**London Councils**

**Code of Practice on**

**Civil Parking Enforcement**

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**Part 1**

**On-street Enforcement Activities**

**Part 1**

**On-street Enforcement Activities**

1. **INTRODUCTION:**
2. Decriminalised parking enforcement was first introduced in London in 1993 as a result of legislation introduced under the Road Traffic Act (RTA) 1991. This gave local authorities the power to take on responsibility for the enforcement of parking regulations as well as to clamp and remove vehicles. Part 6 of the Traffic Management Act (TMA) 2004 replaced the RTA 1991 in April 2008 and forms the majority of the current legislation in London. There is other London specific legislation under the various London Local Authorities Acts which are relevant for parking enforcement.
3. It is clear that parking regulations need to be enforced, but to be enforced the authority must ensure that they are right and they must be properly indicated.
4. Under the terms of the Transport and Environment Committee (TEC1) agreement, a non-statutory function of London Councils is to publish and update as necessary a Code of Practice for Parking in London.
5. This updated version of the existing Code of Practice advises authorities in London of the procedures that they must follow, the procedures they must have regard to and those that London Councils recommends are good practice when delivering Civil Parking Enforcement (CPE). Whilst enforcement policy is a matter for each individual authority, in order to ensure a minimum level of operation standards across London, authorities should have regard to the guidance set out in this Code of Practice. Where there appear to be differences between regulations and guidance, the regulations always take precedence.
6. Local authorities must have regard to the information contained within The Secretary of State for Transport’s Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions (the Statutory Guidance, see link below), published by the Department for Transport (DfT) which sets out the policy framework for CPE.

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479849/final-statutory-guidance.pdf>

1. As well as advising authorities, the Code of Practice also informs the public about parking policies and enforcement.
2. The Code of Practice is split into two separate parts: Part 1 is concerned with the on-street enforcement activities and sets out the objectives and requirements of Civil Enforcement Officers (CEOs), the requirements of the Penalty Charge Notice (PCN) and Clamping and Removal procedures. Part 2 sets out the procedures that should be followed when processing PCNs through the various stages in the back office.
3. **PARKING REGULATIONS, SIGNS AND LINES:**
4. The starting point of CPE is having the proper restrictions, adequately indicated by signs and lines, where appropriate. Without this, CEOs will have a difficult task and PCNs should not be issued as they are likely to be invalid.
5. All restrictions need appropriate legislation or have to be supported by a Traffic Management Order (TMO), which details the prohibition or restriction and the length or part of the road to which it applies.
6. The restrictions need proper signs and markings which comply with the requirements of the Traffic Signs Regulations and General Directions (unless specially authorised by the DfT) and follow the guidelines and advice provided in the DfT’s Traffic Signs Manual. Signs and lines that are significantly different from what is set out in the relevant TMO or legislation might not be enforceable.
7. Authorities should pay attention to the need to keep signs and lines in good order and as simple and clear as possible. A regular signs and lines maintenance routine should be in place, as well as providing all patrol officers (e.g. CEOs, community officers, maintenance engineers and others) with the simple method of reporting problems with signs and lines as they encounter them. Where a regulation needs to be removed or changed, this should happen as a matter of priority.
8. Where an authority proposes to change or amend an existing restriction, it should consider enforcement of that restriction prior to the change. Once it is clear that the council is committed to a removal of the restriction, where the TMO is suspended or a draft revocation TMO published and not challenged, enforcement should be suspended as the public will have an expectation of change. The signs and lines should then be updated as a priority to reflect the change.
9. **CIVIL ENFORCEMENT OFFICERS (CEOs):**
10. CEOs are the public face of CPE, therefore it is essential that they present a professional image. Whether the officers are employed directly by an authority or by a contractor, it is important that enforcement is effective, efficient and fair and that it is seen to be so. CEOs should issue a PCN where they believe a contravention has occurred and to record any observations. They should not be allowed to cancel PCNs once issued or select not to issue unless an exemption has been identified.
11. CEOs need to demonstrate firmness, sensitivity and tact, at all times. They should have good judgement and patience, thinking clearly and reacting rationally under pressure. Appropriate training and development opportunities should be provided by the authority.
12. As described earlier, under the TMA 2004, enforcement authorities are responsible for considering any representations against PCNs. Therefore, authorities should make clear to CEOs that their job is to enforce the controls fairly with a view to achieving high levels of compliance. In practice, this means that authorities need to ensure that all CEOs are:

* competent and willing
* supervised effectively
* properly trained and clearly instructed about their conduct

1. Due to the nature of their role, by recommendation of the Secretary of State, all CEOs should undergo a Disclosure and Barring Service checks (previously known as the Criminal Records Bureau checks), with regular monitoring once employed. Authorities are also entitled to ask exempted questions under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

***C.1 CEO Duties:***

1. The main objective of a CEO should be to ensure CPE is observed and enforced in a fair, accurate and consistent manner. CEOs must comply with the national legislation that applies to all local authority staff.
2. The main duties of a CEO on-street are:

* enforcing parking regulations by serving PCNs where vehicles are parked in contravention of the restrictions
* logging all their daily activity in their hand-held computer (HHC) or pocket book

1. CEO duties will also include related activities such as:

* assisting the public as the first point of contact on-street, regarding minor parking enquiries and enforcement matters
* inspecting parking equipment such as payment machines and reporting any faults observed
* checking and reporting defective traffic signs and road markings including signs that are missing, obscured or damaged and broken or faded road markings
* providing witness statements for non-service of a PCN due to obstruction, threats of violence or vehicle drive-aways
* providing witness statements for a parking adjudicator when deciding on a written appeal from a motorist
* where appropriate, appearing before a parking adjudicator
* recommending priority cases for clamping or removal of vehicles, in accordance with local policies
* reporting suspected Blue Badge abuse

1. The TMA 2004 encourages authorities to take a comprehensive approach to traffic management and use parking policies and their enforcement as part of this rather than an isolated activity. The Secretary of State’s view is that CEOs should only be used for duties related to those road traffic contraventions that their authority is responsible for enforcing. If CEOs have time, the authority may wish to consider asking them to carry out tasks such as the following:

* informing the police of criminal parking activity
* reporting suspected abandoned vehicles
* putting in place and removing suspension notices
* checking that shops selling parking vouchers have adequate stocks
* reporting on changes in parking patterns
* assisting with on-street enforcement surveys
* checking that non-mobile objects in parking places (for example, skips) are in compliance with the authority’s licence

1. It is important that these supplementary duties do not compromise the ability of the CEO to perform their principle enforcement duties.
2. Under provisions set out in the London Local Authorities and Transport for London Act 2008, CEOs may remove anything which obscures a vehicle registration mark or part of a registration mark fixed on a vehicle. This will include covers.

***C.2 Discretion:***

1. Enforcement authorities may wish to set out certain situations when a CEO should not issue a PCN. For example, an enforcement authority may wish to consider issuing a verbal warning rather than a PCN to a driver who has committed a minor contravention and is still with, or returns to, the vehicle before a PCN has been issued.

The enforcement authority should have clear policies, instructions and training for CEOs on how to exercise such powers. These policies should form the basis for staff training and should be published.

