

Dacorum Borough Council

Parking Services

Civil Parking Enforcement



Penalty Charge Notice Cancellation Policy and Guidance

Introduction

This document provides a general background into the considerations made in respect of cancellations to Penalty Charge Notices. It should be noted that this policy has been devised as a tool for guidance purposes only, providing a general overview of the Council's policy, and that each case must be considered on its own merits, taking into account all of the evidence and circumstances relating to the contravention. Any omission of a particular claim made by an individual will be considered in accordance with the principles of this document and its intention of reasonableness and fairness.

It should be borne in mind that the objective of the Parking Service is to manage its road space effectively and keep the Borough free from congestion caused by vehicles parked in contravention to waiting restrictions, ultimately, seeking 100% compliance by motorists and removing the need for Penalty Charge Notices to be issued. Therefore, it is hoped that motorists may use the information contained within this document as a tool to avoid incurring penalties when parking within the Borough of Dacorum.

Policies continue to be subject to review and are updated accordingly.

Mitigation and Discretion

The Council may apply discretion to any mitigating circumstances presented at any stage of the Penalty Charge Notice process and motorists are not restricted to raising mitigation only at the stage of formal representations. However, the general guidelines that apply to the decision making process of cancelling or upholding Penalty Charge Notices are contained within this document and discretion will only be applied where there are compelling grounds to do so.

Whilst it is intended that the use of discretion should be exercised consistently there is no requirement that all motorists be treated equally, only that the decision reached must take into consideration all of the individual circumstances put forward.

It is not intended that this document act as a definitive example of what action is taken in all circumstances. The duty of a Council Officer to use discretion may take precedence over any guidance given in this document if the circumstances warrant exercise of that discretion.

Civil Enforcement Officers

Civil Enforcement Officers (CEO) do not have any discretion in circumstances where they observe a vehicle parked in contravention and must issue a Penalty Charge Notice on all occasions. Not to do so is likely to bring both their impartiality and the integrity of the service into question. Any notes displayed within a vehicle will be recorded but will not prevent the issue of a penalty.

It is also important to note that a CEO cannot cancel a penalty once it has been issued and all challenges must be made in writing to the Council at the address printed on the reverse of the penalty or by using the online challenge and representations application available on the Council's website from the link on the "Parking Tickets" page: <http://www.dacorum.gov.uk/home/community-living/parking-and-travel/parking-tickets>

For reasons of health and safety CEO's must not enter premises or divulge any personal information but can be identified from their unique number, worn prominently on their uniform and recorded on any penalty that they issue.

Payment of any Penalty Charge Notice should never be made directly to a CEO.

All CEO's are salaried staff and it is an express condition of the parking enforcement contract that staff do not receive any bonus or commission in relation to the Penalty Charge Notices that they issue, nor do they work to any form of ticket target regime.

Observation Periods

The Council has adopted a policy of allowing set observation periods in relation to some contraventions in an attempt to ensure that motorists are not penalised when they may be conducting some form of genuine and permitted operation, such as loading and unloading. These times are pre-set into the Enforcement Officers hand-held computers and Penalty Charge Notices cannot physically be generated until the observation period has elapsed.

However, some contraventions may have potentially serious consequences or there may be a need to protect the bays for designated users, such as blue badge holders. In these instances a Penalty Charge Notice is issued instantly.

Observation times are not a legal requirement and are entirely at the discretion of the Council.

Grace Periods

The law requires that a Penalty Charge Notice must not be issued to a vehicle which has stayed in a permitted parking place on a road or in a local authority car park beyond the permitted parking period for a period of time not exceeding ten minutes. The law applies both on-street and off-street whether the period of parking is paid for or free and the contraventions to which this applies are detailed on the council's website "Guide to how to park legally" [http://www.dacorum.gov.uk/docs/default-source/parking/parking-contraventions-\(guide-on-how-to-park-legally\).pdf?sfvrsn=2](http://www.dacorum.gov.uk/docs/default-source/parking/parking-contraventions-(guide-on-how-to-park-legally).pdf?sfvrsn=2) However, if a vehicle is parked unlawfully, for example, without any pay and display ticket at all or out of a marked bay, the grace period would not apply. Grace periods similarly do not apply to restricted and prohibited parking areas, such as yellow lines.

Challenging Penalty Charge Notices and Evidence

Challenges

Parking law allows a period of 14 days, beginning with the date of issue, whereby a Penalty Charge Notice can be paid at a 50% reduction of the sum due. During this period the driver or registered keeper is permitted to make a challenge to its issue giving reasons why they believe that the penalty should be cancelled.

Upon receipt of the challenge the matter will be placed on hold and a reply provided stating whether the case has been cancelled or upheld. You will be provided another 14 days to make payment if the case is upheld and advised upon how you can contest the matter further if you do not agree with our decision.

Motorists cannot pay and then contest a penalty. Payment is an acceptance of liability and the Council is not obliged to re-open cases or to refund any monies paid in these circumstances.

