



Development and Enterprise

Parking Enforcement Guidelines



A History of Guidance Updates and Revisions

Date	Description of Revision
April 2008	Review and update of contents in line with the requirements of the Traffic Management Act 2004 Part 6
October 2008	Amendment to description of observation period relating to contravention code 82
August 2009	Insertion of entries relating to Dropped Footways and Double Parking, amendments to contravention codes 26 and 27 and associated renumbering. Minor modifications to entries relating to Bus Stops and Schools.
February 2010	Amendment to description of observation period relating to contravention codes 05 and 82. Updates to section on loading. Minor typographical amendments.
October 2011	Further typographical amendments and updates to descriptions and examples of certain contraventions.

INTRODUCTION

These guidelines are intended to provide additional information to all interested parties covering the majority of circumstances that regularly occur in letters, representations or appeals to the Adjudicators. They are not intended as a guide to processing Penalty Charge Notices or appeals, nor are they intended to replace knowledge of the regulations and Council policies and practices.

Unless otherwise stated, the information provided relates to the Borough of Gateshead, and in particular to Gateshead Council and to car parks or areas of highway under its control. In the event of any confusion or conflict between expressions or definitions used in this document and formal regulations or traffic regulations orders, the expressions or definitions used in those regulations or orders will prevail.

It is important to stress however, that just as a Council has the power to decide whether or not to issue a Penalty Charge Notice, it also has the power to decide whether or not to pursue payment of that Notice. When Parking Services staff consider challenges or formal representations against Penalty Charge Notices, they act in a quasi-judicial manner and nothing in this manual is intended to act as a definitive instruction on what action to take in all circumstances. The duty of the Parking Services team to exercise discretion may take precedence over any guidance given in this manual if the circumstances and the available evidence warrant the exercise of that discretion.

Although abbreviations are not always used, the following common expressions may appear in this document:

CEO	Civil Enforcement Officer
PCN	Penalty Charge Notice (i.e. a parking ticket)
RTA	Road Traffic Act 1988
RTRA	Road Traffic Regulation Act 1984
TMA	Traffic Management Act 2004
TRO	Traffic Regulation Order (the normal means by which a local council introduces a parking restriction)

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ABANDONED VEHICLES

Where a vehicle remains parked, in a restricted area, for a period during which multiple (3 or more) Penalty Charge Notices are issued for the same parking contravention, the Civil Enforcement Officer will report the vehicle as **potentially** abandoned and it will be dealt with by or on behalf of the Council's abandoned vehicle section under the provisions of the Refuse Disposal (Amenity) Act 1978.

Criteria used in identifying Abandoned Vehicles:

- Untaxed or showing out of date tax disc.
- No evidence of movement.
- Multiple Penalty Charge Notices attached to vehicle.

Whilst the vehicle is being dealt with as **potentially** abandoned no further PCNs will normally be issued. However, those PCNs which have already been issued will be enforced against the registered keeper of the vehicle in the normal way.

PCN should not be served on vehicles displaying official "Police Aware" notices or a Council abandoned vehicle notice.

BAILIFFS

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

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

They do not need a vehicle nearby for their other activities, such as serving a summons or serving a Warrant of Execution (i.e. not actually enforcing it).

Bailiffs carrying out orders of the Court are not exempt from the legislation and an official badge of identification should be displayed in the vehicle. However, when they are taking goods or high values in cash, this activity will normally be treated as loading and will benefit from the exemptions that such activity provides (e.g. on double yellow lines).

Once a Bailiff has seized goods, they have to be listed before the Bailiff leaves the premises and this can take some time. In these circumstances the Parking Services team will require a Warrant number identification, confirmation of the

nature of the goods seized and the address from which they were taken before considering cancellation of the Penalty Charge Notice.

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

BANK HOLIDAYS – RESTRICTIONS APPLICABLE

Unless signs on display at the location specifically state otherwise, parking restrictions (whether they relate to waiting, loading, residents parking or any other type of restriction) are in force throughout the year, *including* bank holidays.

In view of this, any Penalty Charge Notice issued on a Bank Holiday will normally be upheld, unless it falls under the normal criteria for cancellation or the Council accepts that mitigating circumstances existed at the time.

BANK VISITS

Claims from individuals or companies that money was being taken to or collected from the bank will not normally be accepted for cancellation of the Penalty Charge Notice. Whilst it is appreciated that difficulty may be experienced when visiting banks, the normal loading/unloading, delivery & collection rules apply. (See section on loading/unloading). *It should be noted that the value of the money involved does not in itself give rise to an exemption from the parking regulations.*

Although the value of the money is not itself normally a consideration, if the delivery or collection involves large volumes of coinage this activity would be considered under the exemptions for loading/unloading. In such cases, the Penalty Charge Notice may be cancelled upon suitable supporting evidence being received where the Council is satisfied that the coins concerned were of such a quantity as would be covered by the loading exemption.

No dispensation to park on a yellow line will be given to allow drivers to stop whilst obtaining money from an ATM (Automatic Teller Machine). In such instances, Penalty Charge Notices will be pursued.

BANKS & BUILDING SOCIETIES

Only security vehicles can normally claim a loading / unloading exemption when carrying cash and other valuables. Unless the Council accepts that extenuating circumstances existed, there is no exemption for other vehicles visiting the bank.

BLOCKED ACCESS

Where are unable to gain access to their private or commercial property, this does not entitle them to park somewhere else in contravention of the regulations. Any PCN will normally be upheld, although the circumstances of each case will be considered on its merits.

If a motorist claims that access is being persistently blocked it may be possible to arrange for additional enforcement, subject to available resources. However, the Council has no authority to deal with obstruction unless a PCN can be issued for another contravention, such as a waiting restriction.

Only the police have the power to deal with obstruction offences, but they might not become involved where a motorist cannot gain access *to* his property *from* the road. They will, however, usually take action where the motorist is unable to move his vehicle *from* the property (e.g. from the garage or drive) *onto* the road. It would be a matter for the judgement of the attending officer(s) what action, if any, to take.

BROKEN DOWN VEHICLE

A broken down vehicle that cannot be moved is covered by the exemptions contained in Traffic Regulation Orders. Claims of alleged breakdown will normally be accepted if the Council is satisfied that the circumstances were beyond the driver's control and if satisfactory supporting evidence in the form of one or more of the following is produced -

- A garage receipt, on headed paper, properly completed and indicating that the repair took place within a reasonable time of the contravention.
- A till receipt for purchase of seemingly relevant spare parts purchased on or about the date of the contravention.
- A confirmation letter from the AA, RAC or other motoring organisation.
- The Civil Enforcement Officer (CEO) has noted in the pocket or on the hand held computer that the vehicle had obviously broken down.

In all cases falling under this heading, the nature of the fault must be apparent and the Council will need to be satisfied that the driver would not reasonably have expected it to occur before starting the journey. Where the breakdown was due to a fault with a part that is subject to normal wear and tear and can reasonably be expected to need replacing over time, the Council may request evidence that the vehicle had been properly serviced within the preceding 12 months.

A note left in the windscreen, stating that “the vehicle has broken down”, will not be accepted by the CEO as a reason for not issuing a PCN. Neither, on its own, will it normally be accepted as grounds for cancellation of the PCN.

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

Removal of Vehicle by a garage or breakdown service.

It should be noted that if a vehicle is broken down, the driver cannot leave it indefinitely before arranging for it to be removed. Generally, the driver is expected to arrange for the vehicle to be removed within 24 hours. If the vehicle cannot be removed within this time, we would expect to see some evidence that the driver has contacted a breakdown service or garage in good time but been unable to obtain a speedier recovery.

Flat Battery

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

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

The Council will also take into account how the vehicle came to be illegally parked before it failed to restart. If a vehicle had been left in a place where it was not entitled to park and the vehicle would not start when the driver returned to it, the PCN is unlikely to be cancelled regardless of the fault. Unless the Council accepts that there were mitigating circumstances, it should not have been parked there in the first instance.

Flat Tyre

In the event of a flat tyre, the Council thinks it reasonable to expect the driver to stay with the vehicle and make efforts to change the wheel using its spare. If the vehicle is left unattended, a Penalty Charge Notice will normally be issued, regardless of any notes in the windscreen. However, it may be cancelled if it subsequently transpires that the driver was elderly, disabled or infirm and had gone to obtain assistance. In such cases, evidence will normally be required from the party who provided the assistance.

If the wheel could not be changed because of 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 Penalty Charge Notice since drivers are under a legal duty to carry one.

Overheating

Where it is claimed that the vehicle had overheated due to lack of water, the Penalty Charge Notice will be upheld unless there is evidence of an unexpected mechanical failure, such as a broken fan belt, faulty radiator or hose.

Consideration will not normally be given to any claims that the vehicle had overheated through heavy traffic or hot weather, since these conditions in themselves will not cause overheating in a properly functioning engine.

Running out of petrol

A correctly functioning fuel gauge will indicate when the tank is running low. A Penalty Charge Notice will therefore normally be upheld, unless the driver has provided evidence that there was an unforeseen electrical or mechanical fault which prevented the correct functioning of the fuel gauge.

BUILDERS / TRADESMEN

Builders and Tradesmen are governed by the same regulations as other road users and the following criteria will apply throughout the Borough.

Residential Parking Zones: All trade vehicles parked within a controlled resident zone must display either a valid Visitor's Parking Permit (obtainable from the resident) or a Temporary Tradesmen Permit (obtainable from the Council's Parking Services).

Yellow Line restrictions: Parking will only be allowed whilst loading / unloading of tools and materials is taking place. Once this activity has been completed, the vehicle must be moved to a permitted parking area. In certain circumstances, the builder/tradesman can apply for a waiver (dispensation) to park on the restriction.

