Centre (TEC) and the matter placed into the hands of the Council's Enforcement Agents who will have the right to recover the debt by seizing goods to the value thereof.

Past experience has demonstrated that such letters do generate responses in the majority of cases and will lead to a good proportion being settled

#### **5.0 Penalty Charge Notice appeal:**

Within 10 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 District.

##### **Notice of Acceptance:**

This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled.

##### **Notice of Rejection:**

This formally rejects the representation and gives detailed reasons why the Council has 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.

Should the appellant decide to progress the appeal to TPT, they will be able to decide whether to proceed with a written appeal or attend a hearing to put their case. 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 <http://www.parking-appeals.gov.uk>

Claims that a PCN was issued before the time that an offence is deemed to be committed, requires careful investigation.

The issue of PCN's is controlled by Hand Held Computers carried by each Parking Officer. These computers have in built clocks, which are calibrated each morning prior to commencement of the patrols. They will always impose a ten-minute observation period prior to allowing a PCN to be issued. These times will appear on the PCN itself as "Time First Seen" and "Time of Issue". The computer system will prevent any subsequent alteration to these times.

The normal procedure is for a Parking 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 all cases a minimum of ten minutes must be allowed between observation and issue.

This section of this Guidance contains information on how appeals are addressed by the Car Park and Street Furniture Team. This is not prescriptive guidance as it is recognised that each case must be assessed on its own merits. All grounds for a cancellation that are 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.

The Authority that issued the PCN has the power of discretion to cancel the PCN at any point in the process even if it established that a contravention did occur. Councillors can discuss individual cases of a PCN that has been served; however they are not permitted to play a part in deciding the outcome of individual challenges or representations.

The PCN as issued contains 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.

#### **5.1 Intervention in Challenge & Representation Processes by Elected Members and Other Officers:**

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).

To preserve the integrity of these procedures they will be managed and carried out by the Authorised Officer. 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.

#### **5.2 Challenges/Representations Accompanied By Payment:**

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 must act in good faith and deal with the challenge/representation in a fair and equitable manner. At the same time the Council must comply with its own financial regulation regarding the banking of payments.

Challenges and representations accompanied by a payment will be separately logged, and will be dealt with as a priority. 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.

Where an investigation is required that will take more than 5 days a letter should be sent to the keeper stating this and informing him/her that "In accordance with the Council's Financial Regulations" the payment has been banked pending the outcome of the investigation. 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.

### **5.3 Informal Representation:**

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. Within this challenge she/he can mention any mitigating circumstances as well as challenging the validity of the PCN.

The Council must respond, in writing, within 28 working days as suggested in the guidelines set out by the Secretary of State 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.

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.

If a challenge is received later than 14 days from the date of the PCN issue it will be dealt with in the same way i.e. the discounted period will normally be restarted. This fact should be included within the notice of rejection.

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 the TPT.

### **5.4 Formal Representation:**

When the 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 six 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.

In addition to the 6 statutory grounds for appeal the Council is also obliged to consider any mitigating circumstances and the owner/keeper is required to give full details and supporting evidence of any such circumstances.

More detail on these grounds for appeal is given in the next section together with supporting evidence that would be appropriate to the case. Furthermore, the list contains advice on a further area for appeal; mitigating circumstances. As stated above, it is recognised that each case is different and situations occur that are beyond the control of the motorist and in which cases it would be unreasonable to pursue the PCN. This cannot be an exhaustive list but it does offer guidance on likely scenarios that would warrant cancellation of the PCN.

#### **5.4.1 That the Recipient never was the owner or had ceased to be the owner:**

Where a recipient makes representation he or she is legally obliged to include a statement of the name and address of the person to whom the vehicle was disposed of (or from whom it was acquired, as the case may be) if that information is in the recipients possession

#### **5.4.2 The Contravention Did Not Occur:**

The recipient claims that the alleged contravention did not occur.

This means that the parking ticket was issued incorrectly because no illegal parking took place. For example, an appellant may claim that the Parking Officer was wrong because:

- I The motorist had a permit or ticket but the Parking Officer did not see it. Assuming that the valid ticket can be produced and the Parking 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.
- II The motorist had a disabled badge on display but the Parking Officer did not see it. As with parking tickets, it is the motorist's duty to ensure that disabled badges are clearly displayed. However, proof of ownership and a first offence for that contravention is likely to warrant cancellation of the PCN.
- III 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 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.

IV The date or registration number is incorrect.

The appellant will be asked to provide a copy of their current valid car registration documents which will be checked against the DVLA data. If this is shown to be different, then the PCN is likely to be cancelled.

V A PCN was never served on the vehicle.

It is accepted that PCN's are sometimes maliciously removed from vehicles. The Parking 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.

VI 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.

VII 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.

