

Civil Parking Enforcement Parking Policy

Notice Processing Guide

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The contents of the policy are derived from current Devon County Council practices, accepted best practice, The Traffic Penalty Tribunal recommendations with regard to mitigation and good practice.

In formulating this policy due regard was paid to The Council's Equality Policy, the Council's Community Plan, the Council's Environment Strategy, the Council's Local travel Plan, The Human Rights Act and the Freedom of Information Act.

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1. INTRODUCTION

In broad terms the policy guidance has been agreed by the Devon Parking Board and incorporates best practices and recommendations made by the BPA, PATROL and the DfT's Operational Guidance for Local Authorities: Parking & Enforcement. The Parking board was comprised of officers and service managers from Devon County Council, Exeter City Council and the District Councils of East Devon, Mid Devon, North Devon, South Hams, Teignbridge, Torridge and West Devon.

The County Council have agreed best practice and, a series of guidelines for notice processing. These are designed to assist in providing a consistent approach on enforcement of waiting and parking restrictions by our Civil Enforcement Officers, and how any subsequent appeals are considered and dealt with.

This policy is primarily concerned with:

How challenges, representations and appeals are dealt with including, how the Council will endeavour to treat people fairly, equally and with respect taking full account of their personal circumstances. It is accepted that there will be circumstances where due to legislation and locality circumstances, amendments to its guidelines will be necessary.

The document will be subject to rigorous and frequent review to ensure that it reflects current best practice nationally and any changes in regulations. This in turn will enable enforcement to be carried out consistently and clearly across the County. It is stressed however that it is only guidance; each case will be assessed fairly and reasonably on its individual merits and it is not appropriate to prescribe a response for every set of circumstances. It does, however, indicate likely responses to typical representations that occur and in doing so will assist the public in understanding how their case will be approached and what evidence they should provide to support their representation.

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

Elected Members (Councillors) cannot be involved with decisions in respect of individual cases. They do not have the delegated authority to cancel a PCN and will not have access to all the evidence available or the required in-depth knowledge of legislation to make decisions. Dealing with cases is a quasi-judicial role and officers in the Parking Office have received the necessary training to enable them to

investigate cases, evaluate the evidence in accordance with the legislation and best practice guidelines, and make an informed decision.

Statutory Guidance to the Traffic Management Act 2004 states;

“Elected members may wish to review their parking representations policies, particularly in the area of discretion, to ensure consistency with published policies. However, elected members and unauthorised staff should not, under any circumstances, play a part in deciding the outcome of individual challenges or representations. This is to ensure that only fully trained staff make decisions on the facts presented”.

If a driver contacts a Councillor regarding the issue of a PCN, he/she will be directed to the relevant Parking Office. If a driver writes to a Councillor or Chief Executive of the Council, the letter will be passed to the Parking Office who will reply to the driver and send a copy to the Councillor or Chief Executive for information.

2. The PENALTY CHARGE NOTICE PROCESS

This section describes the statutory process a Penalty Charge Notice (PCN) must follow after a PCN has been issued, either affixed to the windscreen, handed to the driver of a vehicle believed to have been left or parked in contravention of a Traffic Regulation Order or served by post.

The charge must be paid within 28 working days. If the charge is paid within 14 working days, a discount of 50% is offered and the case closed.

The vehicle owner may dispute the issuing of the PCN at three stages:

2.1 DISPUTING THE PCN - INFORMAL REPRESENTATION STAGE.

There is nothing to preclude the driver/owner of a vehicle challenging the issue of a PCN at this stage. This must be done in writing to the address shown on the reverse of the PCN.

The Council will consider any mitigating circumstances mentioned in the challenge made by the driver/owner of the vehicle. Wherever possible the driver/owner of the vehicle should supply supporting evidence with their challenge to enable the Council to fully consider the case. This may include such things as:

- Pay & Display tickets
- Receipts, invoices, delivery or collection notes
- Garage invoices, AA or RAC reports (in the case of breakdown)
- Doctor or Hospital letters (in the case of illness)
- Police references (in the case of stolen vehicles or arrest of driver)

(This list is not exhaustive and copies of anything that may help support the challenge should be included.)

The Council should respond, in writing, within 14 working days of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge. The Council will fully explain the reason for its decision.

In cases where the challenge has been accepted the PCN will be cancelled.

If a challenge is rejected the written notification from the Council will give precise reasons' why this decision has been reached and should acknowledge any mitigation claimed by the author of the challenge. 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 letter.

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 the discounted period may be lost at this time. The notice of rejection should state the amount now due as payment.

The making of a challenge in no way detracts from the ability of the keeper to make a subsequent challenge prior to NtO, against the issue of the PCN to the Council or to TPT. If a subsequent informal challenge is received it must be considered by the Council as part of the challenge, representation and appeal process.

2.2 NtO ISSUED – FORMAL REPRESENTATION STAGE

If the charge is not paid *the Council will send a NtO to the registered keeper who according to the DVLA was the keeper on the date of issue of the Penalty Charge Notice.* This informs the owner of the vehicle of the outstanding charge which is payable by them and affords them the opportunity to make formal representations against the issue of the PCN and/or the NtO. The NtO will be sent no sooner than 35 days after the date of issue of the PCN, and no later than 6 months after the date of issue of the PCN.

If a written challenge is received pre NtO from the person driving the car at time of issue, and this is rejected, the NtO will be sent to the registered keeper. Information provided by the driver may be disclosed to the keeper as part of the Notice of Rejection.

From the date of NtO issue, unless registered keeper details are formally transferred, all correspondence from the Council will be addressed to the Keeper, who remains responsible. It is made clear that the registered keeper must correspond after this point in the NtO, however, on occasion the matter is passed back to the driver, e.g. fleet hire vehicles.

If the keeper identified by the DVLA claims to have sold the vehicle this will need to be evidenced prior to a further NtO being sent. A sales invoice, insurance cancelation document, copy of completed V5, or, acknowledgment from DVLA will be considered in determining the person's ongoing liability for any fine.

2.3 Making Representations

There are six statutory grounds for making representations, which are as follows

- A. The alleged contravention did not occur**
- B. I was not the owner/keeper of the vehicle at the time of the contravention**
- C. The vehicle had been taken without my consent**
- D. We are a hire firm and have supplied the name of the hirer**
- E. The penalty exceeded the relevant amount**
- F. That there has been a procedural impropriety**

It is the responsibility of the person to whom the NtO is addressed (even if they are no longer the owner of the vehicle) to make representations should they wish to dispute the issue of the Notice.

Representations should be made on one of the statutory grounds and can include any mitigating circumstances the owner wishes the Council to consider. The Council is required by law to consider any representations they receive from the owner and to reply to these within 56 days of the receipt of the representations.

The Council should send a letter to the owner either accepting their representations or sending a Notice of rejection letter to them within 21 days of receipt of the representation.

The letter from the Council must include a full explanation as to the reason for its decision. The owner then must either pay the outstanding charge within 28 days of the date the notice of rejection was served or they may opt to appeal to TPT. Failure to do either will result in the PCN progressing to the next stage. See What Happens Next below.

The owner of the vehicle should include with any representations any supporting evidence they have (see above 'Disputing the Issue of the PCN') in order to assist the Council in reaching a decision. It should be noted that failure to include such evidence may affect, or delay, the decision of the Council.

A. THE CONTRAVENTION DID NOT OCCUR

The recipient claims that the alleged contravention did not occur. This means that the PCN was issued incorrectly because no illegal parking took place. For example, an appellant may claim that the Civil Enforcement Officer was wrong because:

- i) The motorist was loading or unloading at a time when allowed but the Civil Enforcement Officer did not notice this.**

Representations are likely to be accepted if it is proven that the goods delivered were heavy, bulky or so numerous that it would not be reasonable to use a legal parking place farther away. Furthermore, such loading would need to be close to the premises concerned and timely.

However, appellants should be aware that where the prevailing Traffic Regulation Order specifically prohibits loading, on taxi ranks, bus stop clearways pay and display spaces or in car parks where a valid ticket has not been purchased then such activity is unlikely to warrant cancellation of the PCN.

ii) The motorist had a permit or ticket but the Civil Enforcement Officer did not see it.

Assuming that the valid ticket can be produced and the Civil Enforcement Officer confirms that a ticket was in evidence that could not be clearly seen then representations are likely to be accepted.

However, appellants should note that this reason will only be accepted if it is the first such representation on these grounds from that person.

Repeat claims for subsequent PCN's for the same contravention are unlikely to be cancelled.

iii) The motorist had a disabled badge on display but the Civil Enforcement Officer did not see it.

As with pay and display tickets, it is the motorist's duty to ensure that disabled badges are clearly displayed throughout the parked period. However, proof of entitlement to the Blue Badge and a first offence for that contravention is likely to warrant cancellation of the PCN at the Council's discretion (See Appendix B)

Repeat claims for subsequent PCN's for the same contravention are unlikely to be cancelled.

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

Claims of this nature will be investigated by an appropriate officer with a site visit, and the existing traffic signs and lines will be checked against the appropriate legislation. An assessment will then be made as to the validity of the PCN. Any subsequent cancellation on the grounds of incorrect signs and/or lines will result in prompt rectification of the problem. A partially worn line, utility gap or missing end bar will not normally be accepted as a sufficient reason for cancellation.

v) The date or registration number is incorrect.

The PCN should be cancelled if either of these two grounds apply. Where it is not clear from any photographic evidence that the registration number is wrong, a copy of the vehicles V5 document may be requested, to establish conclusively if an error was made at time of issue. Particularly relevant where an allegations of a 'cloned' vehicle made apply.

vi) A PCN was never served on the vehicle.

It is accepted that PCN's are sometimes maliciously removed from vehicles. The Civil Enforcement Officer should have photographic evidence to support the correct serving of the PCN where further evidence or investigations support the claim that the PCN was removed the motorist will be given the opportunity to pay at the discounted rate for a period of 14 days from receipt of the notice of rejection.

Repeated claims by the same driver that subsequent PCN's were also removed there are unlikely to be reoffered a discounted payment for subsequent contraventions.

vii) The motorist claims that the adjacent pay and display machine or cashless parking system was not working.

Claims of this nature can be verified from the service records of the appropriate machine. However, if there was another ticket machine available nearby that was working correctly and evidence confirms that other users had been able to purchase tickets at this time then the PCN is unlikely to be cancelled.

Cashless parking back office can be used to confirm sessions and availability.

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

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

B. CAR OWNERSHIP – I was not the owner/keeper of the vehicle at the time.

i) The recipient has never been the owner of the vehicle in question.

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

ii) The recipient had ceased to be the owner before the date of the contravention.

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

Where an invoice, receipt or V5 evidence cannot be supplied, evidence of transfer of car insurance to a different vehicle on or prior to date of the PCN's issue, will be considered.

iii) The recipient had become the owner after the date of the contravention.

