

East Herts Council
Report on Parking Enforcement
2015/16

Table of Contents

<u>CHAPTER</u>	<u>PAGE</u>
1. Introduction	3
2. Civil Parking Enforcement in East Herts	3-5
3. Key statistics 2015/16	5-10
4. Developments in 2015/16	10-11
5. Planned Developments for 2016/17	11-13
6. Financial Reporting	14

1. Introduction

The Traffic Management Act 2004 requires local authorities that undertake Civil Parking Enforcement (CPE) to issue an annual report on their enforcement activities.

East Herts Council adopted CPE powers on 17 January 2005. In respect of on-street parking East Herts Council enforces on behalf of Hertfordshire County Council (the Highway Authority) under the terms of an agency agreement. As the Parking Authority, East Herts Council is responsible for the management and enforcement of its off-street car parks.

East Herts Council enforces on-street parking restrictions on behalf of Stevenage Borough Council and on-street and some off-street parking controls on behalf of Welwyn Hatfield Borough Council, again under separate agency agreements. This report concerns only on-street and off-street parking enforcement undertaken within East Herts in 2015/16.

2. Civil Parking Enforcement in East Herts

Transport is of great concern to our communities in East Hertfordshire

The East Herts Sustainable Community Strategy 2009-2024 confirms that East Herts has the highest rate of car ownership in Hertfordshire with 1.48 vehicles per household compared to a national average of 1.11. At the same time, 13% of households have no access to a car.

Government predictions of traffic growth in East Herts are much higher than the national projection, due largely to anticipated increases in the number of households and jobs in the district. East Herts residents also have the highest carbon footprint in the county as, with the exception of train services delivering commuters to London, public transport choices within the district are limited.

The economic and environmental consequences of traffic congestion are becoming increasingly well understood and local authorities have a responsibility to minimise their effects. Local authorities have a duty to promote the wellbeing of their communities on a wide range of fronts, including their economic vitality. For a variety of reasons, many town centres throughout the country are suffering a decline and although cost and availability of parking is not the only contributing factor, public opinion is that parking matters play a critical factor in the economy of our towns. East Herts Council communicates on a regular basis with local businesses and residents to identify, develop, balance and introduce parking solutions that can support shoppers, businesses and local communities.

Hertfordshire County Council maintains a Local Transport Plan (LTP), setting out its key objectives for the development and management of transport across the county. The current plan, LTP3, covers the period 2011-2031.

East Herts has adopted its own Parking and Transportation Strategy 2012-2022 in which the Council has set out the following aims:

- We will seek to maintain car parking income at current levels in real terms
- We will seek to ensure that users pay for the parking service rather than the council tax payer
- We will promote existing and explore new technologies to improve the overall convenience of parking in East Herts
- We will seek where possible and appropriate to match parking capacity with demand.
- We will seek to develop and implement parking solutions that reflect local needs
- We will make the economic vitality of East Herts a core consideration when developing parking services

The Strategy also confirms the enforcement priorities of the East Herts community. A majority of respondents to a 2011 survey of East Herts residents saw them support an emphasis on the traffic management purposes of Civil Parking Enforcement (CPE), by using it as a tool to promote:

- Safety around schools (69% made this their highest or second highest enforcement priority)
- Safe parking in general (67% made this their highest or second highest enforcement priority)
- Keeping traffic moving (34% made this their highest or second highest enforcement priority)

These priorities echo the purpose of CPE as set out in the Statutory Guidance issued under the Traffic Management Act 2004

The Council's Strategy Ambition for its parking service is therefore summarised as follows:

- That East Herts subscribes publicly to the traffic management objectives of CPE set out above and commits to operating its parking management and enforcement service in ways that deliver against these objectives.
- That East Herts implements additional enforcement powers where these support the statutory objectives of CPE and our communities' stated priorities.

Civil Parking Enforcement in East Herts is undertaken by a team of Civil Enforcement Officers (CEOs) spread across the district. The enforcement function is undertaken by a contractor under the terms of a model contract developed jointly by the British Parking Association (BPA), government, enforcement contractors and service providers and endorsed by the Parliamentary Transport Select Committee. The contract ensures that performance is measured on the *quality* of the service, rather than the emphasis being based on quantitative measures such as PCN issue.