#### **5.4.3 Vehicle Taken Without Consent:**

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 unauthorized 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.

#### **5.4.4 Invalid Traffic Regulation Order:**

Claims made on these grounds are infrequent and are specifically concerned with the correct legal procedure for the making of the Off Street Parking Places 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.

#### **5.4.5 Hire Vehicle:**

- (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 PCN's) 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.

**5.4.6** That the penalty charge exceeded the amount applicable in the circumstances of the case.

## **6.0 Mitigating Circumstances:**

Although the above 6 statutory grounds will cover most of the grounds for the cancellation of a PCN, it is recognised that there are many other mitigating circumstances that occur when it would be appropriate to consider cancellation of the PCN. Equally, in certain circumstances it would be correct for the authority to continue to claim the penalty charge. The following section details some of these in alphabetical order; this section also deals with some general policies and guidance for both enforcement issues and the processing of PCNs;

For their other activities they 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.

When they are taking goods or high values in cash, we can exercise discretion where it appears reasonable to do so. Enforcement Agents are not exempt from legislation, however, an official badge or permit should be displayed on the vehicle and, further, the act of loading/unloading should be observed as taking place. Once goods have been seized the enforcement agent 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.

### **6.1 Bank Holidays – Restrictions Applicable:**

Motorists cannot assume that restrictions apply to Bank Holidays unless this is specifically stated in the relevant signage. Enforcement on Bank Holidays should pay particular attention to known problem areas such as Car Boot Sales, Markets etc.

### **6.2 Bank Visits:**

Claims from individuals or companies that money is being taken to or from a bank will not be accepted as a reason to cancel a PCN. Motorists should be advised to contact the bank about future security arrangements.

### **6.3 Blocked Access:**

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.

Where a restriction is in place a PCN may be issued to the vehicle providing it is parked in contravention.

### **6.4 Broken Down Vehicles (Also See “Vandalised Vehicles”):**

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 Parking Officer that the vehicle was obviously broken down.

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

A note left in the windscreen, stating that “the vehicle has broken down” will not alone be accepted by a Parking Officer as reason for not issuing a PCN.

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.

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

### **6.5 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).

### **6.6 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 was: elderly, disabled or infirm and 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.

### **6.7 Over-heating:**

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.

### **6.8 Running Out Of Petrol:**

Unless this is due to a mechanical / electrical fault evidenced by repair all PCNs are to be enforced.

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.

### **6.9 Clamping & Removal:**

It is not the intention to carry out Clamping & Removal in Epping Forest District Council at this time although this decision may be reviewed in the future.

### **6.10 Court Attendance – Jury Service or Witness:**

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 PCN's 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.

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.

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.

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.

### **6.11 Court Attendance – Defendants:**

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.

### **6.12 Dental/Doctors Appointments:**

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 served for overstaying the parking time purchased, consideration should be given to the validity of the claim.

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.

### **6.13 Description of Vehicle – On PCN:**

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

### **6.14 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.

### **6.15 Diplomatic Vehicles:**

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.

### **6.16 Drink Driving Or Other Arrest:**

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.

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

Where written evidence of the arrest cannot be supplied, confirmation should be obtained from the appropriate Police Station, by the Council, before the PCN is cancelled. Failure to supply or obtain supporting evidence of the arrest will lead to the PCN being enforced.

### **6.17 Dropping Off - Picking Up Passengers:**

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. Special consideration will be given to drivers of Hackney Carriages or Private Hire Vehicles who will need additional time to announce their arrival and accept payment. The Parking Officer will exercise reasonable discretion in such circumstances.

### **6.18 Emergency Duties:**

Doctors, nurses, midwives engaged on emergency duties are, wherever possible, expected to park legally. Should a PCN be issued, it will be cancelled only upon evidence of the emergency being provided.

Regular or programmed visits will not be considered an emergency.

### **6.19 Glaziers:**

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 Parking Officer's notes, that such activity was taking place at the time of the issue of the PCN.

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

#### **6.20 Government Department Vehicles:**

Unless the reason for parking the vehicle was under exceptional circumstances PCNs issued to vehicles owned or operated by Government Departments should be enforced.

They are not exempt purely by virtue of the fact that they are operated by a Government Department.

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.

Wherever possible, Government Agencies involved in such activities should be encouraged to give the Authorised Officer advance notice and details of the vehicle(s) involved.

#### **6.21 Hazardous Chemicals / Substances:**

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.

If so then serious consideration should be given to the cancellation of the PCN in view of the Health & Safety of the public.

Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

#### **6.22 Health Emergency Badge Scheme:**

Epping Forest District Council does not, at this moment, operate a Health Emergency Badge (HEB) scheme but will review this should the need for such a scheme arise.

#### **6.23 Hiring Agreement:**

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.

