

West Sussex County Council



Adur & Worthing Councils



ADUR & WORTHING
COUNCILS

PENALTY CHARGE NOTICE CASE MANUAL

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INTRODUCTION

This manual is intended to cover the majority of the circumstances that regularly occur in letters, representations or appeals to the Adjudicators. It is not intended to be a guide to processing Penalty Charge Notices, nor to replace knowledge of the regulations and Council's policies and practices, but to provide a reference manual for common situations that arise in letters, representations and appeals.

It includes legal information and general information about each subject, together with notes regarding Adjudication cases where the Appeals Services have listed the cases as dealing with common or important issues which may offer useful guidance on similar cases. An explanation of the rulings in each case has been given where it is especially pertinent; otherwise the cases have been listed for guidance and referral if necessary. All Adjudication cases can be found on the PATAS and the Traffic Penalty Tribunal web-sites, www.parkingandtrafficappeals.gov.uk and www.trafficpenaltytribunal.gov.uk. The cases are grouped into topics but can be searched for on a number of features, including the case name.

This manual also indicates good practice and what Councils generally do in similar circumstances. It has also been amended to include Adur & Worthing Council's own policies on dealing with cases.

However, it is important to stress that just as a Council has the power to decide whether or not to issue a Penalty Charge Notice, it also has the power to decide whether or not to pursue payment of that Notice. Council officers considering appeals against parking tickets act in a quasi-judicial manner and nothing in this manual is intended to act as a definitive instruction on what action to take in all circumstances. The duty of a Council officer to use discretion may take precedence over any guidance given in this manual if the circumstances warrant the exercise of that discretion.

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BANK HOLIDAYS – RESTRICTIONS APPLICABLE

Waiting and loading restrictions (as indicated by yellow lines on the carriageway) as well as specified vehicle bays are enforceable throughout the year, including bank holidays.

It is usually only in designated parking bays i.e. meter bays, resident's bays, business bays, shared use bays and pay and display bays and car parks that restrictions are lifted on Bank Holidays i.e. they are free.

In view of this, any Penalty Charge Notice issued on a Bank Holiday for a yellow line contravention or for parking in a specified vehicle bay should be upheld, unless it falls into the normal criteria for cancellation.

The following Adjudication cases have dealt with this subject and the related subject of special events which have required additional temporary restrictions to be put into place on days when they would otherwise not be applicable –

Coley –v- London Borough of Brent

Kristovic –v- London Borough of Hammersmith and Fulham

In this case, the Adjudicator held that because the Council's Traffic Regulation Orders did not specifically exclude any days from the waiting restrictions, there was no need for signs indicating that restrictions were in force on yellow lines on bank holidays.

Zammit –v- London Borough of Greenwich

BANK VISITS

Although claims from individuals or companies that money was being taken to, or collected from, the bank would not normally be accepted for cancellation of the Penalty Charge Notice the Traffic Regulation Orders have an exemption for the delivery or collection of cash and other valuables or valuable securities for or from a bank. Therefore, when claims that the driver was visiting a bank for these purposes the normal loading/unloading and delivery & collection rules apply. (See section on delivering and collecting).

BANKRUPTS AND LIQUIDATIONS

Any claim that an individual or company had been adjudged bankrupt or gone into liquidation should be supported by appropriate documentation. This is usually in the form of a letter from the liquidator handling the winding up of the company.

The liquidator will be appointed to handle the winding up arrangements and will be responsible for paying all creditors providing that there are sufficient assets. If the assets are insufficient, part payment of claims may be made.

A claim should be sent to the liquidator advising them how much the debt is for and providing proof of the debt (a copy of the Notice to Owner). The Council can only ask for the amount shown on the Notice to Owner.

The Penalty Charge Notice can be put on an indefinite hold until a creditor meeting has taken place and further information is received from the liquidator.

However, it is important to note that it is unlikely that any money will be paid and it may be advisable to cancel the Penalty Charge Notice as soon as notification of the bankruptcy is received. This must not preclude the acceptance of any money should it be received at a later date.

BLOCKED ACCESS

A motorist who claims that they were unable to gain access to their private or commercial property should generally be advised that this does not entitle them to park in contravention of the regulations and the Penalty Charge Notice should be upheld.

An exception to this is when the driver has to collect the key before he/she can open a gate or a door. However, this should not take longer than is necessary and it is likely that he/she will have seen the Civil Enforcement Officer and explained the situation. In which case, the Civil Enforcement Officer should have made the appropriate notes on the hand held computer or in the pocket book.

If no notes are present, consideration should be given to the circumstances and how long the vehicle was observed before the Penalty Charge Notice was issued.

If a driver claims that access is being persistently blocked it may be necessary to arrange for additional enforcement. However, the Council has no authority to deal with obstruction unless a Penalty Charge Notice can be issued for another contravention. The police deal with obstruction but will not usually become involved where a driver is unable to get access to his property from the road. They will however usually take action where the driver is unable to move his vehicle from the property (i.e. from the garage or drive onto the road).

BROKEN DOWN VEHICLES

A broken down vehicle that cannot be moved is covered by the exemptions contained in Traffic Regulation Orders. Claims of alleged breakdown should be accepted if they appear to be unavoidable and if supporting evidence in the form of one of the following has been produced -

- a) A garage receipt, on headed paper, properly documented.
- b) A till receipt for purchase of seemingly relevant spare parts purchased on or about the date of the contravention.
- c) A confirmation letter from the AA, RAC or other motoring organisation.
- d) The Civil Enforcement Officer has noted in the pocket or on the hand held computer that the vehicle had obviously broken down.

The main areas of contention associated with the alleged breakdown of vehicles are listed below with guidelines on how the enquiry should be dealt with.

Removal of Vehicle by a garage or break-down service.

It should be noted that if a vehicle is broken down, the driver cannot leave it indefinitely before arranging for it to be removed. Generally, the driver is expected to arrange for the vehicle to be removed within 24 hours – if the vehicle cannot be removed within this time, we should expect to see some evidence that the driver has contacted the breakdown service or garage (this has been deemed by adjudicators as reasonable).

Flat Battery

A receipt for the purchase of a new battery or for parts, which could cause a flat battery, should be requested. Normally a faulty alternator, solenoid or fan belt would cause a flat battery. If no evidence is forthcoming, the Penalty Charge Notice should be upheld.

In cases where it is alleged that the vehicle was bump/jump started and no other evidence is received, the Penalty Charge Notice should be upheld.

Consideration should also be given as to how the vehicle came to be illegally parked before it failed to restart.

Flat Tyre

The Penalty Charge Notice should be upheld unless there is a good reason why the driver could not change the tyre i.e. the driver is elderly, infirm or disabled, or where the breakdown services were called because of mechanical difficulty.

Overheating

Where it is claimed that the vehicle had overheated due to lack of water, the Penalty Charge Notice should be upheld unless there is evidence of a mechanical failure i.e. a broken fan belt, faulty radiator/hose.

Consideration should not be given to any claims that the vehicle had overheated through heavy traffic or hot weather.

Running out of petrol

Unless the driver has provided evidence that the vehicle ran out of fuel due to an electrical or mechanical fault, the Penalty Charge Notice should be upheld.

IF IT IS APPARENT FROM PREVIOUS CASES THAT A PARTICULAR DRIVER IS USING THE ALLEGED BREAKDOWN OF A VEHICLE IN ORDER TO PARK IN CONTRAVENTION OF THE REGULATIONS, THIS SHOULD BE TAKEN INTO CONSIDERATION WHEN DECIDING WHETHER OR NOT TO CANCEL OR UPHOLD THE PENALTY CHARGE NOTICE.

THIS ALSO APPLIES WHERE FREQUENT CLAIMS ARE BEING MADE FROM A PARTICULAR GARAGE AND THE VEHICLES CONCERNED WERE PARKED IN THE VICINITY OF THE GARAGE PREMISES AS THEY ARE LIKELY TO BE VEHICLES THE GARAGE IS REPAIRING.

BUS STOPS

A restricted bus stop will be marked out on the highway in yellow and a time plate showing the hours of operation will be affixed to the bus stop post. Penalty Charge Notices issued to vehicles (other than buses) waiting in a restricted bus stop should be upheld.

Vehicles are not allowed to park at bus stop clearways for any reason – including loading and unloading, and this should be included in the relevant Traffic Regulation Order.

CABS AND MINI-CABS

There is a difference between licensed hackney carriages and mini-cabs.

Licensed hackney carriages are licensed by the Council and are permitted to ply for hire in the street.

Mini-cabs are also licensed, but they are not allowed to ply for hire or to display a 'taxi' sign. They are usually saloon vehicles and can only handle pre-arranged pick-ups.

Taxis from other areas carry licence plates issued by the applicable local authority, as well as a 'taxi sign' and are not permitted to ply for hire in Worthing.

Cabs, like all vehicles may stop to allow passengers to board or alight for as long as necessary for the purpose. It is not an automatically exempt activity for the driver to assist passengers into premises and leave the cab unattended. If a licensed cab is left unattended it is liable for a Penalty Charge Notice.

However, each case, especially those involving elderly, infirm or disabled passengers, should be treated on its merits. Mini-cabs working for hospitals will need to enter premises to collect patients and the driver may also be required to make sure the passenger is settled inside their house upon their return. Tickets should be cancelled in these circumstances.

