

**Schedule 1 to  
Derbyshire Civil Parking Enforcement  
Partnership Agreement**

**Civil Parking Enforcement**

**A Civil Parking Enforcement Policy and  
guidance on the processing of Penalty  
Charge Notices in the County of Derbyshire**

**December 2019**

**Version 5**

# Introduction to Derbyshire's Enforcement Policy

This policy guidance has been prepared by the Civil Parking Enforcement Project Board for Derbyshire. This Board comprises of officers or representatives from Derbyshire County Council and the District Councils of Bolsover, Derbyshire Dales, North East Derbyshire and South Derbyshire, and the Borough Councils of Amber Valley, Chesterfield, Erewash and High Peak.

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

Through the 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 county. 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.

## Derbyshire CPE Project Board Civil Parking Enforcement

### Introduction

In broad terms the policy guidance has been agreed by the Derbyshire CPE Project Board for Derbyshire. This Panel is comprised of officers or representatives from Derbyshire County Council, and Amber Valley, Chesterfield, Erewash and High Peak Borough Council's, and Bolsover Derbyshire Dales, North East Derbyshire and South Derbyshire District Council's.

The delivery of the services and the functions delegated to the Borough and District Councils are defined within the Partnership Agreement between the relevant authorities.

The Borough and District Councils have agreed to use the existing notice processing facility in Nottinghamshire at PO Box 10282, Sutton-in-Ashfield, NG17 0DX, thus creating a Derbyshire notice processing unit, this will be known as the Central Processing Unit (CPU). This will assist greatly in providing a consistent approach to how appeals are dealt with, and the CPU will be responsible for all aspects of notice processing relying on agreed procedures with minimal input from the County/Borough's/Districts. These authorities will continue to approve cases going before the adjudicators and will also need to comment on certain cases where the evidence is incomplete.

However, in support of this Derbyshire County Council's Call Centre at 08456 058058 will be able to filter calls from enquirers prior to contacting the CPU.

The Borough and District Councils will remain responsible for all operational aspects of enforcement and Penalty Charge Notice (PCN) issue and have the option of delivering these services either directly via an in-house team, or by employing a specialist contractor.

The advice contained within this document is intended to both assist the Councils to adopt common policies with regard to how parking is enforced in the County and also to assist council employees when assessing representations. However, it is accepted that there will be circumstances where local amendments to its guidelines is necessary.

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 County. 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. It does, however, indicate likely responses to typical representations that occur and in doing so will assist the public in understanding how their case will be approached and what evidence they should provide to support their representation.

Derbyshire County 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.

*The adoption of Civil Parking Enforcement within the County of Derbyshire by the Councils will:*

- Maintain and, where possible, improve the flow of traffic thereby making the County a more pleasant and environmentally safe place to live and visit.
- Take into account the needs of local residents, shops and businesses, thereby sustaining the County and District Council's economic growth.
- Actively support 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 County.
- Actively discourage indiscriminate parking that causes obstruction to other motorists, public transport, pedestrians, cyclists and people with disabilities. This will ensure that the Districts remain accessible to all equally and safely.

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

- a) Existing and predicted levels of demand for parking.
- b) The availability and pricing of both on and off-street parking.
- c) The nature and extent of on-street parking restrictions.
- d) The accuracy and quality of existing signs and plates.
- e) The levels of compliance that Derbyshire County Council and its Districts/Boroughs considers to be acceptable and the level of enforcement necessary to achieve them.
- f) The views of the public who shall be actively consulted on all matters relating to the extension of parking restrictions.
- g) The views of the Derbyshire Constabulary.

- h) The provision of suitable parking facilities for disabled people.
- i) The provision of suitable parking facilities for cyclists and motorcyclists.
- j) Consideration of the Council's overall aims with regard to the environment, fear of crime within the County and the sustained economic growth of the County and District Councils.
- k) Changes to the enforcement regime as a result of changes to legislation, statutory guidance or best practice.

## Contents

1	CIVIL ENFORCEMENT OFFICERS
2	DISCRETION
3	OBSERVATION
4	PENALTY CHARGE NOTICE – CONTENT
5	EXEMPTIONS AND DISPENSATIONS
6	SUSPENSIONS
7	BROKEN DOWN VEHICLES
8	DISABLED DRIVERS/PASSENGERS
9	PENALTY CHARGE NOTICES – PROCESSING AND APPEALS
10	APPEALS
11	GROUNDINGS FOR APPEAL – CAR OWNERSHIP
12	THE CONTRAVENTION DID NOT OCCUR
13	VEHICLE TAKEN WITHOUT CONSENT
14	INVALID TRAFFIC REGULATION ORDER
15	HIRE VEHICLES
16	ABANDONED VEHICLES
17	BAILIFFS
18	BANK HOLIDAYS – RESTRICTIONS APPLICABLE
19	BANK VISITS
20	BLOCKED ACCESS
21	BROKEN DOWN VEHICLES: (Also See “Vandalised Vehicles”)
22	BUILDERS/TRADESMEN
23	BUS STOPS
24	CARE ORGANISATIONS
25	CHALLENGE AGAINST ISSUE OF PCN
26	CLAMPING & REMOVAL
27	COMPLAINTS AGAINST CIVIL ENFORCEMENT OFFICERS
28	COUNCIL OFFICERS & MEMBERS ON DUTY
29	COURT ATTENDANCE – DEFENDANTS
30	COURT ATTENDANCE – JURY SERVICE OR WITNESS
31	DENTAL/DOCTORS APPOINTMENTS
32	DESCRIPTION OF VEHICLE – ON PCN
33	DIPLOMATIC VEHICLES
34	DISABLED DRIVERS/PASSENGERS
35	DISPENSATIONS & SUSPENSIONS
36	DRINK DRIVING OR OTHER ARREST
37	DROPPING OFF – PICKING UP PASSENGERS
38	EMERGENCY DUTIES
39	ESTATE AGENTS
40	EXEMPT VEHICLES
41	FOOTWAY PARKING AND DROPPED KERBS
42	FORMAL REPRESENTATION AGAINST ISSUE OF PCN
43	FUNERALS & WEDDINGS

44 GARAGES – VEHICLES LEFT UNATTENDED  
45 GLAZIERS  
46 GOVERNMENT DEPARTMENT VEHICLES  
47 HACKNEY CARRIAGES/PRIVATE HIRE VEHICLES  
48 HAZARDOUS CHEMICALS/SUBSTANCES  
49 HEALTH EMERGENCY BADGE SCHEME  
50 HIRING AGREEMENT  
51 HOLIDAYS  
52 HOSPITAL CAR SERVICE  
53 INTERVENTION IN CHALLENGE & REPRESENTATION  
PROCESSES BY MEMBERS AND OTHER OFFICERS  
54 LEGISLATION  
55 LOADING/UNLOADING  
56 LOCATION – INCORRECT  
57 LOST KEYS  
58 METER/PAY & DISPLAY MACHINES – DID NOT REALISE  
THERE WAS ONE THERE  
59 METER/PAY & DISPLAY MACHINES – NOT WORKING  
60 MISSPELLING OF KEEPER'S NAME  
61 MITIGATING CIRCUMSTANCES  
62 MOTORCYCLE BAYS  
63 NOTICE OF REJECTION OR ACCEPTANCE OF FORMAL  
REPRESENTATION  
64 OBSERVATION PERIOD – PRIOR TO ISSUE OF PCN  
65 CIVIL ENFORCEMENT OFFICERS' POCKET  
BOOK/NOTEBOOK  
66 PAY & DISPLAY TICKETS  
67 PENALTY CHARGE NOTICE – DISCOUNT PERIOD  
68 PENALTY CHARGE NOTICE, EARLY ISSUE OF  
69 PENALTY CHARGE NOTICES – TIME TO PAY/INSTALMENT  
PAYMENTS  
70 PENALTY CHARGE RATE  
71 PERMITS  
72 CAR PARK SEASON TICKETS  
73 BUSINESS PERMITS  
74 PLUMBERS, ELECTRICIANS, GAS FITTERS  
75 POLICE OFFICERS ON DUTY  
76 POLICE OFFICER GAVE PERMISSION TO PARK  
77 PRE-DEBT REGISTRATION LETTER  
78 PREGNANCY – MOTHERS WITH YOUNG CHILDREN  
79 PRIVATE PROPERTY  
80 PUBLIC UTILITY VEHICLES  
81 REGISTERED KEEPER'S LIABILITY  
82 RESTRICTED HOURS  
83 ROAD SIGNS/MARKINGS – MISSING, OBSCURED OR  
BROKEN

