



# Parking Partnership Operational Protocols (POP)

*Showing the Partnership Operational, Discretion,  
Cancellation and Dispensation Policies,*

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## About this Document

This document is divided into five main parts:

- An introduction;
- The parking policy of the Parking Partnership;
- A list of definitions explaining terms commonly used in parking enforcement;
- Specific examples of how the policy is applied;

The contents of the policy are derived from: Current Colchester Borough Council and Essex County Council policies and practices, accepted best practice, Traffic Penalty Tribunal recommendations with regard to mitigation and common practice among Essex local authorities.

In formulating this policy due regard was paid to The Client Councils' Equality Policies, Community Plans and The Human Rights Act.

This information can be obtained in different formats.

## Contact Details:

Parking Partnership  
PO Box 5575  
Colchester  
CO1 9LT

telephone .....01206 282316  
fax .....01206 282716  
email .....parking @colchester.gov.uk  
internet ... www.Colchester.gov.uk/parking

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# **PART 1: Introduction**

## **Operations Introduction:**

This protocol is primarily concerned with:

- Parking Enforcement in the north Essex Area including Braintree, Colchester, Epping, Harlow, Tendring & Uttlesford Special Parking Areas (the partnership area).
- How challenges, representations and dispensations are dealt with including, how the Partnership will endeavour to treat people fairly, equally and with respect taking full account of their personal circumstances.
- The conduct of the Partnership's staff and the manner in which it carries out enforcement.
- Service standards that will be adopted by the Parking Partnership in carrying out the duties of parking enforcement under agreement with Essex County Council.

It is impossible for this POP to deal with every case. Statutory Guidance requires that when either the Civil Enforcement Officer (CEO) or the back-office team considers a case, it is on its individual merits and the decision may be made to waive the PCN or subsequent stage using discretion at any point.

It is also important to refer to the separate Cancellation and Discretion Policy and Mitigating Circumstances documents in association with this document.

This document will be subject to regular Review and will reflect current best practice.

# PART 2: Operational Protocols

## Civil Parking Enforcement Operations

The Parking Partnership is committed to making sure that it provides Equality of Opportunity in how its services are delivered. This commitment has been translated into its client councils principles by ensuring that different groups and individual needs are reflected in the delivery of service.

The staff of the Parking Partnership will ensure that they will offer all necessary assistance to any person to ensure that they are aware and can avail themselves of all services and rights due to them.

## Civil Parking Enforcement Objectives

The purpose of Civil Parking Enforcement can be summarised as:

- **It will be safer for drivers and pedestrians** since the new focus on enforcement means clearer roads and pavements;
- **It will be better for local businesses** since areas of short term parking such as those outside local shops will receive more attention, increasing the potential for local trade;
- **It will support town centre needs** by encouraging commuters and other drivers to use long stay car parks where appropriate thereby freeing up short stay car park spaces for drivers who need them;
- **It will increase parking for residents** by discouraging commuters from parking in permit only areas;
- **It will increase Blue Badge benefits** since the increased enforcement of existing parking spaces for Blue Badge Holders will improve availability.

In addition Civil Parking Enforcement will have the following benefits:

- **With fewer illegally parked cars there will be fewer accidents, better traffic flow and accessibility**, because the focus of enforcement will be on lessening inconsiderate and dangerous illegal parking in order to improve safety and minimise congestion;
- **Emergency and service vehicles will be able to operate more effectively** along roads and **low floor buses will be able to reach the kerb at bus stops** since fewer inconsiderately parked vehicles will be in their way;
- **The general environment will improve** by providing a more environmentally efficient transport system in terms of reducing congestion, energy conservation; use of other modes of transport will be encouraged such as walking and cycling (healthy options);
- **Sensible and safe parking within the area will be encouraged** – as will greater compliance with Traffic Regulations. The regulations will not change but will have greater significance;
- **Parking provision will become more responsive to the public's needs** because local councils will control both provision and management of parking;
- **Single responsibility for parking means greater clarity to the public.** The councils' integrated transport strategy can be linked to local issues in enforcement. Since income will come to the client councils, any surpluses after reasonable running costs can be spent on transport projects in the local area;
- Police resources able to concentrate on other priorities.

**This document shall be regularly reviewed and will take into account:**

1. Existing and predicted levels of demand for parking.
2. The availability and/or pricing of both on and off-street parking.
3. The nature and extent of on-street parking restrictions.
4. The accuracy and quality of existing signs and plates.
5. The levels of compliance that the client councils consider to be acceptable and the level of enforcement necessary to achieve them.
6. The views of the public who shall be actively consulted on all matters relating to the extension of parking restrictions.
7. The views of Essex County Council, and the Joint Committee members, and the Police.
8. The provision of suitable parking facilities for Blue Badge Holders.
9. The provision of suitable parking facilities for cyclists and motorcyclists.
10. Consideration of the client councils' overall aims with regard to the environment, fear of crime and the sustained economic growth of the area.

*This document applied from 1 October 2002. It was updated for new legislation 31 March 2008 and reviewed and updated again for the Parking Partnership from 31 March 2009 and reviewed again from April 2011 when the new Parking Partnerships were formed.*

**About the Parking Partnership**

The Parking Partnership functions are delegated through the Joint Parking Committee to Colchester Borough Council as lead authority, which provides these functions on behalf of Braintree, Colchester, Epping, Harlow, Tendring and Uttlesford Councils. This includes the functions provided under agreements with Essex County Council for on street places in each client authority's areas.

## **PART 3: Definitions**

The following are definitions of terms commonly used in conjunction with parking enforcement.

### **Charge Certificate:**

A Charge Certificate is issued:

1. 31 days (the legal minimum is 28 days) after a Notice to Owner (NtO) is issued and no Formal Representation received.
2. 31 days (the legal minimum is 28 days) after a Notice of Rejection to a Formal Representation is sent where no appeal has been made to TPT.
3. 18 days (legal minimum is 14 days) after any appeal to TPT is withdrawn (i.e. withdrawn before hearing)
4. 31 days (legal minimum being the date on which the Adjudicator's decision is served on the appellant) after rejection of appeal by TPT.

When a Charge Certificate is issued the amount of the penalty is increased by 50% .

The Charge Certificate is sent to the debtor (owner) requiring payment within 28 days, of the full increased amount.

### **Debt Registration:**

This is done at Traffic Enforcement Centre electronically on or after 18 days (legal minimum is 14 days) from the issue of a Charge Certificate. The Local Authority must confirm issue of the Charge Certificate to the court and there is a fee, from the court, (presently £7) for each registration. This is added to the amount owed to the Partnership.

### **Debt Registration – Notice of:**

Once the debt has been registered at Traffic Enforcement Centre an Order for Recovery and Statement of Truth Form is sent to the debtor advising him/her that he/she will have 21 days (21 days is the legal minimum) in which to pay the amount owed or swear a Statement of Truth.

Failure to do either will lead to a Warrant of Execution being applied for by the Partnership at TEC.

Once issued this will enable the Partnership to instruct Bailiffs to collect the debt on their behalf.

Once transferred to the bailiff, all correspondence is to be with the bailiff.

