

FOI number: **HBC_FOI_20200125**
Date FOI Received: **06/02/2020**
Department: **Parking Services**
Title: **PCN cancellation policy**
Description: **Details on the policies and training material in place for the cancellation of Penalty Charge Notices (PCN).**

Request: (As Redacted sent by requestor)

Query 1: I would like to request a copy of all policy and guidance documents that are available to council officers who are tasked with considering the question of whether a Penalty Charge Notice should be cancelled. For the avoidance of doubt, this request covers any policy that is published or otherwise publicly available, plus any internal council guidance or policy that is only available internally to council staff (such as any internal policy that outlines in what circumstances the council may exercise its discretionary powers to cancel a PCN).

Query 2: Please could you also disclose the training material that is used to train the council officers who make decisions regarding the cancellation of PCNs. This should cover only training material that is directly relevant to their role in deciding whether a council PCN should be cancelled, any other training material (such as generic council training, health and safety, GDPR or training related to other roles or functions) is not within the scope of this request.

Again for the avoidance of doubt, both queries above cover policies and training material available to council officers who deal with informal representations, formal representations and appeals to the tribunal.

Response: (Response as Redacted sent by service)

When training Notice Processing staff who will respond to informal challenges/formal representations against the issue of penalty charge notices the attached document is used as part of their training to provide them with the necessary tools to make a formative decision on whether to reject or to accept.

Please see attached document **<SHOWN BELOW>**

If you have any queries about the processing of your request then please do not hesitate to contact me. Further information explaining the Council's process for responding to information requests together with a complaints/appeals procedure is available in our reception or via our website at:

<https://www.hertsmere.gov.uk/Your-Council/Official-Publications--Guides--Policies/Access-to-Information.aspx>

The Information Commissioner oversees the application of the Freedom of Information Act. You may contact the Information Commissioner at:

Information Commissioners Office

Wycliffe House, Water Lane
Wilmslow
Cheshire SK9 5AF
Telephone: 01625 545700
Website: www.informationcommissioner.gov.uk

Please include the above reference number on all correspondence related to this request.

Thank you for your request.

Kind regards

Information Services

PARKING ENFORCEMENT POLICY

This document is divided into two main parts. The first contains the introduction, the policy for issue and enforcement of Penalty Charge Notices (PCNs), and specific examples of how the policy is applied. The second is a list of definitions explaining terms commonly used in parking enforcement. The contents of the policy are derived from current Hertsmere Borough Council practices, accepted best practice, Traffic Penalty Tribunal (TPT) recommendations with regard to mitigation, and common practice among Hertfordshire local authorities.

In formulating this policy due regard was paid to the Council's Equal Opportunities Policy, the Council's Corporate Plan and The Human Rights Act.

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PARKING ENFORCEMENT POLICY

1

POLICY

Introduction

This policy is primarily concerned with:

1. Who can park in restricted areas and when they may do so.
2. How challenges, representations and dispensations are dealt with, including how the Council will endeavour to treat people fairly, equally and with respect, taking full account of their personal circumstances.
3. The conduct of the Council's staff and the manner in which it carries out enforcement.
4. Service standards that will be adopted by Hertsmere Borough Council when carrying out parking enforcement.

It is impossible to define the approach on every case and there will be occasions when the Parking Services Manager or the Representations Officer will consider the case on its individual merits and cancel a PCN. In considering such circumstances, it will be reasonable to take into consideration whether there has been a history of the registered keeper contravening parking restrictions and pleading mitigating circumstance or reasons beyond his / her control.

Parking Enforcement within the Borough of Hertsmere by the Borough Council will:

1. Maintain and, where possible, improve the flow of traffic thereby making the Borough a more pleasant and environmentally safe place to live in and visit.
2. Take into account the need to improve safety and environmental conditions.

3. Improve the quality and accessibility of public transport by discouraging the use of cars where road conditions and public transport facilities justify this. Again encouraging a more environmentally friendly lifestyle.
4. Take into account the needs of local residents, shops and businesses, including making deliveries and collecting goods, thereby sustaining the Borough's economic growth.
5. Actively support the needs of disabled people bearing in mind that, in some cases, they are unable to use public transport and are entirely dependent upon the use of a car. This will ensure that people with disabilities are able to have equal access to all facilities within the Borough.
6. Actively discourage indiscriminate parking that causes obstruction to other motorists, pedestrians, motorcyclists, pedal cyclists and people with disabilities. This will ensure that the Borough remains accessible to all equally and safely.

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

1. Existing and predicted levels of demand for parking places.
2. The availability and pricing of both on and off-street parking.
3. The nature and extent of on-street parking restrictions.
4. The adequacy, accuracy and quality of existing signs and plates, including zonal signing.
5. The levels of compliance that Hertsmere Borough Council considers to be acceptable and the level of enforcement necessary to achieve them.
6. The views of the public who will be actively consulted on all matters relating to the extension of parking restrictions.
7. The views of the Hertfordshire Constabulary, which will continue to have responsibility for traffic management.
8. The provision of suitable parking facilities for disabled people.
9. The provision of suitable parking facilities for cyclists and motorcyclists.
10. Consideration of the Council's overall aims with regard to the environment, fear of crime within the Borough and the sustained economic growth of the Borough.

SPECIFIC POLICIES

ABANDONED VEHICLES:

Where a vehicle remains parked in a restricted area for a period during which multiple PCNs are issued (multiple = 3+) for the same contravention, the Civil Enforcement Officer will report the vehicle as potentially abandoned. It will then be dealt with under the Council's procedures for abandoned vehicles, under the provisions of the Removal and Disposal of Vehicles Regulations 1986 (as amended) made under the Refuse Disposal (Amenity) Act 1978 and the Road Traffic Regulation Act 1984.

Criteria used in identifying abandoned vehicles:

1. Untaxed.
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.

BAILIFFS:

Bailiffs are not exempt from legislation and when collecting and loading goods will be considered in terms of policy relating to loading / unloading.

BANK HOLIDAYS – RESTRICTIONS APPLICABLE:

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

BANK VISITS:

Claims from individuals or companies that because money is being taken to or from a bank PCNs should not be issued will not be accepted as a reason to cancel. If restrictions are in place adjacent to a bank these must be complied with by all motorists. Motorists should be advised to contact the bank about future security arrangements. It is appreciated that difficulty may be experienced when visiting banks but any exemption that may apply is in relation to bullion vehicles whilst loading / unloading large quantities of coin and cash boxes (see loading / unloading).

BLOCKED ACCESS:

Drivers who claim that they were unable to gain access to their private or commercial property are not entitled to park in contravention of any parking restriction. The exception to this is when a driver has to collect a key to unlock a barrier that prevents access. This, however, should take no longer than 5 minutes. Where access to a property is being blocked and no parking restriction is in place the matter should be referred to the police, as the offence of obstruction is only enforceable by them. Where a restriction is in place a PCN may be issued to the vehicle providing it is parked in contravention of the restriction. Only when the keeper / driver of the vehicle in question persistently contravenes will Hertsmere Borough Council consider removing the vehicle.