Statutory Representations

In accordance with parking law a Notice to Owner (NTO) will be forwarded to the registered keeper of a vehicle in the event that the Penalty Charge Notice is unpaid or uncontested, after 28 days. This document provides the registered keeper an opportunity to contest the penalty by making formal representations against its issue. There are currently eight grounds upon which statutory representations can be made and an additional ground allowing for mitigation, should no other ground apply:

1. *The alleged contravention did not occur*

Possible claims:

- the vehicle was not present at the time of the contravention
- that an exemption applied and no contravention was committed i.e. blue badge, loading/unloading, breakdown or other
- defective lines/signs or equipment mean that the location was not enforceable
- no penalty was issued to the vehicle

Policy:

- it must be established that the contravention did occur or the penalty will be cancelled
- further evidence may be required, which will be dependent upon the nature of the claim. This evidence may include copies of a valid blue badge, invoices, delivery notes or receipts, breakdown reports or any other similar supporting document
- the council will verify the validity of any documents presented and check all internal records in relation to any claim made including maintenance reports and site checks, if applicable

2. *The recipient of the Notice To Owner was not the owner/keeper of the vehicle at the time of the contravention*

Possible claims:

- never owned the vehicle
- sold the vehicle prior to the contravention date
- became the owner of the vehicle after the contravention date

Policy:

- it must be established that the DVLA registered keeper was the owner of the vehicle at the time of the contravention or that any other legal or hire

agreement transferring liability to the driver meets the legislative requirements

further evidence may be required, which will be dependent upon the claim made. This may include a bill of sale, proof of purchase, DVLA registration documents or letter of confirmation, invoices, insurance documents or other similar supporting documentation

- details of the person to whom the vehicle was sold or purchased from will be requested
- cancellations will be made where it is established that the named keeper was not liable for the contravention – a new Notice to Owner will be generated addressed to the keeper that has been shown to be liable.

The Council retain the right to pursue the named keeper in the event that details provided later prove to be incorrect

3. *The vehicle had been taken without the owner's consent*

Possible claims:

- the vehicle was stolen prior to the time and date of the contravention
- the vehicle was driven by a third party without the consent of the owner

Policy:

- it must be established that the vehicle had been reported as stolen prior to the contravention. Penalty Charge Notices contested on this ground are only cancelled where this claim is confirmed
- further evidence will be required in the form of a verifiable Police crime reference number
- cancellations will not be made in any other circumstance because liability remains with the DVLA registered keeper

4. *The owner is a hire company and have supplied the name of the hirer*

Possible claims:

- the vehicle had been hired to an individual who had accepted liability for any Penalty Charge Notices incurred whilst the vehicle was in their possession.
- an employee is responsible for Penalty Charge Notices incurred in a company vehicle

Policy:

- liability in relation to the contravention must be established and a Notice To Owner forwarded to the responsible party
- the company must supply details of the hire agreement in accordance with the requirement of the Road Traffic (Owner Liability) Regulations 2000
- the company must supply a suitably completed statement of liability signed by the driver
- cancellations will not be made in any circumstance where these requirements have not been met. The council retain the right to pursue the named keeper in the event that details provided later prove to be incorrect

5. *The penalty exceeded the relevant amount*

Possible claims:

- the Penalty Charge Notice shows an incorrect sum to be due or payment in relation to an incorrect charging band is requested

Policy:

- the correct sum due must be established and confirmation of the amount printed on the Penalty Charge Notice issued
- cancellations will be made where it is confirmed that the incorrect sum due has been stated

6. *There has been a procedural impropriety on the part of enforcement authority*

Possible claims:

- the council has failed to act in accordance with the conditions binding upon them by the Traffic Management Act 2004, including service of documents within specified time periods, failure to adhere to specified time periods or
the action of an unauthorised enforcement procedure

Policy:

- the matter must be investigated to determine if a requirement of the Act has been breached or an action taken that it is not permitted by the Traffic Management Act 2004, whether within or outside specified time periods or involving the service of documents
- cancellations will be made where it is established that the Council has failed to meet an obligation of the Act or where action has been taken that it is beyond the Council's or its agents legal authority

7. *The Traffic Order was invalid*

Possible claims:

- the Traffic Regulation Order (TRO) does not support the location or contravention that the Penalty Charge Notice refers to
- the construction of the TRO is incorrect or the statutory process was not correctly applied

Policy:

- review the TRO and all stages of the statutory process* relating to the making of the TRO, including consultation and advertising (* if not outside the Council's document retention policy)
- cancellations will only be made where it is established that the TRO does not support the issue of a Penalty Charge Notice at the specified location or against the type of vehicle to which the contravention relates, or where the statutory process has not been correctly applied.

8. *The Penalty Charge Notice has been paid*

Possible claims:

- the Penalty Charge Notice was paid; either in full or by payment of any applicable discounted rate, in full and final settlement, in accordance with the terms of payment outlined by the notice.