The only exception is "gone away" where a new resident receives a call for a previous occupant. A form of proof (and any evidence of where the person might have gone) is required before bailiffs will be "called off".

### **Dispensation:**

Formal permission given by a Local Authority for a vehicle to park in contravention of a waiting or loading restriction – e.g. to allow maintenance to be carried out to adjacent property. A separate procedure exists for this, the issue of which is at the discretion of the Partnership, and according to the Regulations in force.

### **Driver & Vehicle Licensing Agency (DVLA)**

The Government Centre responsible for maintaining records of all vehicles, their registered keepers and Driving Licences. The DVLA is the executive authority which carries out those functions.

### **DVLA Enquiry & Response (VQ4 & VQ5):**

When a PCN remains unpaid for 28 days, the Partnership (on behalf of the Joint Committee) will make a non-fee paying enquiry to DVLA (VQ4) to ascertain the identity of the keeper of the vehicle. This enquiry is made electronically via the Partnership's parking enforcement System.

The response (VQ5) from DVLA is also electronic and is automatically fed into the Partnership's system. Responses are usually received within 3 days of enquiry.

DVLA will confirm the response by forwarding a paper copy of the relevant VQ5 where the current keeper was not the keeper at the time of issue of the PCN.

### **Loading / Unloading:**

For the purposes of issuing and considering a PCN, in claims of loading / unloading, permitted 'goods' are deemed to be any that are of sufficient bulk and/or weight that requires the vehicle to be parked



adjacent to the point of collection or delivery. If a delivery is being carried out to a trade or business premises by a commercial vehicle this will be seen as compliant with the above.

The delivery / collection of small portable items, such as shopping, to or from a private vehicle will not constitute loading / unloading (although discretion will always be used in every case where it is obvious to a CEO – such as an elderly, disabled or infirm person or where children are involved), or where enforcement of the restriction would cause unnecessary difficulty, unless it is not obvious the nature of an unattended vehicle when a PCN was issued.

“Loading a Grand Piano to the eleventh floor” is the often stated non-adjacent loading example. There only a delivery note would prove that loading was taking place. The reasonable test of “was it necessary or simply convenient” to load from there – or should a car park have been used? is carried out.

In all cases the vehicle should never be parked for longer than is necessary but allowance should be made for delivery notes etc., to be signed. This includes checking items, but not packing away or moving into place, or storing them, once delivered. Ancillary duties such as moving items out of the way to facilitate delivery or collection do not constitute loading or unloading and time is not allowed to wait whilst this is carried out.

### **Mandatory and Advisory Parking Bays:**

Where restrictions apply to a particular bay (e.g. Blue Badge Holders bay, doctor's bay etc.), which is covered by a Traffic Regulation Order, it is said to be mandatory (obligatory). In this case there must be a time plate above the bay displaying the restrictions.

When the bay is not covered by an order then it is deemed to be ‘advisory’ and, therefore, unenforceable.

If in doubt the relevant Traffic Regulation Order should be checked.

### **Traffic Penalty Tribunal (TPT) (formerly National Parking Adjudication Service, NPAS):**

An independent body supported by subscriptions from Local Authorities.

Once a formal representation against a PCN has been rejected the keeper of the vehicle is given the opportunity to appeal to TPT within 28 days (28 days is the legal minimum) of the Notice of Rejection.

TPT will review the case and make an independent decision as to the validity of the PCN based purely on its legality. TPT will not take mitigating circumstances and discretion into account but will, realistically, expect a Local Authority to do this prior to the matter being sent to them. If they feel that mitigating circumstances do apply they will not uphold the appeal but will make their view known to the Local Authority.

TPT decision is final and binding on both parties.

### **Notice to Owner:**

If a PCN remains unpaid for 28 days (28 days is the legal minimum), the Partnership will make an enquiry with DVLA to ascertain the identity of the registered keeper. Once this is done a legal Notice to Owner will be sent to the keeper advising him / her that the relevant PCN remains unpaid.

The notice will contain full details of the PCN issued and requests payment within 28 days of receipt, or it gives the keeper the opportunity to make a Formal Representation against the issue of the PCN, which also must be done within 28 days of receipt.

A Notice to Owner can also be sent under Regulation 10 (see “PCN”, below) which is a combined PCN/NtO.

### **Penalty Charge Notice (PCN)**

There are two types of PCN: Most PCNs are issued at the time of the alleged contravention and will be either affixed to the vehicle within a sealed plastic carrier or handed to the driver; otherwise a PCN may be sent in the post where the CEO was prevented from issuing the PCN (by aggressive behaviour or by driving away).

The PCN will identify:

1. The issuing Authority's name
2. Powers under which the Penalty Charge Notice is issued (TMA2004 and Regulations made there under)
3. The Vehicle Registration Mark.
4. The Make of the vehicle.

5. Detailed Location of vehicle.
6. Details of Alleged Contravention (contravention code and description).
7. The Time of the alleged contravention.
8. The Date of the alleged contravention.
9. The time of issue (the service) of the Penalty Charge Notice.
10. The date that the Penalty Charge Notice was issued.
11. The Penalty Charge Notice number.
12. Civil Enforcement Officer number.
13. Details of Penalty payable.
14. Details and terms of any discount for prompt payment.
15. Instruction on how and where to pay.
16. Methods of payment.
17. Addresses (and telephone numbers) for payment.
18. Period during which payment should be made (i.e. 28 days from date of issue).
19. Instructions on how the procedure for correspondence against the issue of the penalty is handled.

The Operational Guidance and the Regulations (both General Regulations and Adjudication Regulations) set out what needs to be included in a PCN.

A PCN may otherwise be sent to the keeper of a contravening vehicle by post, under Regulation 10. "Postal PCN" includes both PCNs that a CEO was unable to serve on-street and PCNs issued by using CCTV equipment.

### **Registered Keeper:**

The Person(s) or organisation who are registered at DVLA as being legally responsible for the vehicle – The Registered Keeper is not necessarily the Owner or the Driver. We need to find the person responsible to pay the Penalty Charge Notice.

### **Suspension of Parking Bay:**

Suspension of parking within a designated parking bay(s). Notified by display of adjacent signs.

A waiver would also be required for parking of vehicles in suspended bays for the desired reason – e.g. if the bay is suspended to enable removals to be carried out, the removal van needs to apply for a waiver; (see "Waivers").

There is legal foundation to stop people parking in contravention of Suspended Bays (either in or adjacent to them) where there is a proper road sign (i.e. as specified in TSRGD).

### **Traffic Enforcement Centre (TEC):**

The TEC is located in Northampton and is a branch of the County Court, which specifically deals with motoring offences.

All communication with TEC from the Partnership is carried out electronically either by fax or online modem link via a Parking Enforcement computer system.

## **PART 4: Specific Operational Procedures**

**See also the TPT website which gives examples from real cases at Appeal.**

### **Abandoned Vehicles:**

Where a vehicle remains parked, in a restricted area, for a period during which multiple PCNs are issued (multiple is at least three max of 5) for the same contravention. The Civil Enforcement Officer will decide whether the vehicle is potentially abandoned, by using the following criteria:

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

If the Civil Enforcement Officer considers the vehicle is abandoned, it will be reported to and dealt with by the Partner Client Council's Abandoned Vehicle (ABV) officer under the provisions of Refuse Disposal (Amenity) Act 1978.