- 84 ROYAL MAIL AND UNIVERSAL SERVICE PROVIDER  
VEHICLES
- 85 SCHOOL BAYS
- 86 SECURITY
- 87 SECURITY VANS
- 88 SUSPENDED BAYS
- 89 TARIFFS/CHARGING LEVELS FOR PARKING ON-STREET
- 90 TAXI RANKS
- 91 TIME/DATE CALIBRATION OF HANDHELD COMPUTERS AND  
PAY & DISPLAY MACHINES
- 92 UNAUTHORISED MOVEMENT OF A VEHICLE
- 93 UNIFORMS – CIVIL ENFORCEMENT OFFICERS
- 94 VANDALISED VEHICLE
- 95 VEHICLES LEFT UNATTENDED TO GAIN ACCESS
- 96 VEHICLE NOT AT SCENE
- 97 VISITOR TO BRITAIN



# Section 1

## On and Off-Street Enforcement

Section 1 of the Guidance contains information on how enforcement is undertaken both on the highway and in District/Borough Council car parks by Civil Enforcement Officers. It details the contraventions that may give rise to the issuing of a PCN and the usual exemptions to these.

### Penalty Charge Notices-Civil Enforcement Officers and Reasons For Issue

#### Civil Enforcement Officers:

- 1.0 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 or by the appropriate District/Borough Council to enforce parking restrictions both on-street and off-street in car parks. They wear an appropriate uniform containing the badge of the District Council responsible for their management. The hours of operation and the beats are flexible to address parking management issues that vary between town and district centres.
- 1.1 The beats of the Parking Officers are established by the District/Borough Parking Managers taking full consideration of traffic management and road safety concerns, and are reviewed on a regular basis.
- 1.2 Requests from the public for targeted enforcement will be addressed where appropriate. Priority will be given to requests received from the County Council (as Highway Authority), the Police and the Highways Agency where the request relates to a Trunk Road. These agencies may from time to time fund coordinated enforcement to address particular traffic management or road safety issues.

#### Discretion:

- 2.0 The Parking Officers issue Penalty Charge Notices to vehicles where they consider a parking contravention has occurred. The Traffic Management Act 2004 has introduced differential Penalty Charge Notices. These Notices are categorized as 'Higher' or 'Lower' dependent on the severity of the parking infringement. Higher penalties are payable at £70 and lower penalties at £50.

These categories are determined in National guidance. How they are applied is shown below. To prevent Parking Officers being open to criticism of inconsistency, favoritism or bribery, it is not appropriate for them to be able to exercise discretion in the majority of cases. The exceptions to this will be cases where the driver returns to the vehicle before a PCN has been issued and in the opinion of the Parking Officer, the contravention was not causing a road safety problem. In this situation, a verbal warning may be more appropriate.

Further discretion is required for incidences of loading or unloading. There will, however, be incidents where longer is needed because of the nature of the delivery and this may be to the Parking Officers discretion taking into consideration road safety for all users.

**Observation:**

- 3.0 Prior to a PCN being issued, a Parking Officer may allow a period of five minutes to elapse between first observing the vehicle and the issue of the PCN. This is to satisfy the officer that loading or unloading is not taking place. With certain contraventions, however, this observation time is not appropriate. Furthermore, the Councils reserve the right to reduce or remove the observation time to address local problems. An example would be where drivers persistently contravene parking restrictions to access a cash point, for example. The list of all current parking contraventions (Version 6.5) together with the appropriate code and observation times is shown in Figure1 below.

**Figure 1 - Contravention Codes and Observation Times**

<b>On Street Code</b>	<b>Observation Time</b>	<b>Contravention</b>	<b>Higher or Lower</b>
01	GV 10 min* PMC 0 min	Parked in a restricted street during prescribed hours.	Higher
02	0 min	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force.	Higher
04	10 min	Parked in a meter bay when penalty time is indicated.	Lower
05	10 min	Parked after the expiry of paid for time	Lower
06	5 min**	Parked without clearly displaying a valid pay & display ticket.	Lower
07	0 min	Parked with payment made to extend the stay beyond initial time	Lower

On Street Code	Observation Time	Contravention	Higher or Lower
08	0 min	Parked at an out-of-order meter during controlled hours.	Lower
11	5 min	Parked without payment of the parking charge.	Lower
12	5 min	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place.	Higher
16	0 min	Parked in a permit space without displaying a valid permit.	Higher
18	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.	Higher
19	5 min	Parked in a parking place without clearly displaying the required permit or pay and display ticket.	Lower
21	0 min	Parked in a suspended bay/space or part of bay/space.	Higher
22	0 min	Re-parked in the same parking space within one hour of leaving.	Lower
23	0 min	Parked in a parking place or area not designated for that class of vehicle.	Higher
24	0 min	Not parked correctly within the markings of the bay or space.	Lower
25	GV 10 min* PMC 5 min*	Parked in a loading place during restricted hours without loading.	Higher
26	0 min	Vehicle parked more than 50cm from the kerb and not within a designated parking place.	Higher
27		Parked in a special enforcement area adjacent to a dropped footway	Higher
30	10 min	Parked for longer than permitted.	Lower
40	0 min	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge.	Higher
42	0 min	Parked in a parking place designated for police vehicles.	Higher
45	0 min	Parked on a taxi rank.	Higher
46	0 min	Stopped where prohibited (on a red route or clearway)	Higher
47	0 min	Parked on a restricted bus stop/stand.	Higher
48	0 min	Stopped in a restricted area outside a school.	Higher
61	0 min	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways.	Higher

On Street Code	Observation Time	Contravention	Higher or Lower
63	0 min	Parked with engine running where prohibited.	Lower
99	0 min	Stopped on a pedestrian crossing or a crossing area marked by zigzags.	Higher

Off Street Code	Observation Time	Contravention	Higher or Lower
71	0 min	Parked in an electric vehicles' charging place during restricted hours without charging	Higher
73	5 min	Parked without payment of the parking charge.	Lower
74	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.	Higher
80	10 min	Parked for longer than the maximum period permitted.	Lower
81	0 min	Parked in a restricted area in a car park.	Higher
82	10 min	Parked after the expiry of paid for time.	Lower
83	5 min	Parked in a pay & display** car park without clearly displaying a valid pay & display ticket.	Lower
84	0 min	Parked with additional payment made to extend the stay beyond time first purchased.	Lower
85	0 min	Parked in a permit bay without clearly displaying a valid permit.	Higher
86	0 min	Parked beyond the bay markings.	Lower
87	0 min	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge.	Higher
89	0 min	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area.	Higher
90	0 min	Re-parked within one hour of leaving a bay or space in a car park.	Lower
91	0 min	Parked in an area not designated for that class of vehicle.	Higher
92	0 min	Parked causing an obstruction.	Higher
93	0 min	Parked in car park when closed.	Lower
95	5 min	Parked in a parking place for a purpose other than the designated purpose for the parking place.	Lower
96	5 min	Parked with engine running where prohibited.	Lower
*HGV = Goods Vehicle – 10 min observation.			
*PMC + Private Motor Car including estate cars – 5 min observation.			