The enforcement contractor's performance is closely monitored by the Council. A set of Key Performance Indicators is used to monitor the time that officers spend on the streets, coverage of the streets, the quality of any Penalty Charge Notices and the conduct of CEOs to ensure that they are appropriate ambassadors for the Council. No direct or indirect financial incentive exists in relation to the number of PCNs issued by the enforcement contractor.

After a PCN has been issued all subsequent processing, including the consideration of challenges is undertaken by officers of the Council. The Council regards this split in functions as critical to answer any suggestion that commercial imperatives play any role in this important function. Council officers are properly disinterested in the outcome of cases, yet have good local and procedural knowledge – important factors in reaching a correct and soundly based decision.

3. Key Statistics 2015/16

The number of PCNs issued each year since East Herts Council adopted CPE is detailed below:

Year	Total PCNs
2005/06	31,086
2006/07	26,772
2007/08	24,304
2008/09	26,966
2009/10	29,296
2010/11	29,586
2011/12	25,986
2012/13	24,271
2013/14	26,161
2014/15	25,866
2015/16	27,209

As stated earlier the primary purpose of CPE is to promote compliance with parking controls and improve road safety; therefore enforcement of car parks is of secondary importance to enforcement of yellow line restrictions on the highway, which has more pronounced safety issues. That said, many of our towns and villages rely on visitors to local shops and restaurants. Enforcement in car parks is therefore important, to ensure a regular turnover of vehicles and that car park users correctly 'pay and display'.

By definition, car parks are densely packed with vehicles; therefore the potential for contravention is greater than on the highway. As a result, there will always be more PCNs issued per patrolling hour in car parks than on street. This can give rise to the erroneous perception that CEOs concentrate on car park enforcement to the detriment of enforcement on the highway. In fact, East Herts requires its CEOs to spend *no fewer than 60% of total patrolling hours* enforcing on-street parking

restrictions. The split of enforcement hours deployed in 2015/16 was 66% on-street and 34% off-street.

The percentage split of on-street and off-street PCNs issued in that year and in previous years is given in the table below.

Year	On-Street PCNs	Off-Street PCNs
2005/06	40%	60%
2006/07	38%	62%
2007/08	40%	60%
2008/09	41%	59%
2009/10	46%	54%
2010/11	50%	50%
2011/12	46%	54%
2012/13	47%	53%
2013/14	47%	53%
2014/15	41%	59%
2015/16	40%	60%

The number of PCNs issued for the main on-street and off-street parking contraventions is detailed in **Appendix A**.

A 50% discount applies to a penalty charge paid within 14 days of the date of issue. The number of PCNs paid at the discounted rate in 2015/16 and previous years is shown in the following table.

Year of Issue	PCNs Paid at Discount
2005/06	17,558 (57%)
2006/07	14,426 (54%)
2007/08	13,645 (56%)
2008/09	15,181 (56%)
2009/10	15,994 (55%)
2010/11	16,703 (56%)
2011/12	15,967 (61%)
2012/13	13,775 (57%)
2013/14	15,169 (62%)
2014/15	14,577 (59%)
2015/16	15,263 (57%)

The above payments will either have been made immediately upon receipt of the PCN or following an informal challenge which the Council has declined. This emphasises the fact that the majority of motorists who receive a PCN accept their liability for the penalty charge and make prompt payment.

Following the 14 day period the penalty charge reverts to its full value and the penalty charge increases in set steps thereafter. The number of PCNs issued in previous years that were paid at the full rate or higher is shown in the following table.

Year	PCNs Paid at Full Charge or Higher
2005/06	4,048 (13%)
2006/07	4,211 (16%)
2007/08	3,753 (16%)
2008/09	2,638 (10%)
2009/10	2,990 (10%)
2010/11	2,891 (10%)
2011/12	3,137 (12%)
2012/13	3,035 (13%)
2013/14	3,096 (13%)
2014/15	3,018 (12%)
2015/16	3,606 (13%)

The Traffic Management Act 2004 sets out a number of statutory grounds on which a PCN may be challenged which, if established, require a local authority to cancel the motorist's liability for payment of the penalty charge. In addition to those who invoke one or more of the statutory grounds for cancellation, a significant number of motorists contact the Council offering mitigating circumstances which they hope will lead to cancellation of the penalty charge on a discretionary basis. East Herts has adopted a set of Enforcement Guidelines to assist staff in enforcement decisions in a wide range of circumstances.