Until such time as the ABV officer considers the vehicle should be dealt with as potentially abandoned, further PCNs will continue to be issued.

Issued PCNs will be enforced against the person responsible (see "Registered Keeper") of the vehicle in the normal way.

### **Bailiffs (Enforcement Agents) :**

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.

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. The vehicle must be necessary for loading, not simply convenient.

### **Bank Holidays and Public holidays – Restrictions Applicable:**

Waiting and loading restrictions, as indicated by yellow lines / markings on the carriageway and/or kerbs may be in force throughout the year.

It is only in designated parking bays (limited waiting, loading, shared use bays, pay & display etc.), that restrictions *may* be lifted on Bank Holidays.

Motorists cannot assume that restrictions do not apply on Bank Holidays unless this is specifically stated in the relevant signage. Reference should be made to the relevant Traffic Regulation Order.

### **Bank Visits:**

Claims from individuals or companies that because money is being taken to or from a bank PCNs should not be issued will not be accepted as a reason to cancel. If restrictions are in place adjacent to a bank these must be complied with by all motorists. Motorists should be advised to contact the bank about future security arrangements. See "goods" and "loading"; money is not considered goods, although the CEO may apply discretion in the same way as loading.

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.

Again, necessary vs. convenient is the measure. It is not necessary to nip to the cashpoint, from a vehicle, but convenient, so parking is not allowed.

### **Blocked Access:**

Drivers who claim that they were unable to gain access to their private or commercial property are not entitled to park in contravention of any parking restriction. The exception to this is when a driver has to collect a key to unlock a barrier that prevents access. This, however, should take no longer than 5 minutes.

Where access to a property is being blocked and no parking restriction is in place a PCN may be issued regardless of the absence of a restriction, signage or markings, at the request of a resident. See also "Dropped Kerbs".

## **Broken Down Vehicles**

**(see also “vandalised vehicles and abandoned vehicles”).**

Vehicle breakdowns would only be considered to be for *unavoidable and unforeseeable malfunctions*. Instances such as running out of petrol would be considered to be avoidable.

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:

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

Where the CEO considers that the vehicle was *obviously* broken down, the CEO will use discretion. A note left in the windscreen, stating that “the vehicle has broken down”, will *not* be accepted, by the CEO, as a reason for not issuing a PCN; handwritten notes are not generally accepted.

If breakdown is reported to Business Unit via telephone – a CEO may be sent to the location to review the situation and a PCN may be issued. If PCN is issued it may be challenged and appropriate evidence will need to be produced as above.

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, (online, by email or other digital means where possible) in writing, that due consideration to previous incidents will be taken into account should another contravention be committed for the same reason.

## **Builders / Tradesmen**

1. **Residential Parking Zones:** Builders should use a visitor permit (which may be obtained from the Partnership by the resident) to park within a residents-only zone provided they are being used in connection with genuine work within that particular zone, otherwise they may be liable for a PCN.

In the case of a vacant property a dispensation would need to be obtained from the Partnership’s Business Unit.

Commercial properties within a zone – a dispensation would need to be obtained from the Partnership’s Business Unit.

2. **Yellow Line restrictions:** Parking will only be allowed whilst loading / unloading of tools and materials is taking place, unless prohibited by loading restrictions (when it is never permitted). At all other times the vehicle must be moved to a permitted parking area. Dispensation may be available from the Partnership, but only under sufficient advanced notice. If a Penalty Charge Notice is issued before such dispensation is approved, then evidence of loading will be required.

The measure is necessity rather than convenience. See Loading below

## **Bus Stops:**

A restricted bus stop will show a “wide” yellow line, a yellow marked bay and a time plate showing the hours of operation.

Bus stop restrictions are not covered by Traffic Regulation Orders, but instead under separate legislation, which allows them to be introduced independently. A bus stop restriction cannot be transferred to a temporary bus stop unless a Temporary Traffic Management Order has been issued.

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

## **Care Organisations (see also ‘Emergencies’):**

**Parking in Residential Parking Zones:** Numerous care organisations are now operating within the Partnership as a result of sub contracting by Social Services and the Local Health Authority as well as privately arranged care.

1. **By prior arrangement**, badges issued by various organisations may be recognised as valid authorities to park but only in resident parking zones **whilst on duty and in connection with residents care (but never on yellow lines)** and the permit must include the vehicle registration number and an expiry date, and be made available for checking by a CEO on request.
2. **Those issued by NHS Trusts** to District Nurses, Midwives, Health Visitors & Macmillan Nurses, will be honoured but only in resident parking zones (never on yellow lines) and the permit must include the vehicle registration number and an expiry date, and be made available for checking by a CEO on request.

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

**Parking on Yellow Lines:** Carers are not generally exempt from yellow line restrictions and must not contravene them. No dispensation will be issued to carers to enable them to park on a yellow line except in an extreme medical emergency. In cases where a PCN is issued, flexibility and discretion will be applied to any challenge made against a PCN although the scheme will not be open to abuse.

### **Challenge Against Issue of PCN:**

Within 14 days of issue of a PCN the keeper of the vehicle (or other parties with a direct interest) may make a written challenge against the issue of the PCN. Within this challenge (s)he can mention any mitigating circumstances as well as challenging the validity of the PCN. (Day 1 of 14 is the date of issue).

The Partnership will respond, (online, by email or other digital means where possible) in writing, as soon as possible the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge.

If a challenge is rejected the written notification from the Partnership must give precise reasons why this decision has been reached. Providing the written challenge was received within 14 days of the PCN being issued the discounted rate will be restarted and last for 14 days from the date of the rejection notice.

If a challenge is received later than 14 days from the date of the PCN issue it will be dealt with in the same way but if rejected the discounted period will not be restarted and the full amount will be payable. This fact should be included within the notice of rejection.

The making of a challenge in no way detracts from the ability of the keeper to make a subsequent formal representation against the issue of the PCN to the Partnership or to TPT.

### **Challenges / Representations Accompanied by Payment:**

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

Where a payment is received with a challenge, the normal procedure is to return the payment immediately (accompanied by a letter of acknowledgement); the challenge or representation will then be dealt with in the normal manner.

**It is recommended that the recipient of the PCN either pays or challenges it, not both.**

### **Clamping (Immobilisation) & Removal:**

In some circumstances, the North Essex Parking Partnership will make use of Immobilisation and Removal Powers. In carrying out these activities, the Statutory Guidance will be followed.

Where a vehicle is causing a hazard or obstruction the enforcement authority should remove rather than immobilise. If the vehicle is parked where parking is prohibited (such as on double yellow lines or in a restricted zone or suspended parking area), then the vehicle can be removed as soon as a Penalty Charge Notice has been served. Vehicles will usually be removed to a nearby place, rather than a pound.

### **Complaints against Civil Enforcement Officers:**

Allegations that a CEO 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.

Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with by the relevant manager separately from the issue of the PCN.