BROKEN DOWN VEHICLES: (Also See “Vandalised Vehicles”):

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

1. Garage receipt or invoice, on headed paper, properly completed (vehicle registration mark, date, description of works carried out, costs) and indicating repair of the alleged fault within a reasonable time of the contravention.
2. Till receipt for purchase of seemingly relevant spare parts purchased on or soon after the date of contravention.
3. Confirmatory letter from the RAC, AA or other similar motoring organisation.
4. Confirmation from the Civil Enforcement Officer that the vehicle was obviously broken down, supported where appropriate with a photograph.

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

In the case of a vehicle with a smashed windscreen, it will not be necessary for supporting evidence to be produced, but the Civil Enforcement Officer must take a photograph.

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

1. FLAT BATTERY

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

2. FLAT TYRE

- a. It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle's wheel. If the vehicle is left unattended a PCN will be issued and will be cancelled only if subsequently it is demonstrated that the driver was registered disabled and had gone to obtain assistance. In such instances evidence from the assisting party is required.

3. OVERHEATING

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

4. RUNNING OUT OF PETROL

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

BUILDERS / TRADESMEN:

1. **Residential Parking Zones:** All trade vehicles parked within a controlled resident zone must display the relevant and appropriate parking permit as may have been introduced by Hertsmere Borough Council.
2. **Yellow Line restrictions:** Parking will only be allowed whilst actual loading / unloading of tools and materials is taking place. At all other times the vehicle must be moved to a permitted parking area.

BUS STOPS:

Bus stops can either be restricted or unrestricted:

1. **Restricted:** A restricted bus stop will show yellow lines and a time plate showing the hours of operation.
2. **Unrestricted:** An unrestricted bus stop will not have a time plate but may show advisory road markings.
3. A bus stop restriction cannot be transferred to a temporary bus stop unless a Temporary Traffic Management Order has been issued.
4. PCNs issued to vehicles, other than buses, waiting in a restricted bus stop should be enforced.

CARE ORGANISATIONS:

Hertsmere Borough Council does not recognise badges that may be issued by care organisations, including private ones as valid authorities to park.

1. **Parking in Residential Parking Zones:** In areas where the Council has introduced residential parking zones, carers who wish to park must display such permits as may be issued by Hertsmere Borough Council. If the driver does not have such a permit, he or she will be expected to park in accordance with parking restrictions. Any abuse of such permits will result in them being withdrawn.
2. **Parking in Council Car Parks:** It is not the Council's policy that there is a need for carers to park within Council car parks free of charge. Consequently permits are not issued for this purpose.
3. **Parking on Yellow Lines:** Carers are not exempt from yellow line restrictions and must not contravene them. No dispensation will be issued to carers to enable them to park on a yellow line except in a medical emergency, in which case a PCN may be waived on production of appropriate documentary evidence. Medical emergency does not include delays in doctor appointments.

CHALLENGE AGAINST ISSUE OF PCN:

Within 14 days of issue of a PCN the keeper of the vehicle may make a **written** challenge against the issue of the PCN. Within this challenge he / she can mention any mitigating circumstances as well as challenging the validity of the PCN. The Council will respond, in writing, within 14 working days of receipt of the challenge and will either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge. If a challenge is rejected the written notification from the Council will give precise reasons why this decision has been reached.

Providing the written challenge was received within 14 days of the PCN being issued the discounted rate will be restarted and last for 14 days from the date of the rejection notice. If a challenge is received later than 14 days from the date of the PCN issue it will be dealt with in the same way but the discounted period will not be restarted and the full amount will be payable unless it can be shown that it was not possible to challenge the PCN at an earlier date. This fact should be included within the notice of rejection. The making of a challenge in no way detracts from the ability of the keeper to make a subsequent formal representation against the issue of the PCN to the Council or to the Traffic Penalty Tribunal Service.

CIVIL ENFORCMENT OFFICERS' POCKET BOOK / NOTEBOOK:

The Civil Enforcement Officers' shall maintain a separate Pocket Book in which they shall note daily details of their patrols, PCNs issued etc. These books shall be kept in addition to any details entered into their handheld computers. They will be made available to the

adjudicators in the event of a PCN being challenged through the independent adjudication process and will assist the investigation of any challenge or representation received by Hertsmere Borough Council.

Each Pocket Book will be numbered and when issued to the CEO the number of the previous book used by that CEO entered on its cover along with the CEO's name. Similarly when a Pocket Book is completed the serial number of the new book issued will be entered on the cover. All completed Pocket Books will be retained in the office in numerical order. Each completed Pocket Book should have the CEO's name, the serial number of the previous book and the serial number of the next book written on the front cover.

CLAMPING & REMOVAL:

The power to clamp and subsequently remove vehicles parking in contravention of parking restrictions is not at present incorporated within the relative Traffic Regulation Orders. Any such clamping or removal could only be carried out in the event of specific consent being obtained under the Orders, and from the County Council, and in accordance with such procedures which may be produced following such consent being obtained.

COMPLAINTS AGAINST CIVIL ENFORCEMENT OFFICERS:

Allegations that a Civil Enforcement Officer has made an error whilst issuing a PCN will be investigated under the normal Representations or Challenge procedures and a formal written notice of acceptance or rejection will be sent within the stipulated timescale. Any allegation of misconduct or rudeness made against a member of the enforcement staff will be investigated and dealt with by the immediate manager. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. Should the findings not be acceptable to the complainant following the investigation carried out by immediate management, advice on how to invoke the councils formal complaints procedure will be given.

COUNCIL AND HERTFORDSHIRE HIGHWAYS OFFICERS & MEMBERS

All Council officers and members are expected to fully comply with parking Regulations whether carrying out work or duties on behalf of the Council, or not:

1. **Parking in Residential Parking Zones and / or Council car parks:** Hertsmere and Hertfordshire Highways staff or members using their own cars to carry out their official Council duties must comply with all parking restrictions, with the exception of those specific locations where exemption permits are issued. Such permits must be clearly displayed and are only valid during times when official duties are being carried out. Failure to comply with any of the foregoing will result in a PCN being issued.
2. **Parking on Yellow Lines:** No dispensation will be given to allow Hertsmere or Hertfordshire Highways staff or members to park on yellow lines. In such cases PCNs will be issued and pursued.
3. **Request for Cancellation of PCN:** This will only be considered in case of emergency and must be supported by written confirmation from the relevant head of service or director.
4. The only exception to the above will be Hertsmere Borough Council Civil Enforcement Officers and Hertsmere and Hertfordshire Highways staff whilst carrying out their official duties, who are permitted to park for a period of time which is reasonable in relation to such duties, and Council staff engaged on surveillance duties, which must be confirmed in advance by the relevant head of service or director.