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

C. VEHICLE TAKEN WITHOUT CONSENT

That the vehicle had been permitted to remain at rest in the parking place by a person who was in control of the vehicle without the consent of the owner representations should in this instance be accompanied with a valid police crime report reference number.

Claims that a family member or friend had unauthorized use of the vehicle will also need supporting with evidence that the police were contacted prior to or soon after the issuing of the PCN.

D. HIRE VEHICLES

THAT THE RECIPIENT IS A VEHICLE-HIRE FIRM AND —

- (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
- (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice fixed to the vehicle during the currency of the hiring agreement;

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

See section for 4.35 for details of hire agreements.

E. PENALTY EXCEEDED THE RELEVANT AMOUNT

Representations are likely to be accepted, if a wrong contravention code has been used at the time of issue by the CEO.

F. THERE HAS BEEN A PROCEDURAL IMPROPRIETY

Most motorists relying on these grounds for appeal, do so when they believe the lines or signs are at fault, or because they claim not to have received reply correspondence rejecting their informal challenges. They may also argue that not all points in the challenge were responded to fully, or that there has been a material breach of TMA appeal process or timeline. Representations are likely to be accepted if any stage of the admin process has not been fully complied with.

Non – Statutory Grounds

Although the above 6 statutory grounds will cover most of the grounds for the cancellation of a PCN, it is recognised that there are many other mitigating circumstances that occur when it would be appropriate to consider cancellation of the PCN.

Equally, in certain circumstances it would be correct for the authority to continue to uphold the penalty charge. Section 4 details some of these in alphabetical order; this

section also deals with some general policies and guidance for both enforcement issues and the processing of PCNs;

2.4 TRAFFIC PENALTY TRIBUNAL – APPEAL STAGE

In cases where the Council reject the representations made by the owner of the vehicle, details of how to appeal to the Traffic Penalty Tribunal will be included with the Council's response. Full details of how to appeal are given on the Notice of Rejection and the appeal must be submitted to TPT within 28 days of the date the notice was served.

An appeal to the Traffic Penalty Tribunal is the final stage in the process of challenging a penalty. It is not a continuation of previous correspondence with the Council, but a new process.

An appeal may be made against the Council's decision to reject the formal representations against either the PCN or the issue of the NtO.

The Traffic Penalty Tribunal is a judicial body which is independent of the Council. The parties (the Council and vehicle owner) offer evidence for the Adjudicator to consider.

The Tribunal does not investigate the matter on its own account but like a court only considers' the evidence submitted by both parties (the Council and vehicle owner).

A decision is made by an Adjudicator who decides the appeal after considering the applicable law and the evidence presented by both parties. The Adjudicator's decision in these cases is final and binding on both the Council and the appellant (owner).

Where The PCN was issued for an off-street contravention the final decision on whether to non-contest and appeal rests with the enforcing district's parking service manager. For on street appeals the decision to proceed or non-contest remains with the County Council's Parking and Enforcement officers, once they have reviewed the case summary and all correspondence related to the case from the enforcing District parking team.

3. WHAT HAPPENS NEXT?

If the owner fails to exercise their right to appeal the issue of a PCN, or having made an appeal which was dismissed, failed to make a payment within the specified period in their notice of rejection, the Council will then use the following procedures to recover any outstanding debt arising from the issue of the PCN.

3.1 Charge Certificate

If no representations are made, or representations are made and rejected by the Council or an appeal is made subsequently to rejected representations and refused by an adjudicator and no payment is then received within 28 working days, a Charge Certificate (CC) is issued. This increases the charge by 50%.

Note: At this stage the Council is not legally obliged to accept and consider any challenges or representations made by the registered keeper/owner of the vehicle, however the Council does not discourage any relevant information from being sent.

3.2 Court Action - Traffic Enforcement Centre (TEC)

If payment is not made within 14 working days of receipt of the Charge Certificate, the Council will apply to the Traffic Enforcement Court (TEC) to register the charge as a civil debt.

Traffic Enforcement Centre (TEC), is the registration point for local authorities (LAs) that are designated Special Enforcement Areas(SEA) and conduct Civil Parking Enforcement on-street issuing penalty charge notices in England & Wales* under..

- The Road Traffic Act 1991 (section 78 and schedule 6)
 - The Traffic Management Act 2004 (section 82)
- Part 75 of the Civil Procedure rules relates to the TEC.

**Registration with TEC can be transferred to the Sheriffs Court in Scotland for vehicles registered at an address in Scotland.*

The Council will send registration data through electronically and receive the guarantee that, following computer validation, the registration will be effected on the day of receipt. Authority to produce the Order for Recovery is given the same day to the Council.

TEC will then authorise the Council to issue a Notice of Unpaid Penalty Charge which increases the outstanding charge by £8.00* to cover the cost paid to the Court for registering the debt.

The Council will ask TEC for authority to prepare a Warrant of Execution if all of the following are met;

- 21 days have elapsed since service of the registration order was effected;
- Full payment has not been received
- No Witness Statement has been filed;
- No time extension for making a Witness Statement has been approved; and
- The motorist lives in England or Wales.

TEC then authorise the Council to issue a Warrant of Execution. This must be produced within 7 days of the receipt of the authorisation to do so from TEC.

This is valid for one year and a day and is passed to a Certificated Bailiff. The bailiff is appointed by the enforcing Council and will add their charges to the outstanding debt. These are strictly controlled by the Department for Justice as are the actions they can take to recover the debt. Any fees incurred by the bailiff at this stage are payable by the debtor. After the Warrant of Execution is issued, no correspondence or communication can be dealt with by the Council. These should be directed to the bailiff.

If a the registered keeper wishes to contest the Charge they must file a valid Witness Statement on a TE9 form with the TEC, within 36 days of the date of the penalty charge registration or by the date stated on the order for recovery.

Completing a Witness Statement in relation to a parking contravention:

- The Witness Statement form must only be completed by the named respondent on the order for recovery.
- There are four grounds for filing a Witness Statement in response to the order for recovery:
 - (i) I did not receive the Notice to Owner / Penalty Charge Notice
 - (ii) I made representations about the penalty charge to the enforcing authority concerned within 28 days of the service of the Notice to Owner, but did not receive a rejection notice.
 - (iii) I appealed against the local authority's decision to reject my representation, within 28 days of service of the rejection notice, but have had no response to my appeal.
 - (iv) The penalty charge has been paid in full. (paid after pcn issued and prior to witness statement being received)
- One of these grounds must be selected by ticking the relevant box. If none of the grounds applies, a Witness Statement cannot be filed. TEC will be unable to process the application if the grounds have been altered in any way.

If a correctly completed witness statement is filed with TEC within 36 days of registration, the court registration will be revoked (cancelled). **This does not cancel the original penalty charge.** The matter is referred back to the Council to decide what action they wish to take next. The enforcing Council may reset the process back to:

- Re-issue a Notice to Owner to the named respondent.
- Resend the notice of Rejection and TPT details to the named respondent.
- Where payment was received, close the PCN.

The respondent may request an extension of the time allowed to file the Witness Statement with the TEC. A maximum time period of four weeks can be requested.

'Out of time' Witness Statements

If the time limit for filing a Statutory Declaration or Witness Statement has passed, the respondent may request permission via the Court to file these forms 'out of time'.

If the Council rejects the 'out of time' application, it will be referred to an officer at TEC. This is for an impartial decision on whether the application should be granted or refused. Both parties will be informed of the result.

Following the decision by the court officer, either party may apply to have the decision set aside within 14 days of the decision being made. Completion of form TE7 is required.

If this application is accepted by TEC then the case will be transferred to the respondent's local Court and a Magistrate will review the decision made by the Officer of the court. The Court will advise both parties of the hearing date.

A representative of the Council will be required to give evidence to prove that the Council has indeed served the required documents on the respondent within the correct timescales, and ask the application for acceptance out of time be refused.

If the Council accepts the 'out of time' application it will be treated as an in time Witness Statement and the court registration will be revoked (cancelled). The matter is then referred back to the Council to decide what action they wish to take next. *See above.*

The respondent must send to TEC a completed application notice (form TE7 may be used for applications relating to Witness Statements), and a completed Witness Statement (form TE9).

These forms can be obtained from TEC by:

Telephone – 0300 123 1059 (opt 6)

Filed online - www.hmcourts-service.gov.uk/cms/tec.htmcompleteform

or by email tec@hmcts.gsi.gov.uk

There is no prescribed time limit when applying to file the Witness Statement out of time. On receipt of an acceptable application the TEC will notify the council concerned and give the Council 19 working days to either accept or reject the application.

The Council will **only suspend any debt recovery action once it is notified by the Court that an OOTWS application has been made.** The Court publishes its list daily after 4pm and issues that list by email to all Council's.

Recovery activity will be put placed on hold initially for 45 days, to allow the Court and Council sufficient time to object or approve the application and set case to the revised correct stage. Any additional 'hold' days are at the discretion of the Council, and will be determined on a case by case basis.

The Council may exercise discretion to suspend debt recovery for 7 – 14 days to allow a debtor without any online access, to contact TEC by phone to request the OOTWS be posted to them.

Further information on this recovery process can be found at: www.patrol-uk.info

**TEC fees are subject to review and may increase from stated amount.*

3.3 Financial Hardship

As a general rule the Council does not offer either extended time in which to pay PCNs nor will they enter into instalment payment arrangements. Exceptions to this are only made in cases of demonstrated, genuine financial hardship agreed by the local parking enforcement team although such arrangements cannot be considered if a warrant(s) has been issued for recovery of the amount due.

Bailiffs should consider evidence presented directly to them and determine whether a payment plan would be acceptable.

Deferred payments can only be considered against the full PCN amount £50/£70 or Charge Certificate amounts of £75/£105. The Council will need to review bank statements or other means tested benefit statements, e.g. Income Support, Pension Credit, Working Tax credits to establish levels of hardship and consider levels of engagement between the customer and Council during the challenge and appeal stages.

Once a TE3/9 has been posted deferral requests must be refused. The TE3 stipulates that it must be paid in full within 21 days or a court warrant for recovery will be issued.

Where there is evidence of non essential expenditure e.g. television subscriptions – Sky etc, online betting, frequent socialising, eating out or holidays, or a credit balance showing greater than the PCN outstanding amount, then deferring payment should not be considered.

Applications must be in writing and should be responded to within 8 working days. The application must contain a proposal for payment and be accompanied by any evidence supporting the claim of financial hardship.

The Council will agree a specified date by which payment in full is required. It will be the responsibility of the person requesting the payment man to manage their money to ensure a single clearing payment to the Council is made. Weekly visits to offices or partial payments made by cheque or online will not be accepted.