Complaints are treated in accordance the complaints procedure and findings of the investigation will be communicated to the complainant, (online, by email or other digital means where possible) in writing, within the stipulated timescale. The findings of such investigations will be separate to the facts of the case and will not affect the findings of any alleged Contravention of Regulations (in other words, the recipient of a PCN cannot simply use as a defence that 'the CEO was rude').

### **Cones – Temporary No Waiting:**

**Advisory Cones:** In cases where a small number of cones is required for a special event, it is often possible to receive these on loan from the borough/district council in whose area you reside. The Parking Partnership may be approached for the loan of a small number of cones if these are not available for loan locally.

**Formal Schemes:** In exceptional circumstances the Parking Partnership may consider the setting out of no-waiting cones for larger scale events. In most cases these will be enforceable, and chargeable, and they mean "no waiting / no loading". Details of any vehicles pre-parked within any area to be coned off will be taken (normally by way of photograph) and these vehicles only will be exempt from the cones within the balance of any other restrictions already in force (if any).

The setting out of cones will be carried out by approved operators, and there will be a cost for providing this service (which may be reduced for charitable organisations), payable on application. The Partnership keeps a list of approved operators.

All vehicles should be moved as soon as the driver/owner realises the cones are in place. The full extent of the area coned will be recorded, and for any other vehicles encroaching or otherwise waiting or loading within the area, a PCN may be issued for contravening the restrictions.

See also the Policy Document on Temporary No-Waiting Cones.

### **Council Officers & Councillors on Duty:**

All council officers and Councillors on duty are expected to fully comply with parking regulations:

1. **Parking in Council car parks:** Staff or Councillors using their own cars to carry out their official council duties must display a staff parking permit whilst parked in a car park (or have it available at the barrier in a barrier controlled car park). At all other times staff and Councillors must comply with the restrictions by purchasing a pay & display ticket. Failure to comply with any of the foregoing will result in a PCN being issued. Council officers do not have the benefit of free parking.
2. **Parking in Residential Parking Zones:** Permits are only valid during periods when official duties are being carried out. Permits used at other times will be withdrawn and a PCN issued. At all other times staff and Councillors must comply with the restrictions by displaying a valid resident's or visitor's permit. Failure to comply with any of the foregoing will result in a PCN being issued.
3. **Parking on Yellow Lines:** No dispensation will be given to allow staff or Councillors to park on yellow lines. In such cases PCNs will be issued and pursued under the legal enforcement process. A Waiver may be applicable in cases where it is necessary to carry out certain statutory functions (e.g. highway maintenance), but will be decided on the balance of necessity versus convenience.
4. **Request for Cancellation of PCN:** This will only be considered in cases of dire emergency and must be supported by written confirmation from the relevant senior line manager or Head of Service.

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

The conditions applying to Jury members and Witnesses equally apply to defendants. However, there have been instances when a defendant has been given a custodial sentence and, as a direct result, is unable to remove his/her vehicle from a Partnership car park. In such instances the Partnership will expect that the vehicle will be removed, as soon as is reasonably possible (normally within 24 hours), 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.

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

The length or timing of any court hearing or trial cannot be guaranteed and often Jury members and/or witnesses find that they are unable to leave court to purchase further pay & display time in a car park. This can lead to an overstay where PCNs are issued. To counter this, Courts issue clear instructions to all Jury members and witnesses advising them as to how and where they should park. They do not recommend the use of short stay pay & display car parks.

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

In such circumstances the Partnership 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*. e.g. Moved to an hotel overnight.

## **Dental / Doctors Appointments:**

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

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

## **Description of Vehicle – on PCN:**

When issuing a Penalty Charge Notice, the Civil Enforcement Officer will note the make and registration number of the vehicle, which will appear on the PCN. It is also recommended that he/she where relevant to the contravention will also note other details such as colour, tax disc serial number, tax disc expiry and positions of tyre valves, which will form part of the supporting records.

1. **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 will be given to cancelling the PCN. Only if the error is clearly genuine, then the case would be written off. Where it is not directly obvious to the CEO at the time of the PCN being issued then "Unknown" should be used.
2. **Tax Disc Serial Number:** (where visible/recordable): The one thing that is unique to the vehicle is the tax disc number, which is recorded by the Civil Enforcement Officer at the time of the PCN issue. If these match then the Partnership has good grounds to pursue the PCN irrespective of any other error. There has been no requirement to display a tax disc since October 2014.

## **Diplomatic Vehicles:**

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

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

## **Disabled Drivers / Passengers (Blue Badge Holders):**

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* at all e.g., shopping for the disabled person when they, themselves, are not being transported in the vehicle. The person to whom the badge is issued must be present.

Blue badges must be clearly and properly displayed (with the serial number and expiry date clearly visible) at all times, whilst the vehicle is parked. Failure to do so will result in a PCN being issued for the contravention of the relevant parking restriction. When considering the matter the Partnership will take into account previous contraventions by the same vehicle and/or badge holder for failure to display a Blue Badge (although it is accepted that no one particular Penalty Charge Notice is binding

on any other, education as to the matter of correct display of a Blue Badge is taken to be required to be given only once).

Where the badge and/or clock (where required) was not visible to the enforcement officer at the time a PCN was issued, then it is unlikely that these would be grounds by themselves for cancellation of the PCN.

If the badge was in some way partially visible (face down with serial number and expiry date not showing, for instance) but where no previous contravention has occurred, the representation would normally be allowed, provided that proof of a badge valid (and displayed) at the time of contravention was supplied.

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

Providing the Blue Badge is clearly and properly displayed the Badge Holder can park in:

- **Limited Waiting parking places:** For an unlimited time.
- **Yellow Lines (without loading restrictions):** For a period not exceeding 3 hours.
- **Council Car Parks:** As displayed on the tariff board in each borough/district's car parks.

#### **Blue Badge Holders are not allowed to park in:**

- ❖ Any area where there is a loading restriction.
- ❖ Any location where it is unsafe to park.
- ❖ Bus stops, taxi ranks, goods vehicle bays.

Note – in other sorts of bays e.g. resident parking bays, further clarification should be sought.

**Parking must always be in accordance with the Blue Badge Scheme** (booklet available from Essex County Council).

**Note** that the Blue Badge scheme is for highway parking. It is a concession to access. In Partnership car parks, only sometimes are bays free to blue badge holders. The rules are different in different areas, so you must always check a car park tariff board for details.

## **Dispensations & Suspensions**

### **Dispensations:**

Reference should be made to the parking order for the borough/district council area: The following vehicles (which are generally liveried and identifiable) will receive automatic dispensation from waiting restrictions:

1. Police, Fire Brigade or Ambulances whilst attending emergency situations.
2. Liveried, identifiable vehicles involved in contracted Highway Maintenance where there is a need for them to be parked adjacent to the work site.
3. Statutory undertakers' vehicles and their successors (gas, water) and postal/telecommunications equipment on the highway (not in adjacent buildings).
4. Liveried Council vehicles **carrying out** statutory duties such as Refuse Collection, Street Cleansing and verge maintenance (but only whilst necessary).
5. Vehicles displaying valid Blue Badges (see relevant section of the Blue Badge Book).

