



# **EAST HERTS COUNCIL GUIDELINES**

**FOR  
CIVIL PARKING ENFORCEMENT (CPE)**

## **ENFORCEMENT GUIDELINES**

This manual is intended to cover the majority of the circumstances that regularly occur in emails, letters, representations, telephone calls or appeals to the Adjudicator. This is not intended as a guide to processing Penalty Charge Notices, nor to replace knowledge of the regulations and Council's policies and practices, but to provide a reference manual for common situations that arise

The manual also indicates good practice and what Councils generally do in similar circumstances and includes East Herts Councils own policies on dealing with cases.

However, it is important that the Council has the power to decide whether or not to issue a Penalty Charge Notice (PCN), it also has the power to decide whether or not to pursue payment of that Notice. Council officers considering appeals against parking tickets act in a quasi-judicial manner and this manual is not intended to act as a definitive instruction on what action to take. The duty of a Council officer to use discretion may take precedence over any guidance given in this manual if the circumstances warrant the exercise of that discretion and allows the council to enforce in a consistent and unbiased manner.

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## **Abandoned Vehicles**

Where a vehicle remains parked in a restricted area for a period during which multiple PCNs are issued (multiple = 3+) for the same contravention, the Civil Enforcement Officer will report the vehicle as potentially abandoned and it will be dealt with under the Council's procedures for abandoned vehicles.

The Council may remove these in line with its abandoned vehicle procedure.

If the vehicle is taxed, the vehicle may have been stolen and therefore the police should be made aware of the vehicle and location.

## **Appointments including Doctors/Dentist/Opticians etc.**

**All car parks (except Buntingford, Grange Paddocks and Stanstead Abbotts) offer a check-in/check-out service so on the whole these circumstances shouldn't arise in our car parks.**

If the claim is that an appointment was delayed or that treatment took longer than expected, consideration should be given to the specific circumstances. It is not uncommon for scheduled appointments to be delayed and it is expected that motorists consider their intended activities and purchase sufficient parking time or use the check-in/check-out facility to cover any delays rather than under-estimate the time required.

Therefore any claims that the scheduled appointment overrun should not be cancelled.

If, however, an emergency situation arises or the patient has to undergo extensive treatment following discoveries from the scheduled appointment, discretion should be exercised if a letter from the doctor/dentist etc is supplied with the challenge of the PCN.

## **NO PCN SHOULD BE CANCELLED WITHOUT THIS**

The check-in/check-out service is available in our car parks and if motorists are unsure of the parking time required, it is expected that this service will initially be used.

The pay by telephone option is also available in our car parks and it will be expected that this service will be used if motorists find that they are unexpectedly delayed.

## **Bank / ATM visits**

Claims from individuals or companies that money was being taken to or collected from the bank should not automatically be accepted for cancellation of the PCN.

The normal loading/unloading, delivery and collection rules apply and the value of the money involved should not be a consideration.

Although the value of the money does not matter in itself if the delivery or collection involves a large amount of coinage the PCN should be cancelled upon suitable proof being received as this activity would fall into the normal delivery/loading provisions regarding heavy items which could not normally be carried from a legitimate parking space.

Claims that vehicle was parked for 'less than a minute' whilst the ATM was being used will not be accepted. Roads that include ATM machines are usually located in town centres on busy high streets and due to chronic non-compliance in these locations; the 5 minute grace period may have been removed on single/double yellow lines as a deterrent to motorists who 'take a chance'

## **Bank Holidays**

Waiting and loading restrictions, as indicated by yellow lines / markings on the carriageway and / or kerbs may be in force throughout the year. Reference should be made to the relevant Traffic Regulation Orders.

Motorists cannot assume that restrictions do not apply to Bank Holidays unless this is specifically stated on the relevant signage and requests for cancellation as it was a Bank Holiday will be dismissed.

The pay and display car parks are currently free on bank holidays and this is advised on the tariff board. Any motorist who pays for parking on a Bank Holiday will not be refunded as it is the motorist's responsibility to ensure that the tariff board is read and understood prior to paying for car parking.

In resident permit parking schemes, there is no requirement to display permits or vouchers on Bank Holidays and this is communicated to residents/permit holders via resident permit documentation and internet.

## **Bill of Rights Act 1689**

Claims that a PCN is not valid as it does not conform to the Bill of Rights Act will not be accepted as a reason for cancellation. This has been established by the High Court and has also been raised before the Parking Tribunal. There is no conflict between The Act and the decriminalised parking scheme brought in by the Road Traffic Act 1991.

A PCN issued under the TMA 2004 imposes a statutory duty on the council to consider and respond to representations against the issue of a PCN and includes a right of appeal to a statutory tribunal.

The TMA therefore provides a right to challenge and is consistent with the 1689 Act

## **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.

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 is necessary.

Where access to a private driveway is obstructed because the dropped kerb is being blocked, the householder may contact the parking office and request a Civil Enforcement Officer to attend and observe the vehicle.

A Penalty Charge Notice may be issued if the vehicle is parked with an entire wheel adjacent to any part of the dropped kerb. Where a restriction is in place, a PCN may be issued to the vehicle providing it is parked in contravention of the restriction.

## **Broken Down Vehicles**

A broken down vehicle that cannot be moved is covered by the exemptions contained in TROs. Claims of breakdown should be accepted if they appear to be unavoidable and if supporting evidence in the form of one of the following has been produced

- a. A garage receipt, on headed paper, properly documented
- b. A till receipt for purchase of relevant spare parts purchased on or about the date of the contravention
- c. A confirmation letter from the AA, RAC or other motoring organisation

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 but will be recorded and photographed during the issuing process.