It must also be borne in mind that if a cab is called by radio link to an address, the driver will need a short period of time to announce his arrival and will therefore need to leave the cab to do so.

COMPLAINTS AGAINST CIVIL ENFORCEMENT OFFICERS

Allegations that an Civil Enforcement Officer has made an error or issued a Penalty Charge Notice incorrectly should be dealt with in the normal way by investigating the matter and sending an appropriate reply.

All allegations of misconduct or rudeness should be taken seriously and referred to the enforcement manager for the appropriate investigations/action to be taken. A full reply should not be sent to the customer until you have liaised with the appropriate people to establish what investigations/action has taken place.

It is useful for monitoring purposes to keep a record of complaints against Civil Enforcement Officers as this will enable issues with particular Civil Enforcement Officers to be identified and will also assist in monitoring the enforcement contractor and identifying training requirements.

If you are in any doubt what action to take, the matter must be referred to your supervisor for further clarification.

CONTRAVENTION CODES AND DESCRIPTIONS

The following contravention codes and descriptions are the contraventions that are laid down by the Patrol Committee/TPT – not all codes will be used in Worthing.

Standard PCN Codes v6.7.3

On-Street

Code	General suffix(es)	Description	Diff. level	Notes
01	aoyz	Parked in a restricted street during prescribed hours	Higher	Suffixes y & z for disabled badge holders only
02	ao	Parked or loading / unloading in a restricted street where waiting and loading / unloading restrictions are in force	Higher	
04	cs	Parked 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	cmprsv	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 and display tickets when required	Lower	"two" may be varied to another number or "multiple".
11	gu	Parked without payment of the parking charge	Lower	
12	rstuw4	Parked in a residents' or shared use parking place or zone without either clearly displaying a valid permit or voucher or pay and display ticket issued for that place, or without payment of the parking charge	Higher	
13		---- RESERVED FOR TfL USE (LOW EMISSION ZONE) ----	n/a	
14		Parked in an electric vehicles' charging place during restricted hours without charging	Higher	
16	bdehqstwx456	Parked in a permit space or zone without clearly displaying a valid permit	Higher	Suffix "s" only for use where bay is completely non-resident
17		---- RESERVED FOR ROAD USER CHARGING USE ----	n/a	
18	bcdefhmprsv	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		Parked in a part of a parking place marked by a yellow line where waiting is prohibited	Higher	
21	bcdefghlmnpqrsuv 1256	Parked wholly or partly in a suspended bay or space	Higher	
22	cflmnopsv	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	bcdefghklprsv123	Parked in a parking place or area not designated for that class of vehicle	Higher	Suffix required to fully describe contravention
24	bcdefhlmnpqrsuv125 6	Not parked correctly within the markings of the bay or space	Lower	
25	n2	Parked in a loading place or bay during restricted hours without loading	Higher	On-street loading bay or place
26	n	Parked in a special enforcement area more than 50 cm from the edge of the carriageway and not within a designated parking place	Higher	"50 cm" may be varied to another distance in Scotland.
27	no	Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway	Higher	
28	no	Parked in a special enforcement area on part of the carriageway raised to meet the level of a footway, cycle track or verge	Higher	
30	flmnopsu1	Parked for longer than permitted	Lower	
31	j	Entering and stopping in a box junction when prohibited	n/a	London only
32	jdtw	Failing to drive in the direction shown by the arrow on a blue sign	n/a	Code-specific suffixes apply. London only
33	jbcefhghikqrs	Using a route restricted to certain vehicles	n/a	Code-specific suffixes apply. London only
34	j0	Being in a bus lane	n/a	
35		Parked in a disc parking place without clearly displaying a valid disc	Lower	
37	j	Failing to give way to oncoming vehicles	n/a	London only
38	jlr	Failing to comply with a sign indicating that vehicular traffic must pass to the specified side of the sign	n/a	Code-specific suffixes apply. London only
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	
45	nw	Stopped on a taxi rank	Higher	"stopped" may 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 or lane	Higher	
50	jlru	Performing a prohibited turn	n/a	Code-specific suffixes apply. London only
51	j	Failing to comply with a no entry sign	n/a	London only
52	jgmsvx	Failing to comply with a prohibition on certain types of vehicle	n/a	Code-specific suffixes apply. London only

53	j	Failing to comply with a restriction on vehicles entering a pedestrian zone	n/a	London only
54	j	Failing to comply with a restriction on vehicles entering and waiting in a pedestrian zone	n/a	London only
55		A commercial vehicle parked in a restricted street in contravention of the 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
58		Using a vehicle on a restricted street during prescribed hours without a valid permit	n/a	London Lorry Control Scheme
59		Using a vehicle on a restricted street during prescribed hours in breach of permit conditions	n/a	London Lorry Control Scheme
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 or over a footpath or any part of a road other than a carriageway	Higher	Code-specific suffixes apply.
63		Parked with engine running where prohibited	Lower	
64	124	Parked in contravention of a notice prohibiting leaving vehicles on a grass verge, garden, lawn or green maintained by a local authority	n/a	Code-specific suffixes apply. For use in Essex only
65	124	Parked in contravention of a notice prohibiting leaving vehicles on land laid out as a public garden or used for the purpose of public recreation	n/a	Code-specific suffixes apply. For use in Essex only.
66	124cg	Parked on a verge, central reservation or footway comprised in an urban road	n/a	Code-specific suffixes apply. For use in Exeter only.
75		--- RESERVED FOR LITTERING FROM MOTOR VEHICLES ---		London only
76		-- RESERVED FOR WASTE RECEPTACLE CONTRAVENTIONS --		London only
99	no	Stopped on a pedestrian crossing or crossing area marked by zigzags	Higher	Pedestrian Crossings

Police Use Only

64		Police removal following an accident	n/a	Police use only
65		Police removal – illegally parked - red route	n/a	Police use only
66		Police removal – illegally parked - non red route	n/a	Police use only

Off-Street

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
77		- - - RESERVED FOR DVLA USE - - -	n/a	
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 other than that designated	Lower	Off-street car parks
96		Parked with engine running where prohibited	Lower	Off-street car parks

Suffixes

General suffixes:--

- | | | | |
|----------------------------|-----------------------|----------------------|------------------|
| a) temporary traffic order | b) business bay | c) buses only | d) doctor's bay |
| e) car club bay | f) free parking bay | g) motor cycle bay | h) hospital bay |
| i) wrong type of voucher | j) camera enforcement | k) ambulance bay | l) loading place |
| m) parking meter | n) red route | o) blue badge holder | p) pay & display |

- | | | | |
|---|-----------------------|-----------------------------|------------------|
| q) market traders' bay
ticket used in permit bay | r) residents' bay | s) shared use bay | t) voucher/P&D |
| u) electronic payment | v) voucher | w) wrong parking zone | x) incorrect VRM |
| y) obscured / illegible permit
vehicles bay | z) out of date permit | 0) local buses / trams only | 1) electric |
| 2) goods vehicle loading bays
disabled bay | 3) bicycle bay | 4) virtual permit | 5) dedicated |
| 6) hotel bay | | | |

Taxi Ranks (code 45) only

w) amends the contravention code description to change the wording from 'stopped' to 'waiting'

Footway parking (codes 61, 62, 64, 65 and 66) only:-

- | | | |
|-------------------------|----------------------|--------------------------|
| 1) one wheel on footway | 2) partly on footway | 4) all wheels on footway |
| c) on vehicle crossover | g) on grass verge | |

Moving traffic contraventions only:-

- | | | | |
|--|--|---------------------------------------|----------|
| 32 d) proceeding in the wrong direction | t) turning in the wrong direction | w) one way traffic | |
| 33 b) buses only
and taxis only | c) buses and cycles only | e) buses, cycles and taxis only | f) buses |
| g) local buses only
buses and taxis only | h) local buses and cycles only | i) local buses, cycles and taxis only | k) local |
| q) tramcars and local buses only | r) tramcars only | s) tramcars and buses only | |
| 38 l) must pass to the left | r) must pass to the right | | |
| 50 l) no left turn | r) no right turn | u) no U-turn | |
| 52 g) goods vehicles exceeding max gross weight indicated
motorcycles | m) motor vehicles | s) solo | |
| v) all vehicles except non-mechanically propelled ones being pushed | x) motor vehicles except solo m/cycles | | |

CONTROLLED PARKING ZONE (CPZ)

A controlled parking zone denotes an area where every square inch of on-street parking is controlled by way of yellow lines, which are subject to waiting and loading restrictions. Parking places where parking is permitted under certain conditions for example: permit holder only bays, shared use parking bays and pay and display bays are then put in place over these restrictions.

The legal position is that all parking is restricted within a controlled zone unless it is specifically exempted, that is by way of permitted parking bays.

At all entrance roads into a controlled parking zone, signs will be displayed to inform the motorist that he/she is entering a controlled parking zone and these signs will give details of the times when the zone is operational.

There is no requirement for a separate time plate on any additional road within a controlled parking zone unless the parking restrictions differ from those stated on the controlled zone entry sign i.e. waiting/loading restrictions, which sometimes apply for longer periods. However, in practice, the signs within the zone will usually show the times of restriction.

Any requests from members of the public for cancellation of a Penalty Charge Notice on the grounds that they were unaware that they parked in a controlled parking zone should be rejected unless there is evidence that the zone entry sign was missing.