Dispensations may be granted for the following:

1. Funerals – For the hearse and cortege vehicles.
2. Weddings – Bridal Vehicles.
3. Maintenance to adjacent buildings.
4. Furniture Removals.
5. Any other reason accepted by the Partnership.

Applications for dispensations must be received a reasonable amount of time in advance such that the necessary administration and signage can be prepared, prior to the required date and must be made to the Partnership on the appropriate form. The Partnership's decision is final.

If granted, dispensations will be issued to the applicant by way of written authority, from the Partnership which may only be granted as appropriate. Any document issued by the Partnership in connection with the dispensation must be clearly and continuously displayed on the vehicle whilst



parked. A copy will be available to the patrolling Civil Enforcement Officers and a further copy kept, with the application, by the Partnership for reference.

A charge, per vehicle per day, may be made except in the cases of wedding cars and funeral cortege vehicles. It is always of assistance if reasonable notice can be given so that CEOs working different shifts can be made aware.

### **Suspensions:**

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

1. 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).
2. Maintenance to highway trees.
3. At the request of the Police.
4. For security reasons.
5. Any other reason accepted by the Partnership or Highway Authority.

Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Partnership. Their decision is final. Liveredied vehicles of Emergency Services on call and Statutory Undertakers at work (i.e. most utility companies) will be exempt, as will certain other classes (e.g. Royal Mail carrying out collections) etc.

If granted, suspensions of parking bays / spaces will be clearly signposted by means of Notices, temporary signs or traffic cones, which will indicate exact location and extent of the suspension with the start and finish dates and times. Notices will be displayed for a reasonable time before the suspension comes into operation. In this way all interested parties and adjacent properties will normally receive advanced notice of the suspension.

Vehicles parked in contravention of a suspension will receive PCNs (unless displaying a valid Waiver or Dispensation). A charge, per bay / space, may be made and is payable upon application.

Waivers or Dispensations may be issued by the Partnership to allow vehicles to park in Suspended bays (e.g. removals vans); there is an administration charge, and an accompanying fee for this.

### **"Drink-Driving" or Other Arrest:**

If the driver of a vehicle has been arrested and, as a direct result, has been forced to leave the vehicle in contravention of a parking restriction any resultant PCN would not be enforced unless the driver has had ample time to arrange for its safe removal or to safely remove the vehicle him/herself after his/her release from custody. (In the case of drink-driving this is an action which could reasonably have been foreseen, and the above principles are not necessarily automatic; in any event a period of around 12 hours should be allowed for safe removal of the vehicle).

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

Where written evidence of the arrest cannot be supplied, confirmation should be obtained from the relevant Police Station, by the Partnership, before the PCN would be considered for cancellation. Failure to supply or obtain supporting evidence of the arrest will lead to the PCN being enforced.

### **Dropped Kerbs**

The Partnership has the power to enforce against motorists who block dropped kerb accesses.

**Driveways to Residential Premises:** The Partnership will respond and may issue a PCN to a vehicle parked outside a driveway blocked more than 50% of its width in instances where a report is received from the occupier of the affected premises. In such instances the Partnership requires the complainant to provide name, address and contact details and confirm that they are the occupier.

Some parking bays are marked continuously across dropped kerbs of driveways but obstructing a dropped kerb is not permitted (although it is implied that a vehicle parked in front of its own driveway would not be reported and therefore not issued a PCN).

**Pedestrian Dropped Kerbs:** Pedestrian dropped kerbs help people with pushchairs, the mobility impaired, wheelchair users and people using mobility vehicles to cross the road. Inconsiderate parking across these crossings makes it potentially dangerous for people. A PCN may be issued to a vehicle parked blocking these crossings.

Please note, there are no requirements for there to be any markings on the road to indicate a 'no parking' area in front of pedestrian dropped kerb crossing.

See also *Blocked Access*.

See separate policy - **Enforcement policy for dropped kerbs**

### **Dropping Off - Picking up Passengers.**

Except on designated clearways and certain zig-zag (schools and pedestrian crossing) restrictions any vehicle will be allowed a reasonable amount of time (only as long as is reasonably necessary) to drop-off alighting passengers or pick up boarding passengers irrespective of any waiting or loading restriction in force.

It is commonly thought that two minutes is sufficient allowance for this unless the activity involves the elderly, disabled persons, young children or large amounts of luggage, etc., where up to ten minutes is commonly deemed reasonable.

However, where or because such an event may cause safety, associated traffic congestion or other problems, then the time allowed "only as long as is absolutely necessary" will be permissible. 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 CEO will exercise reasonable discretion in such circumstances, but mere convenience is not to be used as an excuse.

### **Emergency Duties:**

Doctors, nurses and midwives engaged on emergency duties are, wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be issued it may be cancelled only upon evidence of the emergency being provided. Paramedics are also exempt in Resident Parking bays.

Necessity vs convenience.

Regular or programmed visits will not be considered an emergency.

*(For the future - see 'Health Emergency Badge Scheme' below).*

### **Estate Agents:**

Estate agents visiting a client's property within a residential parking zone may display a valid visitor permit of the Resident (issued out to the property in question). Estate agents are **not** exempt from parking restrictions. (Tradesmen's permits are available).

### **Exempt Vehicles:**

See also Dispensations section. The following vehicles are considered to be exempt from parking restrictions:

1. Fire Brigade Vehicles
2. Marked Police Vehicles
3. Ambulances.

The following vehicles are generally exempt in the circumstances described (the standard test is "where it is necessary that the vehicle is in attendance", opposed to simply being convenient) – although individual circumstances may vary between areas:

1. 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.
2. 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 postmen/women whilst carrying out letter deliveries. The Partnership will expect such vehicles to be parked in compliance with any parking restriction.
3. Electricity Board, Gas Board, Water Authority, British Telecom or other telecommunications (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus.
4. 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. If necessary, dispensations (from restrictions) or suspensions (of parking bays) should be sought in advance of such a requirement to enable them to park.

5. Public Service Vehicles (Passenger Carrying Vehicles – i.e. buses/coaches) and other company vehicles whilst waiting at an authorised stopping place, terminus or turning point.
6. Vehicles involved in building, excavating and demolition work whilst lawfully and actively engaged on those duties (where the vehicle is “necessary”).

All exempt vehicles should be liveried, not private cars or unmarked vans and the exemption does not generally apply to sub contractor’s vehicles (but the parking order should be referred to).

### **Footway Parking:**

Unlike Greater London (sect 15 GLA.1974), it is not generally a contravention for a vehicle to be parked on a footway unless there is some form of restriction.

There are exceptions, such as:

1. HGV’s (Sect.19, RTA 1988).
2. Cycle Tracks (Sect.21, RTA 1988).
3. By Local Act of Parliament. In Essex there is a local Bylaw, which may apply to grass verges where signed.
4. Where a Traffic Regulation Order (TRO) exists.

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 which case the PCN should be issued for contravention of the restriction.

### **Formal Representation Against Issue of PCN:**

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 Parking Partnership. This representation must be made within 28 days of receipt of the NtO.