***C.3 Training:***

1. Authorities should recognise the importance of the role of the CEO, ensuring that suitable personnel are recruited and provided with appropriate training, equipment, guidance and supervision.
2. CEOs should be adequately trained to enforce civil parking fairly, accurately and consistently. It is also recommended that authorities provide supervised on-street training to familiarise CEOs with the area and any special parking provisions.
3. Enforcement authorities should make sure that CEOs understand all relevant exemptions, such as those applying to diplomatic vehicles and Blue Badges issued to disabled people. CEOs should be aware of their powers to inspect Blue Badges and the sensitivity required should they need to exercise them. It is recommended that all CEOs achieve minimum standards through recognised training courses.
4. There are formal qualifications for CEOs which include the Level 2 Award for Parking Enforcement Officers Qualifications and Credit Framework (QCF), which is the new credit transfer system replacing the National Qualification Framework (NQF). It recognises qualifications and units by awarding credits and Level 2 National Vocational Qualifications (NVQ) Certificate in Controlling Parking Areas.
5. Training should equip CEOs with the interpersonal, conflict resolution and oral communication skills they need to perform their role effectively and without undue stress or personal danger. Training should be on going based on existing qualifications and tailored with local needs and policies.
6. Training for CEOs should also cover:

* introduction to the role and duties of CEOs
* understanding the legal foundation and objectives of CPE
* how the system works in practice
* types of permitted and restricted parking
* the role of the police and parking offences that remain their sole responsibility
* types of civil parking contraventions
* the PCN, including the information it must contain, standard contravention codes, optional suffixes and additional details for use by the authority if a penalty charge is disputed
* the difference between higher and lower level PCN contraventions
* waivers, exemptions and dispensations
* exemptions for vehicles displaying a Blue Badge, how the nationwide scheme works and an awareness of the problems faced by disabled people
* provisions on loading and unloading
* provisions on picking up and setting down
* the vehicle registration system, including foreign and diplomatic registrations
* use of pocket books, including use of standard characters, abbreviations and how to deal with errors
* use of HHC, including daily test routines, recording data accurately and rectifying common faults
* use of PCN printing equipment, whether integrated within the HHC or a separate unit, including changing paper/batteries and minor maintenance
* use of digital cameras, whether integrated within the HHC or separate units, including how to take digital photographs that are relevant and of good quality for use as supporting evidence
* use of communication devices and the phonetic alphabet
* requirements concerning uniforms
* PCNs not served due to violence, threat of violence, obstruction or drive-aways
* use of verbal warnings
* on-street patrol methods, including both general principles and specific advice on enforcing different types of parking control (such as loading only restrictions, permitted parking at parking meters)
* customer care, including conflict management
* emergency procedures and personal security
* the need to operate within the law and in particular, not to break traffic regulations whilst enforcing them
* the adjudication service, including the preparation of witness statements

1. CEOs will also need training in the procedures drawn up by their employing authority, including:

* discretionary exemptions, waivers and dispensations
* other special exemptions
* observation periods
* mitigating circumstances and other matters which require CEOs to use their judgement
* liaising with other parts of the enforcement operation, such as clamping or removal teams, or the PCN processing unit
* liaising with the police and traffic wardens to deal with illegally parked vehicles
* complaints from members of the public
* other aspects of enforcement specific to the authority, such as type of HHC used, standards expected of CEOs and type of voucher, parking meter and pay-and-display machines used

1. CEOs will need further training if they work for an authority that operates a vehicle clamping or removal service, as will the vehicle clamping and removal staff themselves.

***C.4 Uniform Requirements:***

1. CEOs must wear a clearly identifiable uniform. This should be readily distinguishable from those worn by the police and traffic wardens, but still allow easy public recognition.
2. Under the provisions of the TMA 2004, in London, the Mayor of London provides guidance governing the uniforms to be worn by CEOs. The current requirements are:

* clear identification that the wearer is a CEO
* clear identification of the local authority on whose behalf the CEO is working
* a personal number to identify the CEO (this may contain letters as well as numerals)

1. To undertake enforcement action, a CEO must be clearly identifiable and in the full uniform specified (allowing for variations according to local weather conditions). This need not necessarily include a hat.
2. When CEOs are on-street but not carrying out enforcement duties (e.g. walking back to base at the end of a shift), it is recommended that they “dress down” (e.g. remove hats and shoulder numbers) to avoid giving the impression that they are ignoring illegal parking.
3. Staff engaged in enforcement by CCTV are not required to wear a uniform if they are not performing any on-street enforcement activities.

***C.5 CEO Handbook:***

1. The Civil Enforcement Officers Handbook, produced by London Councils’ Transport and Environment Committee can be used on-street or in the office and contains a summary of existing restrictions, contravention codes and other references (see link below).

<http://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/civil-enforcement>

***C.6 Camera Operators:***

1. Where enforcement is based on CCTV surveillance, authorities should make sure that operators have specialised training. You can find further advice in London Councils’ Code of Practice for CCTV (see link below).

<http://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/cctv-enforcement>

1. **PENALTY CHARGE NOTICES (PCNs):**
2. A PCN is the prima facie evidence of the parking contravention.
3. Parking PCNs are either issued under Regulation 9, Regulation 9A or Regulation 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the General Regulations).
4. A Regulation 9A PCN is served on-street by a CEO. In this situation the PCN must either be fixed to the vehicle or given to the person who appears to be in charge of the vehicle ***(see Page 12)***.
5. A Regulation 10 PCN is served by post. In these situations the PCN also acts as the Notice to Owner (NtO) ***(see Part 2, Section L: Formal Representations).*** There are three types of Regulation 10 PCN:
   1. PCN served by post based on a record produced by an approved device or CCTV ***(see Page 13)***
   2. PCN served by post because the CEO was prevented from serving a Regulation 9A PCN on-street ***(see page 15)***
   3. PCN served by post because the vehicle had driven away before the CEO could finish serving the PCN that had been started under Regulation 9A

***(see page 16)***

1. Details of what must appear on a PCN are set out in legislation in the DfT’s Statutory Guidance.

***D.1 Service of the PCN at the time of the contravention:***

1. A PCN musteither be fixed to the vehicle or given to the person who appears to be in charge of that vehicle ***(see Appendix 1, Sample Document 1.1)***, although there are some exceptions to this under Regulation 10.
2. The CEO should be clearly visible at all times when issuing a PCN. If an authority serves a PCN by post because the CEO was threatened or the vehicle drove away, they will need to ensure that their standard procedures enable them to refute allegations that the CEO was not clearly visible.
3. A PCN should be fixed to the windscreen and must be weatherproof or able to fit in a weatherproof envelope. It should be fixed in such a way that it cannot easily be removed by adverse weather conditions or passers-by. Enclosing a pre-paid envelope with the PCN may encourage a prompt response.
4. HHCs transfer details of PCNs electronically to a central database which prevents any changes to the data once the PCN is issued. A second copy is not produced when serving a PCN but can be produced at a later time, for example, for the purposes of proceedings before an adjudicator and needs to be an exact copy of the original PCN.
5. If the PCN is written by hand, the CEO needs to produce two copies. One is served and the other kept by the authority for monitoring payment and dealing with representations, including any which go before an adjudicator.
6. A PCN served on the vehicle or to the person who appears to be in charge of the vehicle (Regulation 9A PCN) must containthe following information:

* the date on which the PCN is served
* the name of the enforcement authority
* the registration mark of the vehicle involved in the alleged contravention
* the date and time at which the alleged contravention occurred
* the grounds on which the CEO serving the PCN believes that a penalty charge is payable
* the amount of the penalty charge
* the manner in which the penalty charge must be paid
* that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN was served
* that if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the PCN is served, the penalty charge will be reduced by the amount of any applicable discount – currently 50 per cent
* that if the penalty charge is not paid before the end of the period of 28 days beginning with the date on which the PCN was served, an NtO ***(see Part 2, Section H: Challenges, Representations and Appeals)*** may be served by the enforcement authority on the owner of the vehicle
* that a person on whom an NtO is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected
* that, if representations against the penalty charge are received at such address as may be specified for the purposes before an NtO is served, those representations will be considered; but that if an NtO is served not withstanding those representations, representations against the penalty charge must be in the form and manner and at the time specified in the NtO

1. It is recommended that the PCN also provides:

* detailed location of vehicle (full street name)
* the contravention code
* observation start and finish times (where appropriate)
* PCN number (all PCNs should be uniquely identifiable)
* CEO’s identification number
* amount of penalty time (where relevant)
* vehicle make and colour (if identifiable)

1. If two or more PCNs are issued for the same contravention within the same period of controlled hours, to a vehicle that has not been moved, it is current practice to cancel all but one PCN. However, it may be sensible to review all PCNs issued and cancel the PCNs with the least robust evidence. For instance, if digital photographs for one of the PCNs was taken in the daytime and the others taken at night, the one taken in the daytime may well be clearer.
2. If two or more PCNs have been issued and one PCN is at the higher rate and the other(s) at the lower rate, the lower rate PCN(s) should normally be considered first for cancellation.
3. It is important to put relevant information on the PCN’s payment slip so that payment is assigned to the correct case. This should include the PCN number and the vehicle registration mark, plus other identifiers such as the date and time of issue, or a barcode that contains that same information. It is recommended that the payment slip states the amount of the penalty charge, so that even if it becomes detached from the notice, the recipient knows how much is due.