Off Street Code	Observation Time	Contravention	Higher or Lower
An 'instant' PCN may always be issued in circumstances where the Parking Officer concerned has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for the minimum periods indicated. Such evidence will undoubtedly be on road safety grounds.			
** Motorists are not permitted time to obtain change away from the immediate area of the P&D machine or car park. Parking Officers should observe queues at ticket machines and/or pedestrians who may be seeking change or returning to the vehicle in question, before issuing a Penalty Charge Notice.			

### Penalty Charge Notice-Content:

4.0 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 (full street name);
- the contravention code;
- observation start and finish times (where appropriate);
- PCN number (all PCNs should be uniquely identifiable);
- Parking Officers identification number.

The Parking Officer shall also record all other relevant details on the Hand Held Computer Terminal (HHCT) and pocket book, including Tax Disc number 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.

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

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

- Where the contravention has been detected on the basis of evidence from an approved device.
- 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 PCNs should be sent within 21 days of the contravention.

## **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.

## **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 HHC and would, in other circumstances, have to cancel the PCN - but the vehicle was driven away from the place in which it was parked before the 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 records the excise licence number of the vehicle and 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 consider 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.



It is recommended that the PCN also gives:

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

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 (for example, if loading/unloading is taking place). If the vehicle is in contravention, the Parking Officer should ask the motorist to bring him/herself inside the restrictions.

#### Enforcement by Approved Devices

TMA Regulations give the power to authorities throughout England to issue PCNs for contraventions detected with a camera and associated recording equipment (approved device). The Secretary of State must certify any device used solely to detect contraventions (i.e. with no supporting Parking Officer evidence) as described in Chapter 7. Once certified they may be called an 'approved device'.

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

## Exemptions To Contraventions

### Exemptions and Dispensations:

**5.0 Exemptions:** The following vehicles will receive automatic exemptions from waiting restrictions in accordance with the provisions of the Traffic Regulation Order (TRO):

- i a person to board or alight from a vehicle or to enable personal luggage to be loaded onto or unloaded from the vehicle, unless a loading prohibition is in force;
- ii the vehicle, if it cannot conveniently be used for such purpose in any other road, to be used in connection with any of the following operations:-
  - (i) building, industrial or demolition operations
  - (ii) the removal of any obstruction to traffic;
  - (iii) the maintenance, improvement or reconstruction of the said lengths of road;
  - (iv) the laying, erection, alteration or repair in or on land adjacent to the said lengths of road of any sewer or of any main, pipe or apparatus for the supply of gas, water, electricity or telecommunications equipment.
- iii the vehicle if it cannot be conveniently used for such purpose in any other road, to be used in the service of a local authority or a water authority in pursuance of statutory powers or duties;
- iv the vehicle of a universal service provider (as defined in Section 4(3) and (4) of the Postal Services Act 2000) to be used for the purpose of delivering and/or collecting mail;
- v the vehicle to take in petrol, oil, water, or air from any garage situated on or adjacent to the said lengths of road;
- vi any vehicle, other than a privately owned vehicle, which is being used as an official vehicle for the purposes of a wedding or a funeral at a Church or place of worship .
- vii the vehicle to be used for fire brigade, ambulance or police purposes;
- viii goods to be Loaded or Unloaded from the vehicle; - except where a loading/unloading prohibition is in force;
- ix in any case where the person in control of the vehicle;
  - (i) is required by law to stop;
  - (ii) is obliged to stop so as to prevent an accident: or
  - (iii) is prevented from proceeding by circumstances outside his control.

- x Public Service Vehicles whilst waiting at an authorised stopping place, terminus or turning point, but not for the purpose of laying over unless specifically permitted.
- xi Vehicles displaying valid disabled permits where permitted by the prevailing parking restrictions (see paragraph 8.0).

The following vehicles shall be given an **automatic** dispensation from waiting restrictions in the interests of Health and Safety.

- xii Glaziers involved in **emergency** repair work that must be parked in close proximity to the premises.
- xiii Plumbers, electricians and gas fitters whilst on **emergency** call-out (evidence to be provided on request).
- xiv Bullion vehicles and specially adapted Security vans involved in the delivery or collection of cash and other high value goods.

All the above exempt vehicles should be liveried rather than private cars or unmarked vans. Any PCNs issued will only be revoked with the production of appropriate evidence that an automatic dispensation was applicable.

- xv Vehicles displaying Special Access Permits (as issued by the appropriate District Council) where permitted by the prevailing parking restrictions.

5.1 **Discretionary** dispensations may be granted by the District Council Parking Manager for the following:

- Furniture Removals.
- Any other reason accepted by the Council.

5.2 Applications for dispensations must be received at least five working days prior to the required date and must be made to the Council's Parking Services section. The Council's decision is final.

5.3 If granted, dispensations will be issued to the applicant by way of a permit, which must be clearly displayed on the vehicle whilst parked. A copy will be held in the Penalty Charge processing software. The issuing of the permit will be logged to ensure CPU staff can verify its validity in the event that a PCN is issued.

- 5.4 A charge, per vehicle per day, may be made. A full list of charges will be available on application from the appropriate District Parking Manager.
- 5.5 Discretionary permits will not be issued to Elected Members or Officers of any Council for routine work or other purposes and will only be issued for the essential statutory or other requirements detailed above.

### **Suspensions:**

#### **6.0 Designated parking bays, on or off-street, may be suspended for the following reasons:**

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

**6.1** Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Council’s Parking Services section. The Council’s decision is final.

**6.2** If granted, suspensions of parking bays / spaces will be clearly signposted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least five days before the suspension comes into operation. Further, all adjacent properties will receive advanced notice of the suspension.

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

### **Broken Down Vehicles:**

**7.0** A note left in the windscreen, stating that “the vehicle has broken down”, will not be accepted by the Parking Officer as a reason for not issuing a PCN. With the exception of where a vehicle is in the process of being repaired at the roadside, a Parking Officer will

issue a PCN and the driver will be required to include within the representation details of the breakdown for consideration. Further details on the appropriate supporting evidence are given in Section 2.

### **Disabled Drivers/Passengers:**

- 8.0 Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport that disabled person. It is not permitted to use the badge for any other purpose e.g., shopping for the disabled person when they, themselves, are not being transported in the vehicle.
- 8.1 Blue badges must be clearly and properly displayed whilst the vehicle is parked.
- 8.2 Failure to do so will result in a PCN being issued for the contravention of the appropriate parking restriction. Further details on how any representations will be addressed by the Council are covered in Section 2.
- 8.3 Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park in:
- **Limited Parking Areas:** For an unlimited time.
  - **Yellow Lines:** For a period not exceeding 3 hours.
  - **Council Car Parks:** In accordance with details provided on the car park information boards.

**Note – Blue Badge Holders may only park in any particular Residents Parking Zone if they are a Resident of that zone or have a RPZ Day Visitor Permit for that particular zone.**

- 8.4 Disabled Badge Holders are not allowed to park in any area where there is a loading restriction.
- 8.5 Parking must always be in accordance with the Blue Badge Scheme.
- 8.6 Parking Officers now have the right to inspect Blue Badges for authenticity.