Formal Representation can only be made on the following grounds:

1. The Contravention did not occur
2. The Penalty exceeded the relevant amount.
3. The Traffic Order was invalid
4. I was not the owner/keeper of the vehicle at the time.
5. The vehicle had been taken without my consent
6. We are a hire firm and have supplied the name of the hirer.
7. A procedural impropriety has occurred.
8. Some other reason (must be stated) not given above.

**NB. Different rules** (in timescales allowed by the legislation) **apply for what are known as “Regulation 10 PCNs” or “Postal PCNs”** – which is a combined PCN/NtO, and a further 14 days is allowed for payment at the discount amount, including when rejected.

### **Funerals / Weddings:**

Vehicles actively involved in a funeral or a wedding will be given due reasonable consideration and respect and PCNs will not be issued.

Vehicles belonging to wedding guests, or mourners that are not actively involved in the funeral, will not be able to park in contravention of any restriction, however 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.

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

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

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

### **Glaziers:**

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

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

### **Government Department Vehicles:**

Unless the reason for parking the vehicle was under exceptional circumstances PCNs issued to vehicles owned or operated by Government Departments should be enforced. They are not exempt purely by virtue of the fact that they are operated by a Government Department.

If the vehicles are involved in exceptional activities such as surveillance by Customs & Excise or the Benefits Agency evidence to support this, in the form of a written statement from a senior manager on headed notepaper must be supplied.

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

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

1. Hackney Carriages and Private Hire Vehicles operating within Partnership area are licensed by local Councils and carry a numbered licence plate that must be displayed on the rear of the vehicle.
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.
3. Hackney Carriages licensed by other local authorities are not allowed to ply for hire within the borough/district. The converse is also true.
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 (defined as 2 minutes in a recent judgement). 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.
5. Each case, especially those involving elderly, infirm or disabled passengers should be treated on its merits and due allowance should be made in such incidences.
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.

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

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

If the PCN was issued for contravention of a no waiting restriction it can be established from the CEO'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).

If the PCN was issued for contravention of a no loading restriction then, once again, the CEO's notes will be viewed to establish whether the loading activity was taking place. If so then serious consideration should be given to the cancellation of the PCN in view of the Health & Safety of the public.

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

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

The Partnership does not, at the moment, operate a formal Health Emergency Badge (HEB) scheme however NEPP has agreed to recognise some permits issued by other organisations, as if they had been issued by NEPP themselves. See "Care Organisations" above.

### **Hiring Agreement:**

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

Consequently, in this case, the responsibility does not rest with the registered keeper, the Hire company, providing they make formal representation to the Partnership once the Notice to Owner is received. This representation must be accompanied by a copy of the relevant hire agreement.

In all cases this agreement must clearly state: The name and address of the hirer, the start and finish dates for the hire period and the hirer's signature. It must also include a statement regarding the hirer's liability for any PCNs incurred during the hire period. Should any of the foregoing be unclear, absent or in contradiction of the date / time of issue of the PCN then the PCN will be enforced against the Hire Company and a notice of rejection of the representation sent to them with the reasons clearly stated therein.

### **Holidays:**

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

1. Suspended Bay:
  - a. The Partnership has the power to suspend parking within a designated parking bay to allow access by a specific vehicle or highway / bay maintenance to be carried out. In such cases advance notice is placed alongside the bay and is distributed to nearby properties giving the date, times and length of the suspension.
  - b. If these notices are 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 relevant to the display and distribution of the notices. In essence the Suspension cannot operate retrospectively.
  - c. 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.

### **Hospital Car Service:**

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

Generally such consideration should extend to:

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

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

### **Intervention in Challenge & Representation Processes by Councillors and Other Officers:**

The process of dealing with challenges and representations against the issue of PCNs is well documented and will be carried out in a fair, unbiased and equal manner. These procedures include the ultimate right of all appellants to refer the matter to an independent arbitrator (by Appeal to an Adjudicator of the Traffic Penalty Tribunal).

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

The Parking Partnership's host authority (at the central office), having had the appropriate powers devolved to it from the host authorities, via the Joint Committee, shall be the proper place to decide challenges and representations.

### **Legislation:**

The statutory Acts governing parking enforcement are: The Traffic Management Act 2004 and The Road Traffic Regulation Act (1984). Regulations made under the 2004 Act replaced the Road Traffic Act 1991, on 31 March 2008.

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

When such a request is made the Partnership will make reference to specific, relevant paragraphs and will quote them verbatim within any correspondence. The Partnership will not supply full copies of the relevant Acts, which can be obtained from HMSO or accessed via the Internet.

If the keeper is specifically querying the authority behind a specific restriction then reference should be made to the relevant Traffic Regulation Order. 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.

Requests for copying the TROs (hundreds of pages, plus schedules) involves a reasonable charge for the copying.

### **Loading / Unloading:**

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:

1. Activity, involving the vehicle, is may be observed by the Civil Enforcement 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 (see Observations section).~~
2. Generally a maximum of 5 minutes an observation period (which may be dis-applied, see Observations section) will be allowed to enable loading / unloading to take place. 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.
3. Due consideration will be given to elderly or disabled people.
4. Due allowance will be given to allow the driver to complete delivery paperwork.
5. Where a PCN is issued a challenge will be considered if supported by evidence (e.g. a delivery note confirming the time and evidence that the driver was delayed or was involved in moving heavy goods).

### **Location – incorrect:**

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

### **Lost Keys:**

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

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

### **Meter / Pay & Display Machines**

1. **Did not realise there was one there.** Claims from keepers that they did not see or realise that they had to use a pay & display machine should be dismissed as they are always clearly sign posted.
2. **Not working.** Where it is claimed that a machine is not working then reference must be made to both the maintenance records, the CEO'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 Penalty Charge Notice.

If there were an alternative machine in working order and in close vicinity, or alternative method of payment such as MiPermit, then it is reasonable to expect that the drivers would use this alternative (except where there is only one machine or no alternative means of payment).

### **Misspelling of Keeper's Name:**

The misspelling of the keeper's name and/or address on the Notice to Owner does not invalidate it or discharge the liability of the person receiving it. The onus is still on the genuine keeper to deal with the matter.

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

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

When the misspelling is severe and is *radically* different from the correct spelling consideration should be given to the cancellation of the PCN.

### **Mitigating Circumstances:**

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

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 also the section on "Emergencies").
2. **CHILDREN / ELDERLY PEOPLE:**
  - a. 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).
  - b. Claims that PCNs issued whilst children were being dropped-off or collected from schools etc., should not be cancelled unless a reasonable amount of time was not allowed by the CEO. The normal 5-minute observation period should be enough time in such circumstances (except where the time allowed has expired, when an additional 10 minutes will be allowed and added to the end of the expiry time). Where a 'No Stopping Order' exists no leniency will be considered. '
3. **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.

### **Motorcycle Bays:**

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.