For all cases, the following procedures will normally be followed and detailed in the Council's response;

- For most single cases the maximum deferred period allowable will be 12 weeks.
- Non-payment of any cheque will result in enforcement action being recommenced with a letter stating that the arrangement is cancelled.
- Where payment by cheque is not available, payments by postal order will be accepted at the enforcing Council's offices or online by credit card.
- The Council will maintain a separate active file for each arrangement reached which, will be reviewed by a senior manager each month.

**Management discretion may allow for recent PCN debts to be settled first, or accepted at discounted rate. Numbers of unpaid PCN's and any evidence of persistent offending or not will be considered by managers in whether to apply discretion or not.*

3.4 Vulnerability – Health or Mental Health grounds

Pre Debt Registration

When a customer contacts us regarding outstanding cases and states that they suffering from a medical condition or a possible mental health issue which is affecting how they have been dealing with their current crisis, the Council must give

consideration to its obligations under the Disability Discrimination Act of 2010 and or the Mental Health Act 2005 and may exercise additional discretionary considerations, in the way the case is assessed.

To help assess the customer's current situation or circumstances during the appeal timeline, and determine how best to proceed with the case (s) the Council will need to receive a supporting statement from the persons GP confirming the following:

Whether he or she considers the named person to be vulnerable, and if our continuing to pursue the debt at this time would substantively increase the risk of deterioration to your health and or wellbeing? Yes or No

A stamp addressed envelope should be enclosed with a letter from the Council for for the customer to send/give to their GP to be able to respond with.

If the customer is unable to do this a brief letter from them authorising the Council to contact their GP or case worker, for the GP to provide information to us on their behalf, can also be considered.

The Council should also advise the caller to seek impartial advise from either the Citizens Advice Bureau or the Money Advice Service. Details for both services can be found online.

Post Warrant Issue

At this stage the customer has to communicate with the debt recovery agent about their circumstances and take direction from the appointed agent. These agents are trained individuals, who can make an assessment on the ground and report their findings back to their managers and to the Council for a decision on how to proceed. The Council has appointed debt recovery agents who train their officers on these issues and have acceptable policies on the approach to be taken in special circumstances.

4. SPECIFIC POLICY

The following sections explain how the Council and its agents should consider various issues and situations in which a driver/owner may be issued a Penalty Charge Notice when their vehicle is parked in contravention of the parking regulations. It is also intended to help to explain why the PCN was issued.

When the driver/owner of a vehicle is deciding whether or not to challenge the issue of a PCN, or the registered keeper of the vehicle is deciding whether or not to make representations on receipt of the Notice to Owner, this document may help act as a guide as to how to clearly set out their case and what, if anything, they should include with their letter to support their case.

4.1 ABANDONED VEHICLES:

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

report the vehicle as potentially abandoned and it will be dealt with by the District Council's abandoned vehicle section under the provisions of Refuse Disposal (Amendment) Act 1978.

Criteria used in identifying Abandoned Vehicles:

1. Untaxed. (DVLA's website can confirm taxation)
2. General poor condition.
3. No evidence of movement.
4. Multiple PCNs attached to vehicle.

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

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

District Council's and Devon & Cornwall Police abandoned vehicles protocols shall continue to apply and the Civil Enforcement Officers and Police Officers will fulfil their agreed specified actions in respect thereof.

4.2 Arrest – Driver Arrested

If the driver of a vehicle has been arrested and, as a direct result, has had to leave the vehicle in contravention of a parking restriction any resulting PCN will not normally be enforced unless the driver has had adequate time to safely remove the vehicle after his/her release from custody..

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

In the case of drink or drug driving offence a PCN would not normally be cancelled.

4.3 Bailiffs (Debt Enforcement Officers)

Bailiffs, as agents of the court, are court officers. One of the many functions they perform is executing warrants on behalf of the court.

To execute these warrants bailiffs are likely to need an appropriate vehicle nearby. For other activities they do not need a vehicle nearby, e.g. If they are serving a summons or warrant (not enforcing it) and in these circumstances they will be expected to comply with normal parking restrictions.

When they are taking goods bailiffs are not exempt from legislation and an official badge or permit should be displayed on the vehicle and the act of loading/unloading will normally be expected to be seen to be taking place. The Council understands however, that once goods have been seized the bailiff is required to list them before leaving the premises and this could legitimately take some time.

If no loading/unloading (or other exempt) activity is observed by a CEO a PCN will be issued.

Cancellation will be considered on the production of proof that demonstrates the

requirement for the vehicle to be parked nearby. This could be a dated and timed list of goods seized, or an arrest warrant together with a report from the court/police.

This should be included with any challenge or representation.

4.4 Bank Holidays – Restrictions Applicable

Across Devon, most waiting, loading and parking restrictions **do** apply on bank holidays. Signs will state 'except bank holidays' if the restriction does not apply.

Where signs and lines are correctly displayed it is unlikely the Council will consider a cancellation unless there is evidence that an exempt activity, such as loading or unloading, was taking place or there are other extenuating mitigating circumstances.

4.5 Bank Visits

Claims from individuals or companies that because money is being taken to, or from a bank, a PCN should not have been issued will not be accepted as an automatic reason to cancel the PCN, irrespective of the amount involved.

It is appreciated that difficulty may be experienced when visiting banks, but the exemptions that may apply in relation to bullion vehicles whilst loading/unloading large quantities of coin and cash boxes does not always apply to others. If restrictions are in place adjacent to a bank these must be complied with by all motorists.

The Council will consider cancellation of the PCN if it can be shown that the cash amount involved was coinage of a heavy and bulky nature and where other extenuating mitigating circumstances can be cited. Matters of personal safety are not the concern of the Council. The individuals themselves have to take ownership of their decisions on which bank to use and when to visit.

4.6 Bankruptcy:

Appellants making representations claiming bankruptcy will only be considered when the Trustee confirms this with the issuing Authority. Any PCN received after date of bankruptcy will be progressed as normal and to debt recovery if needs be, the appellants case can be subject to the normal "hardship" tests if needs arise"

Where PCN's were served post bankruptcy, one of the following may be applicable:

1. The Official Receiver or Liquidator is the vehicle owner so is, in theory liable under TMA2004;
2. If the debtor is the owner, this may be a breach of the bankruptcy conditions which should be reported to the Official Receiver;
3. The debtor is unlawfully obtaining credit again, so the Official Receiver should be informed.

In practical terms, unless the post bankruptcy debts are substantial, write off may be the most cost effective action. Any write offs must be authorised by the Parking Manager.

4.7 Broken down Vehicles

Claims of alleged breakdown will normally only be accepted when a challenge or representation is made if the breakdown appeared to be unavoidable at the time of issue of the PCN and if supporting evidence in the form of one or more of the following is produced:

- Garage receipt, on headed paper, properly completed and indicating that the fault was repaired within a reasonable time of the contravention.
- Invoice or receipt for the purchase of relevant spare parts bought at the time.
- Confirmatory letter from the RAC, AA or other similar motoring organisation that they attended the vehicle on breakdown.
- Confirmation from the CEO that the vehicle was obviously broken down.

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.

Listed below are some areas that arise in many cases where it is claimed the vehicle has broken down:

4.7.1 Flat Battery

- The receipt for the purchase of a new battery or parts that could cause a flat battery (alternator, solenoid etc.) should be supplied wherever possible. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.
- In cases where it is alleged that the vehicle was bump/jump started and no other evidence is provided, the PCN will not normally be cancelled.
- If no evidence is forthcoming, the PCN will not normally be cancelled.

4.7.2 Flat Tyre

- It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle's wheel. If the vehicle is left unattended a PCN may be issued and will not be cancelled unless there is sufficient compelling mitigating evidence about the individual involved that merits use of our discretion to cancel
- If the wheel could not be changed because of mechanical difficulty, evidence should be produced from the attending breakdown service supporting this.
- Failure to carry a spare wheel is not normally sufficient reason to cancel a PCN, the Council accepts that not all car manufacturers now supply a spare.

4.7.3 Overheating

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

4.7.4 Running out of Petrol

- Unless this is due to a mechanical/ electrical failure and evidence is provided of the fault/repair, the Council will not normally cancel the PCN.

Note: If it is apparent from previous Council records that the same driver has made multiple claims that their vehicle has broken down, this will be considered when deciding on whether or not to accept their representations.

4.8 Builders / Tradesmen

Parking in contravention of the regulations will normally only be considered acceptable by the Council whilst the loading/unloading of tools and materials is taking place. At all other times the vehicle should be moved to a permitted parking area and parked in accordance with the regulations.

When considering any challenge or representation made in these circumstances notes made by the CEO will be checked and the challenge/representation should be accompanied by some form of supporting evidence wherever possible.

4.9 Bus Stops

Bus stops can either be restricted or unrestricted:

- Restricted: A restricted bus stop will be marked with yellow lines and traffic signs. In Devon most bus stops are restricted; they are operational either 24 hours a day or from 7 am to 7 pm. Some bus stops are seasonal only (May to October).
- Unrestricted: An unrestricted bus stop will not have a traffic sign but may be marked with advisory road markings. These are being phased out in Devon.

In cases where a PCN is issued to a vehicle other than a bus, waiting in a restricted bus stop the PCN will not normally be cancelled.

4.10 Care Organisations, Carers

Numerous care organisations are operating within Devon County Council as a result of contract arrangements with Social Services and the Local Health Authority as well as privately arranged care. The Council has now made available a template for these peripatetic staff to display when working at a patients home providing care.

The exemption permit cannot be used by care home staff who are based at a single location for the duration of their shift or working day, nor to attend company/NHS office bases or meetings.

To be considered as a valid notice, it must show a logo of either the NHS or care trust, a company logo of a private professional care service provider. Also shown should be an office contact number to verify where their employee is working and the nature of service or care being provided to their client, or a contact number of the driver of the car.

Exemptions for Carers only apply to **limited waiting or resident only parking spaces and Pay and Display* spaces (from Summer 2015)**

We do not normally exempt these individuals from parking on double or single yellow lines. Under emergency circumstances, if a PCN has been served to a carer's vehicle parked in contravention of yellow lines or zonal restrictions, additional discretion will be afforded to the carer, if supporting written evidence from a supervisor or line manager is provided.

The County Council also issues its own Essential Visitor Permits allowing genuine carers, often family members to park within Residential Parking Zones to enable them to provide care or additional support for relatives.

Permits are issued upon application, and must be supported by an official declaration from the resident about the level of permanent care they receive and frequency of visits to their home. Any abuse of such permits will result in them being withdrawn immediately.

4.11 Challenges / Representations accompanied by Payment

Drivers are advised not to challenge and send payment at the same time as this may prejudice their right to further appeal.

Where a payment is received with a challenge to the PCN. The cheque will be returned to the respondent with an acknowledgement letter explaining, that acceptance of the payment at this time would automatically close the PCN, and their right to the formal representation stage and an independent adjudication would be lost.

It will further explain that the opportunity to pay at the reduced will be re-offered for a further 14 days from the date of any notification of rejection of their challenge.