The Civil Enforcement Officer will issue a Penalty Charge Notice to any vehicle parked in contravention of the restriction. The penalty charge will be upheld unless the builder can provide proof that they had purchased/obtained a permit prior to the Penalty Charge Notice being issued.

BUS LANES

This section has been included for future reference.

The Legislation allows for Local Authorities to issue a Penalty Charge Notice by post to the owner/registered keeper of a vehicle seen in a bus lane.

The contravention is **being in a bus lane**, which means that the Council can issue a PCN to any vehicle seen in a bus lane (stationary or moving). This is the first moving offence that Local Authorities have been allowed to enforce.

The contravention is identified by camera and the Penalty Charge Notice is served on the person or company notified by the Driver and Vehicle Licensing Agency (DVLA) as being the registered keeper.

There are, however, exceptions in the Traffic Regulation Orders, which allow for vehicles to be in some bus lane and these are listed below:

- A Bus (public service vehicle, school bus, work bus or a vehicle adapted to carry more than 8 passengers (excluding the driver)).
- A Pedal Cycle.
- A Taxi.
- A Dial-a-ride bus.
- To enable a person to get on or off a vehicle.
- To enable goods to be loaded on or from the vehicle.
- Any vehicle crossing the bus lane to get to or from an adjacent road or any vehicular access to premises adjacent to the bus lane.

The regulations also do not apply in respect of a vehicle in a bus lane if the vehicle is being used in -

- The services of the Council for the purpose of refuse collection.
- The pursuance of any *statutory duty* of the Post Office for the purpose of collecting or delivering letters or parcels, provided that the vehicle bears the Royal Mail livery.
- In connection with the removal of any obstruction to traffic.
- In connection with the maintenance, improvement or construction of any road.
- In connection with the maintenance, improvement or construction of any street furniture.
- In connection with any building operation or demolition.
- In connection with the laying, erection, alteration of any sewer, gas, electricity, water or telecommunications supplies.

A vehicle may also be in a bus lane

- To avoid an accident.
- To allow a person to get or give help in respect of an accident or emergency or take action for public safety.
- To comply with any requirement resulting from works or an emergency in any part of the road adjoining the bus lane.
- If the vehicle is being used for ambulance, fire brigade or police purposes.
- On the direction of a constable in uniform.

BUS STOPS

The promotion of public transport is part of the Council's traffic management priorities. Parking in a bus stop can disrupt bus routes and add to traffic congestion and is therefore a high priority for parking enforcement.

Bus stops can either be restricted or unrestricted:

Restricted (24 hours): A 24 hour restricted bus stop will have a yellow bus bay incorporating a solid yellow clearway marking along with a sign plate showing that stopping is not allowed "At Any Time Except Buses". Most restricted bus stops in Gateshead are of this type.

Restricted (Fixed period): A fixed period bus stop will have a yellow bus bay incorporating a solid yellow clearway marking. It will have a similar time plate to the one above, but showing the hours of operation.

Unrestricted: An unrestricted bus stop will not have a sign plate but may show advisory road markings.

The Civil Enforcement Officer will issue a Penalty Charge Notice to any non-exempt vehicles waiting in a **restricted** bus stop during its hours of operation. Because there are no exempt activities, a PCN will be issued immediately. The penalty charge will be pursued in all but exceptional circumstances.

CARE ORGANISATIONS

Numerous care organisations are now operating within the Borough as a result of sub contracting by Social Services and the local Health Authorities, as well as privately arranged care. Each display badges issued by the various organisations, but due to the variety of badges in circulation these are *not* recognised by Gateshead Council as valid authorities to park.

A vehicle displaying a Care Service badge does not exempt the holder from the parking regulations. However, all appeals should be considered with a certain degree of leniency, particularly where the Council is satisfied that the parking infringement has not had significant traffic management implications. The Council is mindful that this is a voluntary service for the benefit of the sick and elderly. In addition, the driver may be required to escort the patient into the hospital and wait for their return.

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

Parking in Council Car Parks: It is not felt that carers ought to have a need to park within Council car parks free of charge. Consequently, Penalty Charge Notices to such vehicles not displaying a valid ticket will be upheld.

Parking on Yellow Lines: Carers are not exempt from yellow line restrictions and must not contravene them. No dispensation will be issued to carers to enable them to park on a yellow line, unless there is evidence of a medical emergency.

CLAMPING & REMOVAL

Gateshead Council has the power to remove vehicles parking in contravention of parking restrictions under certain circumstances. However, it is not the intention to carry out Clamping & Removal in Gateshead at this time although this decision may be reviewed in the future.

COMPLAINTS AGAINST CIVIL ENFORCEMENT OFFICERS

Allegations that a CEO has made an error or issued a PCN incorrectly are dealt with under the normal appeals process by investigating the matter and sending an appropriate reply.

Allegations that a CEO has been rude to a member of the public, or otherwise behaved inappropriately, are passed initially to the Operations Officer (Civil Parking Enforcement) who, as line manager, will interview the officer concerned and reply to the complainant, detailing his findings and any action taken.

All allegations of misconduct or rudeness made against Enforcement/Parking Services staff are taken seriously and referred to the relevant manager for investigation and such action as is considered appropriate in the circumstances.

Gateshead Council has a formal complaints procedure that determines the timescales for dealing with formal complaints and responses to the person making a complaint. Usually an acknowledgement letter is required and a substantive response is issued after an investigation has been undertaken and the appropriate person(s) involved have been interviewed.

CONTRAVENTION CODES AND DESCRIPTIONS

The Penalty Charge Notice contravention codes and definitions are standard throughout England and Wales (outside Greater London). Below we have listed the ones we use in Gateshead, along with some explanation where the wording is obscure. *Please note that any examples are given for illustration purposes only.*

They are not intended to constitute legal definitions and do not exclude other contraventions of the same type.

The relevant charges for Penalty Charge Notices issued from 31st March 2008 are also listed, which are either lower level (£50.00) or higher level (£70.00). Payments made no later than the last day of the period of 14 days, beginning with the date on which the PCN is served, will have a 50% discount applied i.e. £25.00 or £35.00. These charges are agreed by the Secretary of State for Transport, not set arbitrarily by Gateshead Council.

When a vehicle is parked in contravention of the regulations, and depending upon the type of restriction, the Civil Enforcement Officer (CEO) *may* observe the vehicle for a time before serving a Penalty Charge Notice. An observation period is primarily designed to ensure that the vehicle is not engaged in an exempt activity, such as loading or unloading. However, it should be noted that *there is no legal requirement to give an observation period.*

The observation times applicable to each code within Gateshead are indicated alongside each contravention.

Codes for parking on the street

01 On street - Parked in a restricted street during prescribed hours. £70.00 (e.g. parking on double yellow lines or single yellow lines during the hours of operation.) (Observation period – 5 minutes)

02 On street - Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force. £70.00 (e.g. parking or loading/unloading on double or single yellow lines when a loading ban indicated by kerb markings is also in force.) (Observation period – None)

05 On street - Parked after the expiry of paid for time. £50.00 (e.g. parking after the time shown on a pay and display ticket.) (Observation period – None. However, a PCN will only be issued where the ticket has expired by 10 minutes or more.)

06 On street - Parked without clearly displaying a valid pay & display ticket. £50.00 (e.g. parking without displaying a pay and display ticket or where the pay and display ticket has been obscured, is face down or has fallen to the floor.) (Observation period – None)

07 On street - Parked with payment made to extend the stay beyond initial time. £50.00 (the purchase of additional time is not allowed in Gateshead pay and display bays) (Observation period – None)

12 On street - Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay-and-display ticket issued for that place. £70.00 (in Gateshead, this normally applies to vehicles parking in residents' parking bays without displaying a permit) (Observation period – 5 minutes)

16 On street - Parked in a permit space without displaying a valid permit. £70.00 (the only on-street permit bays currently in existence in Gateshead are resident's parking bays; as such the CEO can use either code 12 or code 16) (Observation period – 5 minutes)

19 On street - Parked in a residents or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay-and-display ticket. £50.00 (in Gateshead, this normally applies to vehicles parking in residents' parking bays while displaying a permit that has expired or is incorrectly completed or is partially obscured) (Observation period – 5 minutes)

21 On street - Parked in a suspended bay/space or part of a bay/space. £70.00 (cones or notices on display at or near the bay will indicate that it is out of use.) (Observation period – None)

22 On street - Re-parked in the same parking place within one hour* of leaving. £50.00 (**or other period, as indicated*) (signs adjacent to the bay will indicate the period within which vehicles may not return once they have departed. Observation period – None)

23 On street - Parked in a parking place or area not designated for that class of vehicle. £70.00 (bays designated for use by the types of vehicle indicated. These might include bus or coach stands, loading bays restricted to "Goods Vehicles Only" and bays designated as charging points for electric vehicles) (Observation period – None)

24 On street - Not parked correctly within the markings of the bay or space. £50.00 (where one or more wheels is outside the bay markings) (Observation period – None)

25 On street - Parked in a loading place during restricted hours without loading. £70.00 (parked in a loading bay without any loading or unloading activity being observed. Observation period – 5 minutes minimum)

26 On street - Parked more than 50cm+ from the edge of the carriageway and not within a designated parking place. £70.00 (*no signs or markings are necessary for this to apply.* Observation period – None)

27 On street – Parked adjacent to a dropped footway. £70.00 (no signs or markings are necessary for this to apply. Observation period – 5 minutes)

30 On street - Parked for longer than permitted. £50.00 (the time limit will be indicated on signs in or near the bay. Observation period – 5 minutes)