## Section 2

### Penalty Charge Notices-processing and appeals

- 9.0 In Derbyshire, all Penalty Charge Notices issued are dealt with by a single PCN processing centre in Nottinghamshire at PO Box 10282, Sutton-in-Ashfield, NG17 0DX. The main advantage of this is that it ensures a clear and consistent approach to processing across the County. Although the Centre undertakes the majority of the administrative process, the Service User determines when to appeal. Once this decision has been made the CPU will advise the issuing authority. **Derbyshire County Council will deal with all 'on-street' formal appeals post 'Notice to Owner'.**

The following Section details how PCNs 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.**

#### Penalty Charge Notice: Administrative Process

- 9.1 At the date of this Guidance, the PCN rate in the County is set at £70/£50 for both on and off-street contraventions. In accordance with statutory requirements, a discount amount of 50% of the penalty charge is available within 14 days of PCN issue.
- 9.2 Payment of the PCN is accepted in a variety of ways. The PCN contains information on how to pay via the internet, by telephone or by post to the CPU. Once full payment is accepted by the Council, the payment details are passed to the central processing unit, and the case is closed on that date and all further enforcement action ceases.
- 9.3 As a general rule the processing centre 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 processing centre manager although such arrangements will not be considered if a Bailiff warrant(s) has been issued for recovery of the amount due. Applications must be in writing and will normally be responded to within eight working days and the application must contain proposals 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 centre's 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.
- A minimum payment of £10 per week.
- Wherever possible payment to be made by post-dated cheques to be held by the CPU 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 at the Council's processing centre.
- The Council will maintain a separate active file for each arrangement reached which, will be reviewed by a senior manager each month.

9.4 The penalty charge is usually payable by the owner/keeper of the vehicle except if the vehicle was hired at the time of the contravention. The charge is not payable if criminal proceedings have been taken or a Fixed Penalty Notice issued with respect to the contravention.

9.5 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 issue to reduce the likelihood of unfounded representations.

9.6 Should a PCN be issued on a vehicle with a diplomatic registration plate, then the Notice to Owner will not be sent but a record of the fine will be kept and passed to the Foreign and Commonwealth Office annually for pursuit.

- 9.7 If the PCN has not been paid within 28 days of the Notice to Owner being issued and no representation or appeal is being considered then a charge certificate will be issued. This will increase the Penalty Charge from £70/£50 to £105/£75.
- 9.8 Fourteen 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.
- 9.9 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 £5 is added to the debt.
- 9.10 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 Statutory Declaration.
- 9.11 A Statutory Declaration 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 three 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 £70/£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.
- 9.12 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.
- 9.13 Once a Warrant of Execution is issued, the authority will instruct approved bailiffs to collect the debt on their behalf.



9.14 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**.

**Details on how these will be addressed are contained in the following section.**

### **Appeals Process**

10.0 The final section of this Guidance contains information on how appeals are addressed by the processing centre. 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.

10.1 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. Each District Council has therefore, a nominated officer with the authority delegated to them via standing orders to cancel PCNs. Such discretion will however take into consideration this guidance which has been approved by the Elected Members of each participating authority.

10.2 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.

### **Informal Representation**

10.3 Within 14 days of issue of a PCN being issued, the keeper/driver 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.

- 10.4 The Council will endeavour to respond, in writing, within 8 working days of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge.
- 10.5 If a challenge is rejected the written notification from the Council must give precise reasons why this decision has been reached. Providing the written challenge was received within 14 days of the PCN being issued the discounted rate will be restarted and last for 14 days from the date of the rejection notice.
- 10.6 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.
- 10.7 The making of a challenge in no way detracts from the ability of the keeper to make a subsequent formal representation against the issue of the PCN to the Council or to the TPT.

### **Formal Representation**

- 10.8 When the Notice to Owner is issued as detailed in paragraph 9.5, 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.
- (g) There has been a procedural impropriety by the enforcement authority
- (h) This notice should not have been served because the penalty charge had already been paid.

In addition to the six 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.

### **Traffic Penalty Tribunal Appeal**

10.9 Within 56 calendar days of receipt of a formal representation from the keeper of the vehicle a written Notice of Acceptance or Rejection will be sent by the Council:

- (i) Notice of Acceptance: This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled.
- (ii) Notice of Rejection: This formally rejects the representation and gives detailed reasons why the Council have come to this conclusion. The rejection is also accompanied with the necessary forms and instruction on how a further representation can be made to the independent TPT. This

representation must be made within 28 days of receipt of the notice of rejection.

- 10.10 Should the appellant decide to progress the appeal to TPT, they will be able to decide whether to proceed with a written appeal or 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>

## **Grounds For Appeal**

### **Statutory Grounds**

#### **Car Ownership**

- 11.0 The recipient has never been the owner of the vehicle in question**

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

- 11.1 The recipient had ceased to be the owner before the date of the contravention**

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

- 11.2 The recipient had become the owner after the date of the contravention**

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

## The Contravention Did Not Occur

### 12.0 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 was loading or unloading at a time when it is allowed but the Parking Officer did not notice this.

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

- ii. 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.

- iii. 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.

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

Claims of this nature will be investigated with a site visit and the existing traffic signs and lines will be checked against the appropriate legislation. An assessment will then be made as

to the validity of the PCN. Any subsequent cancellation on the grounds of incorrect signs and/or lines will result in prompt rectification of the problem. A partly worn line, utility gap or missing end bar will not normally be accepted as a reason for cancellation.

- v The date or registration number is incorrect.

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

- vi A PCN was never served on the vehicle.

It is accepted that PCNs 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.

- vii 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.

- viii The motorist was carrying out building works nearby and had a valid dispensation issued from the appropriate local authority.

As with other tickets and disabled badges, the receipt of a valid waiver that matches the details of the vehicle is likely to result in a cancellation of the PCN for a first offence for this contravention.

## **Vehicle Taken Without Consent**

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

Representations should in this instance be accompanied with a valid police crime report reference number. Claims that a family member or friend had 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.

**Invalid Traffic Regulation Order**

**14.0 That The Relevant Designation Order Is Invalid**

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

**Hire Vehicle**

**15.0 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;

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

**Non-Statutory Grounds**

Although the above six 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;

## **16.0 Abandoned Vehicles:**

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

## **16.2 Criteria used in identifying Abandoned Vehicles:**

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

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

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

16.5 The District Council and Derbyshire Police abandoned vehicles protocols shall continue to apply and the Parking Officers and Police Officers will fulfill their agreed specified actions in respect thereof.

## **17.0 Bailiffs:**

17.1 Bailiffs, as agents of the court, are court officers. Of the many functions they perform, executing warrants is one that is likely to concern us most. These are court orders for the collection of money



and/or goods of sufficient value to produce the required amount. For this purpose the bailiff will always have an appropriate vehicle nearby.

- 17.2 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.
- 17.3 When they are taking goods or high values in cash, discretion can be exercised where it appears reasonable to do so. Bailiffs 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 bailiff is required to list them prior to leaving the premises and this could legitimately take some time. In such circumstances we should ask for a warrant number, identification and confirmation of the nature of goods being seized before the PCN is either issued or subsequently cancelled.

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

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

#### **19.0 Bank Visits:**

- 19.1 Claims from individuals or companies that because money is being taken to or from a bank, will not be accepted as a reason to cancel a PCN. If restrictions are in place adjacent to a bank these must be complied with by all motorists. Motorists should be advised to

contact the bank about future security arrangements.

19.2 It is appreciated that difficulty may be experienced when visiting banks but the exemption that may apply is in relation to bullion vehicles whilst loading / unloading large quantities of coin and cash boxes.