Policy:

- evidence may be required to support any claim that the penalty has been paid. This may include receipts, bank statements or any other such relevant document
- the council will investigate all transaction and banking records and systems
- cancellations will be made where it is established that full payment was made in satisfaction of the total sum outstanding on the date that payment was presented

9. *Any other information that you would like the Council to consider*

It is the right of any motorist/vehicle owner who receives a Penalty Charge Notice to contest its issue by putting forward any mitigating circumstances that may not be applicable to one of the above statutory grounds.

It should be noted that there is no requirement to ensure that decisions made in respect of discretion are equal to all, only that the final decision of the Council is taken after applying full and due consideration to the individual merits of each case presented.

However, there are some reasons that are unlikely to be accepted and where discretion will not be applied, unless some other exceptional circumstance is relevant:

- a legal parking space could not be found or there was nowhere else to park
- only parked for a short time
- the restrictions are unfair
- other vehicles did not receive a penalty
- not causing an obstruction or there were plenty of other spaces available for use
- ran out of fuel
- any other situation where the circumstances were within the motorists/owners control and could have led to the avoidance of the penalty being issued

It should also be noted that cancellations are unlikely to be made where Penalty Charge Notices have previously been issued in similar circumstances, which resulted in cancellation, unless some other exceptional circumstance is presented.

Appeals

In the event that the Council rejects your formal representations and you do not agree with our decision then you will have the opportunity to refer your case to the Traffic Penalty Tribunal.

Parking legislation dictates that appeals can only be made to the Traffic Penalty Tribunal following rejection of Notice to Owner representations.

The Traffic Penalty Tribunal is an independent body, whereby cases are heard by a qualified lawyer of at least 5 years standing, and their decision is final and binding upon both the Council and the appellant.

The Council will again thoroughly review all stages of the notice processing procedure prior to forwarding documentation to the Traffic Penalty Tribunal. Cases will not be contested only where information becomes evident indicating that the motorist/owner should not be penalised.

For further information on the Traffic Penalty Tribunal you can visit their website at: www.trafficpenaltytribunal.gov.uk or www.patrol.co.uk

Enforcement Agent and Recovery

Unpaid Penalty Charge Notices will be sent to the Traffic Enforcement Centre (TEC) for registration of the debt. Where payment remains outstanding the Council will make a request to TEC for authorisation of a Warrant of Control to allow enforcement agents (formally known as bailiff) to pursue the debt on their behalf. This will increase the overall debt because the enforcement agents will seek to recover any charges that they incur.

Enforcement agents are licensed by the court and central government have set the scale of charges which they use.

The owner/driver must seek legal advice or make payment arrangements with the enforcement agent once the case has reached this stage because it is no longer possible to pay directly to the Council.

Enforcement agent contact details:

Jacobs –	(General enquiries)	0345 601 2692 / 0151 650 4800
	(Payment line)	0330 008 0430
Marston -	(General enquiries)	0845 600 2112
	(Payment line)	0845 671 0049
Newlyn -	(General enquiries)	01604 633 001
	(Payment via web)	www.newlynplc.co.uk

Cancellations of Penalty Charge Notices will not be made at this stage.

Retrospective Evidence

There are some instances where the provision of evidence, that was not present at the time of the contravention, will not be accepted after the event. This will usually involve contraventions that require the display of blue badges, waivers, vouchers or failure to obtain a virtual permit, virtual visitor session or season ticket.

Civil Enforcement Officers are required to check all windows of a vehicle for the presence of any relevant physical badges, waivers or vouchers and will check the hand held computer for evidence of valid virtual permits, pay & park sessions, virtual visitor sessions, season tickets, etc. The Civil Enforcement Officer will record this in their electronic notes and this will often be supported by photographic evidence.

Physical visitor vouchers can be validated at any time and for this reason they will not be accepted where they are not shown to be present at the time of the contravention.

Virtual visitor sessions can be obtained both at the time and in advance of parking and for this reason it will not be accepted where sessions have not been obtained at the time of the contravention.

Blue badges are not vehicle specific and also will not be accepted where they were not displayed at the time that the penalty was issued.

All penalties contested in these instances will be upheld.

Photographic Evidence

In the vast majority of cases the Civil Enforcement Officers will take photographs of a contravening vehicle following the issue of a Penalty Charge Notice. This procedure provides supporting evidence that enables Council Officers to fully evaluate if the Penalty Charge Notice was issued correctly and if a contravention occurred. However, it should be noted that photographic evidence is not a legal requirement and the absence of photographs has no bearing on the validity of a Penalty Charge Notice.

Cancellations will not be made solely on the basis that photographic evidence is not available.

Handheld Computer and Pocket-Book Evidence

The Civil Enforcement Officer is required to record all relevant details of the contravention and the vehicle subject to the Penalty Charge Notice, including observation times and the presence of any relevant badges or waivers noted to be on display. Handheld computer and/or pocket book notes are the primary evidence in support of the Penalty Charge Notice and cancellations may be made where required information is omitted or incorrect.