The main areas of contention associated with the alleged breakdown of vehicles are listed below with guidelines

### Removal of Vehicle by a garage or breakdown service

It should be noted that if a vehicle is broken down, the driver cannot leave it indefinitely before arranging for it to be removed. The driver is expected to arrange for the vehicle to be removed within 24 hours. If the vehicle cannot be removed within this time, evidence should be supplied from the garage.

### Flat battery

A receipt for the purchase of a new battery or for parts, which could cause a flat battery, should be supplied and if evidence is not forthcoming the PCN should be upheld.

In cases where it is alleged that the vehicle was jump/bump started and no other evidence is received the PCN should be upheld.

Consideration should also be given as to how the vehicle came to be initially parked in contravention.

### Flat Tyre

The PCN should be upheld unless there is good reason why the driver could not change the tyre i.e. driver is elderly, disabled or there was a mechanical difficulty.

### Overheating

Where it is claimed that the vehicle had overheated due to lack of water, the PCN should be upheld unless there is evidence of a mechanical failure.

### Running out of petrol

Unless the driver had provided evidence that the vehicle ran out of fuel due to an electrical or mechanical fault, the PCN should be upheld.

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 had 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.

## **Builders/Tradesmen**

Resident permit schemes: Trade vehicles parked within a resident permit zone must be in receipt of the relevant contractor permit.

Weekly contractor permits are available via the online permit system accessed by the homeowner

No waiting restrictions: Parking will only be permitted while actual loading/unloading is taking place. The vehicle must then legally re-park once loading/unloading has ceased.

If no loading activity has taken place during the issuing officer's observations, the onus is on the motorist to prove that loading was being carried out.

A dispensation may be issued to a vehicle where it is necessary for the vehicle to be parked on a restrictions see [Dispensations](#) for more information.

## **Bus Stops**

A restricted bus stop will have a wide yellow line and a time plate showing the hours of operation.

An unrestricted bus stop will not have a time plate but may have advisory road markings.

If the driver is present, the CEO should ask the driver to move on and an instant PCN should be issued if the request is ignored.

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

Vehicles that are not buses are not allowed to park at restricted bus stops for any reason – including loading and unloading

## **Care Organisations**

In Resident Permit Schemes Council 'special' permits are required to park in Permit Holders Parking Zones;

There is no special exemption for carers in Council car parks

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 except in a medical emergency, in which case a PCN may be waived on production of appropriate documentary evidence.

## **CCTV Bodycams**

All Civil Enforcement Officers are equipped with body cameras which are filming constantly while officers are carrying out their official duties.

Cameras are intended to be a safeguard to both the officers and public and footage will be used as evidence to prove/disprove any complaints made by the public about Civil Enforcement Officers' conduct.

Footage may also be submitted to the police in cases of verbal or physical abuse against our Civil Enforcement Officers.

## **Check in/Check out**

When using this facility, the user creates a 'virtual' 'open' parking session based on the registration number of their vehicle and this transaction can be seen on enforcement officer's handheld computers.

When they return to their vehicle, the driver only needs to present their credit/debit card to any machine in the car park and the relevant parking tariff will be charged.

All other terms and conditions apply and if a motorist 'checks-in' to a short stay car park, they cannot stay longer than the maximum period listed on the tariff board and the session will automatically be cancelled after the maximum stay period has been reached.

At the end of each chargeable day all valid check-in transactions are cancelled to avoid users forgetting to check-out and ongoing parking charges being taken from customer accounts.

## **Civil Enforcement Officer discretion**

It is not appropriate for CEOs to be given high levels of discretion with regard to the issue/cancellation of PCNs as this may increase the potential for corruption and increases the likelihood of allegation of inconsistent enforcement. Therefore once a PCN has been printed and served the CEO has no power to take the PCN back and cancel it **whatever the circumstances**. It would be up to the motorist to make a challenge against the issue of the Notice following the instructions on the back of the PCN.

If the CEO meets the driver after the PCN has been served, they will record the conversation in their notes along with any extenuating circumstances but the driver must still make a challenge to the Council to request cancellation of the PCN.

## **Common Law**

Challenges received by individuals claiming that they do not abide by Statutory Law will not be cancelled.

Examples of Common Law claims can be

- Individual states they are not subject to Statutory Law (referring to themselves as “Bloggs” Family or member of etc
- Individual asks for proof they are a person not a human being
- Individual will only abide by common law
- Individual has ‘no contract’
- Individual refers to Bills of Exchange Act
- Individual bills EHC for time spent

Such claims are not relevant as the PCN is served under an Act laid down by Parliament

## Complaints

**All complaints should be made in writing by post, email or online**

### *PCN specific complaint*

There is a statutory procedure in place to challenge the issue of a Penalty Charge Notice. Details of this procedure can be found on the back of the PCN and also on the internet at [www.patrol-uk.info](http://www.patrol-uk.info)

### *Complaints regarding Civil Enforcement Officer (CEO) conduct*

All complaints regarding the conduct of the CEO will be investigated thoroughly. If a PCN has been issued then this should be dealt with separately following the above statutory process. All CEOs are equipped with CCTV body cams and footage will be reviewed in the course of the investigation.

### *Enforcement Agent (bailiff) complaints*

Complaints about the conduct of the enforcement agent will be investigated in partnership with the Council and the Enforcement Agency and should be addressed to the relevant Debt Recovery Agency.