## 20.0 **Blocked Access:**

20.1 Drivers who claim that they were unable to gain access to their private or commercial property are not entitled to park in contravention of any parking restriction. The exception to this is when a driver has to collect a key to unlock a barrier that prevents access. This, however, should take no longer than five minutes in most circumstances.

20.2 Where access to a property is being blocked and no parking restriction is in place, the matter should be referred to the Police as the offence of Obstruction is only enforceable by them.

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

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

21.1 Claims of alleged breakdown should be accepted if they appear to be unavoidable and, if supporting evidence in the form of one or more of the following is produced:

- Garage Receipt, on headed paper, properly completed and indicating repair of the alleged fault within a reasonable time of the contravention.
- Till receipt for purchase of seemingly relevant spare parts purchased on or soon after the date of contravention.
- Confirmatory letter from the RAC, AA or other similar motoring organisation.
- Confirmation from the 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.

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

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

#### 21.3.1 **Flat Battery:**

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

#### 21.3.2 **Flat Tyre:**

- It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle’s wheel. If the vehicle is left unattended a PCN will be issued and will be cancelled only if it subsequently transpires that the driver 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.

### 21.3.3 Overheating:

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

### 21.3.4 Running Out Of Petrol:

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

## 22.0 Builders / Tradesmen:

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

## 23.0 Bus Stops:

### 23.1 Bus stops can either be restricted or unrestricted:

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

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

#### 24.0 **Care Organisations:**

24.1 Numerous care organisations are now operating within Derbyshire County as a result of contract arrangements with Social Services and the Local Health Authority as well as privately arranged care. Each will often display badges issued by the various organisations but, due to the variety of badges in circulation none are recognised by Derbyshire County Council as valid authorities to park.

24.2 **Parking in Residential Parking Zones:** Residents will be advised to use visitor permits to allow carers to park within Residential Parking Zones to enable them to care for residents. Any abuse of such permits will result in them being withdrawn immediately.

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

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

#### 25.0 **Challenge Against Issue Of PCN:**

25.1 Within 14 days of a PCN being issued, the keeper/driver 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.

25.2 The Council will endeavour to respond, in writing, within 14 working days of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge.

25.3 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.**

25.4 **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.**

#### 26.0 **Clamping and Removal:**

26.1 The District Councils have the power to clamp and subsequently remove vehicles parking in contravention of parking restrictions. However, this power can not be used for on-street contraventions until agreed by the County Council and the relevant charges for clamping and removal have been properly advertised.

26.2 This power is incorporated within the relative Traffic Regulation Orders.

26.3 However, it is not the intention to carry out Clamping & Removal in Derbyshire at this time although this decision may be reviewed in the future.

#### 27.0 **Complaints Against Civil Enforcement Officers/(Parking Officers):**

27.1 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.

27.2 Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with by the County Councils' Parking Enforcement Manager. The findings 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 of how to invoke the Council's Formal Complaints Procedure will be given.

27.3 The 'Authorised Officer' of the County 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.

#### 28.0 **Council Officers and Members On Duty:**

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

- **Parking in Residential Parking Zones and / or Council Car Parks:** Staff or Members using their own cars to carry out their official council duties must display a staff parking permit whilst parked. At all other times staff and members must comply with the restrictions by purchasing a pay & display ticket or displaying a valid resident's or visitor's permit. Failure to comply with any of the foregoing will result in a PCN being issued.
- **Parking on Yellow Lines:** No dispensation will be given to allow Staff or Members to park on yellow lines. In such cases PCNs will be issued and pursued.
- **Request for Cancellation of PCN:** This will only be considered in case of emergency and must be supported by written confirmation from the nominated person of the issuing authority.

#### 29.0 **Court Attendance – Defendants:**

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

#### 30.0 **Court Attendance – Jury Service Or Witness:**

30.1 The length or timing of any court hearing or trial cannot be guaranteed and often Jury members and/or witnesses find that they are unable to leave court to purchase further pay & display

time in a car park. This often leads to overstay and to PCNs being issued. To counter this Courts issue clear instructions to all Jury members and witnesses advising them as to how and where they should park.

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

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

### **31.0 Dental/Doctors Appointments:**

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

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

### **32.0 Description Of Vehicle – On PCN:**

32.1 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 tax disc number and positions of tyre valves, which will form part of the supporting records.

32.2 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.

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



### 33.0 Diplomatic Vehicles:

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

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

### 34.0 Disabled Drivers/Passengers:

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

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

34.3 Failure to do so will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and/or badge holder for failure to display a disabled badge. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid badge is supplied. In such circumstances the letter sent to the person making the representation should make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

34.4 **Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park in:**

- **Limited Parking Areas:** For an unlimited time.
- **Yellow Lines:** For a period not exceeding three hours.
- **Resident Parking Zones:** Only where they have a resident's or a visitor's permit; which must also be displayed along with the blue badge.
- **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.

#### 34.5 **Disabled Badge Holders are not allowed to park in:**

- Any area where there is a loading restriction.
- Any area specifically reserved for other Vehicles or purpose i.e. Taxi Ranks, Bus Stops or Goods Vehicle loading bays etc.

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

#### 35.0 **Dispensations and Suspensions:**

#### 35.1 **Dispensations: The following vehicles will receive automatic dispensation from waiting restrictions:**

35.1.1 Police, Fire, Rescue Service or Ambulances only whilst attending emergency situations.

35.1.2 Vehicles involved in contracted Highway Maintenance where there is a need for them to be parked adjacent to the work site.

35.1.3 Liveried Council vehicles carrying out statutory duties such as Refuse Collection, Street Cleansing and verge maintenance.

35.1.4 Vehicles displaying valid disabled permits (see appropriate section 34 on Blue Badges).

35.1.5 Dispensations may be granted for the following:

- Funerals – For the hearse and cortege vehicles.
- Weddings – Bridal Vehicles.
- Maintenance to adjacent buildings.
- Furniture Removals.
- Any other similar reason accepted by the Council.

35.1.6 Applications for dispensations must be received at least five working days prior to the required date and must be made to the District Council's Parking Services section. The Council's decision is final.

35.1.7 If granted, dispensations will be issued to the applicant by way of a permit, which must be clearly displayed on the vehicle whilst parked. A copy will be held in the penalty charge processing software. The issuing of the permit will be logged to ensure CPU staff can verify its validity in the event that a PCN is issued.

35.2 Suspensions:

**35.3 Designated parking bays, on or off-street, may be suspended for the following reasons:**

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

35.4 Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Council's Parking Services section. The Council's decision is final.

35.5 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 five days before the suspension comes into operation. Further, all adjacent properties will receive advanced notice of the suspension.

35.6 Vehicles parked in contravention of a suspension will receive PCNs.

35.7 A charge, per bay/space, will be made and is payable upon application.

**36.0 Drink Driving Or Other Arrest:**

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

36.2 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.

36.3 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.

**37.0 Dropping Off - Picking Up Passengers:**

37.1 Except on designated clearways and zigzag (schools and pedestrian crossings) 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. Special consideration will be given to 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.

## **38.0 Emergency Duties:**

- 38.1 Doctors, nurses, midwives engaged on emergency duties are, wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be issued it will be cancelled only upon evidence of the emergency being provided.
- 38.2 Regular or programmed visits will not be considered an emergency.
- 38.3 See 'Health Emergency Badge Scheme' below.

## **39.0 Estate Agents:**

- 39.1 Estate agents visiting a client's property within a residential parking zone should either display a valid Visitors or Business Permit if available.
- 39.2 Estate agents are not exempt from parking restrictions and PCNs should always be enforced.