***D.2 Service of a PCN by post:***

1. There are some circumstances in which a PCN (under Regulation 10) may be served by post:
2. where the contravention has been detected on the basis of evidence from an approved device (approved devices may only be used in limited circumstances)
3. if the CEO has been prevented, for example by force, threats of force, obstruction or violence, from serving the PCN either by affixing it to the vehicle or by giving it to the person who appears to be in charge of that vehicle
4. if the CEO had started to issue the PCN but did not have enough time to finish or serve it before the vehicle was driven away and would otherwise have to write off or cancel the PCN
5. In any of these circumstances a PCN is served by post to the owner and also acts as the NtO. The Secretary of State recommends that postal PCNs should be sent within 14 days of the contravention. Legislation states that postal PCNs must be sent within 28 days, unless otherwise stated in the Regulations.

***D.3 Service of a PCN by an Approved Device (including CCTV):***

1. In certain circumstances a PCN may be served by post on the basis of evidence produced by an approved device ***(see Appendix 1, Sample Document 1.2)****.*
2. The circumstances in which approved devices can be used to serve a PCN by post for parking contraventions are outlined in ***Part 1,*** ***Paragraph 94***.
3. PCNs for contraventions detected by an approved device cannot be placed on the vehicle or handed to the person who appears to be in charge of the vehicle.

They are sent by post to the registered keeper and in under these circumstances, they are offered a 21 day discount period.

1. The PCN sent by post on the basis of evidence produced by an approved device also serves also as an NtO. It must state:

* the date of the notice, which must be the date on which it is posted
* the name of the enforcement authority
* the registration mark of the vehicle involved in the alleged contravention
* the date and time at which the alleged contravention occurred
* the amount of the penalty charge
* the manner in which the penalty charge must be paid
* the grounds on which the enforcement authority believes that a penalty charge is payable
* that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served
* that if the penalty charge is paid not later than the last day of the period of 21 days, beginning with the date on which the PCN was served, the penalty charge will be reduced by any applicable discount – currently 50 per cent
* that if after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made in accordance with ’Regulation 4’ of the Representations and Appeals Regulations, and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge – currently 50 per cent and take steps to enforce payment of the charge as so increased; the amount of the increased penalty charge
* the amount of the increased penalty charge
* that the PCN is being served by post on the basis of a record produced by an approved device
* that representations on the basis specified in Regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days, beginning with the date on which the PCN is served may be disregarded
* the nature of the representations which may be made under Regulation 4
* the address (including, if appropriate, any email address or fax telephone number, as well as the postal address) to which representations must be sent
* the form in which representations must be made
* that if representations which have been made within the representation period or outside the period but not disregarded, are not accepted by the enforcement authority, the recipient of the PCN may appeal against the authority’s decision to an adjudicator
* the recipient of the PCN may, by notice in writing to the enforcement authority, request it to make available at one of its offices specified by him/her, free of charge and at a time during normal office hours as specified, for viewing by him/her or by his/her representative, the record of the contravention produced by an approved device pursuant to which the penalty charge was imposed; or to provide him/her, free of charge, with such still images from that record as, in the authority’s opinion, establishes the contravention

1. It is recommended that the PCN also gives:

* detailed location of vehicle (full street name)
* the contravention code
* observation start and finish times (where appropriate)
* PCN number (all PCNs should be uniquely identifiable)
* amount of penalty time (where relevant)
* vehicle make and colour (if identifiable)

1. It is recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN. The authority must comply within a reasonable time to requests to see the record of the contravention or send a copy of the still images.

***D.4 Prevention from service by force, threats of force, obstruction or violence:***

1. A PCN may be served by post if someone intervenes to stop the CEO from serving it. This includes situations where the person who appears to be in charge of the vehicle is abusive, intimidatory or threatens or uses actual physical force ***(see Appendix 1, Sample Document 1.3)***

1. The actual PCN produced by the CEO on-street cannot be served by post because it does not give enough information. The authority should cancel this PCN prepared by the CEO and may serve a Regulation 10 PCN by post. Enforcement authorities should make sure that they have sufficient primary and supporting evidence to issue the PCN and deal with any subsequent representations and appeals and any police action against the person who prevented service. In these circumstances, the owner gets 14 days discount period for payment of the PCN.
2. The PCN, which also serves as the NtO, must be served by first class post.It must state:

* the date of the notice, which must be the date on which it is posted
* the name of the enforcement authority
* the registration mark of the vehicle involved in the alleged contravention
* the date and time at which the alleged contravention occurred
* the amount of the penalty charge
* the manner in which the penalty charge must be paid
* the grounds on which the enforcement authority believes that a penalty charge is payable
* that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served
* that if the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the PCN was served, the penalty charge will be reduced by any applicable discount – currently 50 per cent
* that if after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made in accordance with ’Regulation 4’ of the Representations and Appeals Regulations, and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge – currently 50 per cent and take steps to enforce payment of the charge as so increased; the amount of the increased penalty charge
* that the PCN is being served by post because a CEO attempted to serve a PCN by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person
* that representations on the basis specified in Regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days, beginning with the date on which the PCN is served may be disregarded
* the nature of the representations which may be made under Regulation 4
* the address (including, if appropriate, any email address or fax telephone number, as well as the postal address) to which representations must be sent
* the form in which the representations must be made
* that if representations which have been made within the representation period or outside the period but not disregarded, are not accepted by the enforcement authority, the recipient of the PCN may appeal against the authority’s decision to an adjudicator

1. It is recommended that the PCN also gives:

* detailed location of vehicle (full street name)
* the contravention code
* observation start and finish times (where appropriate)
* PCN number (all PCNs should be uniquely identifiable)
* CEO’s identification number
* amount of penalty time (where relevant)
* vehicle make and colour (if identifiable)

***D.5 Prevention of service by vehicle ‘drive-aways’:***

1. A PCN may also be served by post if the CEO had begun to issue it – i.e. has completed his/her observations and had either started to write the PCN or put the data into the HHC, however the vehicle drove-away before the CEO had time to finish or serve the PCN ***(see Appendix 1, Sample Document 1.4)***.
2. In such circumstances, the actual PCN issued by the CEO on patrol cannot be sent by post because it does not give enough information. The authority should cancel the Regulation 9A PCN prepared by the CEO and may serve a Regulation 10 PCN by post. Enforcement authorities should ensure that they have sufficient primary and supporting evidence to issue the PCN and deal with any subsequent representations and appeals. The Secretary of State recommends that the CEO records the vehicle’s registration mark and tells the driver of the contravention before they drive away. Back-office staff should obtain the registered keeper’s address. In these circumstances the motorist gets a 14 day discount period.
3. The PCN, which also serves as the NtO, must be served by first class post. It must state:

* the date of the notice, which must be the date on which it is posted
* the name of the enforcement authority
* the registration mark of the vehicle involved in the alleged contravention
* the date and time at which the alleged contravention occurred
* the amount of the penalty charge
* the manner in which the penalty charge must be paid
* the grounds on which the enforcement authority believes that a penalty charge is payable
* that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served
* that if the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the PCN was served, the penalty charge will be reduced by any applicable discount – currently 50 per cent
* that if after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made in accordance with ’Regulation 4’ of the Representations and Appeals Regulations, and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge – currently 50 per cent and take steps to enforce payment of the charge as so increased; the amount of the increased penalty charge that the PCN is being served by post because a CEO had begun to prepare a PCN for service in accordance with Regulation 9 (by affixing it to the vehicle or giving it to the person in charge of the vehicle) but the vehicle was driven away from the place in which it was stationary before the CEO had finished preparing the PCN or had served it in accordance with Regulation 9
* that representations on the basis specified in Regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days, beginning with the date on which the PCN is served may be disregarded
* the nature of the representations which may be made under Regulation 4
* the address (including, if appropriate, any email address or fax telephone number, as well as the postal address) to which representations must be sent
* the form in which the representations must be made
* that if representations which have been made within the representation period or outside the period but not disregarded, are not accepted by the enforcement authority the recipient of the PCN may appeal against the authority’s decision to an adjudicator