### *Complaints regarding East Herts Council staff*

Any complaints regarding the conduct of the parking office staff should be reported via the Councils corporate complaints procedure at [www.eastherts.gov.uk/3coms](http://www.eastherts.gov.uk/3coms) or by contacting East Herts Council by telephone on 01279 655261.

## **Council Officers and Members**

All Council officers and Members are expected to fully comply with parking regulations when carrying out work or duties on behalf of the Council

Parking in residents permit parking schemes or council car parks: Staff or Members using their own cars to carry out their official council duties may be issued with parking permits that are only valid during times when official duties are being carried out.

Parking on yellow lines: No special dispensation will be given to allow staff or Members to park on yellow lines.

Request for cancellation of PCN: This will only be considered if the PCN was issued due to an emergency and on the same basis as applied to the general public and must be supported by written confirmation from the relevant manager.

Civil Enforcement Officers are the exception to the above and will be permitted to park for a period of time which is reasonable in relation to their enforcement duties.

## **Court Attendance**

Any requests for cancellation of a PCN from police officers, solicitors, barristers, witnesses or members of the public who have been delayed because of an over running court hearing should not be accepted.

If a member of the public who appears in court is directly sent to prison, then consideration should be given and PCN cancelled on receipt of proof of imprisonment.

## **Delivery and collection**

Generally, an exemption exists for delivery and collection if it is evidenced that the vehicle needs to be parked in contravention to allow the act to be carried out.

Postal deliveries are included in this exemption and therefore goods do not generally need to be bulky or unwieldy. This is a practical exemption because a driver who is employed for multiple drop delivery/collection of goods should not be expected to park their vehicle far from the point of delivery/collection as there are obvious considerations of time and money involved.

The delivery process also applies to the completion of paperwork which is reasonably required.

Parking while investigating whether goods are to be collected is not covered.

## **Details of Vehicle Recorded Incorrectly**

When issuing a Penalty Charge Notice, the issuing officer may record details of the vehicle including colour, make and model which is taken to aid identification and is not a necessary requirement.

The registration number is the only vehicle detail on the PCN which must be recorded correctly and claims that colour make or model are incorrect will be upheld.

If the registration has been recorded incorrectly, the PCN must be cancelled.

## **Diplomatic Vehicles**

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.

Where a CEO comes across a diplomatically registered vehicle in contravention of a decriminalised parking control, he / she should contact the Parking Manager who should check Annexe 5.1 of Circular 1/95.

'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.

## **Disabled Drivers/Passengers**

The European style Blue Badge was introduced April 2000. Badges are valid in all European Union Countries.

The scheme provides parking concessions for people with severe walking difficulties who travel as passengers or drivers.

The scheme is intended to allow badge holders to park close to their destination and applies to on-street parking. East Herts Council also currently allow blue badge holders to park free and without time limit in any pay and display car parks in both marked and unmarked disabled bays.

Blue badges can only be used if the vehicle is being used to transport the blue badge holder. If it appears evident to the CEO that neither the driver nor passenger is the blue badge holder, the CEO should note down the Badge details and pass these on to the back office. A PCN cannot be issued for misuse, only if a contravention has occurred.

A valid blue badge (and if necessary a time clock, properly set to the time of arrival) must be clearly and properly displayed whilst the vehicle is parked. Failure to do so will result in a PCN being issued for the relevant contravention.

Any informal or formal representation received from a disabled driver should be considered compassionately, even if the badge was not displayed or had expired (as long as there is evidence that it has been renewed.) The cancellation letter should state that if the same circumstances arise, any future ticket will not be cancelled. As a general rule, further tickets should not be cancelled, but there may be mitigating circumstances where it could be advisable to exercise discretion.

Where a PCN has been issued to a vehicle parked on a yellow line covered by a loading ban, a bay reserved for a specific class of vehicle such as an electric bay, the Penalty Charge Notice should not be cancelled as a general rule, but there may be mitigating circumstances where it could be advisable to exercise discretion.

## **Discretion**

East Herts Council parking office is committed to delivering consistent, high quality parking enforcement fairly and in accordance with the law. Parking restrictions are in place to improve safety, prevent congestion and ensure a fair distribution of parking spaces. When considering representations, staff must always bear in mind that they have the power to apply discretion at any stage if it is believed that the circumstances supplied are of sufficient mitigation to warrant the cancellation of a Penalty Charge Notice.

## Dispensations

The following vehicles will receive automatic dispensation from waiting restrictions:

Police, Fire Brigade or Ambulances whilst carrying out formal duties.

Vehicles, other than cars, involved in statutory highway maintenance where there is a need for them to be parked adjacent to the work site. Cars will not be regarded as such vehicles and will be expected to be parked in accordance with parking restrictions.

Liveried East Herts Council vehicles carrying out statutory duties such as refuse or recycling collection, street cleansing and verge maintenance.

Vehicles displaying valid disabled permits (see [Blue Badge](#)).

Liveried Royal Mail vehicles engaged in the collection and / or delivery of letters in accordance with the statutory duty of the Post Office (but not on bus stops, or loading bans).  
Wherever possible loading bays should be used.

Dispensations may be granted for the following:

Funerals – For the hearse and cortege vehicles

Weddings – Bridal vehicles only

Maintenance to adjacent buildings, where there is a need to park adjacent to the building and it is not possible to park off the road.

Furniture removals – If continuous loading/unloading is being carried out, no dispensation is required as long as a loading ban is not in force.

Any other reason accepted by the Council.