If that challenge can be considered the same or next day, the cheque may be returned with the letter of rejection, for re-submittal by the respondent if they accept liability for the PCN.

Note: The Challenge of the issue of a PCN at this stage does not prevent the owner of the vehicle making formal representations (either on similar grounds or different grounds) on receipt of a Notice to Owner.

The Council must act in good faith and deal with the challenge/representation in a fair and equitable manner.

4.12 Clamping & Removal:

The District Councils have the power to clamp and subsequently remove vehicles parking in contravention of parking restrictions in off street Car Parks.

It is not the intention to carry out Clamping & Removal in Devon on-street at this time as the current Traffic Regulation Order does not make provisions for it. This decision may be reviewed in the future, and would be subject to approval by the Council's Cabinet members and a period of pre awareness advertising by various means of media across the County of any fee's, charges and procedures.

4.13 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 letter or formal written notice of acceptance or rejection will be sent within the stipulated timescales.

Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with by the Parking Operations Team leaders or Manager. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescales. Serious allegations and complaints may be escalated in the Council's Corporate complaints procedure.

4.14 Council Officers and Councillors (Elected Members) on Duty

The Council expects all its employees, and elected members, to observe parking Restrictions at all times.

Unless the vehicle is being used for the purpose of enabling the Council or its contractors to perform a statutory duty, or for carrying out essential works, the vehicle driver must abide by the normal regulations.

Should an officer or employee receive a PCN on their vehicle any request for cancellation will not normally be considered unless accompanied by a letter from the Head of Service or his/her deputy explaining the reasons for such a request.

4.15 Court Attendance

Jury Service or Witness

The length or timing of any court hearing or trial cannot be guaranteed. Often jury members and/or witnesses will find that they are unable to leave court to move their vehicle or purchase further pay and display time in a parking bay or a car park. This may therefore lead to a PCN being issued for overstaying the time purchased.

Courts issue clear instructions to all jury members and witnesses advising them how and where they should park. They do not usually recommend the use of on street pay and display parking bays or 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 Council will not normally consider the cancellation of PCNs unless evidence is

produced to support the fact that the driver was delayed to an extent that could not have been reasonably foreseen i.e. moved to a hotel overnight.

Defendants

The conditions applying to jury members and witnesses apply to defendants too.

However, there have been instances when a defendant has been given a custodial sentence and, as a direct result, is unable to remove their vehicle. In such instances the Council will expect that the vehicle will be removed as soon as is reasonably possible, by the defendant's family, friends or legal representatives.

Any PCN issued in such circumstances will not be enforced providing the defendant's legal representative supplies supporting evidence.

4.16 Delays

Shops or banks:

Routine delays in shops or banks regularly occur and drivers should allow sufficient time to take into account extra time for queuing at tills and checkouts. PCNs will not be cancelled as a result of routine delays, but may be considered if the delay arose from an unforeseen emergency situation. Additional evidence of the emergency may be required.

PCNs will not usually be cancelled where the vehicle was parked on yellow lines or in any other location where parking is not permitted.

4.17 Dental / Doctors Appointments

In cases where a claim is made that, the scheduled appointment time was delayed, or that treatment took longer than anticipated, the Council will consider cancellation provided there is evidence to support this.

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, in the case of overstaying paid for time, the Council must be satisfied that the parking time purchased was reasonably sufficient to allow for any normal delays experienced whilst attending such appointments.

4.18 Description of vehicle on the PCN

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

Incorrect colour:

The inclusion of the colour of the car is not a statutory requirement when issuing Penalty Charge Notices. PCN's will not be cancelled if the colour description does not match that returned by DVLA or photographed.

Incorrect make:

Although many manufacturers produce different models that look very similar it would be very difficult to enforce a PCN issued to a Vauxhall which turned out to be a Ford. In such cases serious consideration must be given to cancelling the PCN.

Tax Disc Number:

Not a statutory requirement when issuing a PCN, also from October 2014 tax discs will no longer need to be displayed in Vehicles.

4.19 Diplomatic Vehicles

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

• 'D' PLATES:

PCNs issued to 'D' plate vehicles should automatically be cancelled upon input to the processing system although, should the driver subsequently decide to make payment, it will be accepted. Details of these PCNs will be taken up with the Foreign & Commonwealth Office and payment may be obtained later.

• 'X' PLATES:

In effect these PCNs should be cancelled upon input. If correspondence is received from the driver and enforcement seems appropriate a request for payment should be made.

4.20 Disabled Drivers/Passengers

Blue badges are issued to a disabled person, whether or not they drive a vehicle, and can be used by either a disabled driver or a disabled passenger. The badge can only be used when the vehicle is being used to transport the disabled person it was issued to. It is not permitted to use the badge for any other purpose

e.g. shopping for the disabled person when they are not being transported in the vehicle, or for parking outside the disabled badge holder's premises.

In normal circumstances the blue badge holder **MUST** be in the vehicle when the vehicle is parked and when it is driven away and if this is not the case, the driver should explain the reason why.

Blue badges must be clearly and properly displayed whilst the vehicle is parked. Failure to do so may result in a PCN being issued for the contravention of the relative parking restriction.

Providing the Disabled Badge is clearly and properly displayed the vehicle transporting the badge holder can park:

- In most designated disabled parking bays on-street, free of charge and without time limit. Some disabled bays are subject to a maximum stay limit, if this is the case this will be shown on the sign. In this case, the time clock must be set to

the time of arrival and displayed alongside the blue badge.

- free of charge in some car parks (signs in car parks will indicate whether blue badge holders are required to pay or not).
- on single or double yellow lines for up to three hours and providing that the vehicle is not causing an obstruction (the clock should be displayed and set to the time of arrival).
- In pay and display bays on-street free of charge and without time limit.
- In resident bays on-street without time limit

Disabled badge holders are not allowed to park in any area where there is a loading restriction in place, indicated by kerb markings (blips or chevrons) and a sign. Parking must always be in accordance with the Blue Badge Scheme.

If the driver of a vehicle parked on yellow lines is waiting for the badge holder, and is not displaying the badge and clock because these are with the badge holder, the CEO will allow an additional observation time for the disabled passenger to arrive.

The Council will not normally consider cancellation of a PCN issued to a vehicle parked in contravention of the parking regulations if the vehicle is parked:

- on yellow lines (single or double) with blips or chevrons on the kerb (and signs) indicating that waiting and loading is not permitted or
- in any other restricted area (e.g. school keep clear "zig-zag" markings, pedestrian crossings, loading bays, bus stops and bays reserved for specific users such as Police bays and Taxi Ranks).

However, in the case of other contraventions, if the blue badge is not displayed, cancellation may be considered on the first occasion if a copy of the valid blue badge is supplied with the challenge letter or formal representations. (See Appendix B)

4.21 Discretion

The Secretary of State for Transport considers that the exercise of discretion should, in the main, rest with back office staff of the Council as part of considering challenges against PCNs and representations against a NtO.

This is to protect CEOs from allegations of inconsistency, favouritism or suspicion of bribery. It also gives greater consistency in the enforcement of traffic regulations.

CEOs employed by Devon County Council may exercise some discretion during the observation period, but are instructed to issue a PCN to a vehicle whenever they believe a contravention has occurred. They must advise any driver/owner who disputes the issue of a PCN to challenge the issue with the Council (in writing) at the address supplied on the reverse of the PCN.

The Council is required to consider any mitigating circumstances that a driver raises in their challenge or representations, and will do so.

Elected Members are not permitted to intervene in individual cases as this would be considered as interference with a judicial process.

4.22 Dispensations & Suspensions

Applications for on-line daily dispensations must be received at least 1 working day prior to the required date and must be made via the County Council's Parking Web pages on line or via the call centre.

Applications for yellow line restrictions, pedestrian and restricted zones will need to be approved either by the enforcing District's Parking team, or a County Council Parking team member. In the City and other towns with pedestrianised shopping areas, the town centre manager's office may also need to be consulted prior to granting the dispensation. The enforcing Council's decision is final.

If granted, dispensations will be issued to the applicant by way of written authority, which must be clearly displayed on the vehicle whilst parked. CEOs and back office staff have access to the database of dispensations applied for.

A charge, per vehicle per day, may be made except in the cases of Wedding and Funeral vehicles.

Annual Contractor and landlord letting agent permits are also available, subject to meeting the Council's criteria. Further information is available on the website. These permits require pre-registration and evidence of the business, prior to being given approval to purchase these permits. The Council currently recommends that the customers allow at least 7 days from submission of their registration form for that application to be processed. If granted the customer will be advised and they can then purchase their permit online. It should be received within 3 days of payment for the permit.

Failure to display a dispensation in accordance with the terms and conditions of use, will result in a PCN being issued. It is unlikely that any PCN will be cancelled for failing to display a dispensation or abiding by its conditions for use on street.

Suspensions

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

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

Deadlines for applications for a suspension varies subject to the nature of the activity to be undertaken. Full details are available on the Council's website.

The Council's decision is final.

If granted suspensions of parking bays / spaces will be clearly signposted by means of temporary signs and traffic cones which will indicate exact location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least 7 days before the suspension comes into operation. Further all adjacent properties will receive advanced notice of the suspension.

Any vehicles in an affected length of road before the suspension notices were put up, or when the cones are deployed should be logged by CEO's and those details passed to the notice processing team.

Vehicles parked in contravention of an active suspension will receive PCNs.

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

Challenges to PCN's issued for suspended areas will be considered if the vehicle owner;

- Lives adjacent to the suspended area, and was away on holiday at the time notification of a suspension was given and occurred;
- Notices advising of a suspension were not put up in advance of suspension or were not in place at time of suspension;

If the notice is posted and distributed after the keeper departed on holiday then any PCN issued should be cancelled. Evidence must be provided showing departure date and time (i.e. Flight tickets etc.). This should be compared with records relative to the display and distribution of the notices. In essence the Suspension cannot operate retrospectively.

4.23 Doctors, District Nurses, Health Visitors

Doctors, nurses, midwives and other health professionals are, wherever possible, expected to park legally in accordance with local restrictions. Should a PCN be issued it will normally only be cancelled upon evidence that there was an emergency situation and the driver was not therefore able to park legally.

Doctors, nurses, midwives and other health professionals are given further exemption by the current TRO, provided they conform to the requirements of the articles and correctly display their exemption notice on the dashboard.

It should be noted that regular or programmed visits are not usually considered to be an emergency, however palliative care providers will be given additional discretion when considering the circumstances under which a PCN was issued.

The Council may introduce a formal scheme to identify carer's, doctors, nurses and social workers at a future point where they will be provided with a Badge which must be displayed when conducting home visits to patients.

4.24 Drink and Drug Driving (arrest for)

If the driver of a vehicle has been arrested for drink driving or driving whilst under the influence of drugs and, as a direct result, has had to leave the vehicle in contravention of a parking restriction any resulting PCN will not be cancelled.