## **40.0 Exempt Vehicles:**

### **40.1 The following vehicles are considered to be exempt from parking restrictions whilst attending emergencies:**

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

### **40.2 The following vehicles are exempt in the circumstances described:**

- Local Authority Vehicles (or those of their contractual agents), whilst being used to carry out statutory duties (i.e. Refuse Collection, Street Cleansing, Highway Maintenance), or whilst carrying out duties that require the vehicle to be in close proximity (i.e. Verge Grass Cutting), including Civil Enforcement Officer 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 such organisations.
- Postmen/women whilst carrying out letter deliveries. The Council will expect such vehicles to be parked in compliance with any parking restriction.
- Electricity Board, Gas Board, Water Authority, British Telecom or other telecommunications organisations (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus.
- Furniture vans whilst moving furniture to and from a dwelling, office or depository. Wherever possible these vehicles should not be parked in contravention of a loading restriction.
- Public Service Vehicles and other company vehicles whilst waiting at an authorised stopping place, terminus or turning point.
- Vehicles involved in building, excavating and demolition work whilst lawfully and actively engaged on those duties.

40.3 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.

#### 41.0 **Footway Parking, Double Parking and Dropped Kerbs:**

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

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

41.2 **Driving on the footway and obstruction of the footway remain endorsable offences and may be enforced by the Police.**

41.3 **The following vehicles are exempt from any such prohibition only under the circumstances indicated:**

- Marked Vehicles used by Police, Fire and Rescue Service and Ambulance services whilst carrying out emergency duties.
- Safety Camera Partnership vehicles whilst on speed enforcement duties.
- Vehicles used for Street / Street Light cleaning and Refuse Collection providing that they are actively involved in the function.
- Vehicles actively involved in road works.

41.4 Most waiting and loading restrictions cover the whole highway – boundary to boundary and this includes all footways and verges. A PCN can only be issued to a vehicle parked in such a manner if the restriction is specifically incorporated in the relevant TRO or the road is subject to a waiting / loading restriction. In such cases the PCN should be issued for contravention of the restriction.

41.5 The Highway Code tells drivers “DO NOT stop or park where the kerb has been lowered to help wheelchair users and powered mobility vehicles, in front of an entrance to a property or where you would obstruct cyclists’ use of cycle facilities ... except when forced to do so by stationary traffic”. The contravention of parking on a part of a road adjacent to a dropped or raised kerb (subject to specified exemptions - emergency services, alighting, unloading, building works, road works, etc) applies where a vehicle parks on the carriageway adjacent to a footway, cycle track or verge where the footway, cycle track or verge has been lowered to the level of the carriageway (or where the carriageway has been raised to meet the level of the footway, cycle track or verge) for the purpose of -

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

The contravention does not apply where a vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises. This exception does not apply in the case of a shared driveway. This exception suggests that enforcement action should not be taken where a vehicle is parked outside residential premises unless and until the

enforcement authority has been asked to do so by the occupier of the property. Authorities will need to establish the bona fide of the individual making such a request.

41.6 Double Parking - The contravention of double parking applies when a vehicle parks on any part of the carriageway of a road where no part of the vehicle is within 50 cm of the edge of the carriageway, subject to the exemptions in the Traffic Management Act 2004 (TMA).

#### 42.0 **Formal Representation Against Issue Of PCN:**

42.1 The keeper of a vehicle is given the opportunity to make a Formal Representation against a PCN once the Notice to Owner (NtO) is sent to him/her by the Council. This representation must be made within 28 days of receipt of the NtO.

2.2

#### **Formal Representation can only be made on the following grounds:**

- The Contravention did not occur.
- The Penalty exceeded the relevant amount (currently £70/£50).
- The Traffic Order was invalid.
- I was not the owner/keeper of the vehicle at the time.
- The vehicle had been taken without my consent.
- We are a hire firm and have supplied the name of the hirer.
- Other reason – where supporting information is required.
- There has been a procedural impropriety by the enforcement authority
- Notice should not have been served because the penalty charge had already been paid

#### 43.0 **Funerals and Weddings:**

43.1 Any vehicles, other than a privately owned vehicle which is being used as an official vehicle for the purposes of a wedding or a funeral at a church or place of worship will be given due consideration and respect and PCNs will not be issued.

43.2 Vehicles belonging to mourners or wedding guests that are not



actively involved in the funeral or wedding will not be able to park in contravention of any yellow line restriction.

- 43.3 Any PCN issued to vehicles associated with a funeral or wedding should be considered with due respect and PCNs would only be enforced when blatant disregard to restrictions has been confirmed.

#### **44.0 Garages – Vehicles Left Unattended:**

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

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

- 44.3 Garages have no right to utilise the highway in such a manner and PCNs should always be enforced in such cases.

#### **45.0 Glaziers:**

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

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

#### **46.0 Government Department Vehicles:**

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

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

- 46.3 If the vehicles are involved in exceptional activities such as

surveillance by Customs & Excise or the Benefits Agency evidence to support this, in the form of a written statement from a senior manager on headed notepaper must be supplied.

46.4 Wherever possible Government Agencies involved in such activities should be encouraged to give the Council advance notice and details if the vehicle(s) involved.

#### **47.0 Hackney Carriages / Private Hire Vehicles:**

47.1 Hackney Carriages and Private Hire Vehicles operating within the County are licensed by the relevant District Council and carry a numbered licence plate that must be displayed on the rear of the vehicle.

47.2 There is a distinct difference between Hackney Carriages and Private Hire Vehicles (PHV). PHVs are not allowed to ply for hire on the street or display a "TAXI" sign.

47.3 Hackney Carriages licensed by local authorities are not allowed to ply for hire within another local authority area.

47.4 Hackney Carriages and PHVs, like all vehicles, may stop to allow passengers to board or alight for as long as is reasonably necessary for the purpose. It is not an exempted activity to assist passengers into premises and to leave the carriage unattended. If a licensed Hackney Carriage or PHV is left unattended it is liable to receive a PCN.

47.5 Each case, especially those involving elderly, infirm or disabled passengers should be treated on its merits and due allowance should be made in such instances.

47.6 It should be borne in mind that when a Hackney Carriage or PHV is called to an address to pick up passengers the driver must be allowed time to announce his/her arrival.

#### **48.0 Hazardous Chemicals / Substances:**

48.1 Claims by companies that toxic or dangerous substances were being delivered or collected from a premise and, as a result, a PCN was incorrectly issued to the vehicle being used should be given careful consideration.

- 48.2 If the PCN was issued for contravention of a no waiting restriction it can be established from the Parking Officer's notes whether the activity of loading was taking place. If so the PCN should be cancelled. If no loading activity was taking place the PCN should be enforced. There is no reason, in this case, to differentiate between toxic and non-toxic deliveries as it is the driver's responsibility to ensure that the vehicle is moved immediately the loading / unloading activity is complete. (See definition of Loading / Unloading).
- 48.3 If the PCN was issued for contravention of a no loading restriction then, once again, the Parking Officer's notes should be viewed to establish whether the loading activity was taking place.
- 48.4 If so, then serious consideration should be given to the cancellation of the PCN in view of the Health & Safety of the public.
- 48.5 Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

#### **49.0 Health Emergency Badge Scheme:**

- 49.1 Derbyshire County 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. The following, therefore is for reference only:
- 49.2 The Council may issue Health Emergency Badges (HEBs) to doctors etc., who may be called upon to attend medical emergencies. These badges must be clearly displayed and will incorporate a dry wipe area in which the location of the emergency should be written.