COUNCIL OFFICERS ON DUTY

Some Council vehicles will be exempt from the parking restrictions due to the duties they are involved in (see section on Exempt Vehicles). These exemptions do not apply to Council officers using private or pool cars.

All Council officers on duty, (whether social workers, housing officers, highways inspectors, environmental health inspectors etc), are expected to observe the parking regulations.

A request for cancellation of a Penalty Charge Notice should only be considered if an emergency arose, which prevented the officer from removing the vehicle after the expiry of paid for parking time or necessitated the leaving of the vehicle parked illegally. (This criteria applies to all motorists). A letter from the head of department must support any request for cancellation in these circumstances.

Requests for cancellations due to delays in meetings, case conferences, seeing clients etc., should not normally be considered unless there are mitigating circumstances that would justify the use of discretion.

Where a Council officer has received a Penalty Charge Notice and it cannot be cancelled, the officer's department may of course choose to pay the ticket.

COURT DELAYS

Any requests for cancellation of a Penalty Charge Notice from police officers, solicitors, barristers, witnesses or members of the public who have been delayed because a court hearing was delayed or took longer than expected should not be allowed.

However, consideration should be given to a member of the public who appears in court and is unable to return to the vehicle because he or she has been sent to prison. In these circumstances the Penalty Charge Notice should be cancelled provided that proof has been supplied.

DELIVERY AND COLLECTION, LOADING AND UNLOADING OF GOODS

The Traffic Regulation Orders offer an exemption from parking restrictions for 'delivery and collection' and the 'loading and unloading' of goods.

In an Adjudicator's decision on 19th July 1997 (Jane Packer Flowers and other), this issue was explored in detail and the Adjudicator considered several cases before issuing a decision which has helped to clarify the legislation and give guidance to Councils on how to handle these cases.

Vehicles

The vehicle involved does not have to be a goods vehicle, but it must be necessary for the activity and not merely convenient.

The definition of 'Goods'

The term 'Goods' is defined in broad outline only in the relevant legislation, and therefore, the intention is to give the term a very wide meaning. In particular there is no definition of size and, because postal packets are included, the implication is that goods can be small.

As stated above, there is no requirement in the Traffic Regulation Orders that what is to be loaded or unloaded must be specifically goods of a certain nature, nor that must be actually delivered anywhere, i.e. to a premises. This means that it can for example refer to tools and equipment, although the word 'load' does imply bulk or weight.

Shopping

Shopping may be classed as goods. The exemption does not cover choosing the goods i.e. the process of shopping, but it would apply while the goods are being put into a car. If they are heavy or bulky, the loading exemption will apply, but even if they are not, the collection exemption may apply – providing this warranted the use of the vehicle.

Trade Deliveries

If the delivery is being carried out in the course of a trade or business it will usually fall within the meaning of 'delivering and collecting goods' even if the size

and weight of the goods is small, for example a milk delivery float. The point is illustrated easily by multiple deliveries, but it also applies to one-off deliveries too.

All commercial deliveries have more to them than mere convenience, as there are obvious considerations of time and money involved. Drivers involved in commercial deliveries will be able to provide some form of supporting evidence if required.

The driver does not have to prove that it was necessary to park where he did. However, he may have to prove that he did not park for longer than was necessary.

To sum up – deliveries of small items in the course of business are permitted, but it should be borne in mind that the smaller and lighter the goods, the shorter the time needed to deliver. There may be a greater evidential burden on the driver to prove that he took no longer than was necessary if there was a lengthy absence from the vehicle.

The boundaries of the exemptions

Delivery and collection clearly means taking goods to or from a place. It covers taking goods into a premises or taking them from a premises – it may also apply to putting them in or collecting them from a particular part of a premises. This applies to loading and unloading as well.

Paperwork and other delays

The delivery process applies to the completion of paperwork, which is reasonably required, e.g. delivery note, obtaining a signature. It is unrealistic to expect deliveries to be made without some form of paperwork.

There may also be some other form of delay, papers not ready, people cannot be found, and goods need to be located, for example. The driver will be covered for unexpected delays, but it will be difficult for him to argue that the process was still continuing if he goes for refreshment or starts another job. The driver should be allowed a reasonable time while goods are being located, but this is not an automatic exemption covering however long it takes.

Parking while investigating whether or not there are goods to be collected is not covered, unless the driver can reasonably expect that there are goods there but then finds out that there are none, e.g. a prior appointment or a regular round, rather than a canvassing situation.

Although the delays mentioned above are allowed within the terms of the loading provisions, selecting or choosing goods is specifically excluded. The goods must have been pre-ordered or collection pre-arranged.

The burden and standard of proof

This falls on the driver. The standard is the civil standard – the balance of probabilities. The shorter the observation period, the easier it will be for the driver to establish that the exemption applies.

Any lack of observable activity by the civil enforcement officer does not imply that no activity was taking place and there is no authority for saying that it must be continuous. It was suggested by the Adjudicators that an observation period of 5 -10 minutes be given in the case of commercial vehicles, or vehicles showing evidence of loading or delivery activity.

However, if the driver is delivering goods to the 20th floor for example, it is likely that there may be a period in excess of 5-10 minutes where no activity is observed by a civil enforcement officer. It is important to understand that this does not mean that we can safely say that no loading or unloading was taking place. Again, the circumstances have to be taken into account. There is no requirement for any of the vehicle doors or the boot to be left open to indicate that loading is taking place.

Yellow Lines

The Traffic Regulation Orders allow a maximum of 30 minutes for loading/unloading.

A driver is not entitled to park for the full time, only for as long as necessary.

The 30 minute maximum

Traffic Regulation Orders allow a maximum of 30 minutes for loading/delivering in a permitted parking bay.

A driver is not entitled to park for the full time, only for as long as necessary.

Generally, all cases are to be treated on their merits and whilst the absence of proof is not fatal, the Council is entitled to ask why it is not forthcoming, especially for commercial deliveries.

However, where a driver exceeds the maximum period, the Council is entitled to pursue the Penalty Charge Notice, although it should be kept in mind that the loading provisions are designed to assist commercial activity and it may be

reasonable to exercise discretion where it is clearly proven that loading was taking place throughout the entire period taken.

Remember

- There is no requirement for the process to be continuous
- There is no requirement for the vehicle to be attended, unless it is a case of footway parking, where the Order specifies that a commercial vehicle must be attended.
- There is no right to park for the entire 30 minutes.
- The vehicle does not have to be parked adjacent to the premises.
- It does not have to be 'reasonably necessary' to park there.
- Deliveries of small items are covered, e.g. wages.
- Delivering and collecting includes the checking of goods, completion of paperwork and may include payment.
- Shopping may be goods.

The relevant Adjudication decisions are –
Jane Packer Flowers –v- Westminster City Council.

This is the definitive decision on loading and the information given above derives from this decision.

Norell –v- Westminster City Council (see section on 'Footway Parking')

DENTAL APPOINTMENTS

If the claim is that an appointment was delayed or that treatment took longer than expected, consideration should be given to the time of the appointment and the time purchased upon arrival. It is not uncommon for appointments to be delayed and it is sensible for people to over-estimate rather than under-estimate the time required.

However, if an emergency situation arises or the patient has needed more extensive treatment than was predicted, discretion should be exercised.

If consideration is to be given for the cancellation of the Penalty Charge Notice, in all cases the customer should be asked to supply a letter of confirmation from the dentist. **No Penalty Charge Notice should be cancelled without this.**

DIPLOMATIC VEHICLES

Diplomatic vehicles fall into three categories; those with 'D' plates, which indicate the driver has full diplomatic immunity, those with 'X' plates, which indicate limited immunity, and cherished number plates. The number plate format is as follows –

123 (D or X) 456

The first three numbers identify the embassy to which the vehicle is registered and the last three numbers identify the vehicle itself.

Embassies also own some vehicles which have cherished number plates. The DVLA can advise Councils of the range of cherished number plates issued to embassies. These vehicles also have diplomatic immunity.

All Penalty Charge Notices issued to these vehicles should be noted automatically by the computer system, which should recognise the diplomatic number plate format, or the cherished number plate. The Penalty Charge Notice is flagged to indicate that it was issued to a diplomatic vehicle and the ticket will not progress. However, this does not mean that they will not be paid. The Foreign and Commonwealth Office will sometimes request payment from the appropriate embassy. It is therefore, essential that all information on the Penalty Charge Notice is accurate, as wrong handling can cause embarrassment to the embassies concerned.

If an enquiry is received regarding these Penalty Charge Notices, it should be dealt with as normal. If the Penalty Charge Notice is to be closed as a result of the correspondence, it is vital that you reverse the automatic diplomatic hold flag and close the Penalty Charge Notice using the correct cancellation code. If this is not done, a request for payment may be sent to the Foreign and Commonwealth Office.

If there are no grounds for cancelling the Penalty Charge Notice, the diplomatic hold flag must **not** be reversed. However, a letter should still be sent requesting payment.

If a payment is received for one of these Penalty Charge Notices, under no circumstances is it to be returned stating that the Penalty Charge Notice has been cancelled. The case must be re-opened and payment accepted.

DISABLED DRIVERS/PASSENGERS

The Blue Badge Scheme, the new European style Blue Badge was introduced from 01 April 2000. There should now be no orange badges displayed in vehicles.