Self-Written Evidence

There are some instances where self-written evidence will not be accepted and the circumstances must be verified by a third party. This may include invoices, delivery notes or confirmation letters from employers or line managers in support an individual contesting a Penalty Charge Notice.

Cancellations will not be made unless sufficient requested evidence is provided.

Resident Permits and Persistent Evaders

The Council operates a policy of refusing the issue of a resident permit for any vehicle that has a Penalty Charge Notice, which has not been paid, cancelled or in the process of contesting.

Processing and Civil Enforcement Officer Errors

There are statutory requirements that a Civil Enforcement Officer must fulfil in order to issue a Penalty Charge Notice legally. Council staff will check the Penalty Charge Notice process and make cancellations wherever it is evident that an error has occurred.

Concessions and Exemptions

Blue Badge Holders

In recognition of the fact that some rules are local rather than national and can differ from authority to authority, blue badge holders are permitted one cancellation in relation to their vehicle where their badge was not used correctly but would otherwise have given them exemption to park under the blue badge scheme. They will be advised of all relevant parking information for such badge holders in Dacorum, for future reference. This exemption will not apply in circumstances where a blue badge holder is parked on restrictions not permitted by their use, bus stops and loading restrictions for example.

Once advised of blue badge parking information no further cancellations will be made where Penalty Charge Notices are issued in circumstances where their badge was not used correctly.

Blue badges should only be used in accordance with the terms of issue.

Where a disabled bay (without a signpost) is located within a controlled parking zone blue badge holders cannot park within these bays unless they also hold a valid resident permit. Consequently, blue badges provide no exemption within residents parking bays but they may be used in shared use and pay & park bays without time limit. A separate information leaflet is available from the Parking Service for further information.

Blue badge holders are currently exempt from charges in Dacorum off-street car parks but their blue badge must be visibly displayed at all times.

Resident/Business Permit Holders

It is the responsibility of the resident or business proprietor to ensure that their permit is renewed prior to its expiry.

A parking permit does not guarantee a parking space and it is not permissible to park in contravention because a space could not be found.

Car Park Season Ticket/Permit Holders

It is the responsibility of holders of a car park permit or season ticket to renew it prior to its expiry.

Funerals and Weddings

Official vehicles of funerals and weddings are permitted to park in restricted areas close to the ceremonial location. Official vehicles are those directly involved in the ceremony such as hearses and official wedding limousines.

It is not possible to accommodate every vehicle that attends every ceremony and guests of these events must park legally in accordance with the restrictions.

Cancellations will not be made in relation to vehicles attending funerals or weddings if they are not subject to this exemption.

Schools

There are concessions in place around a number of schools within the C-CPZ allowing parents to drop off or collect children. All concessions have been agreed with the schools involved and information passed to parents accordingly.

Penalty Charge Notices will not be cancelled where vehicles are parked outside of concession times or in a location not agreed within the concession.

Vehicles should never park on school zig-zag markings during the hours of restriction and Penalty Charge Notices will be issued instantly where vehicles are observed doing so. It should be noted that parking on zig-zags can significantly jeopardise the safety of children and other road users and any challenge to such penalties will be considered with this factor in mind.

In some cases, supporting time plates may be present on school zig-zag markings in controlled parking zones, should the restriction times on the plate be less than those within the CPZ, for non-permit holders the line will operate at the same times as the controlled parking zone hours, which are displayed on the zone entry signage.

Traffic Order Exemptions

Some exemptions are made to certain vehicles to allow necessary activities to take place whilst still controlling parking. Examples may be emergency service vehicles, refuse collections vehicles or statutory undertakers vehicles such as those used by utility services. This exemption includes vehicles under the control of a CEO performing enforcement activity on behalf of the council.

These vehicles must be engaged on official business to qualify for exemption and evidence will be requested in all cases.

Cancellations will not be made where it is shown that the vehicle was not involved in official business or a statutory duty.

Breakdown

Cancellations may be made where it is established that a Penalty Charge Notice was incurred at a time when the vehicle had broken down.

The breakdown must be a legitimate reason that caused the owner to leave the vehicle parked in contravention and does not include running out of fuel or some other avoidable reason.

CEO's will record any notes present within the vehicle but have no discretion not to issue a Penalty Charge Notice, where the reason for breakdown is not clearly obvious.

Evidence must be supplied to substantiate any claim of breakdown, which can be in the form of recovery documentation, garage invoices, receipts for replacement parts or some other form of similar satisfactory evidence.

Parking law has established that a breakdown is not a licence to leave the vehicle parked in contravention indefinitely and it must be removed within a reasonable period of time (24 hours).

Cancellations will only be made where evidence is supplied that satisfied the criteria of this exemption.

Emergencies

These are unforeseen circumstances, which prevented the owner or driver from moving the vehicle. This may be as a result of some serious medical condition or by some other circumstance beyond their control.

Evidence will be required to substantiate the circumstances put forward and cancellations will only be made where the claim is established.