40 On street - Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge £70.00 (this also includes where the blue badge is displayed face down, with the details obscured, the clock not displayed where required or where the badge has expired) (Observation period – None)

42 On street – Parked in a parking place designated for police vehicles. £70.00 (signs in or near the bay will indicate that only police vehicles may park there. These are marked or unmarked vehicles owned or leased by the police authority for operational policing purposes. *Police officers' own vehicles being used for business purposes are not exempt from these restrictions.* Observation period – None)

45 On street - Parked on a taxi rank. £70.00 (Observation period – None)

46 Stopped where prohibited on a clearway. £70.00 (Observation period – None)

47 On street - Stopped on a restricted bus stop/stand. £70.00 (Observation period – None)

48 On street - Stopped in a restricted area outside a school when prohibited. £70.00 (parked on a mandatory School Keep Clear marking during the restriction period) (Observation period – None)

49 On street – Parked wholly or partially on a cycle track or lane. £70.00 (this only applies if the cycle lane is mandatory, i.e. solid white line segregating it from the main carriageway) (Observation period – 5 minutes)

99 On street - Stopped on a pedestrian crossing and /or crossing area marked by zig-zags. £70.00 (white “zig zag” markings will indicate where this applies. Observation period – None)

Car Park (“off street”) Codes

73 Off street - Parked without payment of the parking charge. £50.00 (this code will only be used if the Council decide to implement a mobile phone payment option, i.e. the driver does not purchase a parking ticket to display on the vehicle.) (Observation period – 5 minutes)

74 Off street - Using a vehicle in a parking place in connection with a sale or offering or exposing for sale of goods when prohibited. £70.00 (Observation period – None)

80 Off street - Parked for longer than the maximum period permitted. £50.00 (in Gateshead, this code will only be used in free car parks, or sections/bays within car parks that are free, which have a restriction on the length of stay. This will be displayed clearly on signage within the car park or adjacent to the bays that are subject to this restriction.) (Observation period – None. However, a PCN will only be issued where the vehicle has overstayed by 10 minutes or more)

81 Off street - Parked in a restricted area in a car park. £70.00 (any area marked with diagonal yellow lines or hatching. The areas are normally in front of doorways, work areas or areas where the parking of a vehicle may be dangerous or cause an obstruction) (Observation period – None)

82 Off street - Parked after the expiry of time paid for in a pay & display car park. £50.00 (Observation period – None. However, a PCN will only be issued where the ticket has expired by 10 minutes or more.)

83 Off street - Parked in a car park without clearly displaying a valid pay & display ticket. £50.00 (e.g. parking without displaying a pay and display ticket or where the pay and display ticket has been obscured, is face down or has fallen to the floor. Observation period – None)

85 Off street - Parked in a permit bay without clearly displaying a valid permit. £70.00 (signs in the car park or adjacent to the bays concerned will indicate whether a permit is required. Please note that blue badges are not valid in “permit holders only” bays unless a permit for the bay is also displayed. Observation period – None)

86 Off street - Parked beyond the bay markings. £50.00 (where one or more wheels is outside the bay markings) (Observation period – None)

87 Off street - Parked in a disabled person’s parking space without clearly displaying a valid disabled person’s badge. £70.00 (this also includes where the disabled person's badge is displayed face down, with the details obscured, the clock not displayed where required or where the badge has expired) (Observation period – None)

89 Off street - Vehicle parked exceeds maximum weight and/or height permitted in the area. £70.00 (a 3 tonne weight limit applies in most of our car parks; where limits apply, these will be set out on the notice board situated within the car park) (Observation period – None)

90 Off street - Re-parked within one hour* of leaving a bay or space in a car park. £50.00 (*or other period, as indicated. This contravention only applies if the rules and regulations indicated on the conditions board within the car park indicate that there is a restriction on purchasing a further ticket once your current parking ticket expires.) (Observation period – 5 minutes)

91 Off street - Parked in an area not designated for that class of vehicle. £70.00 (bays dedicated for use by the types of vehicle indicated. These might include motorcycles, permit holders, blue badge holders and bays designated as charging points for electric vehicles) (Observation period – None)

92 Off street - Parked causing an obstruction. £70.00 (parked in such a manner as to cause an obstruction or danger, whether to other vehicles or to pedestrians. An example would be where a car is parked next to or on a ramp or on the approach road into a car park) (Observation period – None)

93 Off street - Parked in car park when closed. £50.00 (the hours of operation should be clearly displayed on one or notice boards within the car park. Other signs will be erected to indicate periods of temporary closure) (Observation period – None)

95 Off street - Parked in a parking place for a purpose other than the designated purpose for the parking place. £50.00 (this might include activities such as trading from the vehicle and electric vehicles parking in designated recharging bays without recharging) (Observation period – None)

COUNCIL OFFICERS ON DUTY

Council vehicles must abide by the parking restrictions and a Civil Enforcement Officer will serve a Penalty Charge Notice where contraventions occur.

We will not give preferential treatment to Council vehicles or those of partner bodies, or to Council or other employees using their own vehicles for business purposes. If the driver is seen and claims to be a Council employee, this should be noted in the pocket book, but will not prevent the service of a Penalty Charge Notice if the vehicle is contravening parking restrictions. Emergency situations will be dealt with according to the circumstances, usually as part of the appeals process by back office staff.

Requests for cancellations due to delays in meetings, case conferences, seeing clients, etc are unlikely to be viewed favourably unless there are particular mitigating circumstances that would justify the use of discretion.

Liveried vehicles performing statutory functions are normally covered by an exemption, and this will include working on the highway. However, if there is no evidence to suggest that the vehicle is actively being used in pursuit of that function, a Penalty Charge Notice will be served.

COURT ATTENDANCE

JURY SERVICE OR COURT WITNESS:

The length or timing of any court hearing or trial cannot be guaranteed and jury members and/or witnesses often find that they are unable to leave court to purchase further pay & display time in a car park. This may lead to overstay and to PCNs being issued. To counter this, Courts issue clear instruction to all Jury members and witnesses advising them as to how and where they should park. They do not recommend the use of pay & display car parks.

The courts will not pay any Penalty Charge Notice issued to a witness or Jury member whilst carrying out their legal duties, even if the court delays them.

In such circumstances the Council will enforce Penalty Charge Notices against the keeper unless evidence is produced to support the fact that the driver had a) purchased enough time to account for any delay which could reasonably be expected and b) was nevertheless delayed to an extent that could not have been reasonably foreseen, e.g. involved in a particularly sensitive case and moved to a hotel overnight.

DEFENDANTS:

The conditions applying to Jury Members and Witnesses equally apply to defendants. Defendants in a court case should seek advice (normally from their solicitor) as to whether or not it is possible that a custodial sentence may be handed down or that bail may be refused, even if those outcomes are unlikely. If so, it would be unwise to park in a charged or time limited car park or bay.

There have been instances when a defendant has been given a totally unexpected custodial sentence and, as a direct result, has been unable to remove his/her vehicle from a Council car park. In such instances the Council will expect to be informed immediately by someone and also that the vehicle will be removed as soon as is reasonably possible by the defendant's family, friends or legal representatives. Any Penalty Charge Notice issued will not be enforced providing the defendant's legal representative supplies supporting evidence.

DENTAL/DOCTORS APPOINTMENTS

When attending for a pre-arranged appointment, motorists are expected to allow sufficient time to park their vehicles correctly. If the claim is that an appointment was delayed or that treatment took longer than expected, consideration should be given to the time of the appointment and the time purchased upon arrival. It is quite common for appointments to be delayed and it is sensible for people to allow for this and over-estimate rather than under-estimate the time required.

However, if an emergency situation arises or the patient has needed more extensive treatment than was predicted, discretion should be exercised where supporting evidence is presented to the Council.

If consideration is to be given for the cancellation of the Penalty Charge Notice, in all cases the customer should be asked to supply a letter of confirmation from the dentist/doctor. *A PCN will not normally be cancelled without this.*

No dispensation will be allowed where vehicles park on yellow lines.

DISABLED DRIVERS/PASSENGERS

The Blue Badge Scheme (the new European style Blue Badge) was introduced from 1st April 2000. Badges are valid in all EU countries, although different European countries attach different concessions to their badges. All blue badge holders are afforded the same concessions when they use the badge in on-street areas in the UK, regardless of which EU state the badge was issued in.

It should be noted that slightly different requirements apply within different parts of the UK (for example, time clocks are not required in Scotland but they are in England and Wales). Different local authorities or private car park operators may also offer different exemptions (or none at all) within off-street car parks. Any drivers wishing to make use of a blue badge should satisfy themselves as to the conditions that apply locally before using the badge to park.

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

The scheme is intended to allow badge holders to park close to their destination. However, the UK national concessions apply to **on street** parking only. They do not apply in off-street car parks unless the Council has made specific arrangements to offer concessions to disabled drivers.

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

- At a time when loading or unloading is prohibited.
- In a bus or tram lane during the hours of operation.
- In a cycle lane.
- On any clearway.
- On pedestrian crossings.
- In parking places reserved for specific users, e.g. resident bays, loading bays, taxi, cycles.
- In suspended parking bays.
- Where temporary parking restrictions are in force along a length of road.
- On School 'Keep Clear' markings.
- Bus stop clearways
- On a pavement (unless signs permit it)
- In front of a dropped kerb

In Gateshead, the following allowances are made for Blue Badge Holders:

- Parking on a single or double yellow line (where there are no loading restrictions) is permitted, but is limited to 3 hours maximum and *both the disabled badge and time clock (set to show the time of arrival) must be correctly displayed.*
- Parking in Council-managed car parks for an unlimited time (wherever possible the driver should park in designated disabled bays)
- Parking in pay and display bays, free of charge and without time limit, provided that the disabled badge is clearly displayed with all the relevant details visible. The Penalty Charge Notice will normally be cancelled on the first occasion for meter, pay and display, and yellow line offences only, and the cancellation letter should state that if the same circumstances arise, any further tickets will not be cancelled. As a general rule, further tickets will not be cancelled, but there may be mitigating circumstances where it would be advisable to exercise discretion.