1. It is recommended that the PCN also gives:

* detailed location of vehicle (full street name)
* the contravention code
* observation start and finish times (where appropriate)
* PCN number (all PCNs should be uniquely identifiable)
* CEO’s identification number
* amount of penalty time (where relevant)
* vehicle make and colour (if identifiable)

***D.6 Collection of Information:***

1. CEOs should try to collect information and photographic evidence as usual. Authorities should provide CEOs with the equipment, training and guidance to collect such evidence, bearing in mind that they may find this harder where service is being prevented. Authorities should disclose their evidence at the earliest possible opportunity.
2. In addition to the information which must appear on a PCN, it is also recommended that the following further information should, where appropriate, be collected on the HHC, in the CEO pocket book or on their copy of the PCN (if the PCN is completed by hand), or by photographic evidence, in order to enable validation checks to be made, disputes resolved and sufficient evidence to be provided for adjudication. In general:

* whether the PCN was affixed to the windscreen or handed to the driver
* whether the CEO was prevented from serving the PCN by some person, or the vehicle drove away before the CEO could complete the PCN
* whether the driver was seen and if any conversations took place with the driver
* any evidence of loading and unloading activity after the PCN had been issued
* expiry time of pay and display ticket or arrival time or value shown on vouchers
* details of any permit/badge displayed (including virtual permits)
* adjacent meter reading (duplex parking meters)
* any evidence of breakdown
* details of any notes in or on the vehicle, including any alleged meter faults
* tyre valve positions
* pocket book reference (if there is a relevant entry)
* details of suspensions and signage in relation to the vehicle
* details of any road works likely to affect parking
* details of yellow lines (single, double or broken) and the nearest time-plate

(if appropriate)

* foreign or diplomatic plates
* whether PCN was spoilt
* parking zone
* whether clamping or removal has been requested by the CEO
* evidence of cashless parking payments (for example: mobile phone payments)
* photographs should be taken whenever possible. Whilst they are not compulsory, the evidence provided is extremely useful.

Photographs should be taken of:

* + - 1. The vehicle parked in contravention
      2. The vehicle registration mark
      3. The dashboard showing any permits, vouchers or tickets
      4. Any lines/nearby signs or time-plates relating to the contravention

1. On paid for bays:

* whether meter ‘feeding’ detected & details
* if meter or machine bagged as ‘out of order’
* display on meter/machine if not just penalty time (e.g. out of order/no parking until…)
* on pay and display machines, time shown on machine compared to time on CEOs watch or HHC
* evidence of cashless parking payments (for example: mobile phone payments)

1. In yellow/red line cases, as much information as possible should be recorded to establish the precise location of the vehicle, especially in streets where there may be a range of different regulations in different parts.

Such information may include:

* details of yellow/red lines/kerb stripes (e.g. single, double line/one, two kerb stripes)
* details of kerbside plates (e.g. location, times of loading and waiting restrictions)
* detailed location of vehicle (e.g. by/on N/S/E/W kerb; outside/opposite No. X yards

N/S/E/W of junction with Y Road)

1. In bays/boxes:

* details of signs and their distance from vehicle
* details of vehicle location (e.g. outside/opposite No.)

1. Where a vehicle is parked in contravention of more than one restriction, e.g. parked on a footway in a restricted street during prescribed hours, only one PCN should be issued. CEOs should be instructed on which contravention takes precedence in such circumstances. In a situation where a vehicle is committing a higher and a lower level contravention, the higher level penalty should take precedence, as this has been identified as the more serious contravention.
2. It is also recommended to put the right information on any part of the PCN, which is returned with payment, in order to be sure that the payment is assigned to the right case. This should include at least the PCN number and the vehicle registration mark and other identifiers such as the date of issue, the time of issue or a barcode that contains the same information. It is also a good idea for the payment slip to include the amount of the penalty charge, so that even if the payment slip becomes detached from the notice, the person wishing to pay knows how much is due.

***D.7 Contraventions and associated code numbers:***

1. The motorist must be able to read and understand why the PCN was issued. The key element is the contravention description, as the use of the code on its own is not sufficient information.
2. A standard list of contraventions and associated code numbers and suffixes can be found on London Councils website (see link below).

<http://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/contravention-code>

1. Authorities must only use those codes and suffixes found in the contravention code list and must not use any other codes or suffix variations.
2. It is recommended that for certain contravention codes, suffixes should be used to further describe the contravention.

***D.8 PCN Format:***

1. Model PCNs can be seen on London Councils website and within ***Sample Documents 1.1 to 1.4*** of this Code of Practice. Authorities do not have to use these documents, they are simply provided as example PCN templates.

***D.9 Service of Penalty Charge Notices:***

1. The General Regulations indicate that a postal PCN may be served by first class post, but not second class post. Unless proved otherwise, service of first class post is taken to have been on the second working day after the day of posting. A working day excludes Saturdays, Sundays, Christmas Day, New Year’s Day, Good Friday and any other English bank holidays. The date of posting is not necessarily the same as the date on which the back office staff prepares the PCN and authorities should make sure that their procedures take account of this.
2. **WORKING PRACTICES:**
3. Exactly the same working practices may not always be appropriate in different areas of London, but authorities should use consistent practices as far as possible, in order to avoid confusion in the enforcement and adjudication procedures. This particularly applies to *de minimis* rules, where a technical contravention should not be followed up. In particular, common understanding and practice is essential on the following:

* A PCN should be issued if the vehicle is parked incorrectly to the extent that at least one wheel is wholly in contravention. For example, a wheel being wholly outside the markings of the bay or wholly on a yellow line. If all of the wheels are within the confines of the bay, but the vehicle is large and overhangs the bay to such an extent that it causes an obstruction equal to a normally sized vehicle with one wheel wholly in contravention, then a PCN can also be issued.
* When motorists claim that they “went to get change” - decisions by adjudicators indicate that ‘going for change’ is not necessarily a valid ground for cancelling a PCN.
* Where an on-street payment machine, such as a pay-and-display or payment terminal is ‘out of order’, CEOs should not issue a PCN to vehicles unless there is an alternative means of payment available. This includes a different machine nearby or an alternative method of payment such as mobile phone payments. Where a PCN is issued, the CEO should record details of any note on display showing ‘out of order’ machine, the location of the faulty machine and the location of the nearest working machine, if appropriate. The onus should be on the motorist to pay for parking and take reasonable steps to do so.
* Notice or a note left in the vehicle – CEOs should make a record of any note left on display.
* Where incorrectly validated vouchers or permits are displayed - a PCN should be issued and all details of any vouchers or permits on display should be recorded.
* Parked on the footway - at least one wheel must be wholly on or over the footway (not just partially on the kerb).
* When parked adjacent to a dropped footway or raised carriageway, the prohibition begins where the kerb has been levelled with the carriageway. Therefore a vehicle obstructing the ‘tapered’ section of the carriageway only, would not be in contravention.

1. **GRACE PERIODS**
2. Regulation 4 of the General Regulations requires that a PCN must not be issued to a vehicle that has remained parked in a designated parking place on a road or in a local authority car park beyond the permitted parking period for a period of time not exceeding 10 minutes.
3. Grace periods only apply to designated parking places where a person is permitted to park. A road with a restriction (e.g. single yellow line) or prohibition (e.g. double yellow line) is not a 'designated' parking place either during or outside of the period of the restriction or prohibition.
4. In general, authorities should apply the following rule: if a vehicle is parked legally on a designated parking bay when it is initially parked, then a 10 minute grace period should be applied before issuing a PCN from the moment it becomes parked illegally.
5. More details concerning such common approaches can be found in the Civil Enforcement Officer’s Handbook (see link below).