Consequently, in this case, the responsibility does not rest with the registered keeper, i.e. 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.

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 registered keeper/Hire Company and a notice of rejection of the representation sent to them with the reasons clearly stated therein.

## **6.24 Holidays:**

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 parking place and failing to have a valid virtual/paper pay and display ticket or permit.

## **Suspended Bay:**

- The Council has the power to suspend parking within a designated parking bay to allow access by a specific vehicle or for bay maintenance to be carried out. In such cases advance notice is placed alongside the bay giving the date, times and length of the suspension.
- If the notice is posted 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.

## **6.25 Hospital Car Service:**

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 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.

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.

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.).

## **6.26 Location – Incorrect:**

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.

## **6.27 Lost Keys:**

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 police, motoring organisations or relatives.

The following factors 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.

### **6.28 Pay & Display Machines – Did Not Realise There Was One There:**

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.

### **6.29 Pay & Display Machines – Not Working:**

Where it is claimed that a machine is not working then reference must be made to both the maintenance records, the Parking Officer's notes and machine test records (machines are tested before every patrol). If it is confirmed that the machine was not working at the time, then consideration should be given to cancelling the PCN.

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.

### **6.30 Miss-spelling of Keeper's Name:**

The miss-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. The onus is still on the genuine keeper to deal with the matter.

Such 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.

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

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

### **6.31 Mitigating Circumstances:**

Each case will be treated on its individual merits and particular circumstances are referred to elsewhere within this document. However, the following are a few guidelines:

#### **6.32 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).

#### **6.33 Children / Elderly People:**

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

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 Parking Officer. The normal 10-minute observation period should be enough time in such circumstances.

### **6.34 Emergencies:**

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.

### **6.35 Motorcycle Bays:**

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

### **6.36 Emergency Call Out:**

An emergency is considered to last as long as it takes to make the car park safe. Following this any vehicle should be moved to a permitted parking place before any subsequent repairs are undertaken.

### **6.37 Police Officers On-Duty:**

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

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.

### **6.38 Police Officer Gave Permission to Park:**

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

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

### **6.39 Pregnancy- Mothers with Young Children:**

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.

However, this is a sensitive area and each case should be treated on its merits. i.e. If the delay was short (up to 10 minutes) or was caused by a minor medical emergency, child being sick or mother feeling unwell, leniency should be shown.

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.

### **6.40 Private Property:**

Parking restrictions placed on private land are not the concern of Epping Forest District Council and are outside the scope of its enforcement operation.

Private landlords, residents etc., can impose any reasonable restriction 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 the local authorities.

Any person querying such an area should be referred to the relevant landlord or resident.

#### **6.41 Public Utility Vehicles:**

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.

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

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

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

#### **6.42 Registered Keeper's Liability:**

Under the 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).

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.

#### **6.43 Restricted Hours:**

The hours during which restrictions are in force should be clearly signed in all car parks.

#### **6.44 Obscured Signs:**

- Information signs 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.

#### **6.45 Missing Signs:**

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

#### **6.46 Royal Mail and Universal Service Provider Vehicles:**

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.

Vehicles parked for long periods with no activity observed are subject to the same restrictions as ordinary motorists and a PCN should be issued.

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.

#### **6.47 Security Vans:**

Secure cash vans are occasionally required to park in close proximity to premises in order to affect 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.

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

#### **6.48 Time/Date Calibration of Hand Held Computers and Pay & Display Machines:**

Prior to commencement of each shift the Parking Officers shall calibrate their hand held computers to ensure that they reflect the correct time and date. The time will be checked against a master clock, which is calibrated weekly against the BT talking clock.

Pay & Display machines are tested at the outset of each patrol to ensure that they are showing the correct time and date. This is done by obtaining a "test" ticket from the machines, which are kept as part of a daily report function.

#### **6.49 Unauthorised Movement of a Vehicle:**

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

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

- Stolen Vehicle: Confirmation from the police that the vehicle was reported stolen including the relevant 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 reports will not lead to the cancellation of the PCN.

#### **6.50 Vandalised Vehicle:**

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.

This evidence should be from either:

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

A Parking Officer's observation from his/her pocket book must also be considered providing that it clearly states the extent of the damage.

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

### **6.51 Vehicles Left Unattended To Gain Access:**

When a driver has to collect a key to gain access to a property this should take no longer than 10 minutes and will be covered by the 10 minutes Parking Officers observation time.

### **6.52 Vehicle Not At Scene:**

Where a keeper receives a Notice to Owner and claims that his/her vehicle was not parked in the area at that time a written request should be made to the keeper to confirm the make, registration plate and colour of the vehicle

If these match the records of the Council the PCN should be enforced. If they do not then the PCN should be cancelled.

### **6.53 Visitor to Britain:**

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

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.