

CIVIL PARKING ENFORCEMENT

A Civil Parking Enforcement Policy
and
the Processing of Penalty Charge Notices
for
Epping Forest District Council

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Version 3

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INTRODUCTION

Epping Forest District Council's Civil Parking Enforcement Policy is a policy statement, designed to help to manage off-street parking by providing a clear framework for effective parking enforcement in Epping Forest District Council (EFDC) off-street car parks.

This policy covers off-street parking enforcement only. On-street parking enforcement in the district is the responsibility of the North Essex Parking Partnership (NEPP). Essex County Council (ECC), as Highway Authority, transferred delegated authority to NEPP in respect of on-street civil parking enforcement. EFDC only has the powers for enforcement in its operated off-street areas.

The advice contained within this document is intended to assist in understanding how off-street parking is enforced in the district and to support both Council and contracted employees when undertaking civil parking enforcement and in particular when assessing informal challenges/formal representations.

EFDC is committed to making sure that it provides Equality of Opportunity in how its services are delivered. This commitment has been translated into its core values by ensuring that different groups and individual needs are reflected in the delivery of service. The policy seeks to meet the needs of road users eligible for parking in EFDC car parks and to clearly prioritise different parking enforcement needs in the EFDC car parks. The aim is to manage parking enforcement in EFDC car parks on a fair and consistent basis.

This policy will be subject to rigorous and frequent review to ensure that it reflects current best practice nationally. This in turn will enable enforcement to be carried out consistently and clearly across the district.

LEGISLATION & STATUTORY GUIDANCE

The statutory acts governing parking enforcement are the Traffic Management Act (2004) and The Road Traffic Regulation Act (1984). There are also a number of accompanying Regulations:

- The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
- The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022
- The Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007.

The statutory guidance for civil parking enforcement by local authorities, as regulated by the Traffic Management Act 2004:

- Statutory guidance for local authorities in England on civil enforcement of parking contraventions (Secretary of State, August 2022).

This local policy is not intended to replace or replicate legislation or statutory guidance. If there is any conflict between this enforcement policy and statutory guidance or any other legislation, then the relevant legal requirements take precedence.

SECTION 1 – CIVIL PARKING ENFORCEMENT

1.1 PARKING MANAGEMENT

Parking management includes the enforcement of off-street parking regulations in Epping Forest District Council car parks.

Illegal parking is inconsiderate, and it can be dangerous. Under civil enforcement, the District Council is directly responsible for all off-street parking enforcement in EFDC car parks.

The policy supports effective parking management by;

- Coordinating off-street parking enforcement management to ensure a comprehensive and complementary approach.
- Allocating parking permits/season tickets with clear conditions of use based on transparent and consistent principles.
- Maximising the potential of the Council's information technology system to support an effective and efficient parking management operation.

Sensible and safe parking within Epping Forest District Council car parks will be encouraged, as will greater compliance with the Off-street Regulations and Traffic Regulations as regards parking.

Parking provision is becoming more responsive to the public's needs because EFDC control both the provision and management of off-street parking in their car parks.

The policy focuses on customer needs by:

- Ensuring an efficient, robust and customer-friendly parking system.
- Effective tackling of parking fraud, and abuse of the Blue Badge Scheme.
- Ensuring an effective, fair and consistent enforcement operation to maximise compliance with EFDC's parking regulations.
- Consulting and communicating with both internal and external stakeholders to inform parking management issues.
- Take into account the needs of local residents, shops and businesses, thereby sustaining the District Council's economic growth.
- Ensure that people with disabilities are able to have equal access to all facilities within the EFDC car parks
- Actively discourage indiscriminate parking that causes obstruction to other motorists.

1.2 BLUE BADGE HOLDERS

Blue Badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport that disabled person. It is not permitted to use the badge for any other purpose e.g., shopping for the disabled person when they, themselves, are not being transported in the vehicle.

Blue badges must be clearly and properly displayed whilst the vehicle is parked.

Failure to do so will result in a PCN being issued for the contravention of the appropriate parking condition. Further details on how any representations will be

addressed by the Council are covered in Section 4.

Providing the Blue Badge is clearly and properly displayed the Badge holder can park in EFDC car parks in accordance with details provided on the car park tariff boards.

Blue Badge holders are not allowed to park in any area where there is a loading restriction, reserved bays, motorcycle bays and a restricted area. Parking must always be in accordance with the Blue Badge Scheme.

Civil Enforcement Officers (CEO's) have the power to inspect a Blue Badge and confiscate it if they believe it is being misused. There is no amnesty or grace period for the use of an expired Blue Badge and therefore it is appropriate for an Officer or CEO to seize a Blue Badge if it has expired.

1.3 ACCESSIBLE BAYS

Blue Badge holders can park for free in an accessible bay as long as the Blue Badge is valid, correctly displayed on the dashboard and the Blue Badge holder is present. Any vehicle without a valid Blue Badge displayed is parked in contravention of the surrounding restriction.

Blue Badge holders can also park free of charge in pay and display bays, provided that they are parked wholly within a marked bay only.

1.4 MOTORCYCLE BAYS

Motorcycle bays are not mandatory bays but are exemptions to the normal restrictions in car parks. Consequently any vehicle, other than a motorcycle, parked in such a bay is parked in contravention of the surrounding restriction, not for being parked in a motorcycle bay.

Motorcycles can park for free in a dedicated motorcycle bay. Motorcycles can also park free of charge in pay and display bays.

1.5 ELECTRIC VEHICLE PARKING BAYS

Electric Vehicle (EV) parking bay is provided specifically for charging electric vehicles. Where within a parking place there is a sign or surface marking indicating that a parking bay is an electric vehicle parking bay, no vehicle should be parked in that parking bay unless the vehicle is an electric vehicle. Parking in a charging bay with a non-electric car will be liable to a PCN. Electric vehicle parking is subject to existing car park tariffs and hours of operation within the public car parks and must be charging while in bay.

1.6 VEHICLE WEIGHT AND CLASS

- Trailers or caravans are not permitted in EFDC off-street car parks.
- Any vehicle over 3.5T is not permitted in EFDC off-street car parks.

1.7 PERMITS & SEASON TICKETS

EFDC car park permits and season tickets are virtual and are applied for online via the Epping Forest District Council MiPermit portal. The District Council does not issue paper permits. When purchasing a virtual permit/season ticket, it is the responsibility of the driver to ensure that the correct information is completed. This includes the location, date, duration of stay and vehicle registration mark prior to leaving the vehicle unattended. Having a permit does not guarantee a parking space.

All permits/season tickets are valid only in the specified car park as determined by the District Council.

The District Council will determine the eligible areas to purchase permits and also determine the maximum number of permits as it deems appropriate.

1.7.1 RESIDENTS PERMITS

Residents permits are obtained by residents from the postal address of which is in the eligible areas specified. Please note evidence will be required upon application.

1.7.2 VISITOR PERMITS

Visitor permits are obtained by residents and issued to genuine visitors to their homes. Please note evidence will be required upon application.

1.7.3 BUSINESS PERMITS

Business permits are obtained by businesses or employee of a business or other corporate body that carries out business or provides a service from any premises the postal address of which is in the eligible areas specified. Please note evidence will be required upon application.