<http://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/civil-enforcement>

1. **OBSERVATION TIMES**
2. Some contraventions are ‘instant’ and a PCN can be issued immediately. These include ‘absolute’ contraventions, such as parking on the footway (where this is prohibited) and locations where there are either no or extremely few but obvious exceptions to a general rule (such as stopping where parking, loading and unloading are prohibited).
3. In other cases there may be sufficient exemptions to a general rule as to cause some doubt as to whether a contravention has occurred at the time of the initial appearance of the CEO. A good example is where loading and unloading on a yellow line or in a loading box/bay is allowed.
4. In these circumstances a period of observation can help to establish whether or not an exemption applies. Five minutes is the generally accepted period of observation, although consideration could be given to extending this period for commercial vehicles, where it is more likely that loading/unloading is taking place.

While a PCN may be issued before the end of the observation period, the authority will need to have much stronger evidence to rebut an assertion that the vehicle was exempt, for example, because it was loading, than if an observation period was included.

1. **HAND-HELD CAMERAS**
2. It is recommended that hand-held cameras (not subject to CCTV rules) are used by CEOs to provide additional evidence of a contravention and service of the PCN, preferably ones with a time and date recording facility. They will not replace any of the other evidential rules set out previously within this document.
3. Enforcement authorities may consider the use of body-worn cameras for health and safety reasons and for training purposes. The footage captured may also be used as secondary evidence for adjudication purposes.
4. **ENFORCEMENT BY CCTV:**
5. TMA Regulations give limited powers to authorities throughout England to issue PCNs for parking contraventions detected solely with a camera and approved devices, certified by the Secretary of State. To comply with certification, the system must be used in accordance with the guidelines issued by the Vehicles Certification Agency.
6. PCNs must not be served by post on the basis of evidence from an approved device other than when vehicles are parked on:

* a bus lane
* a bus stop clearway or bus stand clearway
* a Keep Clear zig-zag area outside schools
* a red route

1. Where approved devices may be used, the Secretary of State recommends that approved devices are used only where enforcement is difficult or sensitive and CEO enforcement is not practical.
2. Where enforcement authorities are using camera enforcement, the enforcement policy needs to be well publicised and indicated with on-street lawful traffic signs.
3. Authorities should make sure that they have procedures to stop the service of two PCNs – one at the time of the contravention and one by post with evidence from an approved device.
4. Authorities should design a system so that fully trained staff are able to:

* monitor traffic in accordance with a Code of Practice
* identify the registration mark, colour and type of a vehicle contravening traffic restrictions
* support the serving of a PCN to the registered keeper of a vehicle contravening the restrictions
* record evidence of each contravention to ensure that representations and appeals can be answered fully
* produce timed and dated pictorial evidence of any unauthorised driving or stopping as information to the registered keeper and for any subsequent representations or appeals
* immediately despatch a CEO and removal truck for targeted enforcement of vehicles contravening traffic restrictions

1. An essential and integral part of any system is a Code of Practice. This sets out the objectives of the system and the rules it will follow. Authorities should ensure that they produce (or adopt) and follow a Code of Practice. The code should make sure that staff deals properly with issues such as privacy, integrity and fairness. It should set minimum standards to help ensure public confidence in the scheme.
2. Full details of CCTV enforcement are contained in the London Councils’ TEC1 CCTV Code of Practice, adopted by all authorities in London carrying out CCTV enforcement (see link below).

<http://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/cctv-enforcement>

1. **PERSISTENT EVADERS**
2. Under regulations for the TMA 2004, a vehicle owner can be classed as a ‘persistent evader’ if there are three or more recorded contraventions for the vehicle and the penalties for these have not been paid, represented against or appealed against within the statutory time limits, or their representations and appeals have been rejected but they have still not been paid.
3. When parked in contravention, a persistent evader’s vehicle should be subject to the strongest possible enforcement following the issue of the PCN and confirmation of persistent evader status. This could include clamping or removal. Any clamping or removal activity for a persistent evader parked in a designated parking place cannot take place until at least 15 minutes have elapsed following the issue of a PCN.
4. **CLAMPING AND REMOVAL**
5. Clamping and removal can be used to enhance and improve the enforcement of parking regulations with clamping providing a visible local deterrent and removal being used to combat dangerous and inconsiderate parking.
6. Clamping and removal can be targeted at persistent evaders, in particular those where there are inaccurate keeper details held at Driver Vehicle Licensing Agency (DVLA). Without clamping and removal powers, incorrectly registered vehicles can be parked illegally with impunity until such time as the keeper details are brought up to date.

***K.1 Primary Objectives:***

1. There are three primary objectives:-

* To reinforce existing transport policies, for example, by targeting vehicle removal operations in bus lanes.
* To reinforce the PCN system – clamping and removals spread generally across a range of PCN contraventions to increase compliance, whilst targeting particular vehicles which belong to persistent evaders.
* To assist payment of PCNs – enforcing against vehicles whose owners seek to avoid payment of PCNs unless forced to pay at the same time as paying the clamping or removal fee. (Although when a vehicle is reclaimed by the owner, only the PCN issued immediately prior to the removal has to be paid, the authority obtains name and address details, which can be used to help recover earlier outstanding penalty charges through the normal processing methods, if the name and address were not previously known).

1. Bearing in mind that clamping or removing a vehicle and the subsequent payment of the fee to restore the vehicle to the driver, is meant to be sufficient penalty, it is important that there are no unnecessary delays or other obstacles and that the vehicle is restored to the driver as soon as possible after payment has been made. The aim should be to declamp all vehicles within two hours of payment.

The TMA 2004 says that the vehicle should be “released from that device on payment” which realistically means as soon as practically possible. Removed vehicles should be available for collection from the pound as soon as payment has been made.

***K.2 When to clamp or remove:***

1. Clamping or removing vehicles can only take place after a PCN has been issued for a contravention at the location where the vehicle will be clamped or from where the vehicle will be removed.
2. In most cases the choice of whether to clamp or remove will be influenced by the type of contravention and where it is committed and then by the availability of resources or equipment.
3. The General Regulations for Clamping and the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007 for removals state when you have to wait either 15 or 30 minutes after the issue of a PCN before clamping or removing a vehicle and when you can immediately clamp or remove a vehicle after the issue of a PCN. Vehicles not identified as persistent evaders that are parked in a parking place must not be removed until 30 minutes have elapsed since the end of any period of paid parking.

Vehicles that have been identified as persistent evaders that are parked in a parking place must not be removed until more than 15 minutes have elapsed since the end of any period of paid parking. Vehicles that are not parked in a parking place, such those observed on yellow lines, may be removed immediately after the issue of a PCN.

***K.3 Order of priority for vehicle clamping and removal:***

1. Clamping and Removal of vehicles should not be carried out in an ad-hoc or uncontrolled manner. Enforcement authorities should clearly advertise their priority for removals on their website.

***K.4 Exemptions to clamping and removals:***

1. There are certain legal exemptions from clamping and vehicles which fit into the following categories:

* vehicles displaying a valid Blue Badge must not be clamped and should not be removed. If such a vehicle is dangerously or obstructively parked, it should be repositioned nearby, preferably within view of its previous location.
* diplomatic vehicles bearing a "D" or "X" vehicle registration mark or personalised registration plates with a "D" Vehicle Excise License. If such a vehicle is dangerously or obstructively parked, repositioning nearby is suggested. (Legal requirement - Diplomatic Privileges Act 1964).

1. Vehicles in the following additional categories should also not normally be clamped or removed (many of these should not even receive PCNs as they are exempt under local traffic orders):

* Vehicles being used for Fire Brigade, Police, or Ambulance purposes.
* Vehicles correctly displaying a Health Emergency Badge (HEB). Whilst the display of an HEB does not confer any special privilege or exemption from any prohibition or restriction, every assistance should be given to holders of these badges.