Police & Emergency Services

Vehicles belonging to the Police and other emergency services are not automatically exempt from observing parking regulations. Exemptions only apply to these vehicles when they are specifically engaged in official business. If no appropriate activity is observed whilst the vehicle is parked in contravention then it will be issued with a Penalty Charge Notice, which will only be considered for cancellation upon appropriate evidence being supplied from a senior officer to confirm the activity that was being carried out at the time.

Minor Error when Entering Vehicle Registration Number

A cancellation may be made where a minor error has been made during the input of a vehicle registration number into a pay & park machine, visitor parking session or telephone payment, an example being entering "O" instead of "0". The cancellation will be on a first occasion only basis any further mis-entries will not be cancelled.

Cancellations will not be made where the parking charge made by telephone or smartphone application has been made to another local authority or a private parking company.

Useful Information When Parking In Dacorum

Bank/Public Holidays

Enforcement takes place on public holidays. Restrictions apply during times and days stated on the signage, including public holidays if they fall within the days on the signage

Sundays

Enforcement takes place on Sundays. Restrictions apply during times and days stated on the signage, including Sundays if applicable.

Evening Enforcement

Enforcement takes place in the evening. Restrictions apply during times stated on the signage, including evenings.

Taxis

Taxis should only wait in this location in designated bays and drivers must wait with their vehicle at all times. Waiting on yellow lines is not permitted and taxis may only remain stationary to allow passengers to board and alight.

Only taxis licenced in Dacorum Borough Council may wait in taxi bays in the Dacorum Borough Council area.

Visitor Parking in Controlled Parking Zones

Virtual visitor sessions can be obtained both at the time and in advance of parking and for this reason it will not be accepted where sessions have not been used at the time of the contravention

Visitor vouchers outline clear instructions for correct validation. It is an essential requirement of the scheme that any vouchers relied upon are correctly completed and displayed prior to the motorist leaving their vehicle.

Cancellations will only be made in cases where it is accepted that genuine human error may have occurred and where a voucher is used, that it could not be used again; when all the details are correctly indicated for example, but the motorist has scratched the wrong day. In such circumstances there is little ambiguity that an error has been made. For these reasons, a similar policy cannot be applied in the event that a motorist has failed entirely to mark a relevant section of the voucher, such as the minutes. Furthermore, motorists should be aware that virtual visitor sessions/ visitor vouchers cannot be considered as evidence where they were not booked on line at the time of the contravention or noted to be present at the time of the contravention.

Motorcycles

All motorcycles that make use of on-street facilities must have a valid resident permit, visitor session or pay & park session. Available road space is at a premium and payment must be made wherever it is due by all motorised vehicles.

If you are in any doubt, then you should make use of the dedicated motorcycle bays located in a number of the council's off-street car parks which are free to use or find alternative suitable legal parking.

Civil Enforcement Officers may lift any covers on a vehicle in order to record the vehicle registration mark.

Motorcycles are prohibited from entering the pedestrian zone of Marlowes, Hemel Hempstead.

Cancellations will not be made where Penalty Charge Notices are issued in these circumstances.

There are dedicated motorcycle bays located in a number of the council's off-street car parks which are free to use.

Car Parks

When making use of car parks it is important to check the signage to determine the terms and conditions of use because these may vary.

Always ensure that you only park within marked bays and purchase only one pay & park session or one telephone payment for the duration of your stay, where required.

Pay attention to any signs indicating that a bay may be reserved for specific designated users such as blue badge holders or season ticket holders.

Blue badge holders should note that blue badge rules do not provide any exemptions from the terms and conditions of use of off street car parks, however, blue badge holders are currently exempt from charges in Dacorum off-street car parks but their blue badge must be visibly displayed at all times.

Electric Charging Points

The Council is committed to improving its infrastructure for electric and hybrid vehicles and, to that end, have installed a number of electric vehicle charging points across the borough. These are present in:

Durrants Hill car park, Apsley
Wood Lane End car park, Hemel Hempstead
Canal Fields car park, Berkhamsted
The Forge car park, Tring
Water Gardens (North) Upper Deck car park, Hemel Hempstead (Weekends only)

All vehicles parking in the designated electric vehicle charging points must be charging when parked. If a vehicle is not plugged into the charging unit, a Penalty Charge Notice will be issued. Similarly, all vehicles are required to pay the required tariff and adhere to maximum stay limits.

Medical Permits

These permits are issued to Doctors or Health Visitors solely to enable attendance to patients that live within Controlled Parking Zones. They are not to be used for any other reason or at any other time and evidence will be required from a line manager to confirm that the driver was undertaking a professional visit at the time of the contravention.

Cancellations will only be made where this is established.

Medical permits are not for use whilst medical staffs are at the hospital or at their office or surgery.

Any misuse of medical permits may result in the immediate withdrawal of all permits from the relevant organisation.

Other Information that may be useful

Loading/Unloading

Parking law has established rules on what is generally considered to constitute loading and unloading.