COURT ATTENDANCE:

Persons attending Court must comply with the parking Regulations. A claim that attendance at Court took longer than expected, resulting in a PCN being issued, will not be accepted as reason for cancellation of the PCN.

DENTAL / DOCTORS APPOINTMENTS:

A claim that a doctor's or dentist's appointment took longer than expected, resulting in a PCN being issued, will not be accepted as reason for cancellation of the PCN.

DESCRIPTION OF VEHICLE ON PCN:

When issuing a PCN the Civil Enforcement Officer will note the make, colour and registration mark of the vehicle, and the detailed location of the vehicle, which will appear on the PCN. He / she will also note other details such as pay and display ticket or resident parking permit details, if applicable, and positions of tyre valves, which will form part of the supporting records.

1. **Incorrect recording of the colour:** Will not be considered as sufficient reason for cancellation of a PCN in view of the fact that similar colours may be mistaken for each other, and colours may differ widely from model to model. Where, however, there is a wide discrepancy between the recorded and actual colour, consideration will be given to the cancellation of the PCN.
2. **Incorrect make:** Although many manufacturers produce different models that look very similar it would be very difficult to enforce a PCN in respect of the wrong make. In such cases serious consideration must be given to cancelling the PCN. Exceptions would be unusual vehicles where the make is not readily apparent on external inspection.

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

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

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

DISABLED DRIVERS / PASSENGERS:

Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport the disabled person. It is not permitted to use the badge for any other purpose, including shopping for the disabled person when they, themselves, are not being transported in the vehicle. If it appears evident to the Civil Enforcement Officer that neither the driver nor passenger(s) are disabled, a PCN should be issued.

Blue badges must be clearly and properly displayed whilst the vehicle is parked together with a parking disc issued by the authority issuing the blue badge. The disc must be displayed and set to show the time of arrival. Failure to do so will result in a PCN being issued for the contravention of the relative parking restriction. When considering the matter the Council will take into account previous contraventions by the same vehicle and / or badge holder for failure to display a disabled badge. Where no previous contravention has occurred the representation should be allowed, providing proof of the existence of a valid badge is supplied. In such circumstances the letter sent to the person making the representation should advise the Council's policy on enforcement and disabled parking and make it clear that this contravention will be taken into account when considering any future contravention and that this may lead to future representations being rejected.

Providing the Disabled Badge is clearly and properly displayed together with the parking disc indicating the time of arrival the Badge Holder can park in:

Limited parking areas: For an unlimited time.

Yellow Lines:

- Double Lines. Up to 3 hours – providing the vehicle is not causing an obstruction.
- Single Lines. If waiting prohibited for a period in excess of 3 hours the badge holder can park for 3 hours with no return within 1 hour. If less than 3 hours the badge holder can park at all times.
- Single / Double with a loading or unloading ban: No disabled parking while ban in force.

Resident Parking Zones (where implemented by the Council): For an unlimited time.

Council Car Parks: Free of charge and without time limit at on-street parking meters (if implemented by the Council) and pay and display spaces. Wherever possible the driver should park in a designated disabled bay.

Disabled Badge Holders are not allowed to park in any area where there is a loading restriction.

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

DISPENSATIONS & SUSPENSIONS:

Dispensations:

The following vehicles will receive automatic dispensation from waiting restrictions:

1. Police, Fire Brigade or Ambulances whilst on operational duties.
2. Vehicles, other than cars, involved in contracted highway maintenance where there is a need for them to be parked adjacent to the work site. Cars will not be regarded as such vehicles and will be expected to be parked in accordance with parking restrictions.
3. Livered Council vehicles carrying out statutory duties such as refuse or recycling collection, street cleansing and highway maintenance.
4. Vehicles displaying valid disabled permits (see relevant section).
5. Livered Royal Mail vehicles engaged in the collection and / or delivery of letters in accordance with the statutory duty of the Post Office.

Dispensations may be granted for the following:

1. Funerals – For the hearse and cortege vehicles.
2. Weddings – Bridal vehicles.
3. Maintenance and repairs to adjacent buildings, where there is a need to park adjacent to the building and it is not possible to park off the road.
4. Furniture removals.

5. Any other reason accepted by the Council. In all cases, the period of parking must be reasonable in relation to the reason for parking.

Applications for dispensations must be received, where possible, at least 10 working days prior to the required date and must be made to the Council's Parking Services Manager. The 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. The patrolling Civil Enforcement Officer will hold details and a further copy kept, with the application, by the Parking Services Manager. A charge as may have been introduced by Hertsmeire Borough Council will be applicable, except in the cases of wedding and funeral vehicles.

Suspensions:

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

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

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

If granted, suspensions of parking bays / spaces will be clearly sign-posted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least five days before the suspension comes into operation. Any vehicles parked in contravention of a suspension will receive a PCN. A charge, per bay / space, will be made and is payable upon application.

DRINK DRIVING OR OTHER ARREST:

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

In all cases of arrest claims, the driver should be asked to provide date, time and evidence of arrest including custody number, officer and police station involved. Where written evidence of the arrest cannot be supplied, confirmation should be obtained from the relative police station, by the Council, before the PCN is cancelled. Failure to supply or obtain supporting evidence of the arrest will lead to the PCN being enforced.

DROPPING OFF - PICKING UP PASSENGERS:

Except on designated clearways, double yellow lines and zigzag (schools and pedestrian crossing) restrictions, any vehicle will be allowed a reasonable amount of time to drop-off or pick up passengers irrespective of any waiting or loading restriction in force. It is deemed that two minutes is sufficient allowance for this unless it involves the elderly, disabled persons, young children or large amounts of luggage etc., when five minutes will be allowed. Special consideration will be given to Hackney carriages or private hire vehicles who may require additional time to announce their arrival and accept payment, but waiting time will be limited to five minutes.

EMERGENCY DUTIES:

Doctors, nurses, midwives engaged on emergency duties are, wherever possible, expected to park legally in accordance with parking restrictions. Should a PCN be issued it will be cancelled only upon evidence of the emergency being provided. Regular or programmed visits will not be considered an emergency.

See 'Health Emergency Badge Scheme' below.

ESTATE AGENTS:

Estate agents visiting a client's property within a residential parking zone should display a relevant and appropriate permit. Estate agents are not exempt from parking restrictions and PCNs will always be enforced.