### **Notice of Rejection or Acceptance of Formal Representation:**

Usually, within 28 working days of receipt of a formal representation from the keeper of the vehicle a written Notice of Acceptance or Rejection will be sent by the Partnership:

1. **Notice of Acceptance:** This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled.
2. **Notice of Rejection:** This formally rejects the representation and gives detailed reasons why the Partnership has come to this conclusion. The rejection is also accompanied with the necessary forms and instruction on how a further representation can be made to the independent Traffic Penalty Tribunal (TPT). – This representation must be made within 28 days of receipt of the notice of rejection.

### **Observation Period – Prior to Issue of PCN:**

Except where loading restrictions or clearway restrictions are in force, prior to the issue of a PCN the CEOs will, in most circumstances\*, allow a period to elapse between first observing the contravention and the issue of the PCN.

The details of the vehicle will be entered into the CEO's Hand Held Computer (HHC) when first seen. The PCN will not normally be issued until loading can be refuted\*

\* - An observation may be dis-applied where activity is observed to warrant the issue of an immediate PCN, for example where the motorist clearly was intending to carry out some other activity than loading, e.g. visiting a Newsagent with the intention of purchasing a newspaper, etc.

The CEOs will be able to continue with their patrols and then return to the contravening vehicle; continuous observation is not necessary. The observation time (a portion of the time observed when the vehicle was alleged to be in contravention; not the whole time), and the PCN issue time, will appear on the face of the PCN itself and will be recorded by the enforcement software system.

There is no 'statutory observation' or 'allowed time' for loading; e.g. motorists **do not** have 2 minutes or 'grace time' for other activities.

Motorists actually carrying out loading will be allowed to load for as long as the activity persists (see also "Loading / Unloading").

Motorists will be allowed to stop for so long as it is necessary to enable people to board or alight, unless there are clearway restrictions in force.

An exception to this is where the 'time allowed' has expired, when an additional 10 minutes will be allowed and added to the end of the expiry time.

### **Observation Period – Prior to Issue of PCN:**

Except where loading restrictions or clearway restrictions are in force, prior to the issue of a PCN the CEOs will allow a period of at least five minutes to elapse between first observing the contravention and the issue of the PCN.

The details of the vehicle will be entered into the CEO's Hand Held Computer (HHC) when first seen. The PCN will not normally be issued until loading can be refuted (generally after 5 minutes).

The CEOs 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.

The exception to this is where the time allowed has expired, when an additional 10 minutes will be allowed and added to the end of the expiry time.

### **Civil Enforcement Officers' Pocket Book / Notebook / Digital Notes:**

The Civil Enforcement Officers shall maintain a separate pocket book in which they shall note daily details of their patrols, and any incidents encountered.

These books shall be kept in addition to any details of PCNs entered into their handheld computers. Where possible all evidence will be recorded on the computer system directly. Information recorded on the officer's handheld computer will also be used in the adjudication process.

Pocket Books will be made available to the adjudicators in the event of a PCN being challenged, where any information therein is relevant, through the independent adjudication process and will assist the investigation of any challenge or representation received by the Partnership.

When used, each Pocket Book will be numbered and when issued to the CEO the number of the previous book used by that CEO entered on its cover. Similarly when a pocket book is completed the serial number of the new book issued will be entered on the cover.

All completed pocket books will be retained in the office in numerical order. Each completed pocket book should have the serial number of the previous book and the serial number of the next book written on the front cover.

### **Pay & Display Tickets.**

Pay & Display requires the purchase of time (either a ticket or an electronic or virtual 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 identification code. The car park fee tariff is clearly displayed adjacent to each machine.

Pay & Display Tickets must be:

1. Clearly and continuously displayed whilst the vehicle is parked. (Certain tickets are designed to adhere to the windscreen of the car using a peel off, adhesive backing).
2. For the date shown.
3. Un-expired.
4. For the car park indicated.



5. For the correct class of vehicle
6. As permitted

PCNs will be issued for:

1. Failing to display a valid ticket.
2. Displaying a ticket that has expired (a grace period of 10 minutes at the end of a stay will be allowed).
3. Not parked within the boundaries of a marked bay.
4. For the wrong class of vehicle for the bay (i.e. in a Blue Badge Holders bay without a Blue Badge and/or clock).

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.

Parking tickets produced after the event (even if valid then) do not prove conclusively that they were originally purchased for the vehicle in question that originally attracted the PCN.

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

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

### **Penalty Charge Notice – Discount Period.**

The PCN rate is set at the higher band in the Regulations, and may be for either a lesser or greater penalty level, depending upon the contravention in question. PCN penalties are subject to review nationally. If the PCN is paid within 14 days of issue a discounted amount of 50% will be accepted in full settlement of the matter.

Day 1 of the 14 days is the date of service of the PCN.

If a challenge is received from the keeper within 14 days of service of the PCN the discounted period will be frozen pending the Partnership's decision. Should the challenge be rejected the discount period will restart from the date of the notice of rejection. This fact should be included within the notice itself.

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

If a Notice to Owner (NtO) is sent to the keeper who subsequently states that the PCN was not received at the time of the contravention the discounted amount will be accepted if paid within 14 days. This should be communicated (online, by email or other digital means where possible) in writing to the keeper with the restarted discount period starting from the date of service of the letter (taken to be two days after the date of posting).

**Note:** When it is claimed that the PCN was "not received", the computer system will be checked to ensure that previous such claims have not been made by the same person. If there is any history of such claims the discounted period should not be restarted and the full amount paid.

### **Penalty Charge Notice, Early Issue of:**

Claims that a PCN was issued before the time that a contravention is deemed to have occurred require careful investigation.

The issue of PCNs is controlled by Handheld Computers carried by each CEO. These computers have in built clocks, which are calibrated each morning prior to commencement of the patrols. Except where the circumstances allow for an immediate issue, they will always impose an observation period prior to allowing a PCN to be issued, and in any event will always record a log of the Officer's time in the location. These times will appear on the PCN itself as "Time First Seen" and "Time Served". The computer system will prevent any subsequent alteration to these times.

The normal procedure is for an Civil Enforcement Officer to enter the observation details into the computer, then to continue with his/her patrol before returning to the vehicle to complete the issue of the PCN.

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

The Partnership will neither offer extended time in which to pay PCNs nor will it enter into instalment payment arrangements.

## **Permits:**

### **1. RESIDENT'S PERMITS:**

- a. A Resident's Permit is issued to a vehicle that is "kept" (registered to an address) within the parking zone and is accompanied by a holder and full instructions that it must be clearly displayed on the windscreen of the vehicle. Permits are only valid in the zone, for the registration number and until the expiry date officially indicated on its face.
- b. Failure to display a permit is a contravention and will result in a PCN being issued which should not be cancelled unless there are mitigating reasons why the permit was not displayed.
- c. Use of a permit within another zone, on another vehicle or after its expiry date is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

### **2. VISITOR PERMITS:**

- a. Visitor 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. An electronic 'virtual permit' equivalent may be provided.
- b. Failure to display a visitor permit is a contravention and will result in a PCN being issued, which should not be cancelled unless there are mitigating reasons why the permit was not displayed.
- c. Use of a permit on a vehicle other than that indicated on the permit and on a date other than that indicated on the permit is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.
- d. Use of a permit on which details, e.g. the date or time at which the vehicle was parked, have been subsequently altered is a contravention for which a PCN will be issued.