#### **50.0 Hiring Agreement:**

- 50.1 It is within the legislation that, in the case of a hired vehicle, responsibility for a PCN is that of the hirer of the vehicle at the time.
- 50.2 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.

50.3 In all cases this agreement must clearly state:

50.4 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.

#### 51.0 **Holidays:**

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

##### 51.1.1 Suspended Bay:

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

##### 51.1.2 Residential Zone Parking using a Visitors Permit:

- It is sometimes the case that friends, holidaying together, will use one vehicle and the second vehicle is parked for the

duration of the holiday. This occasionally results in a vehicle, belonging to a non-resident, being left in a Residential Parking Zone displaying a visitor's permit.

- Visitors' permits are designed for genuine visitors to a resident's property and are valid for one day only. Display of permits completed in advance is considered to be invalid and PCNs will be issued for this reason.
- The Council considers these vehicles belong to people who are not genuinely visiting the residential property and, therefore, the PCNs will be enforced.

## **52.0 Hospital Car Service:**

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

## **52.2 Generally such consideration should extend to:**

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

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

## **53.0 Intervention In Challenge and Representation Processes By Elected Members And Other Officers:**

53.1 The process of dealing with challenges and representations against the issue of PCNs is well documented and will be carried out in a fair, unbiased and equal manner. These procedures

include the ultimate right of all appellants to refer the matter to an independent arbitrator (TPT).

53.2 To preserve the integrity of these procedures they will be managed and carried out by the Parking Board and no undue external pressure shall be brought, by either Members of the Council or other senior officers, designed to unduly influence the decisions by virtue of their position alone.

#### 54.0 **Legislation:**

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

54.2 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.

54.3 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 the HMSO or, in the case of the 2004 Act, accessed via the internet.

54.4 If the keeper is specifically querying the authority behind a specific restriction then reference should be made to the relevant Traffic Regulation Order, held by the Council. Prior to any correspondence with the keeper this Order should be checked to ensure the validity of the PCN. If any doubt exists then the PCN should be cancelled and the decision communicated to the keeper.

#### 55.0 **Loading / Unloading:**

55.1 Vehicles will be permitted to park in contravention of waiting restrictions, including Resident Parking Zones, whilst carrying out the legitimate activity of Loading or Unloading provided:

- Activity, involving the vehicle, is observed by the Parking Officer whilst the vehicle is parked. The observation period shall be for at least five minutes and a PCN shall only be issued if no activity is seen during this period.

- Exceptions will be made when the nature of the goods being loaded / unloaded require more time, i.e. House moving or very heavy goods being handled.
- Due allowance will be given to allow the driver to complete delivery paperwork.
- Where a PCN is issued a challenge will be considered if supported by evidence confirming that the driver was delayed or was involved in moving heavy goods.

#### **56.0 Location – Incorrect:**

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

#### **57.0 Lost Keys:**

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

#### **58.0 Meter / Pay & Display Machines – Did Not Realise There Was One There:**

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

#### **59.0 Meter / Pay & Display Machines – Not Working:**

59.1 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.

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

this machine.

#### 60.0 **Mis-Spelling Of Keeper's Name:**

- 60.1 The mis-spelling of the keeper's name and/or address on the Notice to Owner does not invalidate it or discharge the liability of the person receiving it. The onus is still on the genuine keeper to deal with the matter.
- 60.2 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.
- 60.3 If any mis-spelling is discovered then alterations must be made immediately to ensure that future notices are sent out correctly.
- 60.4 When the mis-spelling is severe and is radically different from the correct spelling consideration should be given to the cancellation of the PCN.

#### 61.0 **Mitigating Circumstances:**

- 61.1 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:

- 61.1.1 **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).

#### 61.1.2 **Children / Elderly People:**

- 61.1.3 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).



61.1.4 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 five minute observation period should be enough time in such circumstances.

61.1.5 **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.

## 62.0 **Motorcycle Bays:**

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

## 63.0 **Notice Of Rejection Or Acceptance Of Formal Representation:**

63.1 Within 56 calendar 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 Borough/District Council.

63.2 Notice of Acceptance: This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled.

63.3 Notice of Rejection: This formally rejects the representation and gives detailed reasons why the Council have come to this conclusion. The rejection is also accompanied with the necessary forms and instruction on how a further representation can be made to the independent Traffic Penalty Tribunal (TPT) – this representation must be made within 28 days of receipt of the notice of rejection.

## 64.0 **Observation Period – Prior To Issue Of PCN:**

64.1 Prior to the issue of a PCN the Parking Officer will, for most

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

64.2 The details of the vehicle will be entered into the Parking Officer's Hand Held Computer (HHC) when first seen and the computer will prevent issue of the PCN within five minutes of that time.

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

#### **65.0 Civil Enforcement Officers' Pocket Book / Notebook:**

65.1 The Parking Officers shall maintain a separate pocket book in which they shall note daily details of their patrols, PCNs 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 Derbyshire County Council.

65.2 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 Officer's name. Similarly when a pocket book is completed the serial number of the new book issued will be entered on the cover.

65.3 All completed pocket books will be retained in the CPU 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.

#### **66.0 Pay & Display Tickets:**

66.1 Most of the Borough/ District Councils' car parks operate as Pay & Display.

66.2 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.

66.3 Pay & Display Tickets must be:

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

66.4 PCNs will be issued for:

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

66.5 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 VRM and that it covers the time of the alleged contravention.

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

66.7 Representations made because of delays returning to the car park will be dealt with in accordance with 'mitigating circumstances' at 62 above.

**67.0 Penalty Charge Notice – Discount Period:**

67.1 The PCN rate in all Districts is currently set at £70/£50. This is subject to regular review. If the PCN is paid within 14 days of issue

a discounted amount of £35/£25 (50%) will be accepted in full settlement of the matter.

67.2 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.

#### **68.0 Penalty Charge Notice, Early Issue Of:**

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

68.2 The issue of PCNs 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 five-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.

68.3 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 five minutes must be allowed between observation and issue.

#### **69.0 Penalty Charge Notices – Time To Pay/Instalment Payments:**

69.1 As a general rule the Councils will neither offer extensive time in which to pay PCNs nor will it enter into installment payment arrangements.

69.2 Exceptions to this are only made in cases of demonstrated, genuine financial hardship.

69.3 The Council will not consider such arrangements if Bailiff warrant(s) have been issued for recovery of the amount due although the bailiff may enter into such an arrangement.

- Applications must be in writing and will normally be responded to within eight working days.
- The application must contain proposal for payment and 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:
- Where the debt involves multiple PCNs the Council will expect 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.
- Otherwise a minimum payment of £10 per week.
- Wherever possible payment is to be made by post-dated cheques to be held by the CPU 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 cheque, postal order or credit card will only be accepted at the CPU.
- The Council will maintain a separate active file for each arrangement reached which, will be reviewed by a senior manager each month.

## **70.0 Penalty Charge Rate:**

70.1 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.

70.2 The PCN rate has been set at £70/£50 for Derbyshire. Any increase will only be possible by guidance from Central Government and will require proper advertisement prior to

introduction.

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

## 71.0 Permits:

### 71.1 Residents' Permits:

- A resident's permit is issued in the form of a tax disc to a vehicle that is "kept" (registered to an address) within the parking zone and is accompanied by a disc holder and full instructions that it must be clearly displayed on the windscreen of the vehicle. Permits are only valid in the specific residents parking zone, for the registration number and until the expiry date printed on its face.
- 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 zone, 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.

### 71.2 Visitors Permits:

- Visitors' 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 zone 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 zone, 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.