In all cases, the period of parking must be reasonable in relation to the reason for parking, and a relevant charge may be imposed.

Applications for dispensations should be received at least 24 hours prior to the required date and must be made to the Parking Office by telephone.

The Council's decision is final. If granted, dispensations will be issued to the applicant and a note of the vehicles registration will be kept on the database which will be accessible by Civil Enforcement Officers by their handheld computer.

An administration charge to set up a dispensation will be charged.

## **Drink Driving or Other Arrest**

If the driver of a vehicle has been arrested and, as a direct result, has been required by a police officer to leave the vehicle in contravention, any resultant PCN should not be enforced unless the driver has had ample time to safely remove the vehicle after his / her release from custody. (In the case of drink driving a period of at least 12 hours should be allowed for safe removal of the vehicle.)

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 relative 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.

## **Driver not the registered keeper**

Although a PCN may be paid by the driver of the vehicle at the time of the contravention, if the driver does not pay, it then becomes the responsibility of the owner/keeper.

The owner/keeper is legally liable for the payment of the Notice and cannot claim that he/she was not driving at the time nor can they claim that the vehicle was in control of a third party at the time.

In most cases the PCN should be upheld, however discretion may be observed and the discount re-offered if it is apparent that the owner was not aware of the PCN when the discount period was offered.

## **Dropped Kerbs**

The contravention of parking adjacent to a dropped footway applies where a vehicle parks on the carriageway with at least one entire wheel adjacent to a place where the footway, cycle track or verge has been lowered to the level of the carriageway.

### Pedestrian dropped kerbs

Any requests for cancellation from motorists because they were not aware of the contravention should be rejected on the basis that this contravention has been enforced since 2009 and has been well advertised in numerous Council publications.

No lines or signs are required to advise of this contravention as the lowered kerb is sufficient advertisement of the restriction.

### Private driveway enforcement

A PCN will only be issued to a vehicle obstructing an unrestricted private dropped kerb following an enforcement request from the homeowner. A request will be made for the Civil Enforcement Officer whose patrol route is closest, to incorporate the location in their rounds.

Claims of obstruction from the homeowner will be investigated by the Civil Enforcement Officer but it will be up to the officer to ascertain whether the vehicle is in contravention and causing an obstruction when they attend the location. A PCN will only be issued if it is believed by the CEO that a contravention has occurred.

## **Dropping off – Picking up Passengers**

Except on designated clearways and zigzag (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 or loading 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., when five minutes will be allowed.

Special consideration will be given to Hackney carriages or private hire vehicles that may need additional time to announce their arrival and accept payment, but waiting time will be limited to five minutes.

## **Emergency call out**

Claims from tradesmen (plumbers, electricians, gas fitters etc) that they were responding to an emergency call out should be considered based on the observation period, location and type of the emergency and the vehicle.

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.

## **Emergency Duties**

Doctors, nurses, midwives or other care givers that are engaged on emergency duties are expected to adhere to parking restrictions the same as any other motorist.

Should a PCN be issued, evidence of the emergency must be provided before the PCN will be cancelled.

Regular or scheduled visits will not be considered as an emergency.

## **Enforcement Agents (Bailiffs)**

Enforcement Agents (Bailiffs) are agents of the Court but are not exempt from parking regulations.

For certain duties, such as serving a Warrant, a nearby vehicle is unnecessary but when executing a Warrant which may include removing goods of sufficient value to the debt owed, a vehicle will be required to be close at hand.

This activity will be treated as loading and will benefit from the exemptions that such an activity provides.

## **Enforcement Requests**

If a vehicle is parked on an enforceable restriction then the council may issue a Penalty Charge Notice.

The Council does not have the resources available to remove a vehicle for obstruction which would be the responsibility of the police.

East Herts do not currently have the powers to issue a Penalty Charge Notice to vehicles that park on a pavement or grass verge adjacent to an unrestricted road.

If a vehicle is parked in contravention of the governing restrictions then a member of the public may contact the Council and request enforcement. An officer will be sent to the location if resource is available.

The parking office will respond to enforcement requests from residents whose driveways are obstructed. Please see [dropped kerbs](#).

## **Estate Agents**

Due to the nature of their job, estate agents may leave and return to the car park several times per day.

Our car parks (except Wallfields and Grange Paddocks) do not restrict vehicles from returning within the same day and therefore an all-day ticket may be used for various parking actions as long as the vehicle returns to the same car park where the original parking session was purchased.

Estate Agents visiting a property within a residential parking zone should display a valid visitor voucher which can be obtained from the resident. It would also be up to the Estate Agent to ensure that any prospective purchasers are aware of the restrictions.

If the residence is unoccupied, the Estate Agent should contact the parking office to make alternative arrangements.

Estate Agents are not exempt from parking restrictions and Penalty Charge Notices will be upheld

## **Exempt Vehicles**

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

Fire Brigade vehicles when attending emergency situations, or other situations requiring them to be parked in a specific place.

Marked Police vehicles when carrying out legitimate police business.

Ambulances when attending emergency situations or transporting patients.

The following vehicles are exempt in the circumstances described:

East Herts Council vehicles (or those of their agents), whilst being used to carry out statutory duties (e.g. refuse or recycling collection, street cleansing, highway maintenance), or whilst carrying out duties that require the vehicle to be in close proximity (e.g. verge grass cutting), including CEO vehicles.

Post Office and other vehicles engaged in the delivery of postal packets (i.e. courier companies such as UPS). This does not include private vehicles used by postal workers whilst carrying out letter deliveries. The Council will expect such vehicles to be parked in compliance with any parking restriction.