No set of guidelines can cover the full range of situations that motorists put forward in their challenges; however the Enforcement Guidelines are invaluable in terms of setting a framework and establishing the tone of the Council's enforcement practices.

The number and percentage of PCNs cancelled and written off since the Council adopted CPE is as follows:

Year	PCNs Cancelled/Written Off
2005/06	5,622 (18%)
2006/07	5,832 (22%)
2007/08	3,946 (16%)
2008/09	5,902 (22%)
2009/10	6,967 (24%)
2010/11	8,411 (28%)
2011/12	5,792 (22%)
2012/13	5,521 (23%)
2013/14	5,400 (22%)
2014/15	5,811 (22%)
2015/16	7,162 (26%)

Write-offs, which are a subset of cancelled PCNs, usually occur because the motorist/owner cannot be traced – either because of an inadequate record at the DVLA, because the motorist/owner is no longer at the address they have registered with the DVLA or because the vehicle foreign registered.

It is important to emphasise that the Council's cancellation of a PCN does not mean it should not have been issued in the first place. There are many scenarios where a CEO is correct to issue a PCN based on the evidence available at the time, but where the Council quite correctly cancels the Notice upon receipt of additional evidence from the motorist as to the circumstances that led them to park as they did on the day in question. A common example relates loading or unloading. From the evidence available at the time a CEO standing next to a vehicle parked in apparent contravention may not know that this exempt activity is taking place. In these circumstances it may be necessary for the recipient of a PCN to challenge its issue, supplying such evidence as may be available in support of their case.

There are a number of circumstances where a motorist's activities gain them automatic exemption from the restrictions detailed in a Traffic Regulation Order. For example, fire, police and ambulance vehicles enjoy an automatic exemption when the driver is engaged in official activities.

The general rule concerning Civil Parking Enforcement is that where the council alleges a contravention has taken place it is for the council to establish, on balance of probabilities that the contravention occurred. The exception to this rule is where the motorist seeks to claim an exemption (such as loading or unloading), in which case the motorist must satisfy the council, again on the balance of probabilities, that they were entitled to the benefit of that exemption at the time the PCN was issued.

Should the Council reject a motorist's statutory representation, the vehicle's owner is entitled to appeal that decision to the independent Traffic Penalty Tribunal. During 2015/16 thirty nine PCNs were subject of an appeal – an appeal rate of 0.14%. Of these thirty nine appeals, one was not contested by the Council and a further six were allowed (in favour of the appellant). Thirty one appeals were decided in favour of the Council – an appeal success rate of 79%.

At the time of preparing this report the Traffic Penalty Tribunal had not issued its annual report for 2015/16, making it impossible to undertake the customary benchmarking with other Hertfordshire councils and with the national picture. In 2014/15, the last full year for which figures are available, the national rate of appeal was 0.35% and the overall success rate among councils was 43%. These comparators are a sign of the quality of decision making at East Herts during the earlier stages of the enforcement process.

The low 'not contested' rate of 2.5% is also noteworthy. The Traffic Penalty Tribunal recognises that local authorities may justifiably not contest appeals on occasion, primarily when evidence comes to light during the appeals process that was not available at an earlier stage. The tribunal is on record as suggesting a "not

contested” rate of 20% of appeals or lower as reasonable – a higher rate might be indicative of poor decision making earlier in the enforcement process.

As well as being an essential judicial safety valve for the CPE process, individual appeal decisions and of course the Adjudicators’ Annual Report contain findings, information and advice which can be of great assistance to local authorities in their operation of their on-street and back office enforcement regime. East Herts Council will continue to use these important sources of external comment and information to develop its enforcement practices.

Debt Registration and Bailiffs

If a motorist does not pay a penalty charge or is unsuccessful in challenging the PCN the penalty charge may be registered as a debt in the county court. Only at this stage does a penalty charge become a civil debt.