EXEMPT VEHICLES:

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

1. Fire Brigade vehicles when attending emergency situations, or other situations requiring them to be parked in a specific place.
2. Marked Police vehicles whilst on operational duties.
3. Ambulances when attending emergency situations or transporting less mobile persons for hospital appointments

The following vehicles are exempt in the circumstances described:

1. Hertsmere Borough Council and Hertfordshire County Council vehicles (or those of their contractual agents), whilst being used to carry out statutory duties (e.g. refuse or recycling collection, street cleansing, highway maintenance), or whilst carrying out duties that require the vehicle to be in close proximity (e.g. verge grass cutting), including Civil Enforcement Officers vehicles.
2. Post Office and other vehicles engaged in the delivery of postal packets (i.e. courier companies such as UPS). This does not include private vehicles used by postmen / women whilst carrying out letter deliveries. The Council will expect such vehicles to be parked in compliance with any parking restriction.
3. Electricity, gas, water companies, British Telecom or other telecommunications companies (and / or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus.
4. Furniture vans whilst moving furniture to and from a dwelling, office or depository. Wherever possible these vehicles should not be parked in contravention of loading restrictions.
5. Public service vehicles and other company vehicles whilst waiting at an authorised stopping place, terminus or turning point.
6. Vehicles involved in building, excavating and demolition work whilst lawfully and actively engaged on those duties.

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

FOOTWAY PARKING:

It is not generally a contravention for a vehicle to be parked on a footway. The exceptions to this are:

1. HGVs (Sect.19, RTA 1988).
2. Cycle tracks (Sect.21, RTA 1988).
3. Where a Traffic Regulation Order prohibits such parking.

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

1. Marked vehicles used by Police, Fire Brigade and Ambulance services whilst on operational duties.
2. Vehicles used for street / street light cleaning and refuse or recycling collection providing that they are actively involved in the function.
3. Vehicles actively involved in road works.

A PCN can only be issued to a vehicle parked in such a manner if the restriction is specifically incorporated in the relevant TRO, in which case the PCN should be issued for contravention of the restriction.

FORMAL REPRESENTATION AGAINST ISSUE OF PCN:

If a PCN is not paid within 28 days of issue, the Council can serve a Notice to Owner (NtO) on the person who appears to it to have been the keeper of the vehicle at the time the alleged contravention occurred. The keeper of a vehicle is given the opportunity to make a formal representation against a PCN once the NtO is sent to him / her by the Council. This representation must be made within 28 days of receipt of the NtO, and must be in writing.

Formal representation can only be made on the following grounds:

1. The recipient was not the owner / keeper of the vehicle at the time.
2. The alleged contravention did not occur.
3. The alleged contravention occurred whilst the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner.
4. The relevant TRO was invalid.
5. The recipient is a vehicle-hire firm and the vehicle was hired from the firm under a vehicle hiring agreement, the person hiring it having signed a statement of liability in respect of PCN's, and the hire-firm shall have supplied the name of the hirer.
6. The Penalty exceeded the amount applicable in the circumstances of the case.
7. There has been a procedural impropriety by the enforcement authority.
8. The Notice to Owner should not have been served because the penalty had already been paid.

Where an owner has received a notice indicating the full payment is required as the discounted payment has not been received within the stated period, the registered keeper may claim that the discounted payment was in fact made within the appropriate period and that the demand for the full amount should not have been issued. Where this is confirmed, the increased payment may not be demanded and a letter will be sent cancelling the demand.

FUNERALS & WEDDINGS:

Vehicles actively involved in a funeral or a wedding will be given due consideration and respect and PCNs will not be issued. Any PCN issued to vehicles associated with a funeral or wedding should be considered with due respect and PCNs will only be enforced when blatant disregard to restrictions has been confirmed.

GARAGES – VEHICLES LEFT UNATTENDED:

When a garage employee parks a vehicle on a highway, in contravention of a parking restriction, any PCN issued is the ultimate responsibility of the registered keeper of the vehicle. Any dispute between the owner and the garage is not a matter for the Council.

GLAZIERS:

Claims from glazier companies that a vehicle needed to be parked close to the location of an emergency repair should be treated leniently, providing it is confirmed, from the Civil Enforcement Officer's notes, that such activity was taking place at the time of the issue of the PCN and the vehicle was removed from the restricted area as soon as its need to be parked there was not necessary. PCNs will not be cancelled when issued to vehicles that are not actively involved in the work. Cars will not benefit from this exemption.

GOVERNMENT DEPARTMENT VEHICLES:

Unless the reason for parking the vehicle was under exceptional circumstances PCNs issued to vehicles owned or operated by government departments should be enforced. They are not exempt purely by virtue of the fact that a government department operates them. If the vehicles are involved in exceptional activities, such as surveillance by Customs & Excise or the Benefits Agency, evidence to support this, in the form of a written statement from a senior manager on headed notepaper must be supplied. Wherever possible Government Agencies involved in such activities should be encouraged to give the Council advance notice and details of the vehicle(s) involved.

GRACE PERIOD

A 'Grace Period' will only apply to on-street and off-street parking places provided under traffic orders, whether the period of parking is paid for or free. If a vehicle is still parked in a parking place on-street or off-street beyond the permitted parking period, for period of time not exceeding 10 minutes then a penalty charge notice should not be issued.

The grace period only applies to designated parking places where a person is permitted to park. It does not apply to a road with a yellow line restriction or prohibition (e.g. double yellow line) as it is not a designated parking place either during or outside of the period of restriction or prohibition.

HACKNEY CARRIAGES / PRIVATE HIRE VEHICLES:

1. Hackney carriages and private hire vehicles operating within the borough are licensed by Hertsmere Borough Council and carry a numbered license plate that must be displayed on the rear of the vehicle.
2. Hackney carriages and private hire vehicles, like all vehicles, may stop to allow passengers to board or alight for as long as is reasonably necessary for the purpose (held to be 2 minutes in a recent judgement). It is not an exempted activity to assist passengers into premises and to leave the carriage unattended. If a licensed Hackney carriage or private hire vehicle is left unattended it is liable to receive a PCN.
3. Each case, especially those involving elderly, infirm or disabled passengers should be treated on its merits and due allowance should be made in such incidents. Evidence must be provided before the Council will consider cancelling a PCN.
4. It should be borne in mind that when a Hackney carriage or private hire vehicle is called to an address to pick up passengers the driver must be allowed time to announce his / her arrival.

HAZARDOUS CHEMICALS / SUBSTANCES:

Claims by companies that toxic or dangerous substances were being delivered or collected from premises and, as a result, a PCN should be cancelled should be given careful consideration. If the PCN was issued for contravention of a no waiting restriction it can be established from the Civil Enforcement Officer's notes whether the activity of loading was taking place. If so the PCN should be cancelled. If no loading activity was taking place the PCN should be enforced. There is no reason, in this case, to differentiate between toxic and non-toxic deliveries as it is the driver's responsibility to ensure that the vehicle is moved immediately the loading / unloading activity is complete. (See definition of Loading / Unloading).

If the PCN was issued for contravention of a no loading restriction, the Civil Enforcement Officer's notes should be viewed to establish whether the loading activity was taking place. If so then serious consideration should be given to the cancellation of the PCN in view of the health & safety of the public. Any such representation should be accompanied by documentary evidence showing the nature of the goods being delivered.