Where the driver has parked in a bus stop clearway, on a yellow line covered by a loading restriction or on any other restriction where the exemption does not apply, the Penalty Charge Notice will not be cancelled. Neither will it be cancelled where the driver has parked in a resident permit zone or in a loading bay restricted to use by Goods Vehicles Only.

It should be noted that the badge can only be used when the holder is either present in the vehicle, either as the driver or passenger, or when the vehicle is being used to pick up or drop off the holder. It is not valid for use by anyone else, e.g. doing shopping or collecting a prescription on behalf of the blue badge holder.

By virtue of section 94 of the Traffic Management Act 2004, local authorities' Civil Enforcement Officers (CEO) have the power to inspect badges in the same way that police officers may. It is a criminal offence to refuse or fail to produce a badge when requested to do so by any of these authorised persons.

The power to inspect badges can be used by an authorised officer whenever the parking concessions available under the Scheme are being used or appear to have been contravened. However, this power can legally only be exercised when a person is in the vehicle or when they are leaving the vehicle or returning to the vehicle that is displaying a badge.

No assumption should be made about the condition which led to the award of the blue badge. Some impairments are not always apparent and the absence of any visible impairment is not an effective guide to whether a person is entitled to hold a blue badge. It is not the role of the authorised officer to determine *why* an individual has been issued with a badge and as such this should never form any part of a routine inspection. Under no circumstances should an authorised officer seek justification from a badge holder regarding the impairment that resulted in a blue badge being issued to them. However, a police officer investigating a criminal offence may need to question them further.

Examples of the types of misuse and range of appropriate actions include:

- **Where the holder has deliberately misused the badge**, e.g. parked using their concession in order that a non-disabled person can remove or load goods from or to the vehicle solely for the benefit of the non-disabled person. In such circumstances, consideration should be given to the issue of a Penalty Charge Notice for the parking offence. Gateshead Council will also write to the holder, confirming the restrictions that apply when using a badge and outlining the consequences of continued misuse, i.e. the possible withdrawal of the badge following three relevant convictions.
- **Where a person other than the badge holder is misusing the badge and the badge holder is not present.** If a CEO detects an offence that would merit seizure of the badge, then the assistance of a police officer must be obtained. The badge should be seized and returned to the issuing authority with details of the circumstances surrounding the seizure. The issuing authority will then determine if it is appropriate to return it to the holder or to consider further action if regular misuse has been recorded.

The unlawful use of a badge can lead to the badge being seized. Separately, and in addition to that, if the vehicle is parked in a position that contravenes a parking order a Penalty Charge Notice should be issued.

- **Where the badge has been stolen or fraudulently altered or is a fraudulently created document.** If a CEO detects an offence that would

merit seizure of the badge, then the assistance of a police officer must be obtained. The unlawful use of a badge can lead to the badge being seized. Separately, and in addition to that, if the vehicle is parked in a position that contravenes a parking order a Penalty Charge Notice should be issued.

In the circumstances outlined above, a criminal prosecution may be considered by the badge issuing authority and it must be remembered that power of seizure of a blue badge is given only to a police officer where the badge is required as evidence in a criminal prosecution.

Should a badge holder or person using the badge fail or refuse to produce the badge for inspection by an authorised officer then the parked vehicle should be treated as though there is no badge in force and a Penalty Charge Notice should be issued for the relevant parking contravention.

DOUBLE PARKING

Available space on the Borough's roads is limited; motorists parking their vehicles on the highway should bear that limited space in mind. With a few exceptions, Gateshead Council has the power to issue PCNs for what is termed "double parking". In fact, this applies where any part of the side of the vehicle nearest the kerb is more than 50cm (just over 19 inches) from that kerb, except where the car is wholly parked within a marked parking bay. Northumbria Police also have the power to deal with offences involving obstruction of the highway.

Exemptions apply to some vehicles, including:

- operational police, fire or ambulance vehicles
- those which are loading or delivering and cannot reasonably park elsewhere, for a *maximum* of 20 minutes
- some vehicles being used in connection with certain works on the highway

CEOs will normally issue a PCN whenever they encounter a contravention unless the vehicle is obviously exempt. Unless an exemption applies, those penalty charges will normally be pursued unless there are exceptional circumstances.

Fuller descriptions of these powers, or the exemptions which apply, can be found in section 85 of the [Traffic Management Act 2004](#).

DRINK DRIVING OR OTHER ARREST

If the Police have arrested the driver of the vehicle and the vehicle has been left in contravention of the regulations, the Penalty Charge Notice should not be enforced

unless the driver had ample time (at least 12 hours after being released from custody) to remove the vehicle.

In all case of arrest claims, the driver should be asked to provide the date and time of arrest, the custody number and the Police Station involved. The relevant Police Station will be contacted to substantiate any information given by the driver before the Penalty Charge Notice is cancelled.

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

Failure to provide supporting evidence will lead to the PCN being upheld.

DROPPED FOOTWAYS (DROPPED KERBS)

A dropped kerb is where the footway, cycle track or verge has been lowered to meet the level of the carriageway (or the carriageway raised to meet the footway, cycle track or verge). Parking next to a dropped footway can cause considerable inconvenience to residents or to other road users or pedestrians. It can also put vulnerable road users at greater risk of being involved in a road traffic accident.

With a few exceptions, Gateshead Council has the power to issue PCNs to vehicles parking across dropped kerbs. Northumbria Police also have the power to deal with offences involving obstruction, including at dropped kerbs.

The exemptions which apply include the following (evidence may be requested):

- operational police, fire or ambulance vehicles
- vehicles parked by or with the permission (without payment) of people who live at the property concerned (this does not apply at a shared driveway)
- vehicles which are loading or delivering and cannot reasonably park elsewhere, for a *maximum* of 20 minutes
- vehicles being used in connection with certain works on the highway
- vehicles parked in a marked bay unless there is a white “H-bar” or hatching indicating that parking is not allowed

The way in which the Council’s CEOs exercise their enforcement powers will depend on the type of dropped kerb. There are two basic types:

- those allowing **pedestrians** and cyclists to cross the road more safely;
- those allowing **vehicles** to access off-street areas like driveways.

In the case of dropped kerbs at pedestrian and cyclist crossing points, CEOs will normally issue a PCN whenever they encounter a contravention unless the vehicle is obviously exempt. Unless an exemption applies, those penalty charges will normally be pursued unless there are exceptional circumstances.

In the case of dropped kerbs at access points to off street areas (such as next to residential driveways) it is impossible to tell whether a vehicle was parked there by, or with the permission of, someone who lives at the property. For that reason, CEOs will *not* normally issue PCNs to vehicles parked alongside these sorts of dropped kerb. The Council considers that the police have more suitable powers to deal with immediate problems of obstruction in such cases.

However, where there is a persistent problem at dropped kerbs next to private driveways and the occupier of the premises concerned submits a written request for enforcement action to be taken against *any* vehicle parking there, the Council's CEOs *may* issue PCNs to vehicles at those locations.

Fuller descriptions of these powers, or the exemptions which apply, can be found in section 86 of the [Traffic Management Act 2004](#). It should be noted that a vehicle does not need to be parked completely across the dropped kerb, nor are any lines or signs necessary, for this sort of contravention to be enforced.

DVLA INCONSISTENCIES

The only pieces of information about the vehicle which are required to be shown correctly on the PCN are the registration number and make of the vehicle. Whilst it is obviously helpful if all of the information is correctly recorded, if any other details are wrong (such as the colour, model or tax disk information) this does not invalidate the PCN and it will still be pursued.

Mis–Spelling of Owner Name/Address

The DVLA supplies the majority of the information regarding vehicle ownership. The mis-spelling of a name and address on an NtO does not invalidate it, nor does it discharge the liability of the person receiving it. The onus is still on the genuine owner to deal with the matter.

ESTATE AGENTS

Estate agents visiting a client's property within a residential parking zone should either display a valid Visitors Permit. (Obtainable from the resident) or a Temporary Tradesman Permit (obtainable from the Council's Parking Services).

Estate agents are not exempt from parking restrictions and Penalty Charge Notice's will be upheld.

EXEMPT VEHICLES

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

- Vehicles being used by the fire brigade, police or ambulance services for operational purposes. (See also **POLICE OFFICER ON DUTY**)
- Vehicles used in the service of the Council in pursuit of statutory powers or duties, providing that it is necessary for the vehicle to park there.

The following vehicles are exempted in the circumstances shown below. However, in all cases there should be evidence that the exempted activity is taking place and that the vehicle concerned is actively engaged in this activity. If no exempt activity was seen to be taking place by the Civil Enforcement Officer (CEO), the PCN will be upheld on the basis that the CEO observed the vehicle for a reasonable length of time and saw no indication to suggest that the activity was taking place.

- Post Office and other vehicles whilst engaged on the delivery or collection of postal packages.
- Vehicles belonging to “Statutory Undertakers” (electricity, gas, water, telecommunication companies) whilst engaged in laying or undertaking repairs to pipes or cables etc.
- Public service vehicles, transport bodies and other companies whilst waiting at an authorised stopping place, terminal or turning point.
- Furniture removal vehicles whilst actively removing furniture.
- Formal vehicles being used in connection with a wedding or funeral.
- Vehicles engaged in building, excavation or demolition works whilst the vehicle is actively in use for the purpose.
- Vehicles being used in connection with the removal of any traffic obstruction.