The goods being loaded/unloaded must be heavy and/or bulky and the parking place used to load them must be necessary, not simply convenient. Therefore, parking on a restriction to buy a hand held item from a shop or taking an excessive amount of time to unload one item will not fall within the remit of the loading/unloading exemption.

Loading/unloading activity, involving the vehicle, is observed by the enforcement officer whilst the vehicle is parked. The observation period is 2 minutes and a penalty will be issued if no loading activity is seen during this period because the loading activity must be a continuous operation. The exemption will end if it is broken in any

way, for toilet or lunch breaks etc. Exceptions may be made when the nature of the goods requires more time to load, e.g. house moving or very heavy goods being handled but the time period taken must be reasonable in light of the goods being loaded.

Residents within controlled parking zones are covered by this exemption, where they are seen to be loading within the above rules, however, they should use virtual visitor sessions if there is any doubt that the operation will not be continuous.

Removal vans that are engaged in the continuous operation of loading/unloading will not require virtual visitor sessions or dispensations. In all other cases or where there is doubt then cover should be obtained, for instance in restricted zones, where access to loading bays may be only allowed at certain times.

Civil Enforcement Officers will allow an observation period in a wide variety of instances where a vehicle is seen whilst parked in contravention. This is to ensure that motorists are not penalised in genuine cases where loading is being undertaken. Observations times are pre-set in to the Civil Enforcement Officer's hand-held computer and it is not possible for a Penalty Charge Notice to be generated until the period has elapsed.

Some contraventions may have potentially serious consequences or there may be a need to protect the bays for designated users, such as blue badge holders, or on no loading areas to prevent dangerous or obstructive parking. In these instances a Penalty Charge Notice is issued instantly, there are also two further types of observation: casual and continuous.

For casual observations the standard procedure is for a CEO to note the vehicle details when they first see a possible contravention taking place and to return a short while later or at intervals to see whether there is any sign of loading or unloading. If not, the CEO will issue a PCN.

for continuous observations the standard procedure is for a CEO to note the vehicle details when they first see a possible contravention taking place and stay next or near the vehicle, keeping it in sight at all times, for a set period (at least 2 minutes) to see if there is any sign of loading or unloading. If not, the CEO will issue a PCN.

Where Civil Enforcement Officers do not observe loading/unloading taking place during their observation period then a Penalty Charge Notice will be issued.

Further evidence will be required where motorists claim to be exempt on the grounds that a loading operation was taking place. This may include invoices, delivery notes, receipts or some other form of similar documentation.

Cancellations will be made where documentation is verified and the loading/unloading rules have been satisfied. No cancellations will be made where the penalty has been issued in a place where loading is prohibited

Footway Parking

This is not currently enforceable outside of Greater London and it will only be possible to issue Penalty Charge Notices to vehicles where vehicles are parked alongside a valid parking restriction. Waiting restrictions run from the centre of the carriageway to the back of the highway. However, in all cases, motorists are advised to consider the safety of pedestrians using push chairs, wheelchairs and those who may be partially sighted or blind.

Private Land

Local Authorities are not prevented from issuing Penalty Charge Notices to illegally parked vehicles solely on the basis that the vehicle may be parked on private land. Vehicles which are parked partially on private land but have one or more wheels parked on public highway remain liable for enforcement.

Obstruction

Legislation does not allow Local Authorities to issue Penalty Charge Notices to vehicles that are parked in an obstructive manner. This responsibility remains firmly with the Police, who may issue Fixed Penalty Charge Notices or remove vehicles, if it is considered necessary.

Dropped Kerbs – Hemel Hempstead Town Centre Area

In June 2009 the Traffic Management Act 2004 was amended to allow Local Authorities operating Civil Parking Enforcement outside of London to issue Penalty Charge Notices to vehicles parked alongside dropped kerbs. This includes both dropped kerbs providing pedestrian crossing points and those that provide vehicular access to residential and commercial driveways. In all cases, one or more wheels of a vehicle must be parked adjacent to the transition of the dropped kerb for this contravention to be established. Therefore, Penalty Charge Notices cannot be issued to vehicles that are simply parked close to a dropped kerb.

Dropped kerbs are currently enforced in the Hemel Hempstead Town Centre area which includes the full extent of:

Bridge Street, Combe Street, High Street, King Harry Street, Marlowes, Moor End Road, Selden Hill, Waterhouse Street and Wolsey Road

White Courtesy Lines

These markings have no legal basis and Penalty Charge Notices cannot be issued to vehicles that park on them. However, they are often found within controlled parking zone resident bays, which require a resident's permit. All residents have signed a declaration stating that they will not park across driveways and vehicular access points and risk having their permit revoked if they do so. If the relevant permit or visitor session is not held, penalties will be issued

Signs and Lines

Signs and lines must conform to the statutory guidelines as laid out in the Traffic Signs and General Directions Regulations 2002, The Traffic Signs (Amendment) (No.2) Regulations and General Directions 2011 or The Traffic Signs Regulations and General Directions 2016. Specific approval from the Department for Transport (DfT) must be obtained where the council wish to vary prescribed signage. There is no discretion in the use of signs and the DfT must approve all lines and signs before enforcement action can commence.