1.7.4 SEASON TICKETS

The District Council may at its discretion issue Season Tickets for use at any parking place for issue to such persons, business or companies in respect of such car parks as the Council may specify and upon such terms and conditions as may be agreed.

A Season Ticket may be used only:

- By the person to whom it is issued
- In the case of a ticket issued to a business or company for the use of a named employee, by that employee
- In respect of the Vehicle or one of the Vehicles for which it is issued.

1.7.5 COMMERCIAL PERMITS

The Council may at its discretion provide a duly appointed agent with Commercial Permits for issue to such persons, business or companies in respect of such car parks as the Council may specify and upon such terms and conditions as may be agreed between the Council and such agent, persons, business or companies.

1.8 CLAMPING AND REMOVAL

It is not the intention to carry out clamping & removal by Epping Forest District Council save for a circumstance where a case of an Epping Forest District Council debt is transferred to our enforcement agent. We reserve the right to instruct those agents to clamp and/or remove the vehicle in question, wherever that vehicle may be located.

1.9 SUSPENSIONS

The Council has the power to suspend parking within a designated parking bay(s). Designated parking bays off-street at a charge, may be suspended for the following reasons:

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

Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the Council's Leisure and Parking Team. The Council's decision is final.

The District Council will display notices which will indicate the location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least 5 days before the suspension comes into operation. Additionally, external communications may be issued via the Council's social media platforms. Furthermore, adjacent properties may receive advanced notice of the suspension if deemed appropriate.

Vehicles parked in contravention of a suspension will receive a PCN.

A suspension charge per bay and per day will be made and is payable upon application. The charge per bay will be as the daily pay & display fee of the relevant off-street car park. In addition to the suspension charge, each application will be subject to an administration fee of £50.00. The District Council's Leisure and Parking manager may exercise discretion and waive suspension charges or administration fees.

Upon application, Council may request copies of insurances and a risk assessment depending on the reason for suspension.

The onus is on the requestor to arrange the suspension of bays, as cones or barrier fencing will be required. The Council will not suspend bays and cannot guarantee that the space/s are available.

The car park must be left clean and tidy at the end of the suspension. It is the responsibility of the requestor to include arrangements for managing waste.

1.10 DISPENSATIONS

Not applicable.

1.11 TARIFF REVIEWS

Periodic tariff reviews are important to ensure the charging regime is appropriate and proportionate to help maintain and improve car parking facilities, whilst continuing to recognise their importance to our community and town centre economies. The Council will conduct an off-street car parking tariff review every three to five years to demonstrate best practice car parking management. The Council may use their discretion to conduct a tariff review as and when it is deemed necessary.

1.12 COMPLAINTS & ENQUIRIES

Enquiries regarding EFDC off-street car parks should be directed to the District Council's Leisure and Parking Team. Complaints in relation to off-street civil parking enforcement will be investigated by the District Council's Leisure and Parking Manager. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. Should the findings not be acceptable to the complainant advice of how to invoke the Council's Formal Complaints Procedure will be given.

On-street parking is the responsibility of Essex County Council and is delegated to the North Essex Parking Partnership (NEPP). Enquiries and complaints regarding on-street parking should be directed to the North Essex Parking Partnership.

SECTION 2 – CIVIL ENFORCEMENT OFFICERS

2.1 CIVIL ENFORCEMENT OFFICERS

Civil Enforcement Officers (CEOs) are deployed from the enforcement contractor by the District Council to enforce parking restrictions in off-street car parks.

The hours of operation and deployment hours are Monday to Sunday 8am – 6pm.

Requests from the public for targeted enforcement will be addressed where appropriate. Priority will be given to requests received from the Police.

2.2 CEO DISCRETION

The exercise of discretion rest with the District Council's Leisure and Parking Team as part of considering challenges against PCNs and representations against Notice to Owners (NtO's). This is to protect CEO's from allegations of inconsistency, favoritism or suspicion of bribery. It also gives greater consistency in the enforcement of traffic regulations.

2.3 CEO UNIFORM

When exercising prescribed functions, a CEO must wear a uniform. This uniform should promote his or her visibility and be seen to be in the vicinity and operating overtly, and clearly show:

- The wearer is engaged in parking enforcement
- The name of the District Council
- A personal identity number
- High visibility outer garments
- Bodycam.

2.4 CLAIMS, COMPLAINTS AND ENQUIRIES

The enforcement contractor maintains the procedure of dealing with any claims, complaints and enquiries direct from any member of the public or received from the District Council. The District Council's complaints protocols and timescales shall be complied with. The findings of the investigation will be communicated to the complainant, in writing, within the stipulated timescale. Should the findings not be acceptable to the complainant advice of how to invoke the Council's Formal Complaints Procedure will be given.

Allegations that a Civil Enforcement Officer has made an error whilst issuing a PCN will be investigated under the normal informal challenges or formal representation procedures and a formal written notice of acceptance or rejection will be sent within the stipulated timescale.

SECTION 3 – PROCESSING OF PENALTY CHARGE NOTICES

Penalty Charge Notices issued under the Traffic Management Act (Part 6) are processed via a civil debt recovery process. In Epping Forest District Council, all Penalty Charge Notices (PCNs) issued are dealt with by the Leisure and Parking Team. This ensures a clear and consistent approach to processing across the District.

3.1 REGISTERED KEEPER'S LIABILITY

Under the Traffic Management Act 2004 the responsibility for any PCN rests with the Registered Keeper of the vehicle as recorded at the Driver & Vehicle Licensing Agency (DVLA). If the registered keeper was not the driver at the time of the offence it remains his/her responsibility to pay the PCN and any recompense from the driver should be obtained by the registered keeper.

3.2 HOW TO PAY OR APPEAL PENALTY CHARGE NOTICE

Instructions on how to pay or appeal PCNs is contained in all statutory documentation issued. Motorists must follow the information contained in the statutory documents. Challenges via email will not be accepted.

The processing of PCNs must be carried out in a transparent manner and well-evidenced. The Leisure and Parking Team do not accept telephone calls in relation to Penalty Charge Notices, at any stage, as there is no audit trail or evident process for ensuring what has been verbally stated and recorded is an accurate interpretation of what the motorist intended.

3.3 PCN ADMINISTRATIVE PROCESS

3.3.1 REGULATION 9 PCN

1. PENALTY CHARGE NOTICE ISSUE

The PCN (Regulation 9 PCN) served on the vehicle allows a period of 28 days to pay the charge or make an informal challenge against the issue of the PCN from the service date.

In accordance with statutory requirements, a discount amount of 50% of the penalty charge is available within 14 days from the service date and will be accepted in full settlement of the matter.

If a challenge is received from the registered keeper within 14 days from the service date, the discount amount will remain frozen until the enforcement authority responds. If the challenge is not accepted the District Council will generally restart the period of 14 days within which the reduced penalty charge may be paid and this should be included in the District Council's response. The District Council may request registered keeper details from the DVLA in the event of an unpaid PCN.

Should a PCN be issued on a vehicle with a diplomatic registration plate, then the Notice to Owner will not be sent but a record of the fine will be kept and passed to the Foreign and Commonwealth Office annually for pursuit.

INFORMAL CHALLENGE

The keeper of the vehicle may make a written informal challenge against the issue of the PCN and within this challenge he/she can mention any mitigating circumstances as well as challenging the validity of the PCN. The Council must respond, in writing, within 10 working days of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the PCN or rejection of the challenge.