The scheme provides a national arrangement of parking concessions for people with severe walking difficulties who travel either as passengers or drivers. The scheme also applies to registered blind people, and people with severe upper limb disabilities.

The scheme is intended to allow badge holders to park close to their destination. However, the national concessions apply to **on street** parking only. They do not apply in off-street car parks unless the Council has made specific arrangements to offer concessions to disabled drivers. In Adur & Worthing there are Designated Disabled Bays in car parks, please refer to the House Sign for tariffs.

Due to the extreme pressures on parking space, the scheme does not apply in the following Boroughs in London - the City of London, the City of Westminster, the Royal Borough of Kensington and Chelsea, and Camden south of, and including the Euston Road. However, these Boroughs operate their own disabled badge schemes which are usually restricted to disabled residents of the area. They may also offer some concessions to blue badge holders, such as additional time at meters before a ticket will be issued.

Under the terms of the national scheme, a disabled badge holder must not park in the following places:

- At a time when loading or unloading is prohibited (02 contravention).
- In a bus or tram lane during the hours of operation.
- In a cycle lane.
- On any clear way.
- On pedestrian crossings.
- In parking places reserved for specific users e.g. resident/business bays (unless the blue badge holder is in possession of a valid resident/business permit), loading bays, taxi, cycles.
- In suspended parking bays.
- Where temporary parking restrictions are in force along a length of road.
- On School 'Keep Clear' markings.
- Bus stops
- On a pavement (unless signs permit it)
- Within 10 meters of a junction.
- Across 2 restrictions (partly on yellow lines and partly in a bay).

Parking on a yellow line is permitted, but is limited to 3 hours maximum and both the disabled badge and time clock (which must be set to show the time of arrival) must be displayed.

Disabled badge holders may park in meter bays and pay and display bays, free of charge and without time limit, provided that the disabled badge is clearly displayed with all the relevant details visible.

Badge holders may also park in disabled bays, but are not permitted to park in resident or other permit bays in Adur & Worthing (unless the relevant permit is also clearly displayed).

The Penalty Charge Notice may be cancelled the first time, for meter, pay and display, permit bays, and yellow line offences only, and the cancellation letter should state that if the same circumstances arise, any further tickets will not be cancelled. As a general rule, further tickets should not be cancelled, but there may be mitigating circumstances where it could be advisable to exercise discretion.

Where the driver has parked on the footway or on a yellow line covered by a loading restriction, the Penalty Charge Notice should not be cancelled.

It should be noted that the badge can only be used when the holder is present in the vehicle, either as the driver or passenger. It is not valid for use by anyone else, for example, someone shopping on behalf of the holder.

DRINK DRIVING OR OTHER ARREST

If the driver of the vehicle has been arrested by the Police and the vehicle has been left in contravention of the regulations, the Penalty Charge Notice should not be enforced unless the driver had ample time (at least 12 hours after being released from custody) to remove the vehicle.

In all case of arrest claims, the driver should be asked to provide the date and time of arrest, the custody number and the Police Station involved.

The relevant Police Station should be contacted to substantiate any information given by the driver before the Penalty Charge Notice is cancelled.

This also applies in cases where a person has been to visit a doctor or a hospital and is subsequently detained and sectioned under the Mental Health Act. The Penalty Charge Notice should be cancelled after confirmation is received from the GP or doctor concerned.

EARLY ISSUE OF PENALTY CHARGE NOTICE

Claims that the Penalty Charge Notice was issued before the pay and display ticket had expired need careful investigation. In most instances, reference to the degree of penalty time observed by the civil enforcement officer will differ to the time stated by the driver.

The reply should state the degree of penalty shown on the expiry time of the pay and display ticket in relation to the issue time of the Penalty Charge Notice. A Penalty charge Notice will not be issued until the pay & display ticket has expired by at least 10 minutes.

All and pay and display machines in use throughout the District are of a design approved by the Department of Transport. The conditions of use are fully explained on the front panel of the machines and these conditions explain that a penalty charge will be incurred if the vehicle is left after paid for time has expired.

The civil enforcement officer's hand held computer will automatically generate the time at which the Penalty Charge Notice issued. This time is programmed into the hand held computer, and is checked at the start and end of each shift. It cannot be altered by the attendant.

However, there is no automatic synchronization between the civil enforcement officers' computer and the pay and display machines and this is why civil enforcement officers will either check the time on the machine to ensure that it matches the time shown on their computer and/or allow an observation period before issuing a Penalty Charge Notice.

ELECTRICITY BOARDS/COMPANIES

Electricity Board/companies are not automatically exempt from the regulations (see section on Exempt Vehicles for more information), and often make arrangements for bay(s) to be suspended if they are working in the area.

The electricity companies have agreed to display a board in the vehicle when engaged on emergency work and in these circumstances there may not always be time to arrange a suspension. The Penalty Charge Notice should be cancelled providing that the circumstances are explained in a letter from the Area Manager. If abuse is suspected, the civil enforcement officer who issued the Penalty Charge Notice should have made a note if the vehicle was unattended and there was no sign that work was being carried out and in these circumstances the Penalty Charge Notice should be upheld.

Consideration should not be given for electricity operatives carrying out routine maintenance to electricity appliances or meter reading.

Enforcement Agents

Enforcement Agents (previously known as Bailiffs) are agents of the Court and perform many functions. Executing Warrants is the function that is likely to require their vehicles to be parked for any length of time and this is when they are most likely to receive a Penalty Charge Notice.

Warrants of Execution are Court orders for the collection of money or goods of sufficient value to produce the required amount. The Enforcement Agents will always have a vehicle nearby as they may have to remove goods from the property to cover the value of the warrant they are enforcing.

They do not need a vehicle nearby for their other activities i.e. if they are serving a summons or serving a Warrant (not actually enforcing it).

Enforcement Agents carrying out orders of the Court are not exempt from the legislation and an official badge of identification should be displayed in the vehicle. However, when they are taking goods or high values in cash, discretion can be given, where it appears reasonable.

Once a Enforcement Agent has seized goods, they have to be listed before the Enforcement Agent leaves the premises and this can take some time. In these circumstances we should ask for a Warrant number identification, confirmation of the nature of the goods seized and the address from which they were taken before cancelling the Penalty Charge Notice.

Where it is known that extensive and time-consuming loading/unloading is to take place, a waiver/dispensation form should be obtained from the Council in advance to cover parking.

Any situation not contained within these parameters should be referred to a manager for advice.

EXEMPT VEHICLES

The following vehicles are exempted from the regulations in all circumstances, provided that they are being used for their proper purpose, and for as long as reasonably necessary –

- Vehicles being used for fire brigade, police or ambulance purposes.
- A vehicle being used in the service of a local authority in pursuit of its statutory powers or duties.

The following vehicles are exempted in the circumstances shown below. However, in all cases there should be evidence that the exempted activity is taking place and that the vehicle concerned is actively engaged in this activity. If no exempted activity was seen to be taking place by the parking attendant, the Penalty Charge Notice should be upheld on the basis that the attendant observed the vehicle for a reasonable length of time and saw no indication to suggest that the activity was taking place.

- Post Office and other vehicles whilst engaged on the delivery or collection of postal packages.
- Electricity Board, Gas board, Thames Water Authority, British Telecom or other telecommunication companies, whilst engaged in laying or undertaking repairs to pipes or cables etc.
- Public Service vehicles whilst waiting at an authorised stopping place, terminal or turning point.
- Furniture Removal vehicles whilst removing furniture to or from dwellings, offices or a depository.
- Vehicles engaged in building, excavating or demolition works in circumstances whilst the vehicle is actively in use for the purpose.

All exempt vehicles should usually be liveried, not private cars or vans, and the exemption does not automatically extend to contractor's vehicles unless specified. However, the Royal Mail sometimes use hired vehicles and they are also covered by the exemption.

There are other exemptions in the Traffic Regulation Orders that do not relate to specific vehicles, but apply to any vehicle in particular circumstances. These are –

- Where the driver is prevented from circumstances beyond his control from moving the vehicle. (This obviously covers a vehicle breakdown, but may

- cover other circumstances too – each case will need to be assessed on its own merits).
- Where the vehicle needs to wait in order to avoid an accident.
 - Where the vehicle is parked to enable someone to get in or out. (This is usually limited to 2 minutes except where the person getting in/out of the vehicle needs longer, i.e. is elderly, suffering from a disability which impairs their ability to walk, is blind, carrying luggage or heavy shopping etc. In these circumstances the vehicle may wait for as long as is necessary).
 - Where the vehicle is waiting to load and unload. (See section on delivery and collection).

Generally, Adjudicators have held that where a driver receives a Penalty Charge Notice and is claiming an exemption from the Regulations, as listed above, the burden of proof rests with the driver and he should be able to produce evidence that supports his claim. If he can do so, the Penalty Charge Notice must be cancelled. However, it is not always possible for a driver to produce proof and each case will need to be considered on its own merits.

FUNERALS

Any requests for cancellation of a Penalty Charge Notice on the ground that the driver/owner was making funeral arrangements, or in attendance at a funeral, should be treated with compassion.

In view of the sensitive nature of this subject, the Penalty Charge Notice should be not be upheld without prior reference to a manager.