HEALTH EMERGENCY BADGE SCHEME:

Hertsmere Borough Council does not currently operate a Health Emergency Badge (HEB) scheme but will review this should the need for such a scheme arise.

HIRING AGREEMENT:

In the case of a hired vehicle, responsibility for a PCN is that of the hirer of the vehicle at the time. Consequently, in this case, the responsibility does not rest with the registered keeper, the hire-company, providing they provide to the Council a formal statement following receipt of the Notice to Owner. A copy of the relevant hire agreement must accompany this representation. In all cases this agreement must clearly state: the name and address of the hirer, the start and finish dates for the hire period and the hirer's signature. It must also include a statement regarding the hirer's liability for any PCN's incurred during the hire period. Should any of the foregoing be unclear, absent or in contradiction of the date / time of issue of the PCN then the PCN will be enforced against the hire company and a notice of rejection of the representation sent to it with the reasons clearly stated therein.

HOLIDAYS:

Vehicles are often left parked in one place whilst the keeper is away on holiday. In such cases a PCN could be issued for being parked in a suspended parking place.

1. Suspended Bay:
 - a. The Council has the power to suspend parking within a designated parking bay to allow access by a specific vehicle or highway / bay maintenance to be carried out. In such cases advance notice is placed alongside the bay and is distributed to nearby properties giving the date, times and length of the suspension.
 - b. If these notices are posted and distributed after the keeper departed on holiday then any PCN issued should be cancelled. Evidence must be provided showing departure date and time (e.g. 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.
2. Residential parking zone using an Annual Visitors Permit
 - a. It is sometimes the case that a vehicle belonging to a non-resident, is left in a parking zone for more than one day displaying an annual visitors permit.

- b. Annual visitors permits are intended for visits to a resident's property and are valid only on the day of the visit. If advanced notices have been distributed and posted advising that a bay has been suspended it will be considered that these vehicles belong to people who are not genuinely visiting the residential property and, therefore, the PCN will be enforced.

INTERVENTION IN CHALLENGE & REPRESENTATION PROCESSES BY MEMBERS AND OTHER OFFICERS:

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

To preserve the integrity of these procedures they will be managed and carried out by the operational management of car parking services. No undue external pressure shall be brought, either by Members of the Council or senior officers, designed to influence unduly the decisions by virtue of their position alone.

LEGISLATION:

The statutory acts governing parking enforcement are The Road Traffic Act (1991), The Road Traffic Regulation Act (1984) and Traffic Management Act 2004 Part 6. If a driver is querying the legislation it should be explained to him / her in simple terms. There is no need to supply specific reference unless especially requested. When such a request is made the Council will make reference to specific, relevant paragraphs and will quote them verbatim within any correspondence. The Council will not supply full copies of the relevant acts, which can be obtained from the HMSO or, in the case of the 1991 act, accessed via the internet.

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

LOADING / UNLOADING:

Vehicles will be permitted to park in contravention of waiting restrictions, including resident parking zones, whilst carrying out the legitimate activity of loading or unloading provided:

1. Loading / unloading activity, involving the vehicle, is observed by the Civil Enforcement Officer whilst the vehicle is parked. The observation period shall be for five minutes and a PCN shall only be issued if no activity is seen during this period.
2. Generally a maximum of 20 minutes will be allowed to enable loading / unloading to be completed. Exceptions will be made when the nature of the goods being loaded / unloaded require more time, e.g. house moving or very heavy goods being handled.
3. The goods being delivered or collected are heavy or bulky.
4. Due consideration will be given to elderly or disabled people in assessing compliance with 3 above.
5. Due allowance will be given to allow the driver to complete delivery paperwork.
6. 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.

LOCATION – INCORRECT:

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

LOST KEYS:

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

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

METER / PAY & DISPLAY MACHINES – DID NOT REALISE THERE WAS ONE THERE:

Claims from drivers / keepers that they did not see or realise that they had to use a meter or pay & display machine will normally be dismissed as clear sign posting must by law be provided. If it should be claimed that in a particular instance the signage was defective, removed, damaged, or is or was obstructed, then, after investigation, consideration shall be given to cancelling the PCN.

METER / PAY & DISPLAY MACHINES – NOT WORKING:

Where it is claimed that a machine is not working then reference must be made to the maintenance records, the Civil Enforcement Officer's notes and any machine test records. If it is confirmed that the machine was not working at the time then consideration should be given to cancelling the PCN. But if there was an alternative machine, in working order in the same car park or the same length of street then it is reasonable to expect that the drivers would use this machine and the PCN would not be cancelled.

MIS-SPELLING OF KEEPER'S NAME:

The mis-spelling of the keeper's name and / or address on the Notice to Owner does not invalidate it or discharge the liability of the person receiving it. The onus is still on the genuine keeper to deal with the matter. Such names and addresses are, in most cases, obtained from the DVLA and are supplied by the keepers themselves. It is also incumbent upon the keeper to ensure that these are correct. If any mis-spelling is discovered then alterations must be made immediately to ensure that future notices are sent out correctly. When the mis-spelling is severe and is radically different from the correct spelling consideration should be given to the cancellation of the PCN.

MITIGATING CIRCUMSTANCES:

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

1. DELAYS:

Delays due to queues at shops, banks, etc., meetings taking longer than expected, caught up in crowds, etc. are not considered as valid reasons to cancel a PCN. Allowance should be made for such delays when purchasing parking time as they are a regular occurrence and part of normal life. (See emergencies below).

2. CHILDREN / ELDERLY PEOPLE:

- a. Claims are often made by people, accompanied by young children or elderly people, that they were delayed because of them. Again this should not be considered as a reason to cancel a PCN because allowance should be made for this when purchasing parking time. (see emergencies below).
- b. Claims that PCN's issued whilst children were being dropped-off or collected from schools etc., should not be cancelled unless a reasonable amount of time was not allowed by the Civil Enforcement Officer. The normal 5-minute observation period should be enough time in such circumstances.

3. EMERGENCIES:

An emergency is an unforeseen situation that prevented the driver from moving his / her vehicle. They are usually of a medical nature and leniency should be exercised where it can be seen that the driver could not have foreseen the situation. Claims should be supported by independent evidence.

MOTORCYCLE BAYS:

Any vehicle, other than a motorcycle, parked in a marked out motorcycle bay is parked in contravention of the surrounding restriction, and any PCN will be enforced.