Spaces are provided on the HEB to show:-

* + - 1. the address at which the healthcare worker can be found; and
      2. the serial number of the badge.

If a vehicle is displaying an HEB, an attempt should to be made to contact the user at the nearby address shown on the badge before any enforcement action is taken. If no address is shown, or misuse of the badge is strongly suspected, the vehicle may be clamped or removed. (Full details of the circumstances leading to the action must be recorded in case of future dispute).

* + Public Service Vehicles whilst waiting at an authorised stopping place, terminal or turning point.
  + Local authority, Public Utility or their contractors' vehicles engaged on works in, on or over the public highway.
  + Royal Mail vehicles engaged in delivery or collection of postal packets.
  + Vehicles which are being used by or in the services of the military or visiting military forces.

1. In addition, vehicles that have been declamped and are still in the same location awaiting the return of the driver should not be clamped or removed within two hours of being declamped. Such vehicles should have a ‘Declamp Sticker’ on them ***(see Appendix 1, Sample Document 1.5)****.*
2. Vehicles that are obviously abandoned should not normally be removed or clamped under usual parking enforcement powers. Details should be passed to the relevant section of the authority to apply the proper procedures for abandoned vehicle removal.
3. In all cases of vehicles being repositioned, vehicles should preferably be relocated within view of their original position. Details of the new location should be reported to TRACE (the London-wide towed vehicle tracing service) to avoid any subsequent difficulties over reports of stolen vehicles.

***K.5 Circumstances where vehicles should not be clamped but could be removed:***

1. In the following circumstances after a PCN has been issued vehicles must not be clamped in situ. They could be removed, although in some circumstances re-positioning may be better:
   * When the vehicle is causing a major obstruction to traffic or a danger to pedestrians or other road users, or is parked on an operational bus lane, cycle lane, bus stop, or taxi rank. Consideration should also be given to the likely time lapse which will occur before a clamped vehicle is declamped and moved. If such time delay is likely to extend the presence of the vehicle to a time when it will become an obstruction, e.g. the vehicle is in a non-operational bus lane, which is due to commence in an hour or so, then the vehicle should be removed instead of being clamped. For cases of obstruction where or when no parking restriction is in force, no action can be taken and it will be necessary to seek the assistance of the police.
   * When a vehicle is parked adjacent to a fire exit, across an access used by emergency vehicles or leading to private premises.
   * When a vehicle is parked in a specially designated reserved parking bay, e.g. disabled person, doctor, or diplomatic bay.
   * When a vehicle is parked in a suspended parking place.
   * When a vehicle is parked adjacent to a dropped footway or raised carriageway.
   * When a vehicle is parked on zig zag lines.
2. **REMOVAL OPERATIONS**
3. A removal operation consists of these key stages:
   * Authorisation
   * Vehicle lift
   * Transfer to pound
   * Payment
   * Return of vehicle to owner/driver
   * Or disposal of vehicle
4. The removal of the vehicle is a serious enough penalty and inconvenience in itself and so, to minimise any additional inconvenience to the driver, it is essential that the authority has a good despatch and control system in place so that it knows at all times the location of any removed vehicle. It is equally important that TRACE is informed within 15 minutes of: (i) when a vehicle is lifted, (ii) when it arrives at a pound and (iii) when it is released or disposed of.
5. It is essential that members of the public can pay and arrange for the release of a vehicle without undue delay or difficulty, subject to local arrangements.

***L.1 Authorisation:***

1. The person to authorise the actual lifting of a vehicle should be the CEO who is travelling on the removal truck (the on-board CEO). The responsibility for authorisation should be completely separated from the removal contractor in order to avoid any possible claims of misconduct.
2. Photographs of the vehicle should be taken before its removal in order to identify the vehicle clearly and show it in the context of the contravention that has occurred, as well as to show any existing visible marks or damage.
3. If the CEO who issues the PCN is not with the removal truck and identifies the vehicle as a priority for removal, they may attach a ‘Removal Authorisation Notice’ sticker, ***(see Appendix 1, Sample Document 1.6)*** to the pavement-side, front-side window of the vehicle before contacting the removal despatch control. However, it is the on-board CEO who should make the final decision to have the vehicle lifted.
4. The on-board CEO can issue a PCN without prior notification. They will assess the situation on arrival and, if appropriate, issue the PCN and authorise the lifting of the vehicle in accordance with the requirements set out in ***Part 1, Paragraph 109***. However, it is preferable for the on-board CEO to be the second officer on the scene in order to provide a check on the patrolling CEOs initial assessment of the vehicle and to check that the PCN was correctly and justifiably issued. This provides the safeguard of having two officers independently assessing the situation before a removal is sanctioned. If an on-board CEO does issue the PCN and authorises the removal, while the PCN is being written, the lifting cradle can be put in place but the PCN must be fixed to the vehicle before it is lifted.
5. If the on-board CEO checks the original PCN and finds that there is a mistake on it (e.g. the VRM has been written down incorrectly), he/she should remove it from the vehicle and issue and serve a new PCN. He/she can then authorise the removal.

Any time constraints previously outlined must be adhered to before the vehicle can be lifted.

1. If the on-board CEO checks the original PCN and does not believe that any contravention is being committed or the vehicle does not warrant removal, he/she should leave the PCN on the vehicle, make notes in a pocket book about the situation and not remove the vehicle.
2. If several vehicles are identified by patrolling CEOs at the same time as potential candidates for removal, an assessment should be made considering contemporaneous local conditions and the different contraventions involved, and the vehicles prioritised according to the borough policy. This assessment can be made either by the on-board CEO or by a supervisor at the CEO base.

***L.2 Vehicle lift:***

1. Authorities carrying out removals need to have suitable vehicles to carry out the task. In order to provide a removal service that can be applied fairly and equally to all vehicles, authorities should also make contingency plans for the removal of vehicles from any location.
2. It is advisable that removal trucks should be marked clearly with the TRACE telephone number **(0300 077 0100)**, TRACE website details and identification of the authority on behalf of which they are being used.
3. To provide a good service to the public, it is necessary to notify TRACE within 15 minutes when a vehicle is lifted, when it arrives at the pound and when it is released/disposed of.
4. If the vehicle owner returns while the vehicle is in the process of being lifted, the removal should be halted unless all of the wheels are on the removal truck. (If a ‘half-lift’ vehicle is being used, the vehicle should be returned to the owner if either of the two wheels that will be raised is still on the ground), the PCN should still be enforced in the normal manner.
5. A comprehensive ‘Vehicle Removal and Release Record’, ideally supported by photographic evidence of any marks or damage, must be completed before the removal operation begins ***(see Appendix 1, Sample Document 1.7)***. Any damage caused to the vehicle during the removal must be recorded.
6. In general, authorities do not have the powers to enter vehicles that cannot be lifted. However, if a vehicle is causing a serious obstruction and the police are unable to provide assistance, such a removal can be carried out by staff with the appropriate licence and insurance and under the acceptance that the authority is prepared to pay for the inevitable damage to the locks. Removals such as this should only be undertaken as a matter of last resort emergency (e.g. an obstructively positioned coach owned by a hard to trace persistent evader).
7. Clamped vehicles which remain clamped after the end of the working day may also be taken to the pound, in order to reduce the risk of illegal declamping at night time. Care should be taken not to penalise a motorist unduly with the extra cost of removal if the vehicle was only clamped late in the day. The clamp should be removed and the vehicle then treated like any other vehicle subject to removal (condition report etc). The despatch control system must be updated accordingly and TRACE notified.

In the event that the owner returns to the vehicle after the clamp has been removed but before all the wheels are on the removal truck, the vehicle must be returned to the owner.

***L.3 Despatch Control Centre:***

1. This service to the public is very sensitive and must provide a good, consistent, accurate source of information. The despatch control centre must be provided immediately with information about any change of status of all clamped and removed vehicles and in the case of removals, relay that information without delay to TRACE.
2. The despatch control system and its links to the public via the TRACE system are critical to the operation of the removal service. Authorities should suspend their removal service if any part of this system fails.