GARAGES – VEHICLES LEFT FOR ATTENTION

Whilst a Penalty Charge Notice should be paid by the driver who left the vehicle in contravention of the regulations, if the driver does not pay, it then becomes the responsibility of the owner and remains so.

If the registered keeper of the vehicle cannot get the garage to pay the Penalty Charge Notice, he/she is legally liable for the payment of the Notice and cannot claim he he/she was not driving the vehicle at the time. Nor can they claim that the vehicle was in control of the garage at the time.

In most cases the Penalty Charge Notice should be upheld. However, the first that many drivers will know of a Penalty Charge Notice is when they receive the Notice to Owner, and it may be reasonable to offer the discounted amount at that stage if representations are made.

The precedent case that determined the liability of garages and owners for Penalty Charge Notices is -

Francis –v- Wandsworth

The High Court held that for a change of keeper to be effective for the purposes of transferring liability for payment of a Penalty Charge Notice, the change had to be of such a nature that the vehicle would be re-registered in the new keeper's name by the DVLA. This ruling was specifically regarding a case where an Adjudicator had held that a garage which had a car at their premises temporarily for repairs could be considered to be the legal keeper and so liable for any Penalty Charge Notices issued to the vehicle. The High Court decision overturned this decision and ruled that the vehicle owner remained liable, not the garage.

GAS COMPANIES

British Gas and other gas companies, such as Transco, are not automatically exempt from the regulations (see section on Exempt Vehicles for more information), and often make arrangements for bay(s) to be suspended if they are working in the area.

The gas companies have agreed to display a board in the vehicle when engaged on emergency work and in these circumstances there will not always be time to arrange a suspension. The Penalty Charge Notice should be cancelled providing that the circumstances are explained in a letter from the Area Manager – not from the driver of the vehicle. The emergency may be related to a gas problem on the street or to an emergency within a property itself.

If abuse is suspected, the civil enforcement officer who issued the Penalty Charge Notice should have made a note if the vehicle was unattended and there was no sign that work was being carried out and in these circumstances the Penalty Charge Notice should be upheld.

Consideration should not be given for gas operatives carrying out routine maintenance to gas appliances or meter readings as these do not constitute an emergency situation.

GLAZIERS

Claims from glazing companies that a vehicle needed to be parked close to premises may be treated leniently provided that it is apparent from the parking attendant's notes or it can be proved from the correspondence that emergency repairs were being performed.

Nevertheless, the company should be advised that the vehicle should not be parked in contravention of the regulations prior to the task commencing, or once the task has been completed.

In most cases, however, it is reasonable to assume that a waiver, dispensation or suspension should be obtained, particularly for all day pre-planned jobs, e.g. replacement windows.

GOVERNMENT DEPARTMENTS

Unless evidence in the form of a letter on headed notepaper from a senior officer can be provided to confirm that the purpose for leaving the vehicle illegally parked was exceptional, the Penalty Charge Notice should be upheld. The types of exceptional circumstances where discretion may be appropriate are; vehicles used for security purposes or vehicles used for observation and surveillance (mainly applicable to police or customs and excise).

It should be remembered, however, that government departments are not normally exempt from the parking regulations and will be required to display a valid permit or use pay and display facilities.

HAZARDOUS CHEMICALS/SUBSTANCES

Claims by companies that toxic or highly dangerous substances were being delivered /collected or used in nearby premises need to be given careful consideration.

On the first occasion the company concerned should be requested to provide evidence that the activity was taking place and if this is provided, the Penalty Charge Notice should be cancelled.

The reply should then advise the company that a waiver/dispensation should be obtained if deliveries or work is to be carried out on a regular basis.

HIRING AGREEMENTS

Where a company have made representations on the ground that they are a hire firm and have supplied details, the provisions relating to hiring agreements as contained in the Road Traffic (Owner Liability) Regulations 1975, will apply.

Where the hiring period is for a fixed period less than 6 months, the hiring agreement must contain the following information.

A. Particulars of the person signing the statement of liability

- Full name
- Date of birth
- Permanent address
- Address at the time of hiring (if different from above)
- Details of driving licence - serial number or driver's number, issuing authority, expiry date.

B. Particulars of hiring agreement.

- Registration number of the hire vehicle
- Make of hire vehicle
- Registration mark of any substitute vehicles
- Make of any substitute vehicles
- Time and date of commencement of hiring period
- Time and date of expiry of hiring period
- Time and date of commencement of any extension
- Time and date of expiry of any extension

In all cases the hirer must sign a statement of liability in respect of Penalty Charge Notices or which can be construed to apply to Penalty Charge Notices.

These provisions are mandatory and any failure to comply with all these requirements is fatal and the agreement is not then a proper "hiring agreement" within the terms of the Act. If the hire company fails to comply with these requirements, they become liable for payment of the Penalty Charge Notice.

Where the hirer is a company or corporate body, it is not necessary to provide the driver's date of birth or details relating to the driver's licence.

The above requirements also apply to circumstances where a courtesy car is "loaned" to a driver.

It must be remembered that a computerised print out of the hire details is not acceptable.

Where the hiring/leasing period is in excess of 6 months, the hire company should clearly explain that the agreement is for a period exceeding 6 months. There is no obligation for the hire/leasing company to provide a copy of the hire/lease agreement, however, they are required to provide the name and address of the hirer/lessee together with the details of the period and term of lease including the date of commencement.

The points made above about the information to be included in a hiring agreement were outlined in the following Adjudicator precedent case –

Autolease Ltd –v- London Borough of Barnet

Other cases which confirm these requirements are –

Global Transport –v- London Borough of Harrow

West Wallasey –v- London Borough of Hammersmith and Fulham

Note – although many hiring companies are reluctant to supply the agreement, and some Local Authorities do not require it, the Adjudicators have made it plain that Councils are entitled to see the agreement, with the particulars listed above, before they can transfer liability. Without the agreement, the Council is in a difficult position if the named hirer subsequently disputes liability.

HOLIDAYS - REQUESTS FOR EVIDENCE

In cases where residents claim that a parking bay was suspended whilst they were on holiday and therefore, they could not move the vehicle, evidence is usually required.

If this evidence is not provided, it should be requested in the form of the following:

- A flight ticket
- A letter from a tour operator
- A copy of the hotel bill

Credit card vouchers are not usually acceptable.

The dates of the suspension and the times at which prior notice was circulated should be checked and if the details do not match or the appropriate evidence cannot be provided, the Penalty Charge Notice should be upheld.

HOSPITAL CAR SERVICE

A vehicle displaying a Hospital Car Service badge does not exempt the holder from the parking regulations; however, all claims should be dealt with a certain degree of leniency bearing in mind that this is a voluntary service for the benefit of the sick and elderly. In addition, the driver may be required to escort the patient into the hospital and wait for their return.

The same consideration should apply to other people who are engaged in this activity but not necessarily part of the scheme.

In all cases, if enforcement is felt appropriate, the matter should be discussed with a line manager first.

HOSPITAL VISITS

In cases where the driver of a vehicle is claiming an emergency visit to a hospital, the Penalty Charge Notice should be cancelled provided sufficient details have been provided and the emergency is felt to be genuine.

If the patient was admitted, confirmation should be sought in the form of a letter from the GP or the hospital (this is normally readily available).

Similarly, where a driver is visiting a sick relative as an emergency visit, proof of a similar nature should be sought.

It is important to ensure that the date(s) of the hospital visits/stay cover the date on which the PCN was issued. If there is a discrepancy, the ticket should not be cancelled.

Where there is a pre-arranged appointment and the driver is claiming that he was delayed in returning to the vehicle, the Penalty Charge Notice should be upheld, unless an emergency had developed during the appointment, in which case further evidence should be requested.

LEGISLATION

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

Drivers who request copies of the legislation should only be sent photocopies if only one or two paragraphs are required. Copies of relevant legislation can be obtained from the Stationary Office (HMSO) and are also usually available on the Internet.

If the driver is querying the authority for a restriction at a particular location, the relevant Traffic Regulation Order should be checked before replying, and if there is any error found, the Penalty Charge Notice should be cancelled.

Traffic Regulation Orders can be viewed at local public libraries, Council offices and on the Adur & Worthing Councils website.

LOST KEYS

Where it is claimed that the car keys had been lost, stolen, or were inside a locked vehicle, drivers should be treated leniently on the first occasion and the Penalty Charge Notice should be cancelled, providing there was not a total ban on waiting at the time of the contravention.

Each case should be treated on its merits, although if the Penalty Charge Notice was issued because the vehicle was parked on a yellow line, consideration should be given to the reason it was parked in the first place. If it was shown that a contravention was committed prior to the keys being lost, the Penalty Charge Notice should be upheld.

If the driver has bought replacement keys, a receipt for the new keys should be requested before the Penalty Charge Notice is cancelled.

MANDATORY AND ADVISORY PARKING BAYS

Restrictions applying to particular parking bays e.g. disabled bays, doctors bays and business bays, are covered by Traffic Regulation Orders and are said to be mandatory (obligatory). In this case there **must** be a time plate displaying the restrictions above the bay.

Where the parking bay is not governed by an Order, it then becomes advisory and unenforceable, but it is not a free parking place.

This is especially the case with disabled bays, where sometimes bays are installed as a courtesy to residents and placed outside a property where there are no other controls (i.e. where there is no controlled parking zone in force). In this case, the bay has no legal status and although it is hoped that drivers will respect the bay, no enforcement action can be taken against any driver who chooses to park there, whether disabled or not.