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

The making of a challenge in no way detracts from the ability of the keeper to make a subsequent formal representation against the issue of the PCN to the Council or to the Traffic Penalty Tribunal (TPT).

2. NOTICE TO OWNER

If the PCN remains unpaid after 28 days of the PCN service date, the statutory notice process is implemented and a Notice to Owner (NtO) is issued.

The NtO served allows a period of 28 days beginning with the date on which the notice is served to either pay the penalty charge in full or make a formal representation.

The Traffic Management Act 2004 sets out statutory ground on which the registered keeper can make a formal representation. This is detailed in Section 4 of this document.

Any representations received after the 28-day period may be disregarded by the enforcement authority.

If a NtO is sent to the keeper who subsequently states that the PCN was not received at the time of the offence the discounted amount will be accepted if paid within 14 days. This should be communicated in writing to the keeper with the restarted discount period starting from the date of the NtO. When it is claimed that the PCN was not received the notice processing system will be interrogated to ensure that previous such claims have not been made by the same person. If there is history of such claims the discounted period should not be restarted and the full amount paid.

FORMAL REPRESENTATION

The keeper of the vehicle may make a written formal representation against a PCN within 28 days of receipt of the Notice to Owner. The vehicle owner will be provided with information on the statutory grounds for appeal. The statutory grounds for appeal are outlined in Section 4, Item 4.3. Information on how to submit a formal representation will be in the NtO issued by the District Council. Formal representations will not be accepted via email.

In addition to the statutory grounds for appeal the District Council is also obliged to consider any mitigating circumstances, and the owner/keeper is required to give full details and supporting evidence of any such circumstances. Mitigating circumstances are outlined in Section 4, Item 4.4. It is recognised that each case is different and

situations occur that are beyond the control of the motorist and in which cases it would be unreasonable to pursue the PCN. This is not an exhaustive list but does offer guidance on likely scenarios that would warrant cancellation of the PCN.

Within 10 working days of receipt of a formal representation the District Council must issue a written notice of acceptance or rejection:

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

3. CHARGE CERTIFICATE

A Charge Certificate will be issued if the PCN has not been paid within 28 days of the NtO being issued and no representation is being considered. The penalty charge will increase by a further 50% of the original charge and payment is required within 14 days of the service date. At this stage there is no longer a formal right to appeal.

PRE-DEBT REGISTRATION LETTER

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

4. DEBT REGISTRATION

If the PCN remains unpaid after 14 days of the service of the Charge Certificate, the District Council will apply to register the debt with the Traffic Enforcement Centre (TEC). A registration fee is applied to the debt. Once the debt is registered, the TEC will send the enforcement authority to issue an order to recover the debt. Within 7 days of receipt of TEC authority the Order for Recovery and Statutory Declaration must be sent to the debtor.

5. ENFORCEMENT AGENTS

Failure to either pay or complete a Statutory Declaration after 21 days have elapsed since service of the registration order was effected will result in the authority applying for a Warrant of Control from the Traffic Enforcement Centre. Once a Warrant of Control is issued, the authority will instruct approved Enforcement Agents to collect the debt on their behalf. No communication can be made to the District Council at this stage.

3.3.2 REGULATION 10 PCN

A Regulation 10 PCN is the service of a PCN by post. There are two circumstances in which a PCN (a Regulation 10 PCN) may be served:

- The PCN was prevented from being served due to threat of violence
- There has been a prevention of service by drive away.

In any of these circumstances a PCN is served by post on the registered keeper

(whose identity is ascertained from the DVLA), and also acts as the Notice to Owner. Postal PCNs should be sent within 14 days of the contravention. In these circumstances, the motorist gets a 14 day discount period.

In circumstances where the vehicle was driven away and the CEO had begun to issue the PCN or finished issuing the PCN but been unable to serve it, the CEO should cancel the Regulation 9 PCN and a Regulation 10 PCN should be served by post. The District Council should ensure that they have sufficient primary and supporting evidence to deal with any subsequent representations and appeals and obtain a witness statement from the CEO.

The PCN, which serves as the NtO, must be served using first class post.

A PCN may not be served by post if the motorist returns to the vehicle before the CEO has started to issue the PCN. It is only when the CEO starts to create a PCN and would otherwise have to formally cancel it.

3.3.3 TRAFFIC PENALTY TRIBUNAL APPEAL

All motorists have the ultimate right to refer the matter to an independent arbitrator, the Traffic Penalty Tribunal (TPT). The District Council is responsible for determining any formal appeal to the TPT and is involved accordingly. Should the appellant decide to progress the appeal to the Traffic Penalty Tribunal (TPT), they will be able to decide whether to proceed with a written appeal or attend a telephone, virtual or in person hearing to put their case. An independent adjudicator from TPT will consider the case in due course and his or her decision is considered final. Further information on the appeals procedure can be found on the TPT website at www.parking-appeals.gov.uk.

3.4 INTERVENTION IN CHALLENGE & REPRESENTATION PROCESSES BY ELECTED MEMBERS AND OTHER OFFICERS

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

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

For the avoidance of doubt, Civil Enforcement Officers cannot cancel PCNs due to requests from Members and other Officers. The PCN process must be followed and the motorist must submit a challenge/representation if they believe the penalty should not be paid.

3.5 DISCRETION

The District Council will approach the exercise of discretion objectively. The Council has the power of discretion to cancel the PCN at any point in the process even if it is established that a contravention did occur. The District Council's Leisure and Parking

Manager is the nominated officer within the authority delegated to them via standing orders and the discretion to cancel PCNs. Such discretion should be exercised in conjunction with the content of this document.

3.6 CORRESPONDENCE

3.6.1 EMAIL ADDRESS

The person completing the challenge must ensure they enter a correct email address at the time of submission as the Council does not have the ability to change this when responding. The system will automatically infill the email address provided.

3.6.2 JUNK EMAIL

If providing an email address for the response to be provided by the Council by email, the person awaiting a response should ensure they check their junk email for any correspondence in relation to the informal challenge submitted.

3.6.3 RESPONSE AWAITED

It is the responsibility of the person submitting an informal challenge to check a response from the Council to an informal challenge or formal representation has been received within the required time. If no response has been received, after checking junk email in respect of an informal challenge, then they should contact the Council to enquire if their informal challenge/formal representation has been received and responded to.

3.6.4 ADDRESS

If an informal challenge is sent to the Council at their offices by post, the letter must contain their name and full postal address. Without this information, the informal challenge cannot be responded to and the case will progress and a Notice to Owner will be sent to the DVLA registered keeper.

3.7 PAYMENT

3.7.1 PENALTY CHARGE RATE

The PCN charge in the District for off-street contraventions is set by the Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations. Epping Forest District Council have set penalty charges in accordance with Price Band 2 under the legislation. The higher or lower charge is dictated by the contravention and code used and is not at the discretion of the District Council.

Any increase in PCN rate will only be possible by guidance from Central Government and will require proper advertisement prior to introduction.

3.7.2 EFFECTS OF PAYMENT BEING RECEIVED AT ANY STAGE

Once full payment of a PCN is made at any stage, the rules of Traffic Penalty Tribunal apply, where no more challenges/representations can be submitted and the case will

be closed. Payment is reasoned the motorist has accepted liability and therefore the case will be closed. All further enforcement action ceases.