All exempt vehicles should normally be liveried, not private cars or vans, and the exemption does not automatically extend to contractors vehicles.

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

- Where the driver is prevented by *unforeseen circumstances beyond his/her control* from moving the vehicle. (This obviously covers road traffic collisions where the vehicle is rendered undriveable and most breakdowns, but may cover other circumstances too; each case will need to be assessed on its own merits).

- Where the vehicle needs to wait in order to avoid an accident.
- Where the vehicle is parked for as long as is *necessary* to enable someone to get in or out. (This is usually limited to 5 minutes except where the person getting in/out of the vehicle needs longer, e.g. is elderly, suffering from a disability which impairs their ability to walk, is blind, carrying luggage or heavy shopping etc. In these circumstances the vehicle may wait for as long as is necessary).
- Where the vehicle is being used for loading or unloading. (See section on loading/unloading for details and limitations).

Generally, Adjudicators have held that where a driver receives a Penalty Charge Notice and is claiming an exemption from the Regulations, as listed above, the burden of proof rests with the driver, who should produce satisfactory evidence that supports the appeal. If the Council is satisfied that the exemption applied, the PCN will be cancelled. However, it is not always possible for a driver to produce proof and each case will need to be considered on its own merits.

FOOTWAY PARKING

Except within Greater London (s.15 Greater London Council (General Powers) Act 1974) it is not generally an offence for a vehicle to be parked on a footway. The exceptions to this are:

- HGV's (Sect.19, RTA 1988).
- Cycle Tracks (Sect.21, RTA 1988).
- Where a Traffic Regulation Order (TRO) exists.
- Where the police deem it to be causing an obstruction

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

- Marked Vehicles used by Police, Fire Brigade and Ambulance services whilst carrying out emergency duties.
- Vehicles used for Street / Street Light cleaning and Refuse Collection providing that they are actively involved in the function.
- Vehicles actively involved in road works.

Most waiting and loading restrictions cover the whole highway – building line to building line, which includes all footways and verges. A Penalty Charge Notice can

only be issued on street if there is also a waiting / loading restriction on the adjacent carriageway, unless signs placed on site clearly indicate the existence of a specific footway parking ban.

FUNERALS / WEDDINGS

The Council recognises the importance of weddings and funerals are. However, only the official wedding cars (i.e. the bridal party) are covered whilst the wedding ceremony takes place. Similarly, only the official hearse and any other official car provided by the Funeral Director are covered whilst the funeral takes place.

If vehicles stop on single or double yellow lines only to allow passengers to embark/disembark, they will be covered by a general exemption.

Visitors to either a funeral or a wedding must park in an appropriate parking place and not in contravention of any waiting/loading restriction. They should therefore ensure that they arrive in good time to do so.

GARAGES – VEHICLES LEFT FOR ATTENTION

Whilst a PCN should be paid by the driver who left the vehicle in contravention of the regulations, responsibility rests with the vehicle owner by law. If the registered keeper of the vehicle cannot get the garage to pay the PCN, he/she is legally liable for the payment of the Notice and cannot avoid payment simply on the basis that he he/she was not driving the vehicle at the time.

In most cases the PCN will be upheld. However, the first that many drivers will know of a PCN is when they receive the Notice to Owner, and it may be reasonable to offer the discounted amount again if Representations are made.

In addition to the owner's statutory liability, the legal precedent that determined the liability of garages and owners for Penalty Charge Notices is: -

Francis –v- Wandsworth

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

GLAZIERS

For safety reasons, and the transportation of glass, glaziers' vehicles will often need to be parked close to the premises on which they are working.

In cases where glaziers' vehicles are parked adjacent to the premises, Civil Enforcement Officers will observe if the glass is of a size (e.g. a shop window) which would warrant adjacent parking. Glaziers will be exempt from the regulations in these cases *whilst the window is made safe*. Otherwise, the vehicle should be parked in an appropriate parking place in line with the restrictions.

GOING FOR CHANGE

Two legal cases relating to “leaving a vehicle to obtain change” are:

Strong -v-Dawtry (Queen’s Bench Division, 2nd March 1961)

Appellant parked and went to obtain change to pay into the meter. Whilst obtaining change his vehicle was issued with an Excess Charge Notice. Appeal dismissed as the regulations stated that payment of the parking fee should be made as soon as the vehicle was parked and no time is allowed to obtain change.

Mayor –v- London Borough of Camden

It was confirmed that a motorist may not leave the car park to get change for the machine.

The Council believes it is reasonable for people to know that a charge will normally be made for parking, particularly in off-street car parks in urban areas like Gateshead. Motorists should therefore have sufficient change on them to pay the appropriate parking fee. Appeals on the grounds that the motorist had left the vehicle in order to obtain change for parking will normally be rejected, unless there is clear evidence that extenuating circumstances existed at the time.

GOVERNMENT DEPARTMENTS

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

GRACE PERIODS

There is no legal requirement to allow any grace period where a restriction or parking condition applies. Where these do exist, they relate to pay and display bays, visitors to resident bays and to pay and display car parks.

A grace period allows a driver a few extra minutes to return to their vehicle and can avoid allegations of unfairness or allegations that Penalty Charge Notices are served prematurely. It also allows for any slight discrepancy in the time shown on the Civil Enforcement Officers (CEO) hand-held computer and the time shown on the pay and display machine.

To find out where such grace periods are allowed, and what they are, see the observation periods that apply against each code in **CONTRAVENTION CODES AND DESCRIPTIONS**)

HACKNEY CARRIAGES / PRIVATE HIRE VEHICLES

Hackney Carriages and Private Hire Vehicles operating within the Borough of Gateshead are licensed by Gateshead Council and carry a numbered licence plate that must be displayed on the rear of the vehicle.

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

Hackney Carriages licensed by other local authorities are not allowed to ply for hire within Gateshead. The reverse is also true.

Hackney Carriages and PHVs, like all vehicles, may stop to allow passengers to board or alight for as long as is reasonably necessary for the purpose. It is not normally an exempt activity to assist passengers into premises and to leave the carriage unattended, but if the person is elderly or frail this needs to be taken into account and *may* be treated as part of the process of picking up and dropping off passengers, depending on the circumstances. If a licensed Hackney Carriage or PHV is left unattended it is liable to receive a Penalty Charge Notice.

Each case, especially where there is evidence that there were elderly, infirm or disabled passengers in the vehicle, should be treated on its merits and appropriate allowance should be made in such instances.

It should be borne in mind that when a Hackney Carriage or PHV is called to an address to pick up passengers the driver must be allowed reasonable time to

announce his/her arrival and will therefore need to leave the cab to do so. Adjudicators have generally accepted that this forms part of the picking up/setting down process.

There will be occasions when minicabs are used to carry essential medical supplies, e.g. blood, organs, emergency equipment. In these cases, the Penalty Charge Notice may be cancelled, upon production of suitable evidence.

HAZARDOUS CHEMICALS/SUBSTANCES

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

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

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

Claims by companies that toxic or dangerous substances were being delivered or collected from premises and, as a result, a Penalty Charge Notice was incorrectly issued to the vehicle being used should be given careful consideration, but once again supporting documentation is likely to be required.

If the PCN was issued for contravention of a “no waiting restriction” it can be established from the Civil Enforcement Officer’s (CEO) notes whether the activity of loading was likely to have been taking place. If so the PCN may be cancelled.

If no loading activity was taking place, the PCN will be upheld. There is no reason, in this case, to differentiate between toxic and non-toxic deliveries as it is the driver’s responsibility to ensure that the vehicle is moved immediately the loading / unloading activity is complete. (See definition of Loading / Unloading).

If the Penalty Charge Notice was issued for contravention of a “no loading” restriction then, once again, the CEO’s notes will indicate whether the loading activity was taking place. If so, consideration will be given to the cancellation of the PCN if there were clear health and safety implications.

Any such representation will have to be accompanied by documentary evidence showing the nature of the goods being loaded/unloaded.

HIRE AGREEMENTS

Under the legislation, the *owner* of the vehicle is liable for any Penalty Charge Notice issued to the vehicle, regardless of who was driving or otherwise in control of it at the time. However, where a vehicle is owned by a hire company and was on hire at the time, The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 allow for the transfer of that liability to the hirer, subject to certain conditions. Those conditions include:

- The owner is a vehicle hire company and there is a valid, signed hire agreement, a copy of which is sent to us;
- In that hire agreement, the hirer specifically accepts responsibility for any “Penalty Charges” incurred during the hire period. (*Note that Fixed Penalty tickets are not the same as Penalty Charge Notices*).

Where the conditions are met for the transfer of liability, the responsibility rests with the *hirer* and not the hire company, providing the hire company makes formal representations to the Council on that basis within 28 days of receiving the Notice to Owner.

Where a company have made representations on the ground that they are a hire firm and have supplied details, the provisions relating to hiring agreements as contained in the Road Traffic (Owner Liability) Regulations 2000, will apply.

As with vehicles which are not on hire, it is immaterial who was driving or otherwise in control of the vehicle at the time. For example, where a company has hired a vehicle for use by one or more of its employees, it is the *company* which is responsible for paying or appealing the PCN (although it may have a contractual right to recover any amounts paid from the driver subsequently).

Where the hiring period is for a fixed period less than 6 months, the hiring agreement must also contain **all** of the following information for it to be valid:

A. Particulars of the person signing the statement of liability

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

B. Particulars of hiring agreement.

- Registration number of the hire vehicle
- Make of hire vehicle
- Registration mark of any substitute vehicles

- Make of any substitute vehicles
- Time and date of commencement of hiring period
- Time and date of expiry of hiring period
- Time and date of commencement of any extension
- Time and date of expiry of any extension

In all cases the hirer must sign a statement of liability in respect of Penalty Charge Notices if liability for such PCNs is to be transferred to him/her.