4.25 Dropped or Raised Kerbs

Crossovers (dropped or raised kerbs) are placed on the footway or the carriageway to assist –

- Pedestrians crossing the carriageway
- Cyclists entering or leaving the carriageway, or
- Vehicles entering or leaving the carriageway

These dropped kerbs will be enforced in the normal manner. Tactile kerb stones should be visible in photographic evidence to establish it is a crossing place, or cycle lane access place.

PCNs issued to vehicles parked in contravention will not normally be cancelled unless there is proof of an exemption or extenuating mitigation.

4.26 Dropping Off or Picking Up Passengers

Except on designated clearways, school restrictions and pedestrian crossings a vehicle is allowed a reasonable amount of time to drop-off or pick up passengers irrespective of any waiting or loading restriction in force. There is no defined time restriction on how long this may take, but it must be completed as soon as reasonably possible. The time taken can differ according to the circumstances.

Therefore should a driver/owner dispute the issue of a PCN claiming that they were dropping off or picking up passengers they should endeavour to supply as much relevant information as possible to support their claim.

4.27 Double Parking

Double parking is a contravention under the Traffic Management Act 2004 and can cause considerable congestion. The definition of double parking is that:

“ the vehicle is parked more than 50cm from the kerb and is not within the markings of a designated parking bay. ”

Devon County Council does not currently actively enforce double parking contraventions unless the vehicle is parked in a manner to cause a hazard to other road users or pedestrians or considerable congestion.

A PCN issued for this contravention will not normally be cancelled.

4.28 Estate Agents

Estate agents visiting a client's property are not exempt from parking restrictions and should park according to the restrictions in force when attending for valuation or viewing visits. The Council does now provide a dispensation permit to agents for visits.

PCNs will not normally be cancelled unless evidence is provided to show that the visit was due to some form of emergency (such as water leaks in rental or unattended properties).

4.29 Exempt Vehicles

The Traffic Regulation Orders for Devon allow for vehicles carrying out certain activities to be exempt from the parking regulations whilst carrying out these activities. This includes:

- Emergency vehicles
- Loading/Unloading
- Picking up/Dropping off passengers
- Carrying out statutory duties
- Delivery and Collection of postal packages
- Disabled Drivers

The above list is not exhaustive and the Traffic Regulation Orders that list all exemptions can be viewed at www.devon.gov.uk

Should a driver/owner of a vehicle believe that at the time a PCN was issued the vehicle was entitled to an exemption they should include any supporting evidence they have with their challenge or representation to support their claim. In the absence of any documentary proof they should set out all details of the circumstances they wish to be considered by the Council.

4.30 Funerals and Weddings

Vehicles actively involved in a funeral or a wedding (the hearse or bridal car) will be given due consideration and respect and PCNs will not normally be issued. Vehicles belonging to mourners or wedding guests should not park in contravention of any yellow line restriction.

4.31 Garages – Vehicles left Unattended

Where a vehicle has been left in the charge of a garage or vehicle workshop for maintenance work to be carried out, the vehicle's registered keeper is still legally responsible for any PCN issued during that time.

If a garage employee parks a vehicle on a highway in contravention of a parking restriction, whilst work is being carried out on the vehicle, or to facilitate vehicle movement within the workshop, any dispute regarding responsibility for the PCN and its payment is a civil matter between the owner and the garage/workshop.

The Council will not normally cancel a PCN issued in these circumstances.

4.32 Glaziers

Claims from glazier companies that a vehicle needed to be parked close to the location of an emergency repair will be treated leniently providing it is confirmed, either from the CEO's notes, that such activity was taking place at the time of the issue of the PCN, or supported by documentation included with the challenge or representations.

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

4.33 Hackney Carriages, Private Hire Vehicles:

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

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

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

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.

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

4.34 Hazardous or Toxic Substances

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

The CEO notes should demonstrate the length of observation time given, and a PCN would not be issued if activity had been witnessed during the observation period.

By their nature, toxic or hazardous material may require extra care in their handling which would exceed the usual observation periods and require additional discretionary leniency. Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

4.35 Hire Agreement

The legislation allows that, in the case of a hired vehicle, hired 'under a hiring agreement as defined by section 66 of the Road Traffic Offenders Act 1988, responsibility for a PCN is that of the hirer of the vehicle at the time.

In this case, the responsibility does not rest with the registered keeper, the hire company, providing they make formal representations to the Council once the NtO is received. A new NtO should be served on the named hirer of the vehicle.

The Road Traffic (Owners Liability) Regulations 2000 prescribes exactly what details a hiring agreement and the Statement of Liability must contain.

. In all cases this agreement must clearly state:

- The name and address of the hirer,
- The hirer's date of birth,
- The hirer's driving licence number,

- the start and finish dates for the hire period,
- a statement regarding the hirer's liability for any PCNs incurred during the hire period and,
- the hirer's signature.

Should any of the foregoing be unclear, missing, or in contradiction of the date/time of issue of the PCN, liability of the PCN will return to the registered keeper of the hire vehicle and the PCN will not normally be cancelled. The representation must be accompanied by a copy of the relative hire agreement.

4.36 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 Visitors permit in a residential parking zone:

Consideration to cancel the PCN should be given where evidence of the holiday is provided as part of an incoming challenge. E.g flight or train ticket, hotel booking confirmation/ receipt.

4.36.1 Residential Zone Parking using a Visitors Permit:

It is sometimes the case that friends, holidaying together, will use one vehicle and the second vehicle is parked for the duration of the holiday. This occasionally results in a vehicle, belonging to a non-resident, being left in a Residential Parking Zone displaying a visitor's permit.

Visitor's permits are designed for genuine visitors to a resident's property and are valid for one day only. Display of permits completed in advance is considered to be invalid and PCNs will be issued for this reason.

The Council considers these vehicles belong to people who are not genuinely visiting the residential property and, therefore, the PCNs will not be cancelled.

4.37 Hospital Car Service

The display of a "Hospital Car Service" badge does not automatically exempt the holder from parking restrictions. However, in cases where a vehicle is being used for such activities, any representations or challenges against the issue of a PCN will be given due consideration.

Generally such consideration will extend to:

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

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.).

4.38 Loading / Unloading

Loading and unloading implies ‘an item or items of bulk which cannot easily be carried whilst being taken to and from a vehicle’.

Vehicles are permitted to park in contravention of waiting restrictions (single or double yellow lines) or in permitted parking bays whilst carrying out the activity of loading and unloading heavy or awkward items or the delivery and collection of goods as part of a business activity.

Normally such activity will be observed by the CEO as in most cases a minimum observation period of 5 minutes will be given before a PCN is issued. However, there will be those occasions when, due to the nature of the loading/unloading or delivery/collection activity, nothing will be seen and a PCN will be issued.

In cases where a driver/owner challenges the issue of a PCN as they were loading and unloading or involved in a delivery or collection, either at the informal challenge or representations stage, they should, wherever possible include documentary evidence to support their claim. This can include paperwork such as:

- Signed delivery/collection notes
- Delivery round records
- Till receipts (in the case of personal purchases of heavy/bulky goods)

Generally a maximum of 20 minutes 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.

Due allowance should be given to allow the driver to complete delivery paperwork.

Where a PCN is issued a challenge will be considered if supported by evidence confirming that the driver was delayed or was involved in moving heavy goods.

It should be noted that, except in exceptional circumstances, loading and unloading does not include the picking up or dropping off of shopping. Exemptions for loading/unloading may apply if the motorist can demonstrate that the use of the vehicle was necessary rather than convenient.

4.39 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 may be deemed to be a material error and the PCN should be cancelled.

4.40 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, the Council will consider the cancellation of the PCN if the driver/owner of

the vehicle supplies details supporting evidence such as confirmation of attendance of ;

- the Police
- motoring organisations, or,
- a garage to give assistance.

In all cases, it is expected that the driver removes the vehicle within a reasonable period of time, usually 24 hours. If removal has taken longer than this the reasons for the delay should be explained and each case will be considered on its own merits.

4.41 Misspelling of Keeper's name

The misspelling of the keeper's name and/or address on the NtO does not invalidate it or discharge the liability of the person receiving it as the name and address is, in most cases, obtained from the DVLA as supplied by the keeper themselves and it is incumbent upon the keeper to ensure that these are correct. Therefore, the onus is still on the genuine keeper to deal with the matter.

4.42 Mitigating Circumstances

Every case will be treated on its individual merits and particular circumstances are referred to elsewhere within this document. The following guidelines also apply:

Children/elderly people - Claims are sometimes made that drivers accompanied by young children or elderly people, were delayed because of them. Again this will not normally be considered a compelling reason to cancel a PCN because drivers should allow for this when purchasing parking time or when choosing to park in a short-stay pay and display bay.

Delays - Delays due to queues at shops, banks etc., meetings taking longer than expected, caught up in crowds etc., are not usually considered as compelling reasons to cancel a PCN. Drivers should allow for such delays when purchasing parking time, as they are a regular occurrence and part of normal life.
(See "Emergencies" below).

Emergencies - An emergency is an unforeseen situation that prevented the driver from moving their vehicle. They are frequently of a medical nature, however, can include a variety of situations where the driver could not have reasonably foreseen or prevented the situation and each will be dealt with according to the individual circumstances.

Schools - Claims that PCNs issued whilst children were being dropped-off or collected from schools etc., will not normally be cancelled unless a reasonable amount of observation time was not given by the CEO. The normal 5 minute observation period should normally be enough time in such circumstances.

Toilet visits - Claims that the driver or passenger had to visit a toilet will not normally result in the cancellation of a PCN unless there is evidence that a medical condition necessitated such a visit. Wherever possible any such claims should be supported by independent evidence.

4.43 Motorcycle Bays

Motorcycles and scooters are legally defined as powered two wheeled vehicles and there are a number of options for parking in the County. On street, motorcycles are currently exempt from payment and time limits in pay and display and in resident bays. They should however adhere to any maximum length of stay stipulated on the signage adjacent to where they have parked.

The Council encourages permit holders with motorcycles to park at right angles to the kerb in order to maximise space in the permit bay, but this is not compulsory and cannot be enforced.

Motorcycles may not park on yellow lines, on the footway, at dropped kerbs marked with a yellow or white line and in bus lanes, or on the pavement. The pavement is defined as an area over which pedestrians have the right of access and this includes the edge of the pavement close next to buildings and pavement lights close to buildings.

Motorcycles may only park on the pavement if the area concerned is private property, and in these cases the area should be separated from the remainder of the pavement, preferably by bollards, inset kerb or surface treatments, indicating that this part of the pavement is private land.

CEO's must exercise caution when securing a PCN on to a motorcycle/bike so that it can be readily seen by the owner to avoid causing any damage to the vehicle.