Electricity, gas, water companies, British Telecom or other telecommunications companies (and / or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus and in liveried vans.

Public service vehicles and other company vehicles whilst waiting at an authorised stopping place, terminus or turning point.

All exempt vehicles should be liveried, not private cars or unmarked vans and the exemption does not apply to sub-contractor's vehicles unless specified above. In all cases the exemption applies when the vehicles are actively engaged in the relevant activity.

## **Footway Parking**

Waiting and loading restrictions cover the whole highway from the centre of the carriageway to the boundary and includes the footway, areas used as footway and grass verges. Therefore if a vehicle is parked on a pavement adjacent to a restricted road, a PCN may be issued relying on the relevant parking restriction.

Complaints regarding footway or grassed verge parking on unrestricted areas should be referred to the local safer neighbourhood policing team (contact details at <http://snt.herts.police.uk/> )

## **Funerals and Weddings**

See [Dispensations](#)

Official vehicles actively involved in a funeral or a wedding will be exempt from parking restrictions (see dispensations). This exemption only applies to vehicles that are actively being used for this purpose and not usually to private vehicles.

Any requests for cancellation of a PCN on the grounds that the driver was making funeral arrangements, or in attendance at a funeral should be treated with compassion but will be upheld.

In some circumstances, the council may receive a request for arrangements to be made to accommodate a number of vehicles attending a funeral and each request will need to be considered on its own merits taking into account number of vehicles, location, type of parking restriction etc.

## **Gas Companies**

Gas Companies are not automatically exempt from regulations and should usually pre-arrange and pay for a parking dispensation prior to starting work.

On occasion, gas companies may need to attend emergency work when there is not time to arrange a dispensation. Any Penalty Charge Notice issued may be cancelled in these circumstances if supported by a letter from the Area Manager (not driver) detailing the emergency situation.

If abuse is suspected, the issuing CEO should make a note if the vehicle was unattended and no work was being carried out. In these circumstances the PCN should be upheld.

Consideration should not be given for operatives carrying out routine maintenance to gas appliances or meter readings.

## **Goods vehicle**

The official definition of a goods vehicle is:-

*A motor vehicle or trailer constructed or adapted for use for the carriage or haulage of goods or burden of any description.*

Passenger vehicles observed in loading bays reserved for 'goods vehicles only' will be issued an instant Penalty Charge Notice and all requests for cancellation will be denied.

## **Government Departments**

Unless evidence in the form of a letter on headed notepaper from a senior officer can be provided to confirm that the purpose for leaving the vehicle in contravention was exceptional, the PCN should be upheld. The types of exceptional circumstances where discretion may be appropriate are:

Vehicles used for security purposes

Vehicles used for observation and surveillance (mainly undercover police, security services or customs)

Government Departments are not normally exempt from parking regulations.

## **Hazardous chemicals/substances**

Claims by companies that toxic or highly dangerous substances/poisons were being used/delivered/collected in nearby premises need to be given careful consideration.

Although the type of goods may have a bearing on the time that it takes to deliver the goods to an appropriate and safe environment, the act of loading should be the same irrespective of the description of the goods and an automatic exemption will only exist whilst the act of loading/unloading is being carried out.

The cancellation letter should advise the company that a dispensation should be obtained if this will be a regular occurrence.

## **Hiring Agreements**

Where a company makes representations they are a hire firm and have supplied details certain criteria must be provided

Where the hiring period is for a fixed period less than 6 months  
The firm must supply a hire agreement with:

Full name

Date of birth

Permanent address

Address at time of hiring

Details of driving licence

Make and registration number of the hired vehicle

Time and date of commencement and expiry of hiring period

The hire agreement must also be signed by the hirer confirming liability for PCNs.

Without the above information, the PCN remains with the hire company.

Where the hiring period is in excess of 6 months no hire agreement need be submitted but they are required to provide the name and address of the hirer together with details of the period and term including the start date.

## **Hospital / Medical Visits (including therapists, physio etc.)**

In cases where the driver is claiming an emergency visit to the hospital, the PCN should be cancelled as long as sufficient details have been provided and the emergency is felt to be genuine.

If the patient was admitted, confirmation should be sought in the form of a letter from the GP or hospital.

If a driver is visiting a sick friend/relative the PCN will be upheld unless written evidence can be provided that the visit was of an **emergency** nature.

When there is a pre-arranged appointment and the driver claims they were delayed, the PCN should be upheld unless an emergency had developed during the appointment, in which case further evidence will be necessary.

## **Instalment Payments**

As a general rule East Herts Council will neither offer time in which to pay PCNs nor will it enter into instalment payment arrangements.

Exceptions to this are only made in cases of genuine financial hardship if the cases are at a stage which legislation allows for the timescales to be amended.

*NB The 50% rate for payment of a PCN is an incentive for prompt payment which must be received by the council within 14 days of the date of issue. It follows that instalment plans cannot allow the motorist to avail themselves of this incentive. Therefore, as a general rule, instalment arrangements must be for payment of the full penalty charge*

Application for time to pay by instalments must be in writing and will be responded to within normal Council response times. The application must be accompanied by any evidence supporting the claim of financial hardship.

The Council's response will signify acceptance or rejection of the proposal. A rejection will be accompanied by the Council's counter proposal which will be the final offer based on:

**The Council will not consider anything less than a minimum payment of a full PCN per month.**

Payments may be made by telephone direct to the Parking office. The Council will maintain a separate active file for each arrangement reached which, will be reviewed by the relevant manager each month.