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

These provisions are mandatory and failure to comply with all the above requirements will result in liability remaining with the owner of the vehicle. The above requirements also apply where a courtesy car is "loaned" to a driver.

A computerised print out of the hire details is not acceptable.

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

Note – although many hiring companies are reluctant to supply the agreement, and some Local Authorities do not require it, the Adjudicators have made it plain that Councils are entitled to see the agreement if they wish to, with the particulars listed above, before they transfer liability.

HOSPITAL VISITS

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

If the patient was admitted, confirmation should be sought in the form of a letter from the GP or the hospital (this is normally readily available). Similarly, where a driver is visiting a sick relative as an *emergency* visit, proof of a similar nature should be sought.

It is important to ensure that the date(s) of the hospital visits/stay cover the date on which the Penalty Charge Notice was issued. If there is a discrepancy, the Penalty Charge Notice will normally not be cancelled.

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

LOADING AND UNLOADING OF GOODS

Most single or double yellow line restrictions do not include a restriction on loading. Stopping on these yellow lines when they are in force is permitted for vehicles engaged in the continuous loading (including unloading) of heavy and/or bulky goods. *Picking up items that could be carried, however great the value, does not constitute loading.*

The goods must be of a type that cannot easily be carried by one person in one trip; if they can, drivers should park elsewhere (i.e. not on the yellow lines) and carry them to/from the premises. Once the items have been loaded, the vehicle must be moved immediately.

The vehicle should be parked adjacent to where the loading activity is taking place. Furthermore, the loading should be reasonable. Where it is likely to take a long time or cause significant disruption, the Council would expect to be notified in advance to enable arrangements to be put in place.

The loading should be completed as quickly as possible. A maximum of 5 minutes for non-goods vehicles and 20 minutes for goods vehicles is normally considered reasonable for the purpose of loading or unloading, although more time may be allowed if it appears to the Civil Enforcement Officer that the circumstances warrant it. The vehicle will be observed by the issuing officer during the period of loading to ensure that it is continually taking place (i.e. that someone returns to the vehicle with reasonable frequency to load or unload).

Loading and unloading of goods or items is considered to be taking them to or from the vehicle but does include paying for, packing, unpacking or assembling the goods. Likewise, stopping to go to the toilet (except in the event of a medical emergency), for a conversation or for any other activity not directly involved in the actual moving of the items is also not considered part of the loading process.

Where a Civil Enforcement Officer considers that any of the above conditions are not met, a Penalty Charge Notice will be issued.

Loading and unloading is normally permitted –

- On single or double yellow lines.
- In loading bays (except those identified as for Good Vehicles Only).
- Where there are no restrictions

Loading and unloading is **not** permitted –

- In bus stop clearways, taxi ranks, or in other places where stopping is prohibited e.g. in doctor/hospital/ambulance bays.
- Where kerb markings indicate no stopping, loading or parking restrictions.
- On zig-zag markings either on an approach to a pedestrian crossing or outside a school. In suspended bays.
- In areas specifically reserved for other classes of vehicle
- In an area where parking is likely to cause an obstruction

Two relevant Adjudication decisions are –

Mr. L –v- Oxfordshire County Council

The driver took a large bundle of washing to a launderette for a service wash. This was classed as loading and unloading, but he left the launderette to purchase some washing powder. This activity did not fall within the loading exemption.

Mr. B –v- Buckinghamshire County Council

Mrs. B, who was pregnant at the time was collecting a helium cylinder, and required help from the proprietor loading it into the vehicle. She had to wait whilst the proprietor served another customer and was away from the vehicle for about 10 minutes. The Adjudicator accepted this was part of the collection process.

For the avoidance of doubt, please note that loading/unloading does not include waiting to pick up passengers.

LOADING BAY FOR GOODS VEHICLES ONLY

Some of the loading bays in Gateshead are reserved specifically for Goods Vehicles. This means that only Goods Vehicles can use these bays during the restriction period indicated on the adjacent signage, and only then whilst actively loading or unloading. There is sometimes confusion about what counts as a “Goods Vehicle”. The law (Section 62 of the Vehicle Excise and Registration Act 1994) says that a Goods Vehicle is a “*vehicle that is constructed or adapted for the purpose of carrying goods*”. In other words, it depends on what the vehicle was actually built for. Because of this, it is not always possible to say whether a particular make and model is a goods vehicle or not.

As a guide, however:

- A 4 x 4 vehicle such as a Landrover Freelander is capable of carrying bulky items but it is *built* for the purpose of carrying people, not goods. It would therefore *not* normally be treated as a “goods vehicle”.

- A small van, such as a Citroen Berlingo van, *would* count as a goods vehicle because it was *intended* to carry goods when it was built, not people.

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

Claims from drivers that they did not realise they had to use a meter or pay & display machine will be dismissed if site inspections confirm that suitable signage was present. It is the motorist's responsibility to check what conditions apply in any given car park and to ensure that those conditions are fully complied with.

METER / PAY & DISPLAY MACHINES – NOT WORKING

Where it is claimed that a machine is not working then reference must be made to the available maintenance records, the Civil Enforcement Officer'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 may be given to cancelling the Penalty Charge Notice.

If there was an alternative machine in the car park (or in close vicinity for on-street parking areas) then it is reasonable to expect drivers to use this machine instead.

MITIGATING CIRCUMSTANCES

Each case should be treated on its merits and guidelines regarding particular circumstances are contained elsewhere in this manual. However, this is within a framework of general guidelines, some of which are shown below:

Delays

Delays due to shop/bank queues, meetings taking longer than expected etc are not grounds for cancellation of a Penalty Charge Notice. Delays are always a possibility and motorists should over-estimate the amount of time needed, rather than under-estimate and risk incurring a PCN. Generally, PCNs will not be cancelled if vehicles exceed the permitted length of stay by 10 minutes or more.

If the delay was related to any medical or emergency situation (e.g. sudden illness, difficulties in walking due to disablement, stopping to assist in an emergency situation, etc.) a degree of leniency may be exercised although the Council will normally expect sight of some form of supporting evidence.

Children/Elderly People

Claims are often made by people that they were delayed because they were accompanying young children or elderly people. This should not be considered as a reason to cancel a Penalty Charge Notice because allowance should be made for this when purchasing parking time. (See emergencies below).

Claims that Penalty Charge Notices issued whilst children were being dropped off or collected from schools etc. will not normally be cancelled unless a reasonable amount of time was not allowed by the Civil Enforcement Officer (CEO). The normal 5 minute observation period should be sufficient time in such circumstances. Please note, however, that *stopping on school zig zags is not allowed at all, for any length of time, during their hours of operation.*

Emergencies

By definition, emergencies are unforeseen situations beyond a driver's control. They are often of a medical nature and leniency will be exercised where the effect is significant and it is felt that the driver could not have foreseen the situation and had no opportunity to move/return to the vehicle.

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

NON-MITIGATING CIRCUMSTANCES

The following examples show situations where we will NOT usually cancel PCNs:

- I thought I was parked legally but made a mistake
- There was nowhere else to park
- This is the first time I've got a parking ticket / I won't do it again / I'll be more careful next time
- I only stopped for a minute
- I lent the car to a friend and they won't pay the penalty
- I was parked outside my own house / business

- I went to get change for the pay & display machine

The legal case law that applies to “leaving a vehicle to obtain change” is:
Strong -v-Dawtry Queens Bench Division, 2nd March 1961:

Appellant parked and went to obtain change to pay into the meter. Whilst obtaining change his vehicle was issued with an Excess Charge Notice. Appeal dismissed as the regulations stated that payment of the parking fee should be made as soon as the vehicle was parked and no time is allowed to obtain change.

Mayor –v- London Borough of Camden

It was confirmed that a motorist was not permitted to leave the vehicle to get change for the machine.

- I got lost / forgot about the time and so could not return to my vehicle in time
- My meeting / hospital / dental appointment ran late
- My ticket had fallen on the floor again / I had forgotten to display it again
- My permit / Blue Badge had fallen on the floor again / I had forgotten to display it again
- I did not know I had to Pay & Display
- I had been loading / unloading
- I thought I could return to the machine and pay for some more time
- I thought my Blue Badge gave me the right to park anywhere

NOTES IN VEHICLES

Notes in vehicles are not normally accepted by officers considering appeals, unless it refers to a dispensation that has been pre-authorised by Parking Services.

The existence of notes in vehicles should be recorded by Civil Enforcement Officers in their pocket books when they issue to PCN. If we receive an appeal, the Appeals Officer will then exercise their judgement in deciding the matter.

OBSERVATION PERIOD – PRIOR TO ISSUE OF PENALTY CHARGE NOTICE

When a vehicle is parked in contravention of the regulations, and depending upon the type of restriction, the Civil Enforcement Officer *may* observe the vehicle for a time before serving a Penalty Charge Notice.

There is no legal requirement for a vehicle to be observed before a PCN is issued. An observation period exists to ensure that the vehicle is unlikely to be engaged in an exempt activity, such as loading or unloading. Where no exemption applies, there is normally no observation period. Similarly, there the vehicle may not be observed before a PCN is issued if it can be determined from other evidence that no exempt activity appeared to be taking place.

See '**CONTRAVENTION CODES AND DESCRIPTIONS**' for details of the observation period that is applicable to each code.

PAY AND DISPLAY BAYS

These are bays that are controlled by a pay and display machine, which will usually cover several bays in the road. Many of the Council's car parks are also controlled by various types of pay and display machine. The regulations regarding paying and displaying, whether on street or in a car park, are generally similar.