Although it is not required to do so, East Herts Council sends a letter to the vehicle owner before registering the penalty charge at the county court. This affords motorists a final chance to make payment of the penalty charge before it is registered as a debt.

In 2015/16 964 PCNs were registered as a debt in the county court. This represents 3.5% of the total number of PCNs issued during the year, although the date of issue of some of these PCNs will have been prior to the period in question as by definition, debt registration can only take place a number of months after the issue of a PCN.

Failure to pay a county court registered debt within the timescale specified will result in the passing of the debt to a certificated enforcement officer (bailiff) for recovery. 637 PCNs were referred to the Council’s bailiff in 2015/16, amounting to just under 2.5% of all PCNs issued.

Financial Aspects of Civil Parking Enforcement

The Road Traffic Act 1991, which originally introduced Civil Parking Enforcement required local authorities to seek to make their parking enforcement regime self-financing as soon as possible. Local authorities were not, however, allowed to design and run their enforcement regime to make a surplus. Any surplus generated inadvertently had to be ‘ring fenced’ to fund improvements in related areas such as passenger transport or car parks.

As more and more local authorities took on DPE powers, government increasingly recognised that for many, particularly smaller boroughs and district councils, achieving break-even would not be possible. Accordingly, the Traffic Management Act 2004 softened this requirement. From 1 April 2008 a local authority has been able to apply for CPE powers without demonstrating that it will break even, but on the understanding that any deficit would be met from existing funding. Government has made it quite clear that national or local taxpayers are not to bear any shortfall.

The annual cost of enforcement (contract cost) and annual income from PCNs issued by the Council is shown overleaf. The figures exclude items such as East Herts Council staff costs and signs and lines maintenance.

Year	Contract Costs	PCN Revenue	Variance
2006/07	£806,544	£665,873	- £140,671
2007/08	£807,344	£650,720	- £156,624
2008/09	£969,323	£668,441	- £300,882
2009/10	£986,785	£718,928	- £267,857
2010/11	£996,916	£735,831	- £261,085
2011/12	£1,012,029	£658,611	- £353,418
2012/13	£756,044	£638,540	- £117,504
2013/14	£752,156	£669,144	- £83,012
2014/15	£731,433	£639,234	- £92,199
2015/16	£793,275	£677,852	- £115,423

(The significant narrowing of the variance from 2012/13 onwards is primarily a consequence of the Council's retendering of its enforcement contract from January 2012).

It is suggested that parking enforcement is regarded by local authorities as a revenue raising exercise; however it will be seen that (in common with many local authorities) East Herts Council makes a loss on its enforcement activities.

The revenue shortfall is effectively made up from surplus revenue from off-street pay and display parking. This is perhaps appropriate, as one of the reasons why a motorist will have been able to drive to an East Herts car park and find a space, ideally with the minimum of inconvenience, is because of compliance achieved through effective enforcement.

The further, statutory requirements placed on East Herts in respect of its financial reporting of its enforcement activity are addressed on page 14 of this report.

4. Developments in 2015/16

Resident Permit Parking Zones

2015 saw the adoption of a new policy governing the implementation and operation of on-street resident permit parking zones (RPZs). The Council operates a number of RPZs in Bishop's Stortford, Hertford and Ware, typically ringing the town centres, where residents can experience parking difficulties due to a regular influx of commuter parking.

Although they are valued by those residents who benefit from them, care has to be given to their implementation to ensure the pendulum does not swing too far in the other direction, thus preventing the efficient use of kerb space. The new policy establishes clear criteria for the award and operation of schemes and emphasises the need for an approach that balances the needs of *all* motorists.

Footway and Grassed Verge Parking Enforcement

The Council's Parking Services team (and Councillors) receive complaints about footway and grassed verge parking on a frequent basis and in 2015 the Council commissioned a study into options for footway and grassed verge parking enforcement across the district. Options were submitted to the Environment Scrutiny Committee in February 2016 and the implementation of targeted, local bans on an experimental basis was agreed by the Council's Executive in June 2016.

Subject to suitable areas being identified, implementation of these targeted local bans will begin in 2017/18 and will be the subject of later Annual Reports.