## **Loading and unloading and moving home**

Traffic Regulation Orders offer an exemption from parking restrictions for 'delivery and collection' and the 'loading and unloading' of goods.

The vehicle itself does not have to be a goods vehicle (unless parked in a specific 'goods vehicle only' loading bay) but it must be necessary for the activity and not merely convenient.

The term 'Goods' is defined broadly and the intention is to give the term a wide meaning. There is no definition of size but as postal deliveries such as letters are included the implication is that goods can be small.

The loading exemption will also apply for removal vehicles or private vehicles engaged in moving house. Whilst the act of loading/unloading is being carried out, an exemption will apply but does not include the act of packing boxes etc.

The TRO does not specify that goods to be delivered must be of a certain nature or that goods must be delivered to a premises which means that it can refer to tools and equipment although the work 'load' does imply bulk or weight.

Shopping *may* be classed as goods. The exemption does not cover choosing the goods (shopping) but would apply while the goods were being put in the car but will only apply if it is believed that it was necessary for the vehicle to be close.

If the delivery is being carried out in the course of a business, it will fall within the meaning of delivering and collecting goods. The goods do not need to be large, heavy or bulky and applies to multiple and/or one-off deliveries. Commercial drivers will be able to provide some form of supporting evidence which may be necessary to support claims of delivery.

Deliveries of items in the course of a business are permitted but it should be remembered that a lengthy absence of the driver from the vehicle will place the onus on the driver to prove that he took no longer than was necessary to despatch the goods.

Delivery and collection / loading and unloading means taking goods to or from a place and may also apply to putting them in or collecting them from a particular part of a premises.

The delivery process applies to the completion of paperwork which is reasonably required e.g. a delivery note and obtaining a signature.

Although the delays mentioned are allowed within the terms of the loading provisions, selecting or choosing goods is specifically excluded. The goods must have been pre-ordered or collection pre-arranged and proof must be submitted prior to a PCN being cancelled.

The Civil Enforcement Officer will observe the vehicle for a period of 5 minutes and if no loading is being carried out in this period, a PCN will be issued. This does not mean that a contravention has occurred, just that the issuing officer *believes* a contravention has occurred. The burden of proof remains with the driver to establish that an exemption applied.

## **Lost Car Keys**

Where it is claimed that car keys have been lost/stolen, drivers should be treated leniently and PCN cancelled provided vehicle is not parked on a restriction which prohibits any stopping such as a double yellow line or loading ban.

Each case should be considered on its individual merits and will be dealt with accordingly although consideration will be given to where the vehicle was originally parked if it is parked on a restriction.

If the driver has purchased replacement keys, a copy of the receipt should be submitted prior to the PCN being cancelled.

## **Misspelling of owner/keeper name**

The DVLA supply the majority of the information regarding vehicle ownership. In view of this, the mis-spelling of a name and address on a Notice to Owner does not necessarily invalidate the PCN. The onus is still on the owner/keeper to deal with this matter.

If a mis-spelling is discovered, it is essential that the owner details on the PCN processing system are changed to ensure that any further legal documentation that may be sent is correctly addressed. However, if it is thought that the mis-spelling is severe, it may be appropriate to amend the details and send an updated Notice to Owner.

## **Mitigating circumstances**

Generally, every case should be treated on its merits and guidelines regarding particular circumstances are contained elsewhere in this manual but there are a few general guidelines listed below:-

### Delays

Delays due to queues, meetings taking longer than anticipated etc. are not grounds for cancellation.

If a delay is related to a medical or emergency situation a degree of leniency should be exercised if evidence of the situation is provided.

### Babies/young children/elderly people

Delays due to children needing to be fed/nappy changed/toilet or elderly people walking slowly etc are not grounds for cancellation. The presence of a baby, young child or elderly person is likely to inject delays and this should be included in the motorists' decision when choosing an appropriate parking facility/duration.

### Collecting/dropping off school children

Claims that driver was dropping off/collecting children from school should not be cancelled unless a 5 minute observation period has not been recorded by CEO which is sufficient time for parents to hand their children to a responsible adult.

### Emergencies

An emergency is an unforeseen situation which prevented a driver from moving the vehicle. These are usually of a medical nature and leniency should be exercised if it is felt that the driver could not have foreseen the situation and had no chance to return to the vehicle.

If a claim is made of a sudden illness, injury or accident, proof should be requested in the form of a letter from the GP.

Consideration should also be given to those who suffer from Crohn's disease or Colitis if documentary proof is supplied.

Other urgent toilet visits would not normally permit cancellation of a PCN unless mitigating medical circumstances applied.

### **Grace Periods**

A grace period is allowed when a vehicle is observed parked in a permitted area such as pay and display car parks, on-street limited waiting bays and resident permit parking bays.

A grace period is observed to allow a driver a few minutes to return to their vehicle and can avoid allegations of premature issue of PCNs

*Contraventions where 10 minute grace period is given*

Parked for longer than permitted in a limited waiting bay

Parked after the expiry of paid for time in a car park

Parked after the expiry of a free half hour ticket in a car park

Parked in a permit zone displaying an expired visitor voucher

## Observation periods

Observation periods are designed to allow the CEO to establish if any permitted activities are taking place e.g. loading and unloading.

The observation period begins when the CEO enters the vehicle registration number into their handheld computer and ends when the PCN is issued.

The length of the grace period can vary according to the contravention code and should be a matter for local discretion.

For some contraventions - listed below - PCNs will either be issued instantly or after a period of 5 minutes observation.