NOTICE OF REJECTION OR ACCEPTANCE OF FORMAL REPRESENTATION:

Within 28 days of receipt of a formal representation from the keeper of the vehicle a written Notice of Acceptance or Rejection will be sent by the Council:

1. Notice of Acceptance:
This will confirm that the representation has been accepted and that the person's liability for the PCN has been cancelled. Any monies already paid will be refunded.
2. Notice of Rejection:
This formally rejects the representation and gives detailed reasons why the Council has come to this conclusion. The notice must state that a charge certificate may be served unless the penalty charge is paid within a further 28 days. The rejection notice will contain an online code and details on how an appeal can be made to the independent adjudicator at the Traffic Penalty Tribunal Service (TPT). This representation must be made within 28 days of receipt of the notice of rejection.

OBSERVATION PERIOD – PRIOR TO ISSUE OF PCN:

Prior to the issue of a PCN the Civil Enforcement Officers will allow a period of at least five minutes to elapse between first observing the vehicle illegally parked in an on-street permit parking bay and the issue of the PCN. Where vehicles are parked in a pay and display parking places or in the Council's off-street car parks the period allowed will be at least two minutes. The details of the vehicle will be entered into the Civil Enforcement Officer's handheld computer (HHC) when first seen and the computer will prevent issue of the PCN within either 2 or 5 minutes of that time. The observation time and the PCN issue time will appear on the face of the PCN itself and will be recorded by the enforcement software system.

PAY & DISPLAY TICKETS:

Most of Hertsmere Borough Council's car parks operate as pay & display, with provision for business permits and commuter permits in certain locations. Pay and display car parks and the conditions for parking therein are clearly marked. Pay and Display parking is also operative on-street in Borehamwood, Potters Bar, Radlett and Bushey particularly in the town centres outside of shops and local facilities. Pay & display requires the purchase of a ticket at the time of parking for the amount of time required. Where payment is not required a free ticket must be obtained. All tickets display the expiry date and time on them along with the fee paid where appropriate and car park. The car park fee tariff is clearly displayed adjacent to each machine.

Pay & Display Tickets must be:

1. Clearly displayed whilst the vehicle is parked. (The tickets are designed to adhere to the windscreen of the car using a peel off, adhesive backing).
2. For the date shown.
3. Un-expired.
4. For the car park indicated and must correspond with the appropriate pay and display machine numbers.
5. Pay and Display tickets are not transferable or interchangeable between vehicles.

PCNs will be issued for:

1. Failing to display a valid ticket.
2. Displaying a ticket that has expired.
3. The vehicle was not parked wholly within a marked bay.
4. Misuse of a registered disabled person's parking bay.
5. Vehicle returned to parking place within 1 or 2 hours (where applicable from the end of previous period).
7. Misuse / non-compliance of terms and conditions of parking permit issued by the Borough of Hertsmere (including not holding a valid road fund licence).
8. Meter Feeding – parked with additional payment made to extend the stay beyond the expiry of the time initially purchased.

Representations made because the driver did not have change will not be upheld. Representations made because of delays returning to the car park will be dealt with in accordance with 'mitigating circumstances' above.

The Council will not cancel PCNs issued to persons who persistently contravene.

PAY BY PHONE:

Hertsmere Borough Council off-street pay and display car parks provide the facility for motorists to pay by phone. Where payment is made via the pay by phone option a record of the payment will be recorded electronically and no ticket will be required to be displayed.

Payment via pay by phone must be:

1. For the date parked.
2. For the car park location number, as indicated on the signage within the car park where the vehicle is parked.
3. Payment for the parking charge should be made prior to leaving the vehicle and the car park.

PENALTY CHARGE NOTICE (PCN) – DISCOUNT PERIOD:

There are differential charges for parking contraventions in Hertsmere, the higher level is set at £70 and lower level is set at £50. This is subject to regular review. If the PCN is paid within

14 days of issue a discounted amount of 50% will be accepted in full settlement of the matter. If a challenge is received from the keeper within 14 days of issue of the PCN the discounted period will be frozen pending the Council's decision. Should the challenge be rejected the discount period will restart from the date of the notice of rejection. This fact is included within the notice itself. If the challenge is received more than 14 days from issue of the PCN the discount period will not be frozen and the original full amount will be payable in the event of the challenge being rejected.

If a Notice to Owner (NtO) is sent to the keeper who subsequently states that the PCN was not received at the time of the contravention the discounted amount will be accepted if paid within 14 days. This should be communicated in writing to the keeper with the restarted discount period starting from the date of the letter.

When it is claimed that the PCN was not received the computer system will be checked as to whether the same person has previously made such claims. If there is a history of such claims the discounted period should not be restarted and the full amount paid unless it can be proven that the PCN was not served.

PENALTY CHARGE NOTICE- EARLY ISSUE:

Claims that a PCN was issued before the time that a contravention is deemed to be committed require careful investigation. Handheld computers carried by each Civil Enforcement Officer control the issue of PCNs. These computers have in-built clocks, which are calibrated and synchronised on a regular basis. They will always impose a predefined observation period prior to allowing a PCN to be issued, which will be appropriately indicated on the PCN. The computer system will prevent any subsequent alteration to these times.

The normal procedure is for a Civil Enforcement Officer to enter the observation details into the computer and to complete the issue of the PCN. In all cases the defined minimum time period must be allowed between observation and issue.

PENALTY CHARGE NOTICES. – TIME TO PAY / INSTALMENT PAYMENTS:

As a general rule Hertsmere Borough Council will neither offer time in which to pay PCNs nor will it enter into instalment payment arrangements. Exceptions to this are only made in cases of demonstrated genuine financial hardship. The Council will not consider such arrangements if bailiff warrant(s) has been issued for recovery of the amount due.

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

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

- The settlement, normally, of at least two PCNs per month, where the debt involves multiple PCNs. If the applicant evidences financial hardship, this may be reduced to at least one PCN per month, by decision of the Parking Services Manager.
- The payments being applied to the oldest PCN first, thereby preventing the payment of discounted PCNs first.
- A minimum payment of £10 per week in other circumstances.

Wherever possible, payment is to be made by post-dated cheques, to be held by the Council for presentation on the due dates. Non-payment of any cheque will result in enforcement

action being recommenced and all un-banked cheques being returned to the drawer with a letter stating that the arrangement is cancelled.

Payments may be made by post, the telephone automated service, the Council's web-site or by digital payment at the Council's Civic Offices. The Council will maintain a separate active file for each arrangement reached which, will be reviewed by the relevant manager each month.

PENALTY CHARGE RATE:

There are differential charges for parking contraventions in Hertsmere, the higher level is set at £70 and lower level is set at £50. Any increase will have to be approved by members of the Council, the County Council, and the Secretary of State.

If paid within 14 days of issue the PCN rate is discounted by 50% and will be accepted in full settlement

PERMITS:

RESIDENTS', ANNUAL VISITORS', BUSINESS, COMMUTER AND SCHOOL PERMITS:

When such permit schemes are introduced, the rules of operation will be in accordance with the applicable Traffic Regulation Order.