If you are in any doubt about the status of a particular parking bay, you should check the Traffic Regulation Order in conjunction with the relevant map.

MIS-SPELLING OF OWNER NAME

The Driver and Vehicle Licensing Agency supply the majority of the information regarding vehicle ownership. In view of this, the mis-spelling of a name and address on a Notice to Owner does not invalidate it nor does it discharge the liability of the person receiving it. The onus is still on the genuine owner to deal with the matter.

However, if a mis-spelling is discovered, it is essential that the owner details on the Penalty Charge Notice processing system are changed to ensure that any further legal documentation that may be sent is correctly addressed. If, however, the mis-spelling is severe i.e. the correct name is radically different from the name shown, it will be more appropriate to cancel the Penalty Charge Notice or amend the details and send another Notice to Owner.

If a driver subsequently claims that he did not receive a Notice to Owner or other documentation and the form was incorrectly addressed, there will be difficulty in enforcing against that person.

MITIGATING CIRCUMSTANCES

Generally every case should be treated on its merits and guidelines regarding particular circumstances are contained elsewhere in this manual. However, there are a few general guidelines, which are shown below:

Delays

Delays due to shop/bank queues, meetings taking longer than expected etc are not grounds for cancellation of a Penalty Charge Notice. The motorist should be advised that it is better to over-estimate the amount of time needed, rather than under-estimate and risk incurring a Penalty Charge Notice.

If the delay was related to any medical or emergency situation i.e. sudden sickness, difficulties in walking due to disablement, stopping to assist in an emergency situation and any other such cases, a degree of leniency should be exercised.

Children

Cases involving hospital, doctor's visits with sick children and delays due to sudden illness should be treated with leniency. It is usually appropriate to consider the length of the delay.

Emergencies

An emergency is an unforeseen situation, which prevented a driver from moving his/her vehicle. They are usually of a medical nature and leniency should be exercised where it is felt that the driver could not have foreseen the situation and had no chance to return to the vehicle.

It is useful to remember that there is an exemption for drivers who were unable to move their vehicle due to 'circumstances beyond their control', and to consider whether or not the circumstances fall into that category.

Where a driver makes a claim for cancellation on the grounds that either he/she or a passenger was taken ill or injured in any way, proof should be requested in the form of a letter from the GP. If the letter does not cover the date of the PCN, or it relates to a pre-arranged doctor's visit the ticket should not be cancelled. There may also be cases where it is clear from the proof submitted that the driver had been advised not to drive, and if this is the case, the PCN should be upheld.

Consideration should be given to sufferers of Crohn's Disease as this disease is likely to necessitate urgent visits to a bathroom.

Suffers of Colitis should be treated leniently and there is a card available from NACC 'Can't Wait', which can be displayed on the vehicle. However, this is not a requirement and the driver may find it embarrassing to draw attention to their problem.

Other urgent toilet visits would not normally permit cancellation of a Penalty Charge Notice unless mitigating medical circumstances applied.

MOTORCYCLE BAYS

Motorcycle bays are not mandatory bays – they are an exemption to the waiting/loading restrictions in a restricted street, which apply to motorcycles only. In view of this, any other vehicle can be issued with a Penalty Charge Notice for the contravention of parking in a restricted street during prescribed hours.

However, civil enforcement officers would probably issue a Penalty Charge Notice for the contravention of being parked in a parking place or area not designated for that class of vehicle.

A motorcycle bay is indicated by white markings on the carriageway with the words 'Solo Motorcycles'.

NOTICE TO OWNER

The issue of a Penalty Charge Notice is a statutory process by virtue of Section 6 (1) of the Road Traffic Act 1991. Whilst the Act enables a local authority to issue a Penalty Charge Notice in respect of a decriminalised parking contravention, it also has a comprehensive appeals procedure and a Notice to Owner is legally the start of this appeals procedure.

Schedule 6 Section 66 of the Act states that where a Penalty Charge Notice has been issued, if it has not been paid within 28 days, the Council concerned may serve a Notice to Owner on the person who they believe to be the owner of the vehicle on the date of the contravention. This is the first legal notice that the owner may have of a Penalty Charge Notice and hence further enforcement action also hinges on the dispatch and receipt of a Notice to Owner.

The Notice to Owner must state the following, which is mandatory:

- The amount payable
- The grounds on which the parking attendant believed that a contravention had occurred.
- That the Penalty Charge must be paid before the 28 day period of the date on which the Notice to Owner was served.
- That failure to make payment may lead to an increased charge.
- The amount of the increased charge.
- That the person on whom the Notice to Owner is served may be entitled to make representations against the penalty charge.

Representations can only be made by the recipient of the Notice to Owner and must be received by the Council within 28 days of the Notice to Owner date. The Council may disregard any representations received outside this 28 day period.

Representations can be made on the following grounds:

- The recipient never owned the vehicle in question, had ceased to be the owner before the date of the contravention or became the owner of the vehicle after the date of the contravention.
- That the contravention never occurred.
- That the vehicle had been taken without the recipient's consent.
- That the relevant Order was invalid.
- That the recipient is a hire company and they have provided the name and address of the hirer.
- That the penalty charge exceeded the relevant amount.

However, it is important to note that the grounds shown above are not exclusive and all representations must be considered, even where they do not appear to fit into any of the grounds given above.

When representations have been made on the ground that the recipient never owned the vehicle, had ceased to be the owner before the date of the contravention or became the owner after the date of the contravention, they must give the name and address of the person who bought/sold the vehicle and the date of the sale purchase. They should also provide proof in the form of a receipt for the sale or purchase or a copy of the DVLA registration form. However, it is important to note that this is not mandatory, and legally, the provision of a name and address may be all that is required. Where no evidence is supplied the representation may be rejected. However, it should be taken into consideration that the appellant may be allowed to obtain confirmation from the DVLA by the Parking Appeals Service. It is therefore more appropriate to accept the representation and pursue the nominated keeper.

If representations are made on the ground the recipient is a hire company and they have supplied details, they must give the name and address of the hirer, and enclose a copy of the hiring agreement and statement of liability.

There is one case that has clarified the legal position regarding owner liability, in a ruling that was issued by the High Court –

Francis –v- Wandsworth

The High Court held that for a change of keeper to be effective for the purposes of transferring liability for payment of a Penalty Charge Notice, the change had to be of such a nature that the vehicle would be re-registered in the new keeper's name by the DVLA. This ruling was specifically regarding a case where an Adjudicator had held that a garage which had a car at their premises temporarily for repairs could be considered to be the legal keeper and so liable for any Penalty Charge Notices issued to the vehicle. The High Court decision overturned this decision and ruled that the vehicle owner remained liable, not the garage.

PATIENTS VISITING DOCTORS

If a claim is made that the visit to the doctor was an emergency, involving either the driver or passenger, evidence should be sought unless sufficient proof has already been supplied.

If the appointment has been pre-arranged, or the visit is non-emergency, it should be treated in the same manner as visits to dentists.

See also – Mitigating Circumstances.

PAY AND DISPLAY BAYS

These are bays which are controlled by a pay and display machine, which will usually cover several bays in the road. Car parks will also be controlled by various types of pay and display machine. Although the types of machine may differ, the regulations regarding paying and displaying, whether on street or in a car park are generally similar.

A driver using a pay and display machine is required to have sufficient change available to get out of the car, walk to the machine, and insert coins. No time is allowed to go for change, and this has been upheld by Adjudicators.

The Traffic Regulation Orders usually require that the pay and display ticket be purchased in one operation (the driver cannot stay in the same bay and purchase a further ticket if he subsequently realizes he has not paid enough, or wishes to stay longer than allowed by the original ticket - 'meter feeding').

However, where a driver has purchased two tickets due to a problem with the first ticket, such as coins not registering properly, providing that the total amount paid was sufficient to cover the length of time parked, the PCN should be cancelled on the first occasion only.

A pay and display ticket must be clearly displayed on the vehicle so that it can be seen easily by a civil enforcement officer.

The Adjudication cases that apply are –

Baker –v- Westminster City Council

The Adjudicator confirmed the requirement not just to purchase a pay and display ticket, but to display it properly on the vehicle.

Mayor –v- London Borough of Camden

It was confirmed that a driver cannot leave the vehicle to get change for the machine.

PERMIT HOLDERS

A resident or business permit holder who has parked in the wrong zone or has forgotten to display their permit should be treated leniently on the first occasion and advised of the correct use of the permit. This does not apply if the permit holder has parked on yellow lines due to insufficient space being available in permit bays or a misunderstanding of the regulations.

If the permit holder had applied for a permit prior to the date of the PCN, but had not received it, the PCN should be cancelled after checking the permit application was received in time. If the application form was received after the date of the contravention or there has been some other delay on the part of the permit holder in renewing the permit, the Penalty Charge Notice should be upheld unless there are other mitigating circumstances e.g. the permit holder was away. This applies particularly to new residents who have not yet obtained a permit.

Reminder letters may be sent before the expiry date of a permit, but just as with Vehicle Excise License, it is the owner/driver's responsibility to ensure that his/her vehicle displays a valid permit.