### *Instant contravention (no grace period required)*

- Parked in a blue badge bay without displaying a valid blue badge and/or properly set clock if relevant
- A vehicle parked in a bay reserved for a specific class of vehicle and is not that class (taxi rank, goods vehicle, police cars etc.)
- Parked in an area subject to a loading ban (marked by vertical kerb blips and 'no loading' sign)
- Not parked wholly within the bay markings of a car park
- Stopped on a restricted bus stop and vehicle is not a bus
- Parked on zig zags
- Parked obstructing a dropped kerb

### *Contraventions where 5 minute observation period is required*

- Parked on a single or double yellow line
- Parked in a permit area without displaying a valid permit or voucher
- Parked in a loading bay
- Parked in a car park without displaying a valid pay and display ticket

## **Other vehicles**

Claims that Penalty Charge Notices should be cancelled because other vehicles had parked on the same restriction and had not been issued a Penalty Charge Notice will not be accepted.

The motorist will not be in a position to know whether other vehicles are exempted from the parking restrictions due to a pre-arranged dispensation or the driver carrying out legitimate activities and East Herts policy is that any vehicle observed parked in contravention will be issued with a Penalty Charge Notice

## **Overnight parking in car parks**

The current chargeable hours in our car parks is generally Monday to Saturday 7:30 – 18:30 (variations do apply – detailed on tariff boards)

The maximum stay allowed in East Herts car parks varies depending on the nature of the car park but the absolute maximum duration that a user can purchase a parking session is for an all-day ticket.

Parking can be purchased for the following day outside enforceable hours *i.e. after 18:30 the previous day.*

Claims that driver returned to the vehicle late the following day will not be accepted.

## **Parking permits**

Various parking permits are issued to vehicles that are eligible. These may be issued as a paper permit to be displayed in the vehicle or as a virtual permit which is filed on the handheld computer by registration number.

Permits are valid only in the location specified, for the vehicle specified and for the specified time period.

Failure to display a permit or be in possession of a virtual permit is a contravention and will result in a PCN being issued which should not be cancelled.

Use of a permit in a different location, on another vehicle or after its expiry date is also a contravention for which a PCN will be issued.

## **Pay and display**

A driver using a pay and display machine is required to have sufficient change available to get out of the car, walk to the machine and insert coins, obtain a ticket, return to the car and display the ticket. No time is allowed to leave the car park without displaying a ticket and go for change and this has been upheld by Adjudicators.

In all of our car parks (except Jackson Square, Bishop's Stortford) a 'free' ticket can be obtained from machines. A motorist who arrives in a car park without change for the car park would be able to take advantage of this 'free' period (P&D *must* be displayed) to allow motorists time to acquire change and then pay for sufficient parking time.

Motorists may also make payment by telephone **see payment by telephone** below.

A ticket must be displayed in the vehicle so that the details including expiry time can clearly be seen by a Civil Enforcement Officer. If a ticket is displayed face down, the subsequent PCN will only be cancelled if the driver submits the pay and display ticket with the challenge. It is usual practice to cancel the first PCN with a warning to the motorist advising that subsequent PCNs issued for similar reasons will not be cancelled.

In instances where the ticket is not visible and there is no supporting evidence that the ticket is displayed, it is generally accepted that the contravention has occurred as the requirement of paying and displaying has not been fulfilled. Officers may choose to cancel any PCNs issued under these circumstances if a ticket is produced but is down to discretion.

Claims that driver was unaware that a pay and display or free ticket was required will be dismissed. All car parks are clearly and sufficiently signed to advise users of the terms and conditions of

the car parks. There are signs at the vehicular entrance to every car park advising that they are entering a pay and display car park, tariff boards throughout as well as reminder signs.

The signs also clearly state that if parking for the free half hour, a ticket must still be displayed.

Claims that the vehicle was left without displaying a ticket because the machine wasn't working, reference should be made to the machine maintenance record and CEO notes and if it is confirmed that the machine was not working at the time then should be cancelling the PCN. If there was an alternative machine, in working order in the same car park then it is reasonable to expect that the drivers would use this machine and the PCN will not be cancelled. Consideration should also be given to the availability of the pay by telephone application which is available in all car parks.

## **Penalty Charge Notice Progression**

The PCN rate in East Herts is set at £70 and £50 according to the contravention. If the PCN is paid within 14 days of issue a discounted amount of £35 or £25 (50%) will be accepted in full settlement of the matter. 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 is 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 or £50 will be 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 contravention then these claims will be investigated. If the evidence shows that the PCN was attached to the windscreen then consideration will be given to the location, the time of day etc and whether it is plausible that the PCN was removed by an unauthorised individual. The discounted amount may be re-offered for a further 14 day period. This should be communicated in writing to the keeper with the restarted discount period starting from the date of the letter.

## **Police Vehicles**

PCNs should not be issued to marked police vehicles. It must be assumed that any marked police vehicle parked in contravention is engaged on active duty and the issuing officer will regard it as a vehicle with an exemption.

Requests for cancellation of any PCN issued to an unmarked police vehicle must be made in writing by the officer's area Duty Inspector or equivalent. They should contain confirmation that the officer was on official business and that it was necessary for the vehicle to be parked where it was.

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 no different from any other employed person.

## **Pre-Debt Registration Letter**

There is no requirement for a Local Authority to send a further reminder once a Charge Certificate has been issued. East Herts 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 7 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.