PLUMBERS, ELECTRICIANS, GAS FITTERS:

Emergency call out:

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

Heavy Equipment:

Dealt with as loading / unloading.

POLICE OFFICERS ON DUTY:

PCNs should not be issued to marked police vehicles when on official duty. Requests for cancellation of any PCN issued to an unmarked police vehicle must be made in writing by the officer's area Inspector or equivalent. They should contain confirmation that the officer was on official business and that it was necessary for the vehicle to be parked where it was.

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

POLICE OFFICER OR CIVIL ENFORCEMENT OFFICER GAVE PERMISSION TO PARK:

Where details of the officer concerned are given, confirmation should be sought prior to cancellation of the PCN. Where these details are not given then the PCN should be enforced unless they are supplied subsequently.

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. For example if the delay was short (up to 10 minutes) or was caused by a minor medical emergency e.g. child being sick or mother feeling unwell, leniency should be shown, but medical emergency does not include delays in doctor appointments. If the delay was caused by the mother not allowing additional time enough to deal with young children or her own condition, both of which she is fully aware of, then the PCN should be enforced.

PRIVATE PROPERTY:

Parking restrictions placed on private property are not the concern of Hertsmere Borough Council and are outside the scope of its enforcement operation. Private landlords, resident's etc can impose any reasonable restriction on their own property, i.e. the need for permits, clamping etc. Enforcement of such restrictions, however, is also their responsibility although it may be sub-contracted to other companies. Hertsmere Borough Council would not act as a sub-contractor in such a case. Any person querying such an area should be referred to the relevant landlord or resident.

PUBLIC UTILITY VEHICLES:

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

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

If abuse is suspected a PCN should be issued and the Civil Enforcement Officer should note the reason why in his / her notebook, e.g. 'vehicle parked, no activity observed, no indication of location of any emergency'. In such cases the PCN should be enforced unless supporting evidence of the emergency or maintenance work is supplied by the utility company.

A public utility vehicle is any vehicle, with the exception of a car, involved in the main's supply of gas, electricity, water, cable or telephone.

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 contravention it remains his / her responsibility to pay the PCN and any recompense from the driver should be obtained by the keeper. (See 'Notice to Owner').

RESTRICTED HOURS:

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

1. **Permitted Parking Bays:** As per signing.
2. **Yellow Lines:**
 - a. Single: No waiting during times shown on adjacent sign
 - b. Double: No waiting at any time.

3. **Loading Restrictions – Yellow Kerb Markings:**
 - a. Two Lines: No loading at any time.
 - b. One Line: During the working day or as specified by adjacent signs.
4. **Designated Loading Bays:** Indicated on adjacent sign.
5. **Disabled Bays – Mandatory:** Indicated on adjacent sign.
6. **Bus Stops** – Usually 7.00am – 7.00pm any day but can vary – see adjacent sign.

ROAD SIGNS / MARKINGS – MISSING, OBSCURED OR BROKEN.

YELLOW LINES:

- a. Where it is claimed that a yellow line(s) is worn away or has been covered by a highway repair the area should be promptly inspected and photographed in case of referral to TPT, and remedial work undertaken.
- b. Where weather conditions (i.e. snow or heavy leaf fall) have obscured the lines then prompt remedial action to clear them will be requested from the County Council.
- c. If it is confirmed that the claim is valid the PCN should be cancelled. Where the lines can be clearly seen, even though they may be partially worn, the PCN should be enforced but remedial action to renew the lines should be undertaken.

KERB MARKINGS: (LOADING RESTRICTIONS):

- a. As per yellow lines above.

OBSCURED SIGNS:

- a. Information signs accompanying waiting and loading restrictions must be clearly visible at all times. If it is claimed that a sign was obscured and could not be read (graffiti, weather or overhanging trees etc.) the sign will be promptly inspected, photographed, in case of referral to TPT, and remedial action taken if necessary. If the claim is proved to be correct the PCN should be cancelled.
- b. If the sign can be easily read then the PCN should be enforced.

MISSING SIGNS:

- a. If a sign is claimed to be missing it should be inspected promptly and, if confirmed, arrangements made for its prompt replacement (except in the case of double yellow lines, which, under the Traffic Signs Regulations and General Directions 2002, are not required to be signed). Where a sign is missing the PCN should be cancelled.

ROYAL MAIL VEHICLES:

Royal Mail vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such activity. Royal Mail vehicles parked for long periods with no activity observed are subject to the same restrictions as ordinary motorists and a PCN should be issued. Cancellation of a PCN will only be considered if written confirmation is received from the area manager that the vehicle was actively involved in the collection / delivery of mail.

SCHOOL BAYS / AREAS:

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

Any vehicle parked in a restricted bay / area, during the times shown on the plate, will be issued with a PCN which will not be cancelled under any circumstances (other than

compassionate grounds, which must be evidenced), including the claim that the driver was picking-up or dropping-off children.

SECURITY:

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

SECURITY VANS:

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 must comply with parking restrictions.

SUSPENDED BAYS:

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

TARIFFS / CHARGING LEVELS FOR PARKING – ON & OFF-STREET:

Hertsmere Borough Council will review its charging levels when considered necessary for parking both on and off-street. Officers will conduct this review and any recommendations for change will be placed before members of the Executive for their approval or otherwise. The review shall, inter-alia, take into account the following policy matters referred to previously:

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

TAXI RANKS:

Notices are displayed at each rank showing its limits, how many Hackney carriages may stand on it and any special regulations applicable. Vehicles, other than Hackney carriages, (including private hire vehicles) parked in such ranks will be issued with a PCN. Any vehicle, including a Hackney carriage, parked outside of the rank and in contravention of a parking restriction will be issued with a PCN.

TIME / DATE CALIBRATION OF HANDHELD COMPUTERS AND PAY & DISPLAY MACHINES:

Prior to commencement of each shift the Civil Enforcement Officer shall calibrate their hand held computers to ensure that they reflect the correct time and date. The time will be checked against an atomic clock.

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

UNAUTHORISED MOVEMENT OF A VEHICLE:

Movement of any vehicle by the police is considered to be authorised. Unless there is clear evidence that a vehicle has been moved by an unauthorised person, then all PCNs should be enforced.

1. Stolen Vehicle: confirmation from the police that the vehicle was reported stolen including the relative crime report number, the time and date the vehicle was reported stolen and the date, time and location when the vehicle was recovered. A crime reference number with no accompanying letter from the police will not be acceptable.
2. Unauthorised use of a vehicle by another family member or a friend is difficult to substantiate and under these circumstances the PCN should be enforced unless it can be demonstrated that the matter was reported to the police prior to or just after the issue of the PCN. Subsequent report will not lead to the cancellation of the PCN.

UNIFORMS – CIVIL ENFORCEMENT OFFICER:

The RTRA 1984 (Section 63A[4]) & TMA 2004 Part 6 (Section 76 (3A) states:

- Civil Enforcement Officers will wear such uniform as may be determined by the enforcement authority in accordance with guidance issued by the appropriate national authority.