A permit is vehicle specific and the registration mark of the vehicle on which the permit is to be displayed is shown on the front. This means that they are not transferable and cannot be used in any other vehicle. If a permit holder changes his vehicle or uses a different vehicle for a short period of time, he must either make arrangements to obtain a replacement permit or use visitor's permits.

If a Penalty Charge Notice is issued whilst a replacement permit is being obtained, or if the applicant has failed to notify the permit department, it should be upheld.

Permits used in Worthing, Worthing Community Responder Vehicle Markings

All vehicles within the scheme when attending any 999 calls for South East Coast Ambulance trust will display one or more of the following:

- The red 999 responder disk in the windscreen (see photo 1).
- The green visor sign (see photo 1).
- Magnetic vehicle signs attached to the vehicle bodywork. (See photo 2).



Photo 1



Photo 2

PLUMBERS

Emergency call out

It is considered that an emergency lasts only as long as it takes to turn off the mains supply, whether gas, water or electricity. The vehicle should then be moved to a permitted parking place before any subsequent repairs are performed.

Penalty Charge Notices issued in these circumstances should be treated on their merits; however, generally they should be upheld unless there is evidence of the activity taking place at the time of the contravention.

Heavy Equipment

Claims that the vehicle had to be parked close to the emergency, as it was carrying heavy equipment, should be dealt with as delivery and collection, loading and unloading.

However, further consideration should be given to pump-out situations, where the pump-out equipment needs to be connected to a generator in the vehicle.

POLICE OFFICERS ON DUTY

Notices should not be issued to marked police vehicles on duty, as they are covered by an exemption.

However, this does not apply unless the vehicle is being used in connection with operational police activities, e.g. a police vehicle parked outside a cafe or at a cash point, where the officers are seen to be purchasing food or getting cash) is not covered by the exemption.

Many police officers use their own vehicles whilst on duty and in this case, the parking attendant will not be aware that the vehicle is being used on police business and may issue a Penalty Charge Notice.

Any request for cancellation should be submitted by a senior officer of the rank of Inspector or above.

The ticket should be cancelled on receipt of the appropriate signed request. It is important to note that the request should not cover instances where the vehicle was parked outside a police station, a police building or a court building, as it is unlikely that the driver was involved in active duties. In these situations tickets should not be cancelled, regardless of the nature of the business undertaken at these premises.

**POLICE OFFICER/CIVIL ENFORCEMENT OFFICER GAVE
PERMISSION TO PARK**

Where details of the officer's name or number are given, confirmation should be sought before the ticket is cancelled.

Where any doubt exists, the benefit of the doubt should be given to the driver in the first case only.

Where no details are given by the driver, the ticket should not be cancelled and the driver should be advised that further details are needed in order to justify cancellation.

POST OFFICE VEHICLES

Generally, post office and Parcelforce vans being used for the delivery or collection of mail and postal packets are exempt from the parking restrictions for as long as they are engaged in this activity.

If a ticket is issued and an exemption is claimed, the request must be accompanied by a letter from the post office, on headed paper, confirming this.

It is important to note that Post Office vehicles are not always liveried. Nevertheless, they are still exempt from the regulations as long as they are engaged in the delivery and collection of mail and postal packets.

However, Royal Mail vehicles, like other vehicles, are not exempt from parking on school zigzag markings.

PREGNANCY – MOTHERS WITH YOUNG CHILDREN

Usually, pregnancy is not considered to be a disability and delays caused by young children would not normally allow for cancellation of a ticket.

However, this is a sensitive area and each case should be treated on its own merits. If for example, the delay was short and unavoidable, or was caused by a minor medical emergency (child being sick, mother feeling unwell), the ticket should be cancelled. Normally, proof of the pregnancy should be provided.

Where the driver claims that the delay or reason to park in contravention was caused by pregnancy complications or other difficulties relating to the pregnancy, a letter of confirmation from the GP or hospital should be provided before cancellation is considered.

You will need to bear in mind that there is an exemption in the Traffic Orders which relates to unavoidable circumstances which prevented the driver from removing the vehicle, and you will need to consider whether or not the situation described falls into this category or not. Even if it does not, discretion can be used to cancel the ticket.

PRIVATE PROPERTY

Parking on private property, which includes parking on Council housing estates, hospital grounds and business premises, is not a matter for the parking section to deal with and parking attendants do not enforce the regulations relating to such parking unless the area has been designated as an off-street car park.

Housing estates often have their own resident permit parking scheme and take action against people who park in the estate without a permit, such as clamping vehicles. Drivers who have been clamped should be referred to the appropriate housing office or enforcement agency once the address of the estate has been ascertained.

Telephone callers often do not realise that parking on private property is controlled by other companies and assume that the parking department deals with all parking queries. It is therefore important to ascertain the location and ask whether it is a public road or private property in order to direct them to the right person.

Permits issued for private property are not valid on public roads and those parking other than on the private property may therefore receive a ticket. These should be enforced as they will be made aware in the literature that accompanies their permit, that it is not valid on the public highway.

RESTRICTED HOURS

The hours during which restrictions are in force will vary and if there is any doubt, reference should be made to the appropriate Traffic Regulation Order. Generally, restrictions are as follows –

Permitted parking within Controlled Parking Zones

In Worthing this varies according to individual areas within the zone

Yellow Lines

There are two types of waiting restriction –

1. single yellow line – no waiting for at least 8 hours between 7am and 7pm on four or more days of the week. If no days are shown on the sign, the regulations are in force every day including Sunday and Bank Holidays.
2. double yellow lines - no waiting at any time.

Loading restrictions are always placed in conjunction with yellow lines and are represented by lines on the kerb, and again there are two types –

1. two lines – no loading at any time.
2. one line – no loading during the times shown on the sign.

Generally, the hours of operation of the waiting and the loading restrictions will correspond.

Doctors bays

24 hours a day, every day

Disabled bays – mandatory

24 hours a day, every day, whether in or out of Controlled Parking Zones

School markings

24 hours a day, every day

Bus stops

Usually 7am – 7pm, any day of the week, but it does vary e.g. Bus Stop Clearways are in force 24 hours a day, every day.

Overnight lorry ban

6.30pm – 8am any day

Footway parking ban

24 hours a day, every day

ROAD SIGNS/MARKINGS – MISSING, OBSCURED, BROKEN

Yellow Lines

If the waiting/loading restrictions are in force at the same times as the rest of the Controlled Parking Zone, the times of control are shown on the zone entry sign and there is no need for any additional signs to be in place above each stretch of yellow line, unless additional restrictions apply. There is also no need for signs above double yellow lines as these are understood to be in force at any time. In practice, many yellow lines are signed, but it is important to note that the absence of these in a Controlled Parking Zone should not lead to cancellation of a Penalty Charge Notice.

If the driver claims that there was no sign and the restrictions require that a sign be in place, a site inspection should be arranged to check on the allegation. If there is no sign on the same side of the road as the yellow line, the Penalty Charge Notice should be cancelled and arrangements made for the correct sign to be installed.

Where yellow lines or kerb markings have been partly worn away or covered in part by re-surfacing, enforcement action could be taken depending on how much of the line is visible and whether it is considered reasonable for the driver to know that a line was there. However, this is generally an area where discretion should be exercised.

Where yellow lines are obscured by snow, leaves etc, enforcement action may also be taken, although leniency may be judged appropriate. Adjudicators have allowed cases where the markings were obscured by leaves, although this is not to be taken as a precedent.

If time plates are damaged or defective, providing that their meaning is clear, enforcement action should be taken.

Where there is no yellow line beneath any part of the vehicle or where, outside a Controlled Parking Zone, there is no time plate in the vicinity of the vehicle, setting out the restrictions in force, no enforcement action for the restricted street offence may be taken.

Parking Bays

There should be a sign above every parking place (bay or group of bays), which gives details of who the bay is available to (resident or business permit holders and/or visitors displaying permits or using vouchers or pay and display machines). Most bays also give details of the hours and days of control. In all cases where it is alleged that a time plate is missing, a site check should be arranged. If the check confirms that there is no sign, the Penalty Charge Notice should be cancelled and arrangements made for the problem to be rectified.

Please note that there is no requirement for a sign to be above metered parking bays as the information required is already given on the meter itself.

Claims that the driver did not realise where he/she had parked or used the wrong type of bay should not be allowed.

Similarly, if road markings are missing or shown to be incorrect, the Penalty Charge Notice should be cancelled and arrangements made for rectification.

Pay and Display Bays

It is not necessary for additional signs to be placed above pay and display bays. Instructions for use are on the front of the meter itself (the side facing the pavement) whilst each meter also has a clearly visible 'P' sign that can be seen from the road.

Claims that a driver did not realise there was a meter in the bays should not be allowed unless there are other circumstances that need to be taken into consideration.

Obscured Signs/Missing 'T' Bar markings

If the time plate is shown to exist, but was temporarily or partly obscured each case will need to be considered on its own merits, depending on the degree of obscurity and whether the relevant details could still be seen.

If it is alleged that meter plates, signs etc. were not visible due to inadequate street lighting, the Penalty Charge Notice should be enforced.

Where the 'T' bar is found to be missing from the termination point of a yellow line restriction, the Penalty Charge Notice must be cancelled as the line is not considered to be legally valid without this marking. However, as a general rule of thumb, Adjudicators have tended to accept that where a yellow line is placed next

to another restriction, the absence of the 'T' Bar does not always mean that the restriction cannot be enforced, as long as it is clear where the yellow line applies.