### **3. CAR PARK SEASON TICKETS:**

- a. These are issued in the same manner as Resident's Permits and are valid only in the car park, for the vehicle and before the expiry date officially noted on the face of the season ticket.
- b. Failure to display a season ticket is a contravention and will result in a PCN being issued which should not be cancelled unless there are mitigating reasons why the ticket was not displayed.
- c. Use of a season ticket within a car park for which it is not valid, on another vehicle or after its expiry date is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

### **4. CAR PARK PERMITS:**

- a. These are issued in the same manner as Resident's Permits and are valid within specific numbered bays in specified permit-holder only car parks.
- b. Failure to display a permit is a contravention and will result in a PCN being issued which should not be cancelled unless there are mitigating reasons why the ticket was not displayed.
- c. Use of permit anywhere other than the specific space for which it is valid or after its expiry date is also a contravention for which a PCN will be issued. Again the PCN should not be cancelled unless there are mitigating circumstances that account fully for the contravention.

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

### **Emergency call out:**

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

See also “builders”.

### **Police Officers on Duty:**

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

Requests for cancellation of any PCN issued to police vehicles, being used solely for police purposes (including unmarked cars) must be made by the officer's Superintendent or equivalent. They should contain confirmation that the officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

Police officers' own cars regularly parked outside 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.

### **Police Officer or Civil Enforcement Officer Gave Permission to Park:**

Where details of the officer concerned are given, confirmation should be sought prior to cancellation of the PCN. Evidence such as the collar number of the Constable should be provided.

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

### **Pre-debt Registration Letter:**

There is no requirement for a Local Authority to send a further reminder once a Charge Certificate has been issued. Unless the matter is settled within 14 days of the issue of the Charge Certificate, the debt will be formally registered at the Traffic Enforcement Centre (TEC) and the matter placed into the hands of the Partnership's bailiffs who will have the right to recover the debt by seizing goods to the value thereof. No pre-debt letter is sent.

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

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

However, this is a sensitive area and each case should be treated on its merits.

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.

### **Private Property:**

Parking restrictions placed on private property may or may not be supported by a TRO; check with the TRO map schedules before proceeding onto “private” yellow lines.

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

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

If the keeper was not the driver at the time of the contravention 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').

### **Restricted Hours:**

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

1. **Permitted Parking Bays:** As per signage.
2. **Yellow Lines:**
  - a. Single: No waiting during times shown on adjacent sign.
  - b. Double: No waiting at any time except where adjacent signs indicate otherwise.
3. **Loading Restrictions – Yellow Kerb Markings:**
  - a. Two Lines: No loading at any time (loading restrictions must be signed).
  - b. One Line: During the working day or as specified by adjacent signs.
4. **Designated Loading Bays:** Indicated on adjacent sign.
5. **Blue Badge Holder Bays – Mandatory:** Indicated on adjacent sign.
6. **Bus Stop Clearways –** Usually 7.00am to 7.00pm any day but can vary – bus stops must be signed and the restrictions will be on an adjacent sign.

## **Road Signs / Markings – missing, obscured or broken.**

### **1. YELLOW LINES:**

- a. Where there is a system of yellow lines in place, a small gap will not invalidate the restriction (a de-Minimis issue). Where it is claimed that a large amount of yellow line(s) is worn away or has been covered by a highway repair the area should be immediately inspected by the Technical Team.

PCNs will not normally be issued where lines are broken or faded to the point where they are felt to be unenforceable.

- b. Where weather conditions (e.g. snow) have obscured the lines then it is still the responsibility of the motorist to check whether a restriction is present.
- c. If it is confirmed that a 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.

### **2. KERB MARKINGS: (LOADING RESTRICTIONS).**

- a. As per yellow lines above.

### **3. OBSCURED SIGNS:**

- a. 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 immediately inspected and remedial action taken. If the claim is proved to be correct the PCN should be cancelled.

- b. 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.

### **4. MISSING SIGNS:**

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

## **Royal Mail Vehicles:**

Royal Mail vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such. See "Loading" above.

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

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

## **School Bays:**

Zigzag markings outside schools can be either restricted or unrestricted (advisory markings) and are installed for the protection of the children. Any markings that are restricted are governed by the relevant Traffic Regulation Order and will have yellow lines **and** a time plate showing hours of operation. (An unrestricted/advisory area will not have a time plate but will show advisory road markings only, or even just "H"-bars in white).

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, since the markings are there for obvious safety reasons.

## **Security:**

A Police Officer in uniform 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.

## **Security Vans (Bullion Vehicles):**

Secure cash vans are occasionally required to park in close proximity to premises in order to effect safe delivery or collection of cash. They should always park without causing obstruction to the highway, and should, wherever possible, use any layby or bay which may be available. PCNs issued under such circumstances should be cancelled upon receipt of a representation from the Security

company confirming such an activity at the time, unless it can be clearly shown that the vehicle was parked for longer than was necessary.

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

## **Skips**

Highway licences, including skip licences are administered by the traffic authority – and in most cases this means the County Council. In Off-Street (public) car parks this is the Parking Partnership.

## **Suspended Bays:**

### **PARKING BAYS – RESIDENTS, WAITING, CAR PARK BAY ETC:**

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.

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.

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

## **Taxi Ranks:**

The Partnership operates a number of stands for Hackney Carriages. A notice is displayed at each rank showing its limits, how many Hackney Carriages may stand on it and any special regulations applicable.

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.

## **Time/Date Calibration of Handheld Computers and Pay & Display Machines.**

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

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

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

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

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

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

## **Uniforms – Civil Enforcement Officers:**

The Traffic Management Act 2004 Part 6, Section 76, states that “Civil Enforcement Officers, when exercising specified functions, must wear such uniform as may be determined by the enforcement authority in accordance with guidelines issued by the appropriate national authority and must not exercise any of those functions when not in uniform.”

The Secretary of State has determined that: Civil Enforcement Officers’ uniforms must be readily distinguishable from those worn by the police and Traffic Warden Services and must include the following:

1. Clear identification that the wearer is a Civil Enforcement Officer
2. Clear identification of the Local Authority on whose behalf the CEO is acting

3. A Personalised number to identify the Civil Enforcement Officer which may contain letters as well as numbers.

It is for the Enforcement Authority to prescribe the uniform to be worn, which *may* include a hat. The North Essex Parking Partnership Uniform does not include a compulsory hat or cap, but one may be worn if the officer desires. It does *not* follow that non-wearing of the hat makes a PCN unenforceable.

### **Vandalised Vehicle**

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

See "Abandoned Vehicles"

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

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

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.

### **Vehicle Not at Scene:**

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

If these match the records of the Partnership 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.

Should the keeper refuse to supply the required information written application should be made to 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 they supplied the keeper's details.

### **Visitor to Britain:**

If a PCN is issued to a vehicle displaying foreign registration plates it should automatically be recognised by the processing system as the registration number will not be in DVLA format. Consideration should be given to cancellation of the PCN but, should payment be made then it should be accepted in the normal way. Equally all correspondence and representations should be dealt with in the normal way.

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

### **Weddings**

See Funerals/Weddings above.