All Civil Enforcement Officers will carry Council identification cards, which will not carry their names for personal security reasons.

VANDALISED VEHICLE:

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

1. The Police – quoting the recorded crime number.
2. Motoring organisation / garage service who removed the vehicle from site.

Civil Enforcement Officer observation from his / her Pocket Book must also be considered providing that it clearly states the extent of the damage. Failure to provide supporting evidence or the absence of Civil Enforcement Officer observation will lead to the PCN being enforced.

VEHICLES LEFT UNATTENDED TO GAIN ACCESS:

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

VISITOR TO BRITAIN:

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

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

DEFINITIONS

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

CHARGE CERTIFICATE:

A Charge Certificate is issued:

1. 35 days after a Notice to Owner (NtO) is issued and no formal representation has been received.
2. 35 days after a Notice of Rejection to a formal representation is sent where no appeal has been made to TPT.
3. 14 days after any appeal to TPT is withdrawn (i.e. withdrawn before hearing).
4. 35 days after rejection of appeal by TPT.

When a Charge Certificate is issued the amount of the penalty is increased by 50% (currently from £50 to £75 or £70 to £105). The Charge Certificate is sent to the debtor requiring payment within 28 days of the full increased amount.

CONTROLLED PARKING ZONE (CPZ):

A Controlled Parking Zone can be controlled by:

1. On-street parking is controlled by way of bays in which parking is permitted under certain conditions (i.e. for valid permit holders only), and / or yellow line restrictions in respect of waiting and / or loading. Every entrance road into a controlled zone will carry a sign, which explains that a driver is entering a zone, and give details of the times that the restrictions are in force. There is no need for additional signs on additional roads unless the restrictions differ from this, e.g. individual waiting/loading restrictions that apply for longer or even shorter periods. The local sign will always take precedence over the sign controlling the entrance to the zone.
2. On-street parking can also be controlled by way of a 'resident parking zone' where there are no bays or yellow lines and is signed by an entry sign at the beginning of road where it applies.

DEBT REGISTRATION:

This is carried out by the Traffic Enforcement Centre at Northampton County Court (TEC) electronically on or after 18 days from the issue of a Charge Certificate. The Council must confirm issue of the Charge Certificate to the Court and there is a fee payable to the court of £8 for each registration. This is added to the amount owed to the Council.

DEBT REGISTRATION – NOTICE OF:

Once the debt has been registered at TEC an Order for Recovery and Statutory Declaration Form is sent to the debtor advising him / her that they have 21 days in which to pay the amount owed or swear a Statutory Declaration. Failure to do either will lead to a Warrant of Execution being applied for by the Council at TEC. Once issued this will enable the Council to instruct bailiffs to collect the debt on their behalf.

DISPENSATION:

Formal permission given by the Council for a vehicle to park in contravention of a resident, or business parking place, pay and display parking place or waiting or loading restriction, for example to allow maintenance work to be carried out to an adjacent property.

DRIVER & VEHICLE LICENSING AGENCY (DVLA)

The agency responsible for maintaining records of all vehicles, their registered keepers and driving licenses.

GOODS – DEFINITION OF WHEN RELATED TO LOADING / UNLOADING:

In claims of loading / unloading permitted 'goods' are deemed to be any that are of sufficient bulk and / or weight that requires the vehicle to be parked adjacent to the point of collection or delivery. If a delivery is being carried out to a trade or business premises by a commercial vehicle this will be seen as compliant with the above. The delivery / collection of small portable items, such as shopping, to or from a private vehicle will not constitute loading / unloading unless an elderly, disabled or infirm person is involved and enforcement of the restriction would cause hardship. In all cases the vehicle should never be parked for longer than is necessary but allowance should be made for delivery notes etc, to be signed.

MANDATORY AND ADVISORY PARKING BAYS:

Where restrictions apply to a particular bay (e.g. disabled bay, doctor's bay etc.), which is covered by a Traffic Regulation Order, it is said to be mandatory (obligatory). In this case there must be a time plate above the bay displaying the restrictions. When the bay is not covered by an order then it is deemed to be 'advisory' and, therefore, unenforceable. If in doubt the relative Traffic Regulation Order should be checked.

TRAFFIC PENALTY TRIBUNAL (TPT):

An independent body supported by subscriptions from Local Authorities by means of a levy on each PCN issued plus an annual fee. Once a formal representation against a PCN has been rejected the keeper of the vehicle is given the opportunity to appeal to TPT within 28 days of the rejection. TPT will review the case and make an independent decision as to the validity of the ticket based purely on its legality. TPT will not take mitigating circumstances into account but will, realistically, expect the Council to do this prior to the matter being sent to them. If they feel that mitigating circumstances do apply they will not uphold the appeal but will make their view known to the Local Authority. TPT's decision is final and binding on both parties.

To ensure that appeals are not upheld the Council must have watertight cases as any element of doubt will be given to the appellant and the PCN cancelled.

NON-FEE PAYING ENQUIRY & RESPONSE TO DVLA – VQ4 & VQ5:

When a PCN remains unpaid for 28 days Hertsmere Borough Council will make a non-fee paying enquiry to DVLA (VQ4) to ascertain the identity of the keeper of the vehicle. This enquiry is made electronically via the Council's parking enforcement system. The response (VQ5) from DVLA is also electronic and is automatically fed into the Council's system. Responses are usually received within 3 days of enquiry. DVLA will confirm the response by forwarding a paper copy of the relative VQ5.

NOTICE TO OWNER (NtO):

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

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

PENALTY CHARGE NOTICE (PCN):

Issued at the time of the alleged contravention and must be affixed to the vehicle within a sealed plastic carrier or handed to the driver – failure to do either will invalidate the PCN.

The PCN will identify the:

1. Vehicle registration number.
2. Make & colour of the vehicle.
3. Location of the vehicle.
4. Contravention code and description of alleged contravention.
5. Date and time of the alleged contravention.
6. PCN number and the Civil Enforcement Officer's number
7. Details of Penalty payable
8. Instruction about how and where to pay.
9. Instructions on how and when an enquiry and / or a formal representation against the issue of the penalty may be made.

REGISTERED KEEPER:

The person(s) or organisation who are registered at DVLA as being legally responsible for the vehicle. The registered keeper is not necessarily the owner or the driver.

SUSPENSION OF PARKING BAY:

Suspension of parking within a designated parking bay(s). Notified by display of adjacent signs and notices sent, in advance, to nearby properties.

TRANSPORT ENFORCEMENT CENTRE (TEC):

The TEC is located in Northampton and is a branch of the County Court, which specifically deals with motoring offences. All communication with TEC is carried out electronically either by fax or on line modem link via a parking enforcement computer system.