Kerb Markings

Generally it is mandatory for kerb markings to be in place as a sign that waiting and loading is not permitted. However, this is not so in the case of experimental traffic orders although the Council may use kerb markings anyway.

There are a number of precedent Adjudication cases that have dealt with the adequacy of signs and road markings, most of which confirm the Council's duty to ensure that road markings and signs are adequate. These are listed below –

Bladon –v- Westminster City Council (Lincoln Inn Fields)

The Adjudicator pointed out that the Council must not only comply with the regulations, but also has a duty to act fairly and parking restrictions must be signed in such a way that the motoring public knows of the regulations. Because of the unusual nature of this location, the Council had a duty to ensure that additional signs were put into place in order to discharge its duty to provide adequate information to the motorist.

Grimwood –v- London Borough of Croydon

This case deals with the confusion caused by signs that do not need to be in place.

Letts –v- London Borough of Lambeth (bay markings)

The Adjudicator confirmed Councils must install bays of adequate size, as the bay in question was smaller than the minimum permitted in the Traffic Signs Regulations of 1994.

Other precedent cases are –

Cooper –v- London Borough of Richmond upon Thames

Fairburn –v- London Borough of Bexley (new charges)

Shannahan –v- London Borough of Croydon & Genco –v- London Borough of Croydon (Wellesley Road Bus Lane – old signage)

SCHOOLS

The school markings which do not permit parking during term time are there for the safety of children and should be enforced. Parents dropping or picking up children should not park on the school markings and Penalty Charge Notices issued in these circumstances should be upheld.

It is also important to note that a school's own vehicles are not permitted to park on the school zigzag markings regardless of whether or not they are being used to pick up or drop off children.

However, this is a sensitive area and usually, some leniency is shown to cars parking in bays or on yellow lines to drop children off at a local school. It is important to bear in mind that stopping to allow someone to get on or out of a vehicle is a permitted exemption in any case, and it may be necessary for the parent to escort the child into school (indeed some schools require this to be done). Therefore, the vehicle may be left unattended during this time.

Nevertheless, parents should not stop to talk to other parents or teachers and the exemption does not cover these circumstances.

When deciding whether to cancel a ticket issued in these circumstances, the length of time the vehicle is parked will need to be taken into consideration. It is reasonable to allow up to 10 minutes for this activity, which may be considered a reasonable time to allow someone to drop off or pick up a child. If the time parked exceeds this, the Penalty Charge Notice should not be cancelled, unless there are other circumstances to take into consideration.

SECURITY VANS

Secure cash vans are occasionally required to be parked in close proximity to the premises where cash is being delivered or picked up, for safety reasons.

Security vans delivering other 'lower priority' items, such as recorded mail, should usually park in accordance with the regulations although this may not always be possible.

Penalty Charge Notices issued to security vans should be cancelled, providing that suitable proof is provided by the security company.

SUSPENDED BAYS

Permitted Parking Bays

Where representations are made that the vehicle was parked at a location without prior notification of the impending suspension being received, if the claim can be substantiated the Penalty Charge Notice should be cancelled, providing that the vehicle was displaying a permit or a pay and display ticket that would have allowed parking had the suspension not been in force.

Advance notice of suspensions is usually given except in the case of emergency suspensions, which are carried out as short notice. But Councils are not obliged to give warning of suspensions, although this has become good practice.

It will normally be the case that the responsibility for ensuring the vehicle has been correctly parked and in accordance with a possible suspension, rests with the driver.

However, when a vehicle is parked legally in a parking place that is subsequently suspended, there is a strong argument that the act of parking cannot be made illegal retrospectively, i.e. by the suspension. This however, is probably only sustainable for 'same day' parking, as the following day is a new start – a different period of parking restrictions. It is then arguable that the vehicle has been left illegally, although not actually moved, if the suspension is still in force or begins that day.

Where a driver can show that he was away from home and could not have had any knowledge of the impending suspension, tickets should be cancelled. Suitable evidence should be requested, such as air or train tickets.

Suspension of a parking place applies in law for the full 24 hours a day. However, unless the purpose of the suspension extends beyond the controlled hours, i.e. furniture removals, security, building works etc., vehicles are normally only dealt with during the hours of enforcement.

Pay and Display Machines

When a machine is suspended it is covered with a yellow suspension hood that makes it quite clear that a suspension is in place. If a vehicle is parked at a machine when the suspension takes place, the driver is entitled to use any time remaining on the pay and display ticket before moving his/her vehicle.

The parking attendant should leave a note on the vehicle telling the driver that the vehicle may park until the time has expired, but that then the car should be moved.

A Penalty Charge Notice issued to a vehicle parked at a suspended machine should be enforced unless it can be shown that the vehicle was parked prior to the suspension and the driver did not receive the relevant notice.

Where a resident has requested a suspension for a removal van or building vans for example, and subsequently parks his own vehicle in the suspended bay, he may receive a Penalty Charge Notice. The Council is entitled to pursue the Notice as the bay was not suspended for the use of his own vehicle.

There is one relevant Adjudication case that related to suspensions. It is – *Barker Main –v- Royal Borough of Kensington and Chelsea*.

The Adjudicator held that the Council had a duty to ensure that a suspension was adequately signed and a driver cannot be expected to make more than a reasonable effort to see whether a suspension is in force. If he cannot see the sign with reasonable clarity from where he is parked, then it is inadequate. However, if he does not bother to check, then he is at fault. One appeal was refused where a driver had been ill in bed and did not check the sign. A further complaint from a driver that his vehicle was the only one towed away was not relevant – it did not matter whether his was the only vehicle towed or not.

UNAUTHORISED MOVEMENT OF VEHICLE

If a vehicle is re-positioned (a street to street removal in effect), details must be retained for the consideration of representations and a note should be left on the vehicle explaining why it was necessary to re-position it.

Any movement of a vehicle by a police officer or any instruction to leave a vehicle where it is by a police officer is considered to be an authorised movement and any resulting tickets should be cancelled.

Unless there is any evidence to suggest that a vehicle was moved by a third party, Penalty Charge Notices should be enforced.

VEHICLES LEFT UNATTENDED TO GAIN ACCESS

When a driver has left his vehicle to collect a key before access to premises can be obtained, the time taken for the activity should not be excessive – 5 minutes would be reasonable. The vehicle should not however be left where there is a total prohibition on waiting.

This is usually an exemption in the Traffic Orders, so each case should be treated on its own merits.

VEHICLE NOT AT SCENE

If the owner of a vehicle receives a Notice to Owner and claims that his vehicle was not parked in the area, the reply letter must ask for proof they were not at the location and any distinctive markings on their vehicle. When this is received, the details should be checked against the details recorded by the parking attendant who issues the Penalty Charge Notice.

Where the driver claims that he was not in the exact location shown on the Penalty Charge Notice, if the attendant has made clear notes on the hand held computer and in his pocket-book, the Penalty Charge Notice should be enforced. It would also be useful in some cases to check the location against a map. The photograph of the vehicle taken by the parking attendant will also provide evidential proof of the location of the vehicle.

Where a number of tickets have been issued to the same vehicle and the same claim is made for each ticket, it is possible that the vehicle could be a 'ringer' and further investigations may be needed to resolve the issue.

VISITORS TO THE COUNTRY

If a Penalty Charge Notice is issued to a vehicle displaying foreign number plates, it will normally be closed on-street by the hand-held computer and will not progress on the processing system.

Notwithstanding this, if a payment is received, it should be accepted and all correspondence or representations treated as normal. Payment should be requested if there is no case for cancellation of the Penalty Charge Notice.

If the Penalty Charge Notice is issued to a foreign driver who is borrowing or hiring an English registered vehicle, the Penalty Charge Notice should be enforced and the owner advised that he is ultimately responsible for the penalty, as liability rests with the owner, not the driver.

Many vehicles are hired in this country by visitors from abroad and in this case, where the Notice to Owner has been returned from a hiring company giving an overseas address, the Penalty Charge Notice cannot be pursued and must be cancelled.

Unpaid Penalty Charge Notices issued to foreign vehicles will be passed to a specialist debt collection/tracing agency for action.

WAIVERS

Also referred to as Dispensations.

The council has the authority to issue a waiver which will allow a vehicle to park on a yellow line for a specified period of time where the usual 30 minute loading period would be inadequate. Waivers can also be issued for parking bays, including residents bays and pay and display bays.

The waiver will only be issued where it is considered necessary for the vehicle to be parked close to a property, e.g. where work is being carried out and heavy equipment/tools are kept in the vehicle. If there is no reason why the vehicle could not be unloaded and then parked legally, the waiver will not be granted.

The waiver form must be displayed in the vehicle so that it can be seen by the parking attendant and will show details of the vehicle, the date and times between which it is valid and the reason for the waiver. It will also specify the area where the vehicle must be parked. A Penalty Charge Notice will be issued where the terms of the waiver are not being complied with, i.e. if the vehicle is waiting at a different location, outside the times and date shown on the waiver, or for a different purpose.

If the waiver is for a yellow line, it does not permit the vehicle to park in a permitted parking bay, even if it is closer to the premises the vehicle is working at. Penalty Charge Notices issued where the terms of a waiver have been breached should be enforced unless there are other circumstances which warrant cancellation.