3.7.3 CHALLENGES/REPRESENTATIONS ACCOMPANIED BY PAYMENT

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

Challenges and representations accompanied by a payment will be separately logged, will be dealt with as a priority. If the challenge/representation is successful, the District Council would immediately make arrangements for a refund to be issued to the keeper the letter of acceptance. If the challenge is unsuccessful the payment will be immediately banked and the keeper duly notified that we have accepted it in full or part settlement as part of the rejection notice.

Any letter of acceptance or rejection sent to the keeper must make specific reference to the fate of the payment.

3.7.4 TIME TO PAY/INSTALMENT PAYMENTS

As a general rule, the District Council does not offer extended time in which to pay PCNs. Exceptions to this are only made in cases of demonstrated, genuine financial hardship agreed with the Leisure and Parking Team. Applications for time to pay must be in made to the Leisure and Parking Team in writing and must contain any evidence supporting the claim of financial hardship. Applications will be responded to within 8 working days. The Council's response will signify acceptance or rejection of the proposal.

The Council will not consider such arrangements if Enforcement Agent warrant(s) have been issued for recovery of the amount due although the enforcement agent may enter into such an arrangement.

For all cases, the District Council expects the PCN(s) to be paid in full and will not enter into any instalment payment arrangements.

3.8 REFUNDS

The District Council does not offer refunds in relation to paid parking tickets, however the Leisure and Parking Team may use their discretion to offer a free alternative stay for the value of the purchase where it is deemed reasonable. Requests should be made to the Leisure and Parking Team via email (parking@eppingforestdc.gov.uk) with the following details:

- Reason for request/Issue
- Name of Car Park
- Date of Incident
- Vehicle Registration Number
- How much was paid
- Proof of payment of stay purchased.

Arranging an alternative stage may be deemed reasonable if money has been paid into a pay & display machine but it did not issue a ticket and has taken the motorists money.

The Leisure and Parking Team will assess the information provided and determine whether free parking up to the value of the equivalent stay can be arranged.

A free stay can be arranged up to the value of the parking stay that was paid in any EFDC operated pay & display car park, as long as it is taken within 3 months. Requests to use a free stay must be made to the Leisure and Parking Team via email (parking@eppingforestdc.gov.uk) and must include the following information:

- Date and time they wish to make use of the free stay
- The car park
- Vehicle registration number

This information must be provided within 24 hours prior to when the parking session is required. If the parking session is required on a Saturday or Sunday, then the request must be received by 2pm on the preceding Friday.

The District Council does not offer refunds in relation to paid PCNs with the exception of double payment.

3.9 CCTV FOOTAGE

There may be CCTV in car parks to record, view and monitor activity for crime detection, prevention of anti-social behaviour and public safety. Epping Forest District Council does not check CCTV footage with regards to PCN challenges or representations. Motorists may request CCTV images by contacting the Council's Safer Communities Team via saferrcommunities@eppingforestdc.gov.uk for further information on CCTV requests. CCTV requests are chargeable with the exception of law enforcement agencies such as the Police.

SECTION 4 – ENFORCEMENT OF PENALTY CHARGE NOTICES

The Council is obliged to consider any statutory grounds for appeal and mitigating circumstances when dealing with challenges/representations to PCNs. It is recognised that each case is different and situations occur that are beyond the control of the motorist and in which cases it would be unreasonable to pursue the PCN and consider cancellation of the PCN. All grounds for a cancellation that are submitted will be considered fairly and objectively. This is not prescriptive guidance as each case will be assessed fairly and reasonably on its merits and it is not appropriate to prescribe a response for every set of circumstances.

This section addresses the following:

- Contravention codes for which PCNs are issued
- Observation times for enforcement
- The statutory grounds upon which representations may be made
- Mitigating circumstances.

4.1 CONTRAVENTION CODES

Epping Forest District Council has previously given notice of the adoption of the powers of the Council under the Traffic Management Act for its parking contraventions at Pricing Band 2 as set out in the Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations.

Parking contravention penalty charges is set by legislation and fall into the two following categories Higher and Lower, see Tables 1 and 2.

Table 1: Off-Street Higher-Level Contraventions

Contravention Offence code	Contravention
70	Parked in a loading area during restricted hours without reasonable excuse
71	Parked in an electric vehicles' charging place during restricted hours without charging
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
81	Parked in a restricted area in a car park
85	Parked in a permit bay without clearly displaying a valid permit
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge in the prescribed manner
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area
91	Parked in a car park or area not designated for that class of vehicle
92	Parked causing an obstruction

Table 2: Off-Street Lower-Level Contraventions

Contravention Offence code	Contravention
73	Parked without payment of the parking charge
80	Parked for longer than the maximum period permitted
82	Parked after the expiry of paid for time
83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock
84	Parked with additional payment made to extend the stay beyond time first purchased
86	Parked beyond the bay markings
90	Re-parked in the same car park within one hour after leaving
93	Parked in car park when closed
94	Parked in a pay and display car park without clearly displaying 2 valid pay and display tickets when required
95	Parked in a parking place for a purpose other than the designated purpose for the parking place
96	Parked with engine running where prohibited

4.2 OBSERVATION & GRACE PERIODS

Prior to the issue of a PCN, a Civil Enforcement Officer will allow an observation period of 5 minutes to elapse between first observing the vehicle and the issue of the PCN to determine if a contravention has taken place. This is to satisfy national guidance as set out in the Deregulation Act 2015. With certain contraventions, however, this observation time is not appropriate. The Council reserves the right to reduce or remove the observation time to address local problems.

A grace period is where a contravention has occurred due to exceeding the maximum time permitted or the time paid for has expired. In these cases, the CEO is legally required to allow a minimum of 10 minutes to have elapsed from the expiry time before a PCN can be served. The grace period does not apply if the vehicle itself is parked unlawfully, for example, where the motorist does not have a valid parking stay where required. Grace periods only apply to designated parking places where a person is permitted to park.

The details of the vehicle will be entered into the Civil Enforcement Officers Hand Held Computer (HHC) when first seen and the computer will prevent issue of the PCN within the specified observation/grace period.

The Civil Enforcement Officers will be able to continue with their patrols and then return to the contravening vehicle. The observation time and the PCN issue time will appear on the face of the PCN itself and will be recorded by the enforcement software system.

4.3 STATUTORY GROUNDS FOR APPEAL

The Council is obliged to consider any statutory grounds for appeal and the owner/keeper is required to give full details and supporting evidence of any such circumstances. Each case will be assessed fairly and reasonably upon its own merits.

The statutory grounds to make representations are as follows:

- A. The recipient –
 - i. Has never been the owner of the vehicle in question;
 - ii. Has ceased to be the owner of the vehicle before the date of the alleged contravention;
 - iii. Became the owner of the vehicle after the date of the alleged contravention.
- B. The alleged contravention did not occur.
- C. The vehicle has been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner.
- D. The Order which is alleged to have been contravened in relation to the vehicle concerned was invalid.
- E. The recipient is a vehicle-hire firm and the vehicle in question was at the time hired from that firm under a hiring agreement AND the person hiring the vehicle had signed a statement of liability acknowledging his or her liability in respect of any Penalty Charge Notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement.
- F. The penalty charge exceeded the amount applicable in the circumstances of the case.
- G. There has been a procedural impropriety on the part of the Enforcement Authority.
- H. The Notice to Owner should not have been served because the penalty charge has already been paid in full OR the penalty charge has been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified.
- I. Any other reasons why the recipient considers the Council should cancel the Penalty Charge Notice and refund any sum already paid.