***L.4 Vehicle Pound:***

1. A pound must have adequate perimeter fencing and lighting to avoid the possibility of theft from or damage to vehicles.
2. Pounds should be carefully chosen, with good access from the area of removals, good public transport links and be well lit. Safe access to the public is essential at all times, and access to pounds must also have good lighting and signing.
3. There should be no unnecessary delays or inconvenience involved in the process of recovering a vehicle. Pounds therefore need to be open as long as possible, subject to local arrangements, with payment being taken at each pound during the normal operating hours.
4. Staff at the pounds must check-in removed vehicles and carry out an independent damage check to confirm the condition report completed on-street before the lifting of the vehicle. They must also perform regular inventory checks to ensure the accuracy of the information on the despatch control system.
5. Pounds should not become cluttered with unclaimed vehicles. An authority can request keeper information from DVLA when deciding to dispose of a vehicle as a result of it being deemed abandoned in the pound under the Removal and Disposal of Vehicles Regulations 1986 (as amended). Once keeper details have been obtained a letter should be sent immediately giving the keeper 35 days to arrange to recover the vehicle or have it disposed of by the authority. It is recommended that if there is no response after 14 days, a second letter should be sent advising that they have 21 days to recover the vehicle or have it disposed of by the authority. If there is no response after a further 14 days, a third letter should be sent advising that the vehicle will be disposed of if not recovered within 7 days. All vehicles should be disposed of according to the authorities’ procedures and in accordance with the Road Traffic Regulations Act (RTRA) 1984.
6. If the authority has any reason to believe that an unclaimed vehicle may be a rental vehicle, they should try and contact the hire company as soon as possible by applying to DVLA or otherwise, as the company is unlikely to be aware that the vehicle has been removed.

***L.5 Payment:***

1. Motorists should only have to visit one location in order to make payment and recover their vehicle. Pounds should therefore have on-site payment facilities. (The exception to this is where a pound is not fully open on a 24-hour basis, in which case an out-of-hours payment may be made at an off-site payment centre and the vehicle then recovered from the pound).
2. Payment centres must be able to receive payment by cash and other methods, including credit and debit cards, and must be linked to the despatch control centre. The calculation of the amount due is best handled by such a payment terminal, as the fee will include the PCN, the removal fee and any storage costs.
3. Vehicles should not be released before payment has been received for the PCN, the removal fee and where applicable, any storage fees. It is essential that details of any payments received for PCNs are reconciled with the authority’s main PCN processing system as soon as possible to ensure that there is no attempt to pursue the owner of a vehicle for payment of a PCN which was paid at a pound.
4. Upon securing the vehicles release, the owner must be provided with a ‘Removal Release Fee Receipt’ ***(see Appendix 1, Sample Document 1.8)*** and informed of their right to make representations against the issue of the PCN and removal of the vehicle ***(see Appendix 1, Sample Document 1.9)*** and their subsequent rights to appeal against representations that are rejected and provided with all of the relevant paperwork.
5. There may be occasions where the owner of a vehicle had good reason to be unaware of its removal for some time, for example if they were on holiday when the contravention occurred. Depending on the circumstances, authorities may consider waiving some or all storage fees incurred. Pound staff should have good knowledge of local policies in this regard.
6. Some motorists may wish to recover their vehicles without payment at the time and authorities should give consideration to the circumstances when such requests are made. In many cases any such agreement will not be justified but in some others, such as a vulnerable person alone at night without sufficient money, it may be irresponsible to refuse the request. In these cases, the motorist should sign a ‘Promissory Note’ (each authority should have its own internal procedure).It should be noted that in London, if a vehicle is released without payment, the London Local Authorities Act 2000 allows local authorities to collect the unpaid charges (clamp, removal or storage fees as well as the penalty charge) with the issue of a Charge Certificate ***(see Part 2, Section R: Charge Certificates)*** and registration of the unpaid charges as a debt at Northampton County Court Traffic Enforcement Centre (TEC2).
7. Where a part payment is accepted and a promissory note issued for the remainder, the payment should be set first against the removal fee, as the PCN can be pursued easily through the normal methods of processing PCNs. However, the effect of the discount period for payment of the penalty charge should be clearly explained to the person securing the release of the vehicle.
8. Where a vehicle is released with only a part payment or no payment at all being made, the person securing the vehicle’s release must be informed of their right to make representations against the issue of the PCN and the removal, and their subsequent rights to appeal against representations that are rejected in the same way as if they had made full payment.
9. Storage charges should apply for each day or part of a day, reckoned from 24:00 (midnight) on the day following the removal of a vehicle. Authorities should consider accessibility and pound opening hours when applying storage charges.

Whilst there is a legal obligation only to pay the PCN, the removal charge and any associated storage charges, the owner should be encouraged to pay all the outstanding charges when collecting the vehicle. When obtaining the name and address of the vehicle’s keeper, it would be prudent to establish when they took ownership of the vehicle if the outstanding PCNs date back further than 3 months.

***L.6 Owner verification/ Proof of identity:***

1. In principle, only the owner of the vehicle is entitled to recover a vehicle from a pound. Therefore, ideally a vehicle should only be released to a person who provides evidence of ownership (the V5) supported by proof of their identity. In the case of a vehicle which is the subject of a hiring or hire-purchase agreement, the owner includes the person entitled to possession of the vehicle under the agreement, so evidence of ownership would be a copy of the hire agreement. However, establishing proof of ownership may not be easy, nor may the owner of the vehicle (where, for example, it is a leased vehicle) be available. Verifiable forms of identification should then be sought in pounds before release of the vehicle and where the recoverer is not the owner, they should be treated as the owner’s agent.
2. When someone arrives at the pound to collect a vehicle with the key, it can be assumed that they are the owner, or have permission from the owner to collect the vehicle. However, they would need to bring some form of identification. All pounds will usually accept a passport or photocard driving license as proof of identification. A proof of address will also be required if not shown on the proof of vehicle ownership (the V5).
3. The pound reserves the right not to release a vehicle if they have any doubt as to the owner’s identity.
4. **CLAMPING OPERATIONS**
5. The clamping process consists of these key stages:
   * Identification
   * Clamping van despatch
   * Authorisation
   * Clamping
   * Payment
   * Declamping
6. Clamping costs less than removal both in terms of capital costs and staff time. It is also visible, so it acts as a deterrent.
7. The penalty where a vehicle is clamped is the charge paid for the removal of the clamp, plus the PCN and not the time taken to declamp, or the distance the driver has to travel to make payment. This has been established in law and is followed in this Code of Practice. It is therefore essential that payment is made as accessible as possible, in particular, use should be made of telephone payments using credit cards and online facilities where available, to avoid the motorist having to travel to a payment centre. Also, declamping should be carried out as soon as possible after payment has been received.

***M.1 Authorisation process:***

1. In general, the points made about removal authorisation also apply to clamping, especially the need to separate authorisation from action in order to avoid any suggestion of misconduct. In addition, a senior CEO or authorising officer should travel in the van carrying the clamps with the person whose responsibility it is to apply the clamps. The senior CEO or authorising officer will be responsible for attaching a ‘Clamping Authorisation Sticker’ to the vehicle ***(see Appendix 1, Sample Document 1.10)****.*
2. An authorising officer working directly from a clamping van can cover a large number of vehicles in a short period of time. For wider strategic cover, there should be a line of communication between patrolling CEOs and authorising officers. In this way, priorities can be applied and categories such as persistent evaders can be targeted.
3. The authorisation process must include the issue of a PCN, unless the contravening vehicle has already been issued with one. While the PCN is being written, the clamp can be applied in accordance with ***Part 1, Paragraph 109***. However, because the PCN must be issued before clamping, the padlock must not be closed until the PCN is fixed to the vehicle. A ‘Clamping Warning Notice’ should be placed on the windscreen of the vehicle immediately in front of the driver's line of vision, informing them not to try to move the vehicle ***(see Appendix 1, Sample Document 1.11)***. A ‘Declamping Instruction Card’ should also be attached to the vehicle, signed by the authorising officer, giving details of the PCN and clamping and instructions on the course of action available to the driver ***(see Appendix 1, Sample Document 1.12)****.*
4. Authorities should apply the rule that if the driver returns to a vehicle before the padlock is closed, the clamp should be removed and the clamping fee not charged. If the driver arrives after the clamp has been locked, then unless there are extenuating circumstances, the clamp should remain in place. The decision to remove the clamp must be made by the authorising officer (subject to local policies), not the person employed to apply the clamps and must be recorded in the officer’s notes.