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

A pay and display ticket must be clearly displayed face-up on the dashboard or fixed to the windscreen so that it can easily be read by a Civil Enforcement Officer (CEO). Drivers often claim that they had a pay and display ticket, but that it fell off the windscreen. If they do not produce a ticket covering the time they were parked, the Penalty Charge Notice will be upheld. However, if they do send a valid ticket, the PCN will normally be cancelled on the first occasion.

In Gateshead, some Pay and Display tickets have serial numbers printed on the reverse and where the ticket has been observed turned over and a PCN has been issued, the CEO notes the serial number if it can be read. If the serial number on the Pay and Display ticket submitted by the motorist does not correspond with that noted by the CEO, the PCN will *not* normally be cancelled.

Faulty Machines.

If a pay and display machine is found to be faulty, it is the driver's responsibility to look (within a reasonable distance) for an alternative machine from which to

purchase a Pay and Display ticket, providing that the alternative machine is situated in the same road or car park.

Where a Pay and Display machine is marked 'out of order' and there are no alternative payment points, a vehicle will be allowed to park until the machine is repaired but only for the maximum duration indicated for that particular bay.

Where a motorist leaves a note in their vehicle stating that the machine is faulty, or reports it personally to a Civil Enforcement Officer, the CEO must check the machine. If it appears to be in working order, a Penalty Charge Notice should be served. If the machine is found to be faulty, a PCN should *not* be served and the matter reported by radio for the appropriate repair action to be taken. If the machine cannot be brought back into service within a day, it should be bagged. The CEO should make full notes of the event and the action taken.

The Adjudication cases that apply to purchasing and displaying a ticket are –

Baker –v- Westminster City Council

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

Mayor –v- London Borough of Camden

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

PERMIT HOLDERS (CAR PARKS)

These are valid only in the car park indicated on the face of the permit and only up to the expiry date shown on it. Instructions on use are detailed on the rear of the permit and in guidance documentation issued with the application form. Permits must be clearly displayed on the windscreen of the vehicle so that all of the information on the front of the permit is visible from the outside.

Whether or not a permit exists, failure to display it correctly is a contravention of the rules on usage that are displayed on signs within the car park. This will result in a Penalty Charge Notice being issued which will not normally be cancelled unless there are mitigating reasons why the permit was not displayed.

Use of a permit within a car park in which it is not valid will also result in a Penalty Charge Notice being issued. Again, the PCN will not be cancelled unless there are mitigating circumstances that account fully for the contravention.

Please note that Back Regent Terrace/ Back Walker Terrace Car Park, Gateshead is signed as "Permit Holders Only" between 8.00am and 6.00pm Monday to Friday. A Blue Badge is not a valid permit for these purposes.

PERMIT HOLDERS (RESIDENT SCHEMES)

Please note that a Blue Badge is not a valid permit within a resident permit zone.

Resident's Permits:

Unless the scheme rules provide otherwise, an applicant is only eligible for a resident permit if:

- Their usual place of residence is within a controlled parking zone; *and*
- They own, keep or have the sole use of a vehicle.

Instructions for use are detailed on the rear of the permit and in guidance documentation issued with the application form.

Permits must be clearly displayed on the windscreen of the vehicle. They are only valid in the zone and for the registration number shown on the permit and until the expiry date printed on its face.

Failure to display a permit is a contravention of the traffic order, regardless of whether or not a permit exists, and will result in a PCN being issued which will not be cancelled unless there are mitigating reasons why the permit was not displayed.

Use of a permit within another zone not stipulated on the permit, on another vehicle (unless it is a transferable permit) or after its expiry date will also result in a PCN being issued. Again, the PCN will not be cancelled unless there are mitigating circumstances that account fully for the contravention.

If the permit holder had applied for a permit prior to the date of the PCN, but had not received it, the PCN *may* be cancelled after checking that the application was received by the Council in good time. If no such application has been made, or the application form was received after the date of the contravention or there has been some other delay on the part of the permit holder in renewing the permit, the PCN will normally be upheld unless there is clear evidence of mitigating circumstances, e.g. the permit holder was away. This applies particularly to new residents who have not yet obtained a permit.

Resident's Visitor's Permit/Vouchers:

These permit/vouchers enable a resident's visitor to park for a maximum 3-hour period during the time when the restriction shown on the sign plates applies. Permits/vouchers will be normally only issued to *residents* living within the zone.

The applicant's permanent address must be within the parking zone. They do not have to drive or own a vehicle to obtain resident visitor permits.

In order to purchase the permits, they must provide proof of residence unless they already hold a valid resident permit.

It is intended that residents should purchase visitor permits in advance, and hand them to their visitors when required. Each permit must then be validated by scratching off the date and time of arrival.

Disabled/OAP Residents can purchase a transferable parking disc (limited to one per household).

Instructions on use are detailed on the rear of the permit and in guidance documentation issued with the application form. Permits must be clearly displayed on the windscreen of the vehicle so that all of the information on them can be seen clearly from the outside.

Failure to display a permit is a contravention of the traffic order, whether or not a permit exists, and will result in a PCN being issued which will not be cancelled unless there are mitigating reasons why the permit was not displayed.

Failure to scratch off the correct time and date of arrival on visitors scratch cards will result in a PCN being issued, which will not normally be cancelled.

Failure to set the time of arrival on the OAP/Disabled householders disc correctly will result in a PCN being issued, which will not normally be cancelled.

Business Parking Permits:

A business is entitled to one or more permits if:

- It is operating from an address within a controlled parking zone; and.
- The vehicle for which the permit is required is essential for the efficient operation of the business.

The vehicle must be either:

- A passenger vehicle constructed or modified for the carriage of not more than twelve passengers (excluding the driver); or
- A goods carrying vehicle, the overall height of which does not exceed 3.2 metres (10ft 6ins) and the overall length does not exceed 6.5 metres (21ft 4ins) with a maximum gross weight not exceeding 3.5 tonnes.

A business permit is not available to a household holding a residents permit.

The permit is transferable between vehicles for maximum flexibility.

Permits must be clearly displayed face-up on the windscreen of the vehicle.

Failure to display a permit is a contravention of the traffic order, whether or not a permit exists, and will result in a PCN being issued which will not be cancelled unless there are mitigating reasons why the permit was not displayed.

Use of a permit within another zone not stipulated on the permit will also result in a Penalty Charge Notice being issued. Again, the PCN will not be cancelled unless there are mitigating circumstances that account fully for the contravention.

If the permit holder had applied for a permit prior to the date of the PCN, but had not received it, the PCN may be cancelled after checking that the application was received in time. If no such application has been made, or the application was received after the date of the contravention or there was some other delay on the part of the permit holder in renewing the permit, the PCN will normally be upheld unless there are other mitigating circumstances, e.g. the permit holder was away.

Temporary Tradesman Permits:

Daily Trade Permits are available to those who are working as trades people, e.g. plumbers, builders etc, at a property within a resident parking zone which is not their permanent place of employment.

It is intended that trades people should purchase permits in advance of any works being carried out or display a Visitor's permit provided by the resident.

Permits will only be issued to the reception in person. The permits are only for use within the zone for which they are issued and are not valid for any other zone within the borough.

In order to purchase the permits, the applicant must provide proof that they are working at the property.

Permits must be clearly displayed on the windscreen of the vehicle.

Failure to display a permit is a contravention of the waiting restriction and will result in a Penalty Charge Notice being issued which will not be cancelled unless there are mitigating reasons why the permit was not displayed.

Use of the permit within another zone not stipulated on the permit will also result in a Penalty Charge Notice being issued. Again the Penalty Charge Notice will not be cancelled unless there are mitigating circumstances that account fully for the contravention.

Health Visitor's Permits:

Designated Health Visitors requiring access to households within Residents Parking Schemes in Gateshead can apply for an All Zone permit, subject to scheme rules.

A letter from the Heath Authority or Primary Care Trust confirming necessity must support applications for a Health Visitor's Permit.

Permits must be clearly displayed on the windscreen of the vehicle.

Failure to display a permit is a contravention of the waiting restriction and will result in a Penalty Charge Notice being issued which will not be cancelled unless there are mitigating reasons why the permit was not displayed.

PLUMBERS

Emergency call out

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

Appeals against Penalty Charge Notices issued in these circumstances will be considered on their merits. However, such PCNs will normally be upheld in the absence of supporting documentary evidence.

Heavy Equipment

Claims that the vehicle had to be parked close to the emergency as it was carrying heavy equipment should be dealt with as delivery and collection/loading and unloading. However, further consideration will be given to pump-out situations, where the pump-out equipment needs to be connected to a generator in the vehicle

POLICE OFFICER ON DUTY

Penalty Charge Notices will not be issued to marked police vehicles where they are clearly attending an incident, as they are covered by an exemption in such circumstances. However, this does not apply unless the vehicle is being used in connection with operational police activities. For example, a police vehicle parked outside a sandwich shop or at a cash point, where the officers appear to be purchasing food or getting cash, is not covered by the exemption.

Many police officers use unmarked cars, and sometimes even their own vehicles, whilst on duty. In those cases, it must be appreciated that the Civil Enforcement

Officer will not be aware that the vehicle is being used on police business and may issue a Penalty Charge Notice.

Any request for cancellation of a Penalty Charge Notice must be endorsed by a more senior officer of at least the rank of Chief Inspector and must be submitted either by email from a force email address or by letter on official headed stationery. The endorsing officer must certify that the vehicle was being used in the course of dealing with a policing incident and that it was unreasonable in the circumstances for it to have been parked elsewhere at the time the PCN was issued. Without the appropriate endorsement, the Penalty Charge Notice will not be cancelled.