4.44 Pay and Display Machines

Pay and Display machines are linked to a back office computer and are checked on a daily basis to ensure they are working correctly. CEO will check to ensure the machines are working correctly and will obtain a test ticket from the machine adjacent to on street spaces before issuing PCNs to any vehicle not displaying a ticket.

Where a claim is made that a machine is not working, the CEO's notes and machine test tickets will be checked. If it is confirmed that the machine was not working at the time then consideration will be given to cancelling the PCN. It should be noted however, that if a driver/owner parks in an area and a machine appears not to work, if there is an alternative machine in working order in the close vicinity, then it is reasonable to expect that the driver use this machine.

Pay by Phone is also available, drivers can reasonably be expected to use their mobile phone to purchase parking time.

4.45 Pay and Display Tickets or Pay By Mobile Phone

Pay and display requires the purchase of a ticket at the time of parking for the amount of parking time required. All tickets display the ticket machine number, expiry date and time along with the fee paid and a unique serial number. On street, the tariff is displayed on the machine itself.

Pay and display tickets must be:

- Clearly displayed in the front windscreen throughout the paid for period whilst the

vehicle is parked.

- For the appropriate day (as displayed on the ticket).
- Un-expired.
- For the zone, or street, indicated

PCNs may be issued for:

- Failing to display a valid ticket.
- Displaying a ticket that has expired.
- Parked beyond the 10 minute grace period after expiry of the ticket.

It is the driver's responsibility to ensure the pay and display ticket is correctly displayed in the windscreen of their vehicle prior to leaving the area and the Council will not normally consider cancellation of a PCN issued for failing to display a pay and display ticket.

Customers may pay for the parking requirements by means of a mobile phone with the Council's cashless parking service provider. Payment must be made for the required parking period before leaving the vehicle unattended in the parking space.

It should be noted that the law does not allow drivers to leave their vehicle parked to go and get change for the meter/machine and the driver should have adequate change to pay for their parking time at the time of parking. Nor does it allow a grace period before payment should be recorded by the cashless parking service.

Therefore challenges or representations made on the grounds that the driver had gone for change, or had not yet placed a phone call to pay the parking charge will not normally be accepted.

4.46 Penalty Charge Rate

The PCN rate has been set by the Department of Transport at £70.00 or £50.00 for both on and off street contraventions.

This differential penalty charge has been introduced so that lesser contraventions (usually where parking is normally permitted) carry a lower charge, but more serious contraventions (usually where parking is prohibited) carry a higher charge.

Please see Appendix A for a full list of contraventions with their rates.

Any increase in charges will have to be approved by members of Devon County Council together with the endorsement of Central Government. If paid within 14 days of issue the PCN rate is discounted by 50% to £35 or £25 respectively and payment of this amount will be accepted in full settlement.

Should the CEO be prevented from affixing the PCN to the vehicle or handing it to the driver, provision has now been made in law for the Council to obtain the name and address of the registered keeper from DVLA and serve the PCN by post. In this case the discount period is extended to 21 days after the PCN has been issued. Devon County Council does when appropriate serve PCNs by post

4.47 Permits

RESIDENT'S PERMITS:

A resident's permit is issued to a vehicle that is "kept" (registered to an address) within the parking zone and is accompanied by 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 printed on its face.

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.

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. Permit details may be used to serve a notice to owner if the DVLA are unable to provide keeper details, and the PCN has not been challenged.

The terms and conditions of issue of a permit required the permit holder to be the registered keeper of the vehicle for which a permit is issued. Permit holders sign to accept the T+C's at time of application and purchase.

VISITORS PERMITS:

Visitor permits are obtained by residents and issue to genuine visitors to their homes. Full instructions on how to use and display them are printed on the permits. Permits are valid only within the zone printed on its face.

Failure to display a visitor 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.

Use of a permit within another zone, on a vehicle other than that indicated on the permit and on a date other than that indicated on the permit is also 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.

BUSINESS PERMITS:

These may be issued to companies/traders that are actively involved in, genuinely, carrying out their businesses within the Residential Parking Zones.

They are subject to the same terms and condition of use as Resident's permits.

ACCESS, DISPENSATIONS & ANY OTHER PERMITS:

Failure to display any permit in full compliance of the terms and conditions of its issue or use is a contravention, and will result in a PCN being issued. The PCN should not be cancelled unless there are acceptable mitigating reasons why the permit was not displayed or being used correctly.

4.48 Photographs

Photographs are NOT a legal requirement. However, in an effort to ensure that the PCN has been correctly issued, and to assist the Council and the vehicle driver/owner when a challenge or formal representation is received, CEOs are instructed to take several photographs of the vehicle at the location when the PCN is issued. These photographs will show the position of vehicle, the road markings and nearby relevant road signs (and where possible, the vehicle in relation to those signs). They will also show the PCN affixed to the windscreen of the vehicle.

When a challenge or formal representation is received these photographs will be examined in order to assist the Council reach its decision and, should the matter proceed to an appeal to an Adjudicator, will be provided as evidence at any appeal.

4.49 Plumbers, Electricians, Gas Fitters

The normal exemptions for loading and unloading apply to tradesmen carrying out work or repairs on private premises. However, in some cases a tradesman will be attending what is classed as an emergency situation.

It should be noted that an emergency is considered to last as long as it takes to make the premises safe, i.e. turn off the main supply.

In cases of loading and unloading, and in an emergency, the tradesman is expected to move the vehicle to a permitted parking place after the exempt activity has ceased and before any subsequent repairs are undertaken.

There is no exemption for tradesmen to have their vehicle parked in contravention purely to have their vehicle readily available to move goods or tools from it throughout the day.

Wherever possible any claim by a driver/owner of a vehicle that they were loading or unloading, or attending an emergency, should be supported with some form of documentary evidence.

Dispensation permits may also be applied for when undertaking planned or other regular maintenance or repair works. These are subject to approval by the Council, and if the applicants have met the required criteria for a dispensation to be issued.

Failure to comply with any of the above will result in a PCN being issued. Supporting evidence of any mitigation must be provided before the PCN can be considered for cancellation.

4.50 Police Officers, Ambulances or Firemen on Duty

PCNs will not normally be issued to marked emergency services vehicles, crew or officers when on emergency duties.

Official duties do not extend to crews or officers availing the use of banks, cash points or other services for their personal use or benefit whilst on duty.

Requests for cancellation of any PCN issued to either an unmarked Police vehicle or an Officer's private vehicle should be made by the Officer's area Superintendent or

equivalent. Any such request should contain confirmation that the Officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

4.51 Pre-debt Registration Letter

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

4.52 Pregnancy – Mothers with Young Children

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

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

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

4.53 Private Property

Parking restrictions placed on private property are not the concern of Devon County Council and are outside the scope of its enforcement operation. Private landlords, residents etc. can impose any reasonable restriction on their own property i.e. the need for permits, clamping etc. Enforcement of such restrictions is also their responsibility although it may be subcontracted to other companies.

Devon County Council cannot deal with any queries in respect of parking tickets issued on private property.

4.54 Public Utility Vehicles

A public utility vehicle is any vehicle involved in the mains supply of gas, electricity, water or telecommunications. These vehicles are usually exempt from restrictions if:

- The vehicle is on an emergency call and is actually involved in the emergency work.
- The vehicle is involved in non-emergency maintenance of apparatus.

Consideration for cancellation of a PCN issued to a utility company vehicle, whilst carrying out one of the above activities, should normally be supported with documentary evidence.

4.55 Registered Keeper's Liability

Under the Road Traffic Act 1991 the responsibility for any PCN rests with the Registered Keeper of the vehicle as recorded at the Driver & Vehicle Licensing Agency (DVLA).

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

4.56 Restricted Hours

The hours during which restrictions are in force may vary. Generally restrictions are as follows:

Bus stop clearway -Marked by a yellow bay together with a thick yellow bar through the back of the bay and indicated on adjacent sign. "Bus Stop" is written in the bay.

Designated loading bays -Marked by white lines and indicated on adjacent sign(s). "Loading only" is written alongside the bay.

Disabled bays – on street, these are marked by white lines and indicated on adjacent sign(s). "Disabled" is written alongside the bay.

Loading restrictions – yellow kerb markings:

- a) One line: During the working day or as specified by adjacent signs.
- b) Two lines: No loading at any time.

Police bays -Marked by a yellow box and indicated on adjacent sign (black lettering on yellow background). "Police" is written in yellow alongside the bay.

Yellow lines:

- a) Single: No waiting during times shown on adjacent sign
- b) Double: No waiting at any time. Signs are not required for Double Yellow Lines.

Where a PCN is issued to a vehicle parked in contravention of a restriction, cancellation will not normally be considered unless the driver/owner of the vehicle is able to demonstrate that an exemption to the restrictions applied at the time of parking or that there were extenuating mitigating circumstances.

4.57 Road Signs / Markings – Missing, Obscured or Broken

Challenges and formal representations may be received stating that the yellow lines, or white lines (in the case of designated parking places or pedestrian crossings) are missing or obscured or the corresponding signs are either similarly missing or obscured.

In these cases, the photographs taken by the CEO at the time of issue of the PCN, together with his/her notes made at the time, will be checked. If there are no obvious discrepancies and the signs and lines are clear, the PCN will not normally be cancelled.

However if it is not clear as to the condition of the yellow or white lines or the signage is not clear then the Council will carry out a site check to ascertain the state of the lines and signs prior to considering its decision.

Where claims are made that the lines were obscured due to conditions such as leaves, snow or sand at the time of parking, again the photographs taken by the CEO will be viewed and a decision will be made on the evidence available.

4.58 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 are actively involved in such an activity. Cancellation of a PCN will normally only be considered if written confirmation is received from a senior manager that the vehicle was actively involved in the collection/delivery of mail.

4.59 School Keep Clear Markings

Zig-zag markings outside of schools are installed for the protection of the children and are marked with yellow zig-zag line and the words 'SCHOOL KEEP CLEAR' on the road with a time plate displaying the times of restriction nearby.

Any vehicle parked in this restricted area, during the times shown on the plate, may be issued with a PCN and this will not normally be cancelled.

4.60 Security

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

4.61 Security or 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. 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.

4.62 Suspended Bays

PARKING BAYS – RESIDENTS, BUSINESS, SHARED USE, DOCTORS, 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, after 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 was parked legally within a designated bay, which was subsequently suspended, it is deemed to be legally parked as it cannot be made illegal

retrospectively by the suspension. Vehicles parked when the suspension was placed should be recorded at that time.

If the vehicle remains parked in contravention of the suspension for a considerable time, the keeper will have to demonstrate that, (s)he remained unaware of the suspension (i.e. on holiday etc.), and supply supporting evidence of the reason why they were not aware of the suspension (i.e. flight ticket, copy of passport page stamp).