## **72.0 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.

## **73.0 Business Permits:**

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

## **74.0 Plumbers, Electricians, Gas Fitters:**

### **74.1 Emergency Call Out:**

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

### **74.2 Heavy Equipment:**

74.2.1 Dealt with as loading / unloading.

## **75.0 Police Officers On Duty:**

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

75.2 Requests for cancellation of any PCN issued to an unmarked police vehicle must be made by the Police Authority's nominated officers. They should contain confirmation that the officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

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

#### 76.0 Police Officer Gave Permission To Park:

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

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

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

77.1 There is no requirement for a local authority to send a further reminder once a Charge Certificate has been issued. The Derbyshire Borough/District Councils, however, will send a Pre-Debt Registration Letter 20 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 bailiffs who will have the right to recover the debt by seizing goods to the value thereof.

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

#### 78.0 **Pregnancy - Mothers With Young Children:**

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



78.2 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.

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

#### **79.0 Private Property:**

79.1 Parking restrictions placed on private property are not the concern of Derbyshire County Council or the Borough/District Councils and are outside the scope of its enforcement operation.

79.2 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.

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

#### **80.0 Public Utility Vehicles:**

**80.1 These vehicles will be exempt from restrictions, if necessary, if the following criteria apply:**

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

80.2 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’.

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

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

#### 81.0 **Registered Keeper’s Liability:**

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

81.2 If the keeper was not the driver at the time of the offence it remains his / her responsibility to pay the PCN and any recompense from the driver should be obtained by the Keeper. (see ‘Notice to Owner’).

#### 82.0 **Restricted Hours:**

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

82.1.1 Permitted Parking Bays: As per signing.

- Yellow Lines:
- Single: No waiting during times shown on adjacent sign
- Double: No waiting at any time except where adjacent signs indicate otherwise.
- Loading Restrictions – Yellow Kerb Markings:
- Two Lines: No loading at any time.
- One Line: During the working day or as specified by adjacent signs.

82.1.2 Designated Loading Bays: Indicated on adjacent sign.

82.1.3 Doctor's Bays: Usually 8.00am – 8.00pm unless indicated differently on the adjacent sign.

82.1.4 Disabled Bays – Mandatory: Indicated on adjacent sign.

82.1.5 Bus Stops – see adjacent sign for details of times.

### 83.0 Road Signs / Markings – Missing, Obscured Or Broken:

#### 83.1 Yellow Lines:

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

#### 83.2 Kerb Markings: (Loading Restrictions):

- As per yellow lines above.

#### 83.3 Obscured Signs:

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

#### 83.4 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 signs' replacement. Where a sign is missing the PCN should be cancelled.

#### 84.0 **Royal Mail And Universal Service Provider Vehicles:**

84.1 Vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such.

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

84.3 Cancellation of a PCN will only be considered if written confirmation is received from the area manager that the vehicle was actively involved in the collection / delivery of mail.

#### 85.0 **School Bays:**

85.1 Zigzag markings outside of schools can be either restricted or unrestricted and are installed for the protection of the children. Any markings that are restricted are governed by the relative Traffic Regulation Order and have yellow lines and a time plate showing hours of operation. (An unrestricted bay will not have a time plate and will show road markings only).

85.2 Any vehicle parked in a restricted bay, during the times shown on the plate, will be issued with a PCN which will not be cancelled under any circumstances including the claim that the driver was picking-up or dropping-off children.

#### 86.0 **Security:**

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

## **87.0 Security Vans:**

- 87.1 Secure cash vans are occasionally required to park in close proximity to premises in order to effect safe delivery or collection of cash. PCNs issued under such circumstances should be cancelled upon receipt of a representation from the security company confirming such an activity at the time, unless it can be clearly shown that the vehicle was parked for longer than was necessary.
- 87.2 Security vans involved in the delivery of mail or other such low value items are expected to comply with parking restrictions.

## **88.0 Suspended Bays:**

### **88.1 Parking Bays – Residents, Business, Shared Use, Doctors, etc:**

- 88.1.1 Where a representation is received claiming that a vehicle was parked at the location without having received notice of the suspension being received and, upon investigation the claim is found to be valid the PCN should be cancelled, providing that a valid permit was displayed.
- 88.1.2 It is normally the case that the responsibility for ensuring a vehicle is parked in accordance with any possible suspension rests with the driver. However, when a vehicle is parked legally within a designated bay, which is subsequently suspended, it is deemed to be legally parked as it cannot be made illegal retrospectively by the suspension. Vehicles parked when the suspension was placed should be recorded at that time.
- 88.1.3 The keeper will have to demonstrate however that, if the vehicle remains parked in contravention of the suspension for a considerable time, she/he remained unaware of the suspension (i.e. on holiday etc.).

## **89.0 Tariffs / Charging Levels For Parking On-Street:**

- 89.1 The Joint Parking Committee will, annually, review its charging levels for parking on-street. Officers will conduct this review and any recommendations for change will be placed before members of the Derbyshire CPE Board for their approval or otherwise.

## **89.2 The review will take into account the following:**

Page 69 of 73

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

#### **90.0 Taxi Ranks:**

90.1 Derbyshire County Council shall make orders for Hackney Carriage Ranks. A notice is displayed at each rank showing its limits, how many Hackney Carriages may stand on it and any special regulations applicable.

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

90.3 Taxi ranks made by the Borough/ District Councils under the Local Government (Miscellaneous Provisions) Act 1976 were not enforceable under the 1991 Act. However, the introduction of the Traffic Management Act 2004 now enables enforcement of an offence under section 64(3) of the 1976 Act.

#### **91.0 Time/Date Calibration Of Hand Held Computers And Pay & Display Machines:**

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

91.2 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 is kept as part of a daily report function.

## 92.0 **Unauthorised Movement Of A Vehicle:**

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

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

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

## 93.0 **Uniforms – Parking Officers:**

93.1 The RTRA 1984 (Sect 63A[4]) states: “Civil Enforcement Officers in Greater London 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”.

93.2 The Secretary of State has determined that: “London Civil Enforcement Officers’ uniforms must be readily distinguishable from those worn by the Police and Traffic Warden Services 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.

93.3 The Secretary of State believes that “the corresponding requirements concerning the wearing of uniforms by Civil Enforcement Officers outside of London should apply and statutory backing to this will be given”.

93.4 Derbyshire’s Borough/District Council Parking Officers will wear a uniform consistent with the Civil Enforcement Officers in the other Derbyshire Districts, this uniform will consist of:

- Reflective Vest and/or Coat showing “Parking Enforcement ” on the back, along with the Park Smarter logo on the front left pocket
- Hat – Showing “Civil Enforcement Officer” and corporate colour on hatband.
- Epaulettes showing Enforcement Officers number. To be worn on “top” clothing – Shirt, jumper or coat.
- All Enforcement Officers will carry appropriate ID cards, which will not carry their names for personal security reasons.

#### 94.0 **Vandalised Vehicle:**

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

94.2 This evidence should be from either:

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

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

94.4 Failure to provide supporting evidence or the absence of Parking Officer’s observation will lead to the PCN being enforced.

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

95.1 When a driver has to collect a key to gain access to a property this should take no longer than five minutes and will be covered by the five minutes Parking Officer’s observation time.



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

#### 96.0 **Vehicle Not At Scene:**

96.1 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, colour and tax disc serial number relative to the vehicle.

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

96.3 Should the keeper refuse to supply the required information a written application should be made to the DVLA to supply the number of the last tax disc issued to the vehicle. A reference for this can be obtained from the VQ5 document received when the keeper's details were supplied.

#### 97.0 **Visitor To Britain:**

97.1 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.

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

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