New Car Park Management System

Residents and sections of the business community in East Herts have long maintained that a 'pay on exit' approach to the management of the Council's car parks is preferable to the 'pay and display' model.

Until recently it has been almost impossible to deliver on these requests. Central government restrictions on how local authorities can manage their car parks make it impossible to control them on the basis of Automatic Number Plate Recognition cameras (ANPR) alone. Barriers at the vehicle entry and exit points would also be required. Barrier controls can be suitable for large, town centre car parks but are inappropriate for small, rural and town-based car parks where the nearest operative could be many miles away should the equipment fail.

The Council's existing 'pay and display' machines are nearing the end of their working life and this, allied with advances in technology over the past decade have, for the first time, enabled the Council to give motorists choice in how they pay to park. 'Pay and display' will still be an option; however the new machines to be installed during October 2016 will also allow motorists to pay just before leaving the car park and to use credit and debit cards, including contactless.

The new machines and the effect they will have on parking in East Herts will be covered more fully in future Annual Reports.

5. Planned Developments for 2016/17

Resident Permit Parking Zones

The Council has undertaken a review of its RPZs in Bishop's Stortford, to establish whether any of them have capacity during the working day to accommodate 'outsider' parking on a managed basis, to help alleviate parking problems in some of our main towns.

Should the Council elect to progress such 'shared use' parking in any of its RPZs, consultation and the promotion of the requisite Traffic Regulation Order will

commence in 2016/17 with implementation of any agreed scheme towards the end of that year.

Footway and Grassed Verge Parking Enforcement

Over the winter of 2016/17 officers will collate and analyse those areas identified by Councillors as suitable for a footway and grassed verge parking ban in their ward. Subject to funding being made available, a Traffic Regulation Order will be promoted in 2017/18 with targeted localised bans likely to become operational towards the end of that year/

New Car Park Management System

The Council's new car park machines will be installed in October 2016 and their effect on parking behaviours and the service's financial position will be monitored closely during 2017/18. Whilst financial savings will occur in a few areas (e.g. the necessary withdrawal of the discounted Parking Smartcard), the cost of operation of the new machines will increase significantly.

New Parking Enforcement Contract

The Council's contract with NSL for the provision of on and off street parking enforcement services will end in January 2019. The process of retendering the contract will begin in early 2017/18 with the recruitment of consultants to help develop the tender documents and specification and manage the tendering process.

The opportunity will be taken to capitalise on technological advances since the current contract was awarded in 2011/12. In particular the Council will seek opportunities to deliver its parking services on a 'virtual' basis and this is covered in more detail in the next section of this report.

East Herts Council does not make a surplus from parking enforcement and does not anticipate ever doing so. The Council's approach is founded on the need to promote safe and efficient traffic management on-street and to ensure the terms of operation of its car parks are observed.

Digital East Herts

East Herts Council has embarked on a drive to transform the way in which it delivers its services by enabling as many as possible to be requested and delivered on a virtual basis. Parking Services has dipped its toe in these waters in a number of areas. For example, the new car park management machines installed in October 2016 enable motorists to purchase a 'virtual', open ended parking session, the existence of which is communicated electronically to smartphones carried by civil enforcement officers.

Parking Services has committed to being an early adopter of digital services where this will enable customers to engage and transact on their terms, rather than when

the Council is able and willing to transact. The new parking enforcement contract to be awarded in 2018 will place great emphasis on the development and provision of back office and front line services on a digital basis. The service will seek to place as many as possible of its key services, including permit management and parking enforcement onto a digital platform during 2017/18.

East Herts Council

Total Income and (Expenditure) on Parking Account kept under Section 55 of the Road Traffic Regulation Act 1984 (RTRA 1984)

Total Income	1,034,751.83
Total Expenditure	-1,296,205.11
Net Position	-261,453.28

Breakdown of income by source

Penalty Charge Notices	677,851.62
Resident Permit Zones	113,246.16
Section 106 Contributions	10,234.31
Contributions from other Authorities	232,389.74
Dispensations	1,030.00
Miscellaneous Income	0.00
Total Income	1,034,751.83

Annual & Cumulative Surplus

	-3,172,113.31
31/03/2015	-261,453.28
	-3,433,566.59