4.63 Time / Date shown on Pay and Display Machines

All pay and display machines are tested at the start of each day to ensure that they are showing the correct time and date. The CEOs check the details on the pay and display machine against the time and date on their hand held computers (which are synchronised on a daily basis with the Atomic Clock. The "Test tickets" are kept and stored as part of a daily reporting function.

In cases where a driver or owner challenges the issue of a PCN, or makes formal representations, stating that the time shown on the pay and display ticket/machine was incorrect, the Council's records will be checked to confirm whether or not the machine was displaying the correct details. If the machine was found to be displaying the incorrect time, the PCN will normally be cancelled.

It should be noted that there are rigorous checks made on a daily basis to ensure all the pay and display machines are working correctly and displaying the correct information.

4.64 Time / Date on CEO Handheld Equipment

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

4.65 TRO's – New and Revised

TRO's are introduced or revised after a public consultation process and approved by Councillors before implementation. This does not necessarily mean that everyone in the affected area will be aware of the changes to restrictions and may inadvertently contravene these restrictions.

Where new waiting or loading restrictions are being imposed where previously there were none, or the restrictions apply to several roads to create a controlled zone, e.g pedestrian or residents only past this point, an initial period using warning notices rather than actual PCN's will normally be applied.

When it has been deemed appropriate for a warnings only period to be used, this will be usually be for a period not exceeding 4 weeks, or one calendar month.

The Parking Manager will issue a service instruction stating the duration of the warning period and any other specific instructions relating to the enforcement of the new or revised restrictions.

Cancellation of any PCN's issued in these areas outside of the agreed warning notice period should only be considered on any other mitigating circumstances offered. Ignorance of the changes is not considered to be sufficient grounds for cancellation.

4.66 Unauthorised Movement of a Vehicle (stolen vehicles)

Where a challenge or formal representation is received claiming that a vehicle was moved without the authority of the owner, the PCN will not normally be cancelled unless there is clear evidence that an unauthorised person has moved a vehicle

Use of a vehicle by another family member or a friend is difficult to substantiate and under these circumstances the PCN will not normally be cancelled unless it can be demonstrated that the matter was reported to the Police before or just after the issue of the PCN, or that the vehicle owner had expressly refused permission for the other party to use the vehicle.

In cases where it is alleged that the vehicle was stolen confirmation from the Police that the vehicle was reported stolen including the date (and time) the vehicle was stolen and the relative crime report number will be required before cancellation will be considered.

4.67 Uniforms for Civil Enforcement Officers

The RTRA 1984 (Sect63A[4]) states: "Civil Enforcement Officers in Greater London shall wear such uniform as the Secretary of State may determine when exercising prescribed functions, and shall not exercise any of those functions when not in uniform".

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

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

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

Devon's District Council Enforcement Officers will wear a uniform consistent with the Enforcement Officers in the other Devon Districts, this uniform will consist of:

- Yellow Reflective Vest and/or Coat showing "Civil Enforcement Officer" on the back.
- Transferable epaulettes showing Council Identifying letters and officer's number. To be worn on "top" clothing – Shirt, jumper or coat.
- Epaulettes will show the appropriate Council PCN prefix Code and the Enforcement Officers number.
- All Enforcement Officers will carry Council ID cards, which will not carry their names for personal security reasons.
- Hat – this is an optional item, but where used it will show the enforcing

Council badge and corporate colours.

4.68 Vandalised Vehicles

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

This evidence should be from either:

- The Police – quoting the recorded crime number.
 - Motoring Organisation / Garage Service who removed the vehicle from site.
- CEO observation from his/her hand held unit or pocket book must also be considered providing that it clearly states the extent of the damage.

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

4.69 Vehicle 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 officer's observation time.

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

4.70 Vehicle not at Scene

In cases where the keeper of a vehicle receives a NtO and claims that their vehicle was not parked in the area at the time the PCN was issued, cancellation will not normally be considered unless they supply a photograph and documentation to confirm the make, model and colour. If the details supplied by the keeper do not match those recorded by the CEO then the PCN will be cancelled (It may have been a "cloned" vehicle).

4.71 Visiting Vehicles From Overseas

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.

Vehicles registered in Scotland and Northern Ireland cannot be pursued past debt registration stage. Pre-debt letters may be effective in prompting any outstanding payments, however if this fails to attract the outstanding payment, the outstanding debt will need to be recorded as being written off.

PCN's issued to vehicles displaying foreign plates cannot be pursued and will need to be recorded as being written off once agreed by the Parking Manager.

CEO's should still issue a PCN to a foreign plated vehicle parked in contravention of a TRO as they should be seen to be treating all contravening vehicles in the same manner.

Foreign vehicles displaying a current valid resident's permit issued by Devon County Council should not necessarily be cancelled. Address details can be obtained from the permit database, and an NtO issued if no incoming challenge is received. Any Challenge or representations should be considered on their respective merits.

4.72 Vehicle held in Trade or on Trade plates.

Vehicles sold to traders, may be 'held in trade' pending an on sale to a new keeper. Currently the DVLA does not consider traders as registered keepers of vehicles, more custodians. The DVLA will not return custodian details if the vehicle receives a PCN whilst 'held'. A minimum of 3 attempts over 12 weeks will be made to get keeper details, before any PCN can be considered for cancellation.

Any vehicle found on the road contravening a waiting restriction and displaying a trade plate, will have a PCN issued for the actual VRM and the DVLA registered keeper will be served an NtO. The former keeper will then be required to evidence the sale of the vehicle and provide name and address of trader. A new NtO will be issued to the new named keeper.

APPENDIX A

CONTRAVENTION CODES AND DESCRIPTIONS

The following contravention codes and descriptions are the standard contraventions that are currently in use, and apply for on-street contraventions in Devon

There are two levels of charges applicable, as shown in the column 'Differential level'. The higher level is used for contraventions that are considered more serious, such as parking on yellow lines or school zigzags, whilst the lower level is used for less serious contraventions, such as overstaying the time purchased at a pay and display bay or in a car park. The two levels of charges in use in Devon are currently £70 (higher) and £50 (lower).

A PCN will show the code number and the code description as shown below.

Standard PCN Codes v6.7.5 (Jan 2017) – On Street

Code	Suffixes	Description	Diff Level	Notes
01	aoyz	Parked in a restricted street during prescribed hours	Higher	Yz -Disabled badge Holders
02	ao	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	Higher	
04	cs	Parking in a meter bay when penalty time is indicated	Lower	
05	cpsuv1	Parked after the expiry of paid for time	Lower	
06	cipv1	Parked without clearly displaying a valid pay & display ticket or voucher	Lower	
07	Cmprsuv	Parked with payment made to extend the stay beyond initial time	Lower	Meter feeding
08	c	Parked at an out-of-order meter during controlled hours	Lower	Electronic meters only
09	ps	Parked displaying multiple pay & display tickets where prohibited	Lower	
10	p	Parked without clearly displaying two valid pay	Lower	Two may be varied to multiple or

		& display tickets when required		another number.
11	Gu	Parked without payment of the parking charge	Lower	
12	rstuwy4	Parked in a residents' or shared use parking place without clearly displaying either a permit or voucher or pay and display ticket issued for that place.	Higher	
14		Parked in an electric vehicles charging place during restricted hours without charging	Higher	Lower for outside of London
16	bdehqstwxzy4	Parked in a permit space without clearly displaying a valid permit	Higher	
18	bcdefhjmprsv	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher	
19	irsuwxyz4	Parked in a residents' or shared use parking place or zone either displaying an invalid permit or voucher or pay and display ticket, or after the expiry of paid for time	Lower	
20	j	Parked in a part of a parking place marked by a yellow line where waiting is prohibited	Higher	
21	bcdefghjl mpqrsuv1256	Parked in a suspended bay/ space or part of bay/space	Higher	
22	cfjlmnopsv	Re-parked in the same parking place or zone within one hour after leaving	Lower	One hour may be varied to another time period, or the prescribed time period
23	bcdefghjk lprsv123	Parked in a parking place or area not designated for that class of vehicle	Higher	
24	bcdefhlm	Not parked correctly	Lower	

	pqrsv1256	within the markings of the bay or space		
25	n2	Parked in a loading place during restricted hours without loading	Higher	Loading Bays
26	j	Parked more than 50 cm from the edge of the carriageway and not within a designated parking place	Higher	50cm may be varied to another distance in Scotland
27	no	Parked adjacent to a dropped footway	Higher	
28	no	Parked in a special enforcement area adjacent to a footway, cycle track or verge raised to meet the level of the carriageway	Higher	Lower outside of London
30	fjlmnopsu	Parked for longer than permitted	Lower	
40	n	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	Higher	
41		Stopped in a parking place designated for diplomatic vehicles	Higher	
42		Parked in a parking place designated for police vehicles	Higher	
43		Stopped on a cycle docking station parking place	Higher	Lower outside of London
45	nw	Stopped on a taxi rank	Higher	Can be varied to 'waiting'
46	n	Stopped where prohibited (on a red route or clearway)	Higher	
47	jn	Stopped on a restricted bus stop or stand	Higher	
48	j	Stopped in a restricted area outside a school, a hospital or a fire, police or ambulance station when prohibited	Higher	CCTV can be used on a restricted area outside a school only.
49		Parked wholly or partly on a cycle track	Higher	

55		A commercial vehicle parking in a restricted street in contravention of an Overnight Waiting Ban	Higher	
56		Parked in contravention of a commercial vehicle waiting restriction	Higher	Non – overnight waiting restriction
57		Parked in contravention of a bus ban	Higher	Non – overnight waiting restriction
61	124cgn	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	Higher	Code specific suffixes apply
62	124cgn	Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)	Higher	Code specific suffixes apply
63		Parked with engine running where prohibited	Lower	
66	124cg	Parked on a verge, central reservation or footway comprised in an urban road	N/A	Exeter Only – not used.
99	Jo	Stopped on a pedestrian crossing or crossing area marked by zigzags	Higher	

Off Street Contravention Codes – Car Parks

70		Parked in a loading place or bay during restricted hours without loading	Higher	Off-street loading areas
71		Parked in an electric vehicles' charging place during restricted hours without charging	Higher	Off-street car parks
73	u	Parked without payment of the parking charge	Lower	Off-street car parks
74	prs	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher	Off-street car parks
80	u	Parked for longer than permitted	Lower	Off-street car parks

81	o	Parked in a restricted area in a car park	Higher	Off-street car parks
82	puv	Parked after the expiry of paid for time	Lower	Off-street car parks
83		Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	Lower	Off-street car parks
84	u	Parked with payment made to extend the stay beyond initial time	Lower	Off-street car parks
85	btrwyz45	Parked without clearly displaying a valid permit where required	Higher	Off-street car parks
86	prs	Not parked correctly within the markings of a bay or space	Lower	Off-street car parks
87		Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	Higher	Off-street car parks
89		Vehicle parked exceeds maximum weight or height or length permitted	Higher	Off-street car parks
90	psuv	Re-parked in the same car park within one hour after leaving	Lower	Off-street car parks. "one hour" may be varied to another time period or "the prescribed time period"
91	cg	Parked in a car park or area not designated for that class of vehicle	Higher	Off-street car parks
92	o	Parked causing an obstruction	Higher	Off-street car parks
93		Parked in car park when closed	Lower	Off-street car parks
94	p	Parked in a pay & display car park without clearly displaying two valid pay and display tickets when required	Lower	Off-street car parks. "two" may be varied to another number or "multiple"
95		Parked in a parking place for a purpose	Lower	Off-street car parks

		other than that designated		
96		Parked with engine running where prohibited	Lower	Off-street car parks

Appendix B: Cancellation Grounds.