PREGNANCY AND MOTHERS WITH YOUNG CHILDREN

Pregnancy is not considered to be a disability and delays caused by young children would not usually warrant the cancellation of a Penalty Charge Notice. However, this is a sensitive area and each case should be treated on its own merits.

If a delay was short and unavoidable, or was caused by a minor medical emergency (child being sick, mother feeling unwell), the Penalty Charge Notice may be cancelled. However, formal proof of pregnancy will normally be required.

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

ROAD SIGNS/MARKINGS – MISSING, OBSCURED, BROKEN

Prior to 31st January 2003, there was a requirement that double yellow lines should be accompanied by time plates, which stated that parking was not permitted at any time. However the Traffic Signs Regulations and General Directions 2002 (TSRGD), which came into force on 31 January 2003, removed the requirement for 'At any time' plates to be used in conjunction with double yellow lines. This is also indicated in the Highway Code.

Yellow Lines

If the driver claims that there was no sign present and the regulations require that a sign be in place, a site inspection should be arranged to check the allegation. If there is no sign on the same side of the road as the yellow line, the Penalty Charge Notice will be cancelled and arrangements made for the correct sign to be installed. The exception to this is if the photograph taken by the Civil Enforcement Officer (CEO) demonstrates that the sign was present at the time that the Penalty Charge Notice was served.

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

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

Parking Bays

There should be a sign adjacent to the parking place (bay or group of bays), which gives details of whom the bay is available to (e.g. resident or business permit holders and/or visitors displaying permits or using pay and display machines). Most bays also give details of the hours and days of control.

In all cases where it is alleged that a time plate is missing, a site check should be arranged. If the check confirms that there is no sign, the Penalty Charge Notice should be cancelled and arrangements made for the problem to be rectified. The exception to this is if the photograph taken by the CEO demonstrates that the sign was present at the time that the Penalty Charge Notice was served.

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

Claims that the driver did not realise where he/she had parked or used the wrong type of bay will not normally be entertained when the correct signage is present.

If road markings are missing or shown to be incorrect, the Penalty Charge Notice should be cancelled and arrangements made for rectification. The exception to this is if the photograph taken by the CEO demonstrates that the marking was legible at the time that the Penalty Charge Notice was served.

Pay and Display Bays

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

Claims that a driver did not realise there was a machine in the bays will not normally be entertained unless there are other circumstances that need to be taken into consideration.

Obscured Signs/Missing 'T' bar markings

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

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

Where the 'T' bar is found to be missing from the termination point of a yellow line restriction, the PCN may be cancelled. However, as a general rule of thumb, Adjudicators have tended to accept that where a yellow line is placed next to another restriction, the absence of the 'T' Bar does not always mean that the restriction cannot be enforced, as long as it is clear where the yellow line applies.

Some relevant Adjudication decisions are –

Baillie –v- Gateshead Council

The Adjudicator determined that it is not the law that these lines must be in a perfect condition all of the time. It is a question of fact and degree and Councils cannot be expected to repaint them at regular intervals or on every occasion when repairs to the road surface or wear and tear may have created small gaps or minor diversions. What is important is whether or not the state and quality of the lines at any one time make it clear to motorists that there are in fact double yellow lines there.

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

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

Minier –v- London Borough of Camden

The absence of the 'T' bar markings did not render the yellow line invalid where it abutted parking bays at either end.

ROYAL MAIL VEHICLES

Vehicles officially liveried as belonging to the Post Office, engaged in the delivery of postal packets, are exempt and may load or unload in certain places where other vehicles are not permitted to do so. However, Civil Enforcement Officers will serve a Penalty Charge Notice if they believe that such vehicles are not engaged in delivery. This exemption does not extend to Parcel Force vehicles.

SCAFFOLDERS

Scaffolders are generally not required to obtain waivers/dispensations to park on yellow lines or work out of bays unless there are loading restrictions in place. If loading restrictions are in place, a waiver needs to be obtained and displayed.

Scaffolders are generally exempt from parking restrictions where scaffolding is being constructed. However Civil Enforcement Officers (CEO) will serve a Penalty Charge Notice to vehicles that are not engaged in essential work or covered by a waiver/dispensation or where the CEO does not witness any activity taking place

SCHOOLS

The over-riding priority for Gateshead Council around schools is the safety of children, especially those on foot.

There are no special arrangements allowing parents to set down and pick up school children in any location and any parents choosing to take their children to school by car must observe the parking restrictions in place. This is true for resident parking bays and pay and display parking bays as well as single and double yellow lines and the yellow zig-zag markings.

When picking up or dropping off children, the driver must stay with the vehicle at all times unless the children need help getting into or out of the vehicle or the school will not allow them to leave except when handed over to an appropriate adult. The children must be ready to leave on arrival. Otherwise, the driver must move the vehicle to an appropriate parking place.

If the driver has to wait for the children to be released from school or a teacher wishes to speak to the driver, they must move vehicle to a parking place and display the correct permit or ticket.

A vehicle parked in contravention is liable to receive a Penalty Charge Notice.

The majority of School Keep Clear Markings directly outside school entrances in Gateshead are mandatory. This means that no vehicles may park on the zig-zag or even stop to set down passengers whilst the restrictions are in force. Because there are no permitted activities, other than for authorised vehicles (such as emergency services vehicles dealing with incidents) no observation will be given and the Penalty Charge Notice will be issued immediately.

Penalty Charge Notices issued for this contravention will be upheld in all but exceptional circumstances.

SECURITY VANS

Secure cash vans are occasionally required to park close to the premises where large volumes of cash is being delivered or picked up, for safety reasons.

Security vans delivering other 'lower priority' items, such as recorded mail, should normally park in accordance with the regulations.

Penalty Charge Notices issued to security vans may be cancelled, providing that the security company provides suitable proof.

STATUTORY UNDERTAKERS

There is a general exemption for liveried vehicles being used in the essential service of gas, electricity, telecommunications or water companies. A Penalty Charge Notice will not normally be served in the following circumstances –

- If the vehicle is witnessed by a Civil Enforcement Officer (CEO) being used in connection with the undertaking of a statutory duty.
- If the vehicle is witnessed by a CEO being used in connection with an emergency situation (e.g. water leak, gas escape etc.).

If the CEO witnesses no activity then a Penalty Charge Notice may be issued.

The company will often arrange for a suspension if pre-planned works are to be carried out, but this is not always possible, especially in an emergency situation.

If the vehicle is being used to deal with an emergency, it must be moved once the emergency has been dealt with. The vehicle is not exempt in respect of normal, routine activities, such as inspections or servicing.

CEOs will also serve a Penalty Charge Notice where it is not obvious that the vehicle is actually being used in connection with work taking place on the highway.

Statutory undertaker vehicles often display signs stating that emergency works are being undertaken. This is not in itself an indication that the vehicle is exempt, and if the CEO is not satisfied that the vehicle is exempt; a Penalty Charge Notice will normally be served.

SUSPENDED BAYS

Permitted Parking Bays

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

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

Responsibility for ensuring the vehicle has been correctly parked and in accordance with a possible suspension will normally rest with the driver.

When a vehicle is parked legally in a parking place that is subsequently suspended, there would be a strong argument for challenging a PCN on the grounds that the act of parking cannot be made illegal retrospectively by the subsequent suspension of the parking place.

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

It should be noted that most of the Council's car parks close for a period overnight, so no vehicle may be left from one day to the next in any event.

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

Pay and Display Machines

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

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

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

Where a resident has requested a suspension for a removal van or building vans for example, and subsequently parks his own vehicle in the suspended bay, he may receive a Penalty Charge Notice. The Council is entitled to pursue the Notice, as the bay was still suspended regardless of which vehicle may have been parked in it.

A relevant Adjudication decision –

Barker Main –v- Royal Borough of Kensington and Chelsea.

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

WAIVERS

Also referred to as Dispensations.

The Council has the authority to issue a waiver, which will allow a vehicle to park on a yellow line or in a parking bay for a specified period of time where the usual acceptable loading period would be inadequate and the vehicle is required for use in building works. Waivers are only issued in exceptional circumstances and usually only issued to vehicles of transit size or larger.

A waiver for parking on single or double yellow lines, in pay and display or residents bays is only issued where the vehicle is absolutely necessary for the completion of the task at hand. Inconvenience or difficulty alone is not sufficient justification for a waiver to be issued. A waiver will not be issued where tools etc are portable and the vehicle is being used as a convenient place to keep them.

Waiver requests will not usually be granted until and unless an authorised Council officer has carried out a site inspection. For this reason at least 24 hours notice is normally required

The waiver will only be issued where it is considered necessary for the vehicle to be parked close to a property, e.g. where work is being carried out and heavy

equipment/tools are kept in the vehicle. If there is no reason why the vehicle could not be unloaded and then parked legally, the waiver will not be granted.

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

Penalty Charge Notices issued where the terms of a waiver have been breached will be enforced unless there are other circumstances that warrant cancellation.

WRONG TICKET MACHINE USED

The cost of parking in car parks and on-street pay and display bays varies considerably across the Borough, particularly in the central area. There are also different limits on the duration of stay, especially between on-street and off-street parking areas.

It is the *driver's* responsibility to check the signage associated with the car park or the on-street parking bay to ensure that they are purchasing a ticket from the correct machine (and therefore under the correct tariff) for the place where they intend to park. Further guidance is also given on the ticket machine itself, so motorists should read this carefully before purchasing a ticket.

Where the motorist has made a mistake in which machine to use or where to park, cancellation of the PCN will not automatically be justified, particularly where the Council has lost revenue as a result.