In some areas, either to reduce the negative aesthetic impact on a street or because the road surface makes using paint impractical or inappropriate, alternative methods of demarking bays are used; for example road studs or contrasting materials.

However, it should be noted that parking law has established that councils are not obligated to maintain lines to a perfect condition at all times but it must be ensured that any line that restricts the motorist is clear enough to reasonably have made them aware that it was present and applicable.

Cancellations will only be made where it is confirmed that a line or sign is so defective and/or does not conform to legislative standards, to the extent that the motorist could not reasonably have been expected to be aware that it applied and was enforceable.

Meter Feeding

Car park information boards warn motorists that it is not permitted to purchase more than one pay & park session or one telephone payment to cover the entire duration of their stay. Upon expiry of the initial time purchased the vehicle must be moved to another location.

Cancellations will not be made where it is established that more than one pay & park session or more than one telephone payment was purchased.

Pay & Park Sessions and Telephone/Smartphone Payments

The motorist is responsible for ensuring that a pay & park session or telephone payment relied upon is correctly obtained at the time of parking prior to leaving their vehicle. Penalty Charge Notices will be issued in circumstances where the validity of a pay & park session or telephone payment cannot be verified because it has been incorrectly obtained. However, on a first occasion only basis, a cancellation may be made where a minor error has been made during the input of the vehicle registration number.

Cancellations will not be made where a motorist incurs further penalties issued in similar circumstances.

Cancellations will not be made where a session has commenced after the initial observation of the vehicle by the Civil Enforcement Officer

Cancellations will not be made where the parking charge made by telephone or smartphone application has been made to another local authority or a private parking company..

Faulty Equipment

Where a pay & park machine appears to be out of order then an alternative machine should be sought within the immediate area to allow payment to be made.

All car park information boards bear a telephone number for reporting any fault encountered, 01908 223505. The details of the fault and your vehicle will be recorded and an engineer directed to the machine for repair.

A Penalty Charge Notice will only be cancelled on the grounds that no alternative machine is available for use within the immediate area and/or where the details of the fault have been reported and verified by an engineer.

Glossary of terms

Some terms referred to may not be contained within this document but may be helpful in providing a greater understanding of the Penalty Charge Notice process and procedures.

<i>Adjudication</i>	statutory stage of the Penalty Charge Notice process which allows the motorist/owner to make an appeal to the independent Parking Adjudicator, Traffic Penalty Tribunal.
<i>Cancellation</i>	action taken by the Council to cancel a Penalty Charge Notice
<i>Enforcement Agent</i>	a certificated enforcement agent (bailiff) authorised in accordance with Parking Law legislation to recover parking debt
<i>Charge Certificate</i>	notice issued to motorist/owner who has not paid within 28 days of receiving Notice to Owner or Notice of Rejection
<i>Civil Enforcement Officer (CEO)</i>	officer engaged by the Council to issue Penalty Charge Notices.
<i>Civil Enforcement Area</i>	area approved by the Secretary of State for Transport within which the enforcement of most parking controls has been decriminalised and where enforcement is undertaken by the Local Authority. Formerly known as a Special Parking Area
<i>Civil Parking Enforcement</i>	Legislation under the Traffic Management Act 2004 permits Local Authorities to enforce contraventions of parking controls within their designated area
<i>Contravention</i>	a failure by a motorist to comply with parking controls that have been decriminalised
<i>Controlled Parking Zone (CPZ)</i>	an area where parking is restricted to provide preferential parking to residents, their visitors and other permit holders
<i>Debt Registration</i>	the process of recording a parking debt with the Traffic Enforcement Centre at the County Court
<i>Decriminalisation</i>	Legislation under the Road Traffic Act 1991 and Traffic Management Act 2004 permits Local Authorities to enforce contraventions of parking controls within their designated area
<i>Designated Parking Bays</i>	bays designated for a specified type of parking, e.g. free parking, pay & park parking, resident permit or blue badge holders

<i>Discount Rate</i>	reduction of 50% of the full amount due in respect of a Penalty Charge Notice, if payment is made within 14 days beginning with the date of issue
<i>Dispensation</i>	a temporary document that allows a vehicle to park in a restricted area for an agreed duration, following payment of an administration charge
<i>DVLA</i>	Driver and Vehicle Licensing Agency, where records of vehicles and their registered keepers are held
<i>Exemptions</i>	certain classes of vehicles or operations that create an exemption from parking controls
<i>False Declaration</i>	it is an offence to knowingly and wilfully make an untrue statement in connection with an appeal to a parking adjudicator and other stages of the enforcement process. This offence is punishable by conviction or fine
<i>Fixed Penalty Notice</i>	notices issued by Police Officers and Police Traffic Warden to motorists for committing parking offences governed by criminal law
<i>Grounds</i>	legislation outlines the legal grounds on which the recipient of a Penalty Charge Notice may make representations
<i>Hand-Held Computer</i>	a small hand-held computer/smart phone that is used to register parking contraventions and to print the Penalty Charge Notice
<i>Hire Vehicles</i>	vehicles hired under an agreement that conforms with the Road Traffic (Owner Liability) Regulations 2000
<i>Initial Charge</i>	the basic charge set for parking in a designated parking bay for specified users at specified times
<i>Loading Bay</i>	a specific bay signed to permit loading and unloading by goods vehicles
<i>Loading Gap</i>	an area of yellow line within a permitted parking place, on which waiting and parking is restricted but loading and unloading is allowed
<i>Notice of Acceptance (NOA)</i>	letter issued by the Council to a motorist following their formal representation against a Notice to Owner indicating that the representation has been accepted
<i>Notice of Rejection (NOR)</i>	letter issued by the Council to a motorist following their formal representation against a Notice to Owner indicating that the representation has been rejected