Further information on these grounds for appeal is given below.

(A. i.) THE RECIPIENT HAS NEVER BEEN THE OWNER OF THE VEHICLE IN QUESTION

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

(A. ii.) THE RECIPIENT HAS CEASED TO BE THE OWNER OF THE VEHICLE BEFORE THE DATE OF THE ALLEGED CONTRAVENTION

Representations are likely to be accepted if the current registered keeper is able to provide proof that that the vehicle was sold or otherwise disposed of before the date of the contravention. Such documentation could include a bill of sale, registration or insurance documents or a letter from the DVLA.

(A. iii.) THE RECIPIENT BECAME THE OWNER OF THE VEHICLE AFTER THE DATE OF THE ALLEGED CONTRAVENTION

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

(B) THE CONTRAVENTION DID NOT OCCUR

This means that the parking ticket was issued incorrectly because no illegal parking took place. Keeper must explain why they think no contravention took place and enclose any relevant details or copies of paperwork in support.

(C) THE VEHICLE HAS BEEN PERMITTED TO REMAIN AT REST IN THE PLACE IN QUESTION BY A PERSON WHO WAS IN CONTROL OF THE VEHICLE WITHOUT THE CONSENT OF THE OWNER.

Representations should in this instance be accompanied with a valid police crime report reference number. Claims that a family member or friend had unauthorized use of the vehicle will also need supporting with evidence that the police were contacted prior to or soon after the issuing of the PCN.

(D) A. THE ORDER WHICH IS ALLEGED TO HAVE BEEN CONTRAVENED IN RELATION TO THE VEHICLE CONCERNED WAS INVALID.

Claims made on these grounds are infrequent and are specifically concerned with the correct legal procedure for the making of the Off Street Parking Places Order. Claims are likely to be upheld if proof can be provided that the relevant Order that the vehicle was parked in contravention of was not properly constructed. For example, the correct consultation process had not been followed.

(E) THE RECIPIENT IS A VEHICLE-HIRE FIRM AND THE VEHICLE IN QUESTION WAS AT THE TIME HIRED FROM THAT FIRM UNDER A HIRING AGREEMENT AND THE PERSON HIRING THE VEHICLE HAD SIGNED A STATEMENT OF LIABILITY ACKNOWLEDGING HIS OR HER LIABILITY IN RESPECT OF ANY PENALTY CHARGE NOTICE SERVED IN RESPECT OF ANY PARKING CONTRAVENTION INVOLVING THE VEHICLE DURING THE CURRENCY OF THE HIRING AGREEMENT.

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

(F) THE PENALTY CHARGE EXCEEDED THE AMOUNT APPLICABLE IN THE CIRCUMSTANCES OF THE CASE.

The penalty charge amount is more than the recipient is legally obliged to pay. Reasons such as feeling the charge is too much to pay will not be accepted.

(G) THERE HAS BEEN A PROCEDURAL IMPROPRIETY ON THE PART OF THE ENFORCEMENT AUTHORITY.

The recipient must provide clear evidence that the Council or any person or body acting on its behalf failed to observe any requirement imposed on it by the Traffic Management Act 2004.

(H) THE NOTICE TO OWNER SHOULD NOT HAVE BEEN SERVED BECAUSE THE PENALTY CHARGE HAS ALREADY BEEN PAID IN FULL OR THE PENALTY CHARGE HAS BEEN PAID, REDUCED BY THE AMOUNT OF ANY DISCOUNT SET IN ACCORDANCE WITH SCHEDULE 9 TO THE 2004 ACT, WITHIN THE PERIOD SPECIFIED.

Representations are likely to be accepted if the registered keeper is able to provide evidence of payment that the PCN has already been paid in full or by the amount of any discount allowed under the 2004 Act.

(I) ANY OTHER REASONS WHY THE RECIPIENT CONSIDERS THE COUNCIL SHOULD CANCEL THE PENALTY CHARGE NOTICE AND REFUND ANY SUM ALREADY PAID.

The recipient must explain the reason/s why the Council should cancel the Penalty Charge Notice and refund any sum already paid. The recipient should enclose any relevant details or copies of paperwork in support.

4.4 MITIGATING CIRCUMSTANCES

4.4.1 ABANDONED VEHICLES

Where a vehicle remains parked, in a Car Park area, for a period during which multiple PCNs (minimum 3) are issued for the same contravention. The Civil Enforcement Officer will report the vehicle as potentially abandoned and it will be dealt with by the District Council's abandoned vehicle section under the provisions of Refuse Disposal (Amenity) Act 1978.

Criteria used in identifying Abandoned Vehicles:

1. Untaxed
2. General poor condition
3. No evidence of movement
4. Multiple PCNs attached to the vehicle.

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

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

The District Council and Essex Police abandoned vehicles protocols shall continue to apply.

4.4.2 BANK HOLIDAYS – RESTRICTIONS APPLICATION

Motorists cannot assume that restrictions do not apply to Bank Holidays unless this is specifically stated in the relative signage. Enforcement on Bank Holidays should pay particular attention to known problem areas such as Car Boot Sales, Markets etc.

4.4.3 BANK VISITS

Claims from individuals or companies that because money is being taken to or from a bank will not be accepted as a reason to cancel a PCN. Motorists should be advised to contact the bank about future security arrangements.

It is appreciated that difficulty may be experienced when visiting banks but the exemption that may apply is in relation to bullion vehicles whilst loading / unloading large quantities of coin and cash boxes.

4.4.4 BAY MARKINGS/LINES

Where drivers claim bay markings were not visible, this will be investigated with CEO photographs/notes and the existing lines will be checked against the appropriate legislation. An assessment will then be made as to the validity of the PCN. Any subsequent cancellation on the grounds of incorrect lines will result in prompt rectification of the problem.

4.4.5 BLOCKED ACCESS

Drivers who claim that they were unable to gain access to their private or commercial property are not entitled to park in contravention of any parking restriction.

Where a restriction is in place a PCN may be issued to the vehicle providing it is parked in contravention.

4.4.6 BLUE BADGES

Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport the disabled person. It is not permitted to use the badge for any other purpose e.g., shopping for the disabled person when they, themselves, are not being transported in the vehicle.

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

There is no amnesty or grace period for the use of an expired Blue Badge and therefore a PCN may be issued if the Blue Badge has expired and challenges/representations in this regard will not be accepted.

4.4.7 BROKEN DOWN VEHICLES

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

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

Each case should ultimately be considered upon its own merits although previous

cases where breakdowns have been accepted as mitigating circumstances should also be considered.

A note left in the windscreen, stating that 'the vehicle has broken down' will not be accepted, by a Civil Enforcement Officer, as reason for not issuing a PCN. If the vehicle remains in the car park for more than 24 hours, the onus is on the driver to arrange a virtual payment stay to cover the period the vehicle will remain in the car park.