## **Pregnancy/young children**

Generally, pregnancy is not considered to be a disability, and delays caused by symptoms of pregnancy or 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. A medical emergency does not include delays in doctor appointments.

If the delay was caused by the parent or guardian not allowing additional time to deal with young children or by a pregnant woman not allowing additional time to provide for usual pregnancy related issues then the PCN should be enforced as the driver would have been aware of these circumstances when initially purchasing parking time.

## **Private Property**

Parking restrictions placed on private property are not the concern of East Herts Council and are outside the scope of its enforcement operation.

Private landlords or residents can impose any reasonable restriction on their own property, i.e. the need for permits, etc.

Enforcement of such restrictions, however, is also their responsibility although it may be subcontracted to other companies. Any person querying such an area should be referred to the relevant landlord or resident.

## **Public Utility Vehicles**

These vehicles will be exempt from restrictions if the vehicle is on an emergency call and is actually involved in the emergency work, or the vehicle is carrying out statutory works on the highway.

If abuse is suspected a PCN should be issued and the CEO should note the reason why in his / her notebook, e.g. '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, with the exception of a car, involved in the mains supply of gas, electricity, water, cable or telephone.

## **Registered Keeper Liability**

Under the Traffic Management Act 2004 the responsibility for any PCN rests initially with the owner of the vehicle who may be presumed to be the DVLA registered keeper unless evidence establishes otherwise. The owner of the vehicle is liable for payment of a PCN issued to it, irrespective of the identity of the driver on the day in question.

## **Resident Permit schemes**

There are several permit parking schemes within East Herts which require vehicles that park in the eligible roads to display either a valid resident's permit or visitor voucher.

The parking restrictions are advertised by on-street signs and any vehicle which does not display a valid permit/voucher or has not arranged for a virtual dispensation will be issued with a Penalty Charge Notice which will not be cancelled.

Most permits will be linked to a specific vehicle and permit zone and permits are not transferrable between zones and vehicles.

## **Royal Mail Vehicles**

Liveried Royal Mail 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 activity.

Royal Mail 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.

## **School Bays / Areas**

Any zigzag markings outside of schools are governed by the relevant Traffic Regulation Order and have yellow lines and a time plate showing hours of operation.

Any vehicle parked in contravention, during the times shown on the plate, will be issued with an instant PCN which will not be cancelled under any circumstances (other than compassionate grounds, which must be evidenced), including the claim that the driver was picking-up or dropping-off children.

## **Secure Cash 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 must comply with parking restrictions.

## **Security**

The Chief Constable of Hertfordshire 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 an adjacent premises. PCN's issued for contravention of such suspensions should always be enforced.

## **Signs and Lines – Faded/Missing/Broken/Unenforceable**

### Yellow Lines and kerb markings (loading restrictions):

Where it is claimed that a yellow line(s) is worn away or has been covered by a highway repair, the area should be promptly photographed and recorded on the waiting list for remarking.

Where weather conditions (i.e. snow or heavy leaf fall) have obscured the lines then prompt remedial action to clear them will be requested.

Claims that the lines were obscured/missing should be considered carefully and if the photographs taken by the Civil Enforcement Officer support this claim, the PCN should be cancelled.

### 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 will be promptly photographed and recorded on the waiting list for repair.

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.

### Missing Signs

If a sign is claimed to be missing the location should be inspected promptly and, if confirmed, arrangements made for its prompt replacement. Where a sign is missing the PCN should be cancelled.

Civil Enforcement Officers should inspect the location to ensure that the restriction is marked sufficiently prior to issuing PCNs and should not issue if not visible.

## **Suspended Bays or Parking Places**

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

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 or parking place, which is subsequently suspended, it is deemed to be legally parked, as it cannot be made illegal retrospectively by the suspension. The keeper will have to demonstrate however that, if the vehicle remains parked in contravention of the suspension for a considerable time, he / she remained unaware of the suspension (e.g. on holiday etc).

## **Taxis**

Taxis may wait in a taxi rank if they are plying for hire and therefore the driver must be within close proximity of the vehicle. Any vehicle, regardless of the class of vehicle, observed parked in a taxi rank without a driver close by will be issued with a Penalty Charge Notice.

Claims from taxi drivers that they were parked in contravention in order to assist a vulnerable passenger will need to provide proof or sufficient details to support their claims

## **Time Calibration of electronic devices**

Civil Enforcement Officer's hand held computers are automatically calibrated daily to the atomic time signal as transmitted by the Public Time Server pool. This Signal is used to calibrate all time settings on the network, which handles PCN data for the Council.

Pay & Display machines will be 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.

## **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 relative crime report number, the time and date the vehicle was reported stolen and the date, time and location when the vehicle was recovered. A crime reference number with no accompanying letter from the police will not be acceptable.

*Taking without Consent.* 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.

## **Uniforms – Civil Enforcement Officers**

The RTRA 1984 (Sect63A [4]) states:

CEO's will wear such uniform as the Secretary of State shall determine.

All CEO's will carry Council identification cards, which will not carry their names for personal security reasons.

Civil Enforcement Officers must be properly dressed including necessary headgear when carrying out enforcement duties.

## **Vandalised Vehicles**

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 submitted.

This evidence should be from:

The Police – quoting the recorded crime number.

Motoring organisation / garage service who removed the vehicle from site.

Civil Enforcement Officer 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 CEO observation will lead to the PCN being enforced.

## **Vehicles Left Unattended to Gain Access**

If 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 CEO's observation time. In such circumstances vehicles should not be left for longer periods or in contravention of a total 'no waiting' or loading restriction.

## **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.