<i>Notice to Owner (NTO)</i>	statutory notice served by the Council on the person believed to be the owner of a vehicle issued with a Penalty Charge Notice that remains unpaid after 28 days
<i>Order for Recovery</i>	statutory notice issued to the motorist advising that an unpaid Penalty Charge Notice has been registered as a debt at the Traffic Enforcement Centre (County Court)
<i>Owner Liability</i>	the registered keeper of a vehicle as held on DVLA records or an individual that has signed a statement of liability or hire agreement in respect of Penalty Charge Notices
<i>Parking Adjudicator</i>	independent solicitor or barrister of at least five years professional experience appointed to consider appeals against Penalty Charge Notices
<i>Parking Bay</i>	individual bay within a parking place that is provided to for the leaving of a vehicle upon payment, or display of a permit, ticket or voucher as required
<i>Parking Place</i>	any area of highway designated within a Traffic Regulation Order as a place where vehicles may legally be parked
<i>Parking Space</i>	a space for one vehicle, usually within a car park
<i>Penalty Charge Notice (PCN)</i>	notice issued by a Civil Enforcement Officer to a vehicle or to the person appearing to be in charge of a vehicle, which is believed to be parked in contravention of the Council's Traffic Regulation Order
<i>Persistent Evader</i>	motorist who persistently incurs Penalty Charge Notices and fails to make payment
<i>Persistent Offender</i>	motorist who persistently incurs Penalty Charge Notices but makes payment
<i>Pocket Book</i>	notebook used by the Civil Enforcement Officer to record information whilst on duty, in particular additional evidence to support Penalty Charge Notices issued during the course of their enforcement activities
<i>Registered Keeper</i>	person or organisation recorded at the DVLA as being the keeper of a vehicle and will be held liable for Penalty Charge Notices incurred
<i>Road Traffic Act 1991</i>	the Act of Parliament that decriminalised certain parking offences, making them civil contraventions, enforceable by Local Authorities. Now superseded by the Traffic Management Act 2004

<i>Road Traffic Regulation Act 1984</i>	the Act of Parliament that provided many of the powers for Council's to control parking in their area, later incorporated in the decriminalised regime brought in by the Road Traffic Act 1991 and now governed by the Traffic Management Act 2004
<i>Special Parking Area</i>	a term used under the Road Traffic Act 1991 to describe an area within which the Council undertakes decriminalised parking enforcement. Now known as a Civil Enforcement Area
<i>Statement of Liability</i>	agreement signed by the hirer of a vehicle stating that the hirer accepts liability, as if he were the owner, in respect of Penalty Charge Notices issued to the vehicle during the hire period
<i>Telephone or electronic Payment</i>	<i>electronic option to pay for a parking session via electronic option to pay for a parking session via telephone or mobile application.</i>
<i>Traffic Enforcement Centre (TEC)</i>	centre based within Northampton County Court where unpaid Penalty Charge Notices are registered as debts
<i>Traffic Penalty Tribunal</i>	an independent body created to provide a simple, accessible system of justice, allowing an appeal by individuals against administrative decisions made by the state
<i>Traffic Regulation Order (TRO)</i>	official order made by a Local Authority under the Road Traffic Regulation Act 1984, which details the nature and extent of parking controls within the Council's area. It is a contravention of these controls that may give rise to the issue of a Penalty Charge Notice
<i>Vehicle Registration Mark (VRM)</i>	the "number plate" of a vehicle
<i>Vehicle Excise Disk (VED)</i>	the "tax disc" of a vehicle
<i>Warrant of Control (Formerly Warrant of Execution)</i>	authority issued by the County Court to enforce an unpaid debt via a certificated bailiff on behalf of the Council
<i>Witness statement</i>	if a Penalty Charge Notice (PCN) is not paid or appealed within the correct time-frames Dacorum Borough Council may register it as a debt with Northampton County Court Traffic Enforcement Centre. The form is sent with the Order for Recovery. An appeal can only be made on one of the four grounds stated. You must complete and send the Witness Statement to the Traffic Enforcement Centre within 21 days.

Revised – 4 November 2020

Steven Barnes

Parking Services Team Leader