There should be no authority given to waive the PCN which was issued as part of the clamping process, as any dispute can be dealt with as part of the representation and adjudication process.

***M.2 Despatch Control Centre:***

1. As is with removals, clamping and declamping must be controlled from a despatch centre, which will allocate clamping and declamping vehicles and staff. Once paid, the vehicle should be declamped as a priority.
2. The despatch controller must always be kept informed, especially of those vehicles that have paid their charges. The aim should be to declamp all vehicles within two hours of settlement.

***M.3 Clamping/Declamping Vehicles:***

1. These can be standard vehicles but must be clearly identified. Authorities with a low volume of clamping and removals may wish to consider adapting a removal truck, so that it may be used for either task.
2. The clamps to be used must only be those which have been approved by the Secretary of State, this is a statutory requirement under Section 92(1) of the TMA 2004.
3. The vehicles should have built-in communications links so that they can contact the despatch control centre should any on-board mobile data systems break down.
4. On-street payments for declamping should not be accepted.
5. When a vehicle is declamped without the motorist present, a Declamp Sticker should be put on the vehicle to protect it from further enforcement action, so allowing time for the motorist to return from the payment centre*.*
6. It is important to keep a check on vehicles that remain clamped and on-street after a set period of time. These vehicles should be removed after being clamped for 24 hours. Vehicles which remain clamped and parked in contravention after the end of the working day may also be taken to the pound if there is a high risk of illegal self-declamping taking place due to being left on-street overnight. The possibility that a vehicle may be removed even after it has been clamped should be explained on the notice left on the vehicle but care should be taken not to unduly penalise a motorist with the extra cost of removal if the vehicle was only clamped late in the day.
7. If a clamped vehicle is ultimately removed to a vehicle pound, the driver does not have to pay the clamp release fee.

***M.4 Payment Centres:***

1. Payments can be made via the payment centres, online and by telephone using credit/debit cards. Upon settlement of the PCN and clamp release fee, the owner must be informed of their right to make representations against the issue of the PCN and clamping of the vehicle ***(see Appendix 1, Sample Document 1.13).***

1. **CONTRACT FOR CLAMPING**
2. There are advantages in having the same contractor for both clamping and removals, as some overlap in terms of the use of the contractor’s resources is likely.

**Part 2**

**Processing**

**Part 2**

**Processing**

1. **INTRODUCTION**
2. The processing of PCNs is as important as issuing the PCN. Timely processing helps secure prompt payments and gives motorists wishing to challenge them a fairer opportunity to do so. This generates better customer relationships and ensures that complaints are kept to a minimum. Slow or poor quality processing systems are unfair to the public and make it harder and more expensive for authorities to collect payment. Authorities should have robust systems, adequately trained staff, with policies and procedures in place to ensure the effective processing of PCNs.
3. **SYSTEMS**
4. A proven and effective PCN processing system is essential. Authorities should ensure the system is suitable, properly installed and tested, with adequate ongoing technical support and fully trained staff prior to its deployment. Particular care needs to be taken when migrating from one system to another.
5. **STAGES IN PROCESSING**
6. In all cases, it is essential to ensure that statutory time limits are met, and to try and ensure that backlogs or delays are not permitted to build up. It is also important that any case status changes and any associated charge increases are not applied too soon. This will help provide a good service and improve public confidence in the enforcement process. It is crucial to always allow time for delivery of documents where service is by post, as time limits usually apply to service and not issue.
7. **DATA AND MANAGEMENT INFORMATION**
8. Data and management information needs to be reliable to assist with accountability. Regular and consistent reporting allows for transparency and should assist the public in understanding the CPE process. Monitoring provides the authority with management information for performance evaluation and helps to identify the need for improvement, providing a framework for performance comparisons between authorities.
9. Authorities should produce annual reports about their enforcement activities within six months of the end of each financial year. The report should cover financial and statistical data and should be published. (For full details of what is required to be published, please refer to The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions).
10. As a minimum, the following financial and statistical information is required:

* Total income and expenditure on the parking account kept under section 55 of the RTRA 1984, as modified by Regulation 25 of the General Regulations 2007
* Breakdown of income by source (i.e. on-street parking charges and penalty charges)
* Total surplus or deficit on the parking account
* Action taken with respect to a surplus or deficit on the parking account
* Details of how any financial surplus has been or is to be spent, including the benefits that can be expected as a result of such expenditure
* Number of higher level PCNs issued
* Number of lower level PCNs issued
* Number of PCNs paid
* Number of PCNs paid at discount rate
* Number of PCNs against which an informal or formal representation was made
* Number of PCNs cancelled as a result of an informal or a formal representation is successful
* Number of PCNs written off for other reasons (e.g. an error by the CEO or driver untraceable)
* Number of vehicles immobilised
* Number of vehicles removed

1. **PAYMENTS FOR PCN’s**
2. PCN’s are usually payable by the owner of the vehicle, unless the vehicle was hired at the time of the contravention.
3. An extensive range of payment options, by which penalty charges can easily be paid and vehicles quickly released from a clamp or recovered from a pound, will serve the best interests of both authorities and motorists.
4. The successful introduction of CPE requires convenient and up-to-date facilities for the payment of penalties and other parking charges. Motorists may be more likely to pay penalty charges if it is quick and easy to do so.
5. An efficient and secure system for collecting penalty charge revenue will improve an authority’s financial performance by minimising bad debts and the time-consuming and costly actions needed to collect them. Although there is a limit on the time during which payment of PCNs can be made at the discounted rate, allowances should always be made for exceptional circumstances (e.g. unforeseeable delays due to breakdown in postal service).
6. **METHODS OF PAYMENT**
7. In order to make payment as accessible as possible, authorities are encouraged to ensure facilities, such as Payment Centres, are in place for the following methods of payment for the settlement of PCNs:

* Cash
* Personal & company cheques
* Debit & credit cards by electronic terminal in person or by telephone (including using automated phone payment systems) or online tools

1. The choice of payment methods available should ensure ease of payment for motorists, although authorities should promote where possible the most cost effective method available.
2. It is important that authorities consider equality implications and ensure that systems do not inadvertently discriminate against some sections of the population. As such, it is advisable that systems are set up to allow motorists to pay by whatever method is most convenient to them.
3. Authorities should have procedures in place for dealing with overpayments, underpayments and unidentified payments.
4. A PCN is deemed ‘paid’ as soon as the payment arrives at any payment office belonging to the enforcement authority that issued the PCN. An authority’s system should accurately record the day on which it receives payments so that no further enforcement action is taken.
5. Where members of the public submit a payment with a letter challenging the PCN and seeking redress, the authority should always consider the challenge.
6. Where a payment has been made (e.g. when a vehicle is released from a clamp or a pound) which subsequently needs to be refunded (e.g. following acceptable representations), it is important that the money is refunded as quickly as possible, ideally accompanying the letter advising that a refund is due, but always within 28 days of the decision to refund being taken.
7. In instances where an adjudicator finds in favour of the appellant, perhaps awarding costs against the authority or necessitating the refund of PCN and clamping or removal fees, the appellant will seek and not unreasonably expect a prompt return of any money owed. Therefore, this means that the administrative process of making the refund must be started as soon as the authority is aware of the adjudicator’s decision and the refund completed as quickly as possible thereafter and within 28 days.
8. **PAYMENTS OF CLAMPING AND REMOVALS**
9. In order to minimise the creation of bad debts and provide a better service, authorities that clamp and/or remove vehicles need a complete range of secured payment options to be made accessible at their pound locations.
10. Authorities must make sure facilities are in place for the following