Also see 'Vandalised Vehicles' (item 4.4.58).

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

A) FLAT BATTERY

The receipt for the purchase of a new battery or parts that could cause a flat battery (alternator, solenoid etc.), should be requested. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.

In cases where it is alleged that the vehicle was bump/jump started and no other evidence received, the PCN should be enforced. (NB. Vehicles with automatic transmission cannot be bump started).

If no evidence is forthcoming, the PCN should be enforced.

Consideration should also be given as to how the vehicle became illegally parked in the first instance.

B) FLAT TYRE

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

If the wheel could not be changed because of a mechanical difficulty evidence must be produced from the attending breakdown service supporting this.

Failure to carry a spare wheel is not sufficient reason to cancel a PCN.

C) OVERHEATING

All cases where it is claimed that the vehicle had overheated due to lack of water should be enforced unless it is directly attributable to a mechanical fault such as: broken fan belt, cracked radiator, burst hose, faulty water pump or thermostat. In such cases evidence of repair must be produced.

D) RUNNING OUT OF FUEL

Unless this is due to a mechanical / electrical fault evidenced by repair all PCNs are to be enforced.

If it is apparent from previous records that the same driver is continuously trying to avoid liability for PCNs by claiming that his/her vehicle is broken down, this should be

considered when deciding on whether or not to accept their representations

Where representations are accepted on the second or subsequent occasion the keeper should be informed, in writing, that due consideration to previous incidents will be taken into account should another contravention be committed for the same reason.

4.4.8 CHILDREN/ELDERLY PEOPLE

Claims are often made by people, accompanied by young children or elderly people, that they were delayed because of them. This should not be considered as a reason to cancel a PCN because allowance should be made for this when purchasing parking time (also see 'Emergencies', item 4.4.21).

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

4.4.9 CLONED VEHICLES

If a motorist receives a NtO relating to a vehicle registered to them with the DVLA but they were not in the area within which the PCN was issued or on the date specified, the motorist must provide evidence which contains photographs of their vehicle and details of any differences between their vehicle and the one shown in the photographs taken by the CEO (which can be viewed online) at the time of observation and issue the PCN, and a Police crime reference number from the reporting of the potential cloning of their vehicle. Consideration will be given to the cancellation of the PCN if evidence is supplied of the potential cloning of vehicle.

4.4.10 COUNCIL OFFICERS AND MEMBERS ON DUTY

All Council officers and members on duty are expected to fully comply with parking regulations.

Council employee/member permits are available for business purposes and as such staff are provided virtual permits to use on certain off-street car parks during work time only, to receive a discount on the daily parking charges.

4.4.11 COURT ATTENDANCE - DEFENDANTS

The conditions applying to Jury Members and Witnesses equally apply to Defendants. However, there have been instances when a defendant has unexpectedly been given a custodial sentence and, as a direct result, is unable to remove his/her vehicle from a Council car park. In such instances the Council will expect that the vehicle will be removed, as soon as is reasonably possible, by the defendant's family, friends or legal representatives. Any PCN issued will not be enforced providing supporting evidence is supplied by the defendant's legal representative.

4.4.12 COURT ATTENDANCE – JURY SERVICE OF WITNESS

The length or timing of any Court hearing or trial cannot be guaranteed and often Jury members and/or witnesses find that they are unable to leave Court to purchase further pay & display time in a car park. This often leads to overstay and to PCNs being issued. To counter this, the Courts issue clear instructions to all Jury members

and witnesses advising them as to how and where they should park.

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

In such circumstances the Council will enforce PCNs against the keeper unless evidence is produced to support the fact that they were delayed to an extent that could not have been reasonably foreseen; i.e. moved to a hotel overnight.

4.4.13 DELAYS

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

4.4.14 DENTAL/DOCTORS APPOINTMENTS

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

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

4.4.15 DESCRIPTION OF VEHICLE ON PCN

When issuing a PCN the Civil Enforcement Officer will note the make and registration number of the vehicle, which will appear on the PCN. The Civil Enforcement Officer will also note other details such as positions of tyre valves, which will form part of the supporting records.

- Incorrect make: A make mismatch will not necessarily affect the validity of the PCN but it would call into question the accuracy of other details. In such cases serious consideration must be given to cancelling the PCN.
- Incorrect colour: Incorrect colour of the vehicle will not affect the validity of the PCN.

4.4.16 DIPLOMATIC VEHICLES

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

4.4.17 DRINK DRIVING OR OTHER ARREST

If the driver of a vehicle has been arrested and, as a direct result, has been forced to leave the vehicle in contravention of a parking restriction any resultant PCN should be enforced.

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

Where written evidence of the arrest cannot be supplied, confirmation should be obtained from the appropriate Police Station, by the Council, before the PCN is cancelled. Failure to supply or obtain supporting evidence of the arrest will lead to the PCN being enforced.

4.4.18 DROPPING OFF – PICKING UP PASSENGERS

It is deemed that two minutes is sufficient allowance for this unless it involves the elderly, disabled persons, young children or large amounts of luggage etc. Special consideration will be given to Hackney Carriages or Private Hire Vehicles who will need additional time to announce their arrival and accept payment. The Civil Enforcement Officer will exercise reasonable discretion in such circumstances.

4.4.19 ELECTRIC VEHICLE BAYS

Electric Vehicle bays are solely for the use of Electric Vehicles that is capable of being propelled by electrical power derived from a storage battery, and for the avoidance of doubt shall include plug-in hybrid vehicles.

Electric Vehicle bays are provided specifically for charging Electric Vehicles and the vehicle must be connected to and using the electric charging point.

Car park tariffs apply in Electric Vehicle bays and therefore, parking in an Electric Vehicle bay with a non-electric vehicle; parking in an Electric Vehicle without connecting to and using the electric charging point, and; without paying the applicable car park tariffs will be liable to a PCN.

4.4.20 ENFORCEMENT AGENTS

Enforcement Agents, as agents of the Court, are Court Officers. Of the many functions they perform, executing Warrants is one that is likely to concern us most. These are Court Orders for the collection of money and/or goods of sufficient value to produce the required amount. For this purpose the Enforcement Agent will always have an appropriate vehicle nearby.

For their other activities they do not need a vehicle nearby, e.g. if they are serving a Summons or Warrant (not enforcing it). In such circumstances they would be expected to comply with parking restrictions.

When they are taking goods or high values in cash, we can exercise discretion where it appears reasonable to do so. Enforcement Agents are not exempt from legislation, however, an official badge or permit should be displayed on the vehicle and, further, the act of loading/unloading should be observed as taking place. Once goods have been seized the enforcement agent is required to list them prior to leaving the premises and this could legitimately take some time. In such circumstances we should ask for a warrant number, identification and confirmation of the nature of goods being

seized before the PCN is either issued or subsequently cancelled.

4.4.21 EMERGENCIES

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

4.4.22 EMERGENCY CALL OUT

An emergency is considered to last as long as it takes to make the premises safe i.e. turn off the main supply. Following this any vehicle should be moved to a permitted parking place before any subsequent repairs are undertaken. Consideration will be given to the cancellation of a PCN if evidence can be supplied of the emergency.

4.4.23 EMERGENCY DUTIES

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

Also see 'Health Emergency Badge Scheme' (item 4.4.29).

4.4.24 EXEMPT VEHICLES

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

- Fire and Rescue Service Vehicles
- Marked Police Vehicles – Lights flashing
- Ambulances – lights flashing.

The following vehicles are exempt in the circumstances described;

- Local Authority Vehicles (or those of their contractual agents), whilst being used to carry out statutory duties (i.e. Refuse Collection, Street Cleansing, Highway Maintenance), or whilst carrying out duties that require the vehicle to be in close proximity (i.e. Verge Grass Cutting), including Civil Enforcement Officer Vehicles.
- Post Office and other vehicles engaged in the delivery of postal packets (i.e. Courier companies such as UPS). This does not include private vehicles used by such organisations.
- Postmen/women whilst carrying out letter deliveries. The Council will expect such vehicles to be parked in compliance with any parking restriction Pay and display.
- Electricity Board, Gas Board, Water Authority, British Telecom or other telecommunications organisations (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus Pay and display.
- Furniture vans whilst moving furniture to and from a dwelling, office or depository. Wherever possible these vehicles should not be parked in contravention of a loading restriction Pay and display.
- Vehicles involved in building, excavating and demolition work whilst lawfully and actively engaged on those duties.

All exempt vehicles should be liveried, not private cars or unmarked vans and the exemption does not apply to sub contractor's vehicles unless specified above.

4.4.25 FUNERALS AND WEDDINGS

Any vehicles, other than a privately owned vehicle which is being used as an official vehicle for the purposes of a wedding or a funeral at a church or place of worship will be given due consideration and respect and PCNs will not be issued.

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

Any PCN issued to vehicles associated with a funeral or wedding should be considered with due respect and PCNs would only be enforced when blatant disregard to restrictions has been confirmed.

4.4.26 GLAZIERS

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

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

4.4.27 GOVERNMENT DEPARTMENT VEHICLES

Unless the reason for parking the vehicle was under exceptional circumstances PCNs issued to vehicles owned or operated by Government Departments should be enforced.

They are not exempt purely by virtue of the fact that they are operated by a Government Department.

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

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

4.4.28 HAZARDOUS CHEMICALS/SUBSTANCES

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

If so, then serious consideration should be given to the cancellation of the PCN in view of the Health & Safety of the public.

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

4.4.29 HEALTH EMERGENCY BADGE SCHEME

Epping Forest District Council does not, at this moment, operate a Health Emergency Badge (HEB) scheme but will review this should the need for such a scheme arise. The following, therefore is for reference only:

The Council may issue Health Emergency Badges (HEB's) to doctors etc., who may be called upon to attend medical emergencies. These badges must be clearly displayed and will incorporate a dry wipe area in which the location of the emergency should be written.

4.4.30 HEAVY EQUIPMENT

Dealt with as loading/unloading, see item 4.4.35.

4.4.31 HIRE AGREEMENT

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

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

In all cases this agreement must clearly state:

- The name and address of the hirer
- The start and finish dates for the hire period
- The hirer's signature.

The agreement must also include a statement regarding the hirer's liability for any PCNs incurred during the hire period. Should any of the foregoing be unclear, absent or in contradiction of the date / time of issue of the PCN then the PCN will be enforced against the registered keeper/Hire Company and a notice of rejection of the representation sent to them with the reasons clearly stated therein.

4.4.32 HOLIDAYS

Vehicles are often left parked in one place whilst the keeper is away on holiday. In such cases a PCN could be issued for being parked in a suspended parking place or for failing to have a valid parking stay, parked in a restricted area, motorcycle bay, disabled bay (without displaying a valid Blue Badge), reserved bay or causing an obstruction.

4.4.33 HOSPITAL CAR SERVICE

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

Generally, such consideration should extend to:

- Allowing sufficient time to enable the driver to make his/her presence known to

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

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

4.4.34 LEGISLATION

The statutory acts governing parking enforcement are: The Traffic Management Act (2004) and The Road Traffic Regulation Act (1984).

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

When such a request is made the Council will make reference to specific, relevant paragraphs and will quote them verbatim within any correspondence. The Council will not supply full copies of the relevant acts, which can be accessed via www.legislation.gov.uk.

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

4.4.35 LOADING/UNLOADING

Loading is defined as the movement of goods to or from a vehicle. Goods should be heavy, bulky or must be of a type that cannot easily be carried by one person in one trip.

The loading/unloading need not be for commercial activity only, motorists can legitimately carry out loading and unloading of private/personal goods from their vehicle.

The following are all permitted within the time allowed for loading & unloading:

- Waiting for goods
- Checking of goods for deliveries/collections
- Completing paperwork.

If loading/unloading satisfies the above criteria accompanied by any supporting evidence, the PCN should be cancelled.

4.4.36 LOCATION - INCORRECT

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

4.4.37 LOST KEYS

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

The following factors should also be considered:

- If the vehicle was parked in a pay & display car park
- Did the loss of the keys prevent purchase of additional parking time?

4.4.38 MISSPELLING OF KEEPER'S NAME

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

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

If any miss-spelling is discovered, the District Council does not have the power to alter information provided by the DVLA and consideration should not be given to the cancellation of the PCN.

4.4.39 MOTORCYCLE BAYS

These are not mandatory bays but are exemptions to the normal restrictions in car parks. Consequently, any vehicle, other than a motorcycle, parked in such a bay is parked in contravention of the surrounding restriction, not for being parked in a motorcycle bay.

4.4.40 MOTORIST WAS ISSUED A PCN AND HAD A VALID SUSPENSION ISSUED FROM THE APPROPRIATE LOCAL AUTHORITY

Evidence that matches the details of the vehicle is likely to result in a cancellation of the PCN for a first offence for this contravention.

4.4.41 PAY & DISPLAY MACHINES – DID NOT REALISE THERE WAS ONE THERE

Claims from keepers that they did not see or realise that they had to use a pay & display machine should be dismissed providing that they are clearly sign posted and the PCN is unlikely to be cancelled. It is also reasonable to expect that drivers would use MiPermit virtual parking.

4.4.42 PAY & DISPLAY MACHINES – NOT WORKING

Where it is claimed that a machine is not working then reference must be made to both the maintenance records, the CEO's notes and machine test records (machines are tested before every patrol). If it is confirmed that the machine was not working at the time then consideration should be given to cancelling the PCN.

However, if there was an alternative machine in working order and in close vicinity then it is reasonable to expect that the driver would use this machine or via MiPermit

virtual parking, then the PCN is unlikely to be cancelled.

4.4.43 PAY & DISPLAY TICKETS

All of the District Council's car parks operate as Pay & Display and/or virtual parking areas.

Pay & Display requires the purchase of a ticket at the time of parking for the amount of time required. All tickets display the expiry date and time on them along with the fee paid and car park (in some car parks the driver is required to enter the vehicle's registration numbers into the machine). These will also appear on the ticket and are designed to prevent illegal transfer of the ticket from one vehicle to another. The car park fee tariff is clearly displayed adjacent to each machine.

Pay & Display Tickets must be:

- Clearly displayed whilst the vehicle is parked
- Covering the period the vehicle is in the car park, including observation/grace period
- For the date shown
- Un-expired
- For the car park indicated
- For the vehicle indicated – where applicable.

PCNs will be issued for:

- Failing to display a valid ticket
- Displaying a ticket that has expired.

Challenges/representations made because the driver failed to correctly display a valid ticket, even though one was held, will not be allowed as it is incumbent upon the driver to ensure that the ticket is clearly displayed throughout the time that the vehicle is parked. Exceptions to this may be permissible where the ticket can be identified as being vehicle specific through recording of the VRM and that it covers the time of the alleged contravention.

Challenges/representations made because the driver did not have change will not be upheld.

Challenges/representations made because the driver displayed a valid ticket but the Civil Enforcement Officer did not see it will be considered assuming that the valid ticket can be produced and the Civil Enforcement Officer confirms that a ticket was in evidence that could not be clearly seen. However, motorists should note that this reason will only be accepted if it is the first such representation on these grounds from that person. Repeat claims for subsequent PCNs for the same contravention are unlikely to be cancelled.

Representations made because of delays returning to the car park will be dealt with in accordance with 'Delays' (see item 4.4.13).

Where virtual parking is available and is the chosen method of payment then the need to pay and display is removed. Vehicle details will always be checked against the cashless data system in real time by the Civil Enforcement Officer where there is nothing on display. Should such a check show that payment by means other than pay and display has not occurred or the vehicle is parked beyond the paid for time then a PCN shall be issued.

4.4.44 PENALTY CHARGE NOTICE WAS NEVER SERVED ON THE VEHICLE

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

4.4.45 PENALTY CHARGE NOTICE, EARLY ISSUE OF

Claims that a PCN was issued before the time that an offence is deemed to be committed requires careful investigation.

The issue of PCNs is controlled by Hand Held Computers carried by each Civil Enforcement Officer. These computers have in built clocks, which are calibrated prior to commencement of the patrols to ensure that they reflect the correct time and date. An observation period, where appropriate, may be imposed prior to allowing a PCN to be issued. These times will appear on the PCN itself as 'Time First Seen' and 'Time of Issue'. The computer system will prevent any subsequent alteration to these times.

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

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

4.4.46 PERMITS

The Council issue virtual permits (residents, business, visitor and season tickets). Failure to have a valid permit in place for the correct vehicle, correct location or date will not be cancelled unless there are mitigating reasons that account fully for the contravention. Representations may be considered if the validity of the permit was delayed by the Council's administrative processes or it can be established that other reasonably unforeseen circumstances delayed the renewal of a valid permit.

4.4.47 POLICE OFFICERS ON DUTY

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

Requests for cancellation of any PCN issued to an unmarked police vehicle must be made by the officer's area Inspector or equivalent. They should contain confirmation that the officer was on official business and that it was inappropriate for the vehicle to be parked elsewhere.

4.4.48 POLICE OFFICER GAVE PERMISSION TO PARK

Where details of the officer concerned are given, confirmation should be sought prior to cancellation of the PCN.

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

4.4.49 PREGNANCY OR PARENTS/GUARDIANS WITH YOUNG CHILDREN

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

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

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

4.4.50 PRIVATE PROPERTY

Parking restrictions placed on private land are not the concern of Epping Forest District Council and are outside the scope of its enforcement operation.

Private landlords, residents etc., can impose any reasonable restriction on their own property i.e. the need for permits, clamping etc. Enforcement of such restrictions, however, is also their responsibility although it may be subcontracted to other companies including the local authorities.

Any person querying such an area should be referred to the relevant landlord or resident.

4.4.51 PUBLIC UTILITY VEHICLES

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

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

If abuse is suspected a PCN should be issued and the Civil Enforcement Officer should note the reason why in his/her notebook. i.e. 'Vehicle parked, no activity observed, no indication of location of any emergency'.

In such cases the PCN should be enforced unless supporting evidence of the emergency / maintenance is supplied by the utility company.

A Public Utility Vehicle is any vehicle involved in the mains supply of Gas, Electricity, Water or Telephone services.

4.4.52 REGISTRATION NUMBER IS INCORRECT

The appellant will be asked to provide a copy of their current valid car registration documents which will be checked against the DVLA data. If this is shown to be different, then the PCN is likely to be cancelled.

4.4.53 ROYAL MAIL AND UNIVERSAL SERVICE PROVIDER VEHICLES

Vehicles being used for the collection or delivery of postal packets are exempt from the regulations as long as they can be seen to be actively involved in such.

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

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

4.4.54 SECURITY VANS

Secure cash vans are occasionally required to park in close proximity to premises in order to effect safe delivery or collection of cash. PCNs issued under such circumstances should be cancelled upon receipt of a representation from the security company confirming such an activity at the time, unless it can be clearly shown that the vehicle was parked for longer than was necessary.

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

4.4.55 SIGNS/TARIFF BOARDS

The hours during which restrictions are in force should be clearly signed in all car parks.

A) OBSCURED SIGNS

Information signs must be clearly visible at all times. If it is claimed that a sign was obscured and could not be read (graffiti, weather or overhanging trees etc.) the sign should be inspected as soon as practicable and remedial action taken. If the claim is proved to be correct the PCN should be cancelled.

If the sign can be easily read then the PCN should be enforced but the sign should be returned to pristine condition immediately if required.

B) MISSING SIGNS

If a sign is claimed to be missing the location and restriction this should be inspected as soon as practicable and, if confirmed, arrangements made for the sign(s) replacement. Where a sign is missing the PCN should be cancelled.

4.4.56 SUSPENSIONS

The Council has the power to suspend parking within a designated parking bay. Designated parking bays for maintenance or any other reason accepted by the Council. In such cases advance notice will be placed in the car park.

If the notice is issued after the keeper departed, then any PCN issued will likely be cancelled. Evidence must be provided and this should be compared with records relative to the display and distribution of notices.

4.4.57 UNAUTHORISED MOVEMENT OF A VEHICLE

Movement of any vehicle by the police is considered to be authorised unless there is clear evidence that a vehicle has been moved by an unauthorised person then all

PCNs should be enforced.

For stolen vehicles, confirmation from the police that the vehicle was reported stolen, including the relative crime report number is required.

Unauthorised use of a vehicle by another family member or a friend is difficult to substantiate and under these circumstances the PCN should be enforced unless it can be demonstrated that the matter was reported to the police prior to or just after the issue of the PCN. Subsequent reports will not lead to the cancellation of the PCN.

4.4.58 VANDALISED VEHICLE

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

This evidence should be from either:

- The Police – quoting the recorded crime number
- Motoring Organisation / Garage Service who removed the vehicle from site.

Civil Enforcement Officers observation from his/her pocket book must also be considered providing that it clearly states the extent of the damage.

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

4.4.59 VEHICLES LEFT UNATTENDED TO GAIN ACCESS

When a driver has to collect a key to gain access to a property this should take no longer than 10 minutes and will be covered by the 10 minutes Civil Enforcement Officers observation time.

4.4.60 VEHICLE NOT AT SCENE

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

If these match the records of the Council the PCN should be enforced. If they do not then the PCN should be cancelled.

4.4.61 VISITOR TO BRITAIN

If a PCN is issued to a vehicle displaying foreign registration plates it should automatically be recognised by the processing system as the registration number will not be in DVLA format.

Consideration should be given to cancellation of the PCN but, should payment be made then it should be accepted in the normal way. Equally all correspondence and representations should be dealt with in the normal way.

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