All case **must** be considered on the facts as believed by the CEO at time of contravention and those presented in writing by the appellants. Processing Officers should consider all facts presented in writing, review traffic orders, check for notifications of suspensions of parking and any fault reports e.g. pay and display machine faults (when applicable), when making a decision on an case.

A discretionary cancellation approach may be used in certain cases, **if** the customer's mitigation is deemed genuine.

The following tables **offer guidance** only regarding 'first mistake' considerations.

Contravention No.	Restriction Type	Considerations	Discretionary Cancellation
12	Resident Permit Bay (valid)	<p>Existing RP holders.</p> <p>Grace period exceeded</p> <p>Copy of a valid permit supplied during appeals process.</p> <p>But not applicable for failure to display Visitor Permits</p> <p>New Residents.</p> <p>Has a permit been purchased before PCN issued & how long before the PCN was issued was the permit bought? Y/N</p> <p>Was a note displayed showing the same permit number? Y/N</p> <p>IF the answer to the above is YES for both and the PCN is issued within 3 days of purchase and note displayed a discretionary cancellation should be considered.</p> <p>'Lost permits' and replacement requests cases – Check case manager - dates of application and date of PCN.</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

19	Resident Permit Bay (not valid)	Consider mitigating circumstances on merits only	No
05	Ticket Expired	Consider mitigating circumstances on merits only.	No
06	No ticket on Display	IF serial number of ticket matches that noted by CEO at time of issue, or shown to CEO at time of issue of pcn and subsequently provided with challenge.	Yes
07	Meter Feeding	Consider mitigating circumstances on merits only	Yes
21	Parking/loading suspended	Consider mitigating circumstances on merits only	No
22	Re-parked Within No return Period	Consider mitigating circumstances on merits only	No
23	Goods Vehicle Bay Hatchback, estate cars or 4x4's are not classed as goods vehicles. Needs to be built for carrying goods i.e no back seat.	Consider mitigating circumstances on merits only. Would accept insurance certificate for business use if associated with vehicle types above and/or a sign written vehicle.	No
26	Double Parking (more than 50cm)	If not causing an obstruction to passing traffic.	Yes
27/28	Dropped kerbs/ Crossing places	Private driveways or access points.	Yes
30	Overstay	Consider mitigating circumstances on merits only	No

Blue Badge Holder Considerations

Contravention No.	Restriction Type	Comments	Discretionary Cancellation
01	DYL or SYL	Direct to relevant Info in BB handbook	Yes
02	SKB or DKB	IF a new change of TRO has added SKB or DKB and driver unaware of a recent change. Consider mitigating circumstances on merits only	Yes
16	Permit Bay (valid)	Direct to relevant Info in BB handbook	Yes
19	Permit Bay (not valid)	If evidence of continuing eligibility for BB is supplied.	Yes
21	Parking/loading suspended	Direct to relevant Info in BB handbook	Yes
22	Re-parked within 1 hour	Direct to relevant Info in BB handbook	Yes
23	Goods Vehicle Bay	Consider mitigating circumstances on merits only	No
25	Loading Bay Not Loading	Consider mitigating circumstances on merits only	No
26	Double Parking (more than 50cm)	Direct to relevant Info in BB handbook	Yes
27	Dropped kerbs/ Crossing places	Direct to relevant Info in BB handbook	Yes
40	Disabled Bay (No Badge on display or clock incorrectly set)	If evidence of continuing eligibility for BB is supplied.	Yes
41 – 45	Designated Use bays eg Taxi	Consider mitigating circumstances on merits only	No
47 – 49	Bus, Cycle, School entrance	Consider mitigating circumstances on merits only	No

Appendix C: Cancellation Reasons

Cancellation Grounds		Supported by evidence of;
Pre and Post – NtO Acceptance reasons	Bankrupt	DRO – IVA post PCN date.
	Breakdown	Repairs, parts or recovery
	Carer	Official confirmation of where working or duty rota from manager
	Disabled	Valid Blue Badge user
	Dispensation	Validity established
	Emergency works	Official copy of invoice or job sheet
	Emergency vehicle	Official confirmation of where working or duty rota from manager
	Faulty P & D	Proof machine out of use
	Fault with Line, Sign or TRO	Photo evidence or CEO/CPE tech support
	Loading or unloading	Evidence of loading. Receipts, invoices etc
	Medical	Dr's letter, appointment confirmation etc
	Mitigation	Multiple uses; bereavements, events beyond driver's control, inconclusive evidence, vulnerability, DDA or Equalities issues, officer's further discretion
	Representation	Grounds based
	Stolen or used without owner's permission	Crime Ref no.
	Valid P&D ticket	Copy of Ticket provided
	Valid RP permit	Confirmed details in database or provided
	Valid TP temporary permit	Confirmed details in database or provided
Post – CC – Acceptance	Accept	Case by case basis. E.g. late evidence supplied.

Appendix D: Permit Guidance for CEO's and Processing Officers

Now that the service is provided online only, and to account for possible delays in residents receiving their permits through the post a consistent approach to challenges and appeals relating to PCN's issued regarding non display or expired permits is needed.

This guide outlines any grace periods and when it is appropriate to offer a discretionary 'First Mistake' cancellation of a PCN for a motorist. Processing officers may use this approach in certain cases, if the customer's mitigation is deemed genuine and the event unforeseeable.

All cases must be considered on the facts as believed by the CEO at time of contravention and those presented by the appellants. Checks on Case Manager should also be made to verify details of permit applications and dates of issue. The following table offers guidance only.

Permits	Information	Guidance
Residents Permits – Renewals Jan - Nov	7 day grace period from expiry date for Jan – Nov issued permits	Issue PCN but consider a discretionary 'first mistake' cancellation.
Residents Permits - Renewals Dec Only.	14 day grace period from expiry date for December issued permits	Issue PCN but consider a discretionary 'first mistake' cancellation.
Residents Permits - New applicants		Holder accepts T+C at time of payment. Permit must be displayed in vehicle to be deemed valid.
Permits with payments pending.	No further grace periods apart from those provided for above.	
Visitor Permit scratch cards	No grace periods. Forward day/date errors – next day date selected No panels scratched out.	Issue PCN
Essential Visitor Permits	7 day grace period.	Consider challenges to PCN's on a case by case basis and their mitigating circumstances
Business Permits	As residents permits above	

Temporary Permits	No grace period	Discretionary cancellation may be considered if application made or approved before the PCN issue time but document not shown on dashboard.
Permits not matching VRM	No grace period – issue a PCN.	Consider challenges to PCN's on a case by case basis and their mitigating circumstances.
Permits without a VRM	Normally Issued for POOL or company vehicles.	Surname or property name may be used rather than POOL in unmarked cars/vans. Business name may appear for liveried vans
Permits with wrong Zone	No grace period – issue a PCN.	If system or printing error cancel pcn.
Dispensations		Guidance
Dispensation Permits <i>Planned Works – Daily Dispensations</i>	<p>No grace period</p> <p>If displaying a D***** ref. no. CEO should contact back office to confirm whereabouts and activity before deciding to issue a PCN or not.</p> <p>CEO's should contact the named person on the dispensation if they have any suspicions about the essential need for a vehicle to be at the location.</p> <p>Is a family hatchback or executive saloon car likely to be carrying tools or essential equipment for the work, or is it to commute to work site?</p> <p>Have warning notices and/or cards been given to this vehicle before? Check with back office</p>	<p>If PCN issued a discretionary cancellation may be considered, provided application made/approved before PCN the issue time but document not shown on dashboard.</p> <p>Notes should be shown in case manager showing when a dispensation was authorised and by whom for all restriction types except for Residents, Limited Waiting & P+D Bays.</p> <p>If no note shown against dispensation, it has not been approved by an authorised officer. Inform back office.</p> <p>A discretionary 'first mistake' cancellation may</p>

	<p>records.</p> <p>Record details of any warnings or cards issued. If vehicle is still seen at site 72 hours after the 1st warning or card issued a PCN <u>should</u> be issued to the vehicle</p>	<p>be considered in conjunction with other evidence provided with challenge.</p> <p>We need to manage potential repeat offenders more robustly.</p>
<p>Dispensation – Annual or Short stay Permit</p> <p><i>Planned Works</i></p>	<p>No grace period</p> <p>CEO's should contact the named person on the location/contact details card, IF they have any suspicions about the essential need for a vehicle to be at the location.</p> <p>If the contact card is not displayed alongside their annual permit, a PCN should be issued.</p>	<p>If both parts are not displayed as per T+C's a 'first mistake' cancellation can only be considered in conjunction with other evidence provided with challenge.</p> <p>We need to manage potential repeat offenders more robustly.</p>
<p>Contractor Notes - Business Headed as TRO</p> <p><i>Emergency Repair Works</i></p>	<p>No grace period</p> <p>CEO must contact tel. no. to confirm whereabouts and activity before deciding to issue a PCN or not.</p>	<p>Challenges should be considered favourably if the contractor is able to supply suitable evidence of an emergency job, e.g. invoice, signed work sheet, etc, taking place at the property at the time of PCN issue.</p>
<p>Contractor Note not as TRO and without contact tel. no.</p> <p><i>Emergency Repair Works</i></p>	<p>No grace period</p> <p>PCN should be issued. Challenge and evidence can be submitted for consideration.</p>	<p>Challenges can only be considered favourably if the contractor is able to supply suitable evidence of a job taking place at the property at the time of PCN issue.</p> <p>A 1st strike approach may be appropriate for DC's to manage repeat offenders</p>

Processing Team Members – Current. (last update 2/06/17)

Keith Hardacre	Manager	
		Stage
P Gori de Murden	Processing Officer	Formal Reps & Appeals
K Barallon (Pt Time)	Processing Officer	Formal Reps & Appeals
Vacant	Processing Team Leader	Formal Reps & Appeals
E Cox (Pt Time)	Processing Officer	Informal Challenge
J Carter (Pt Time)	Processing Officer	Informal Challenge
Vacant		
M Crocker	Processing Officer	Informal Challenge
E Vail	Support Officer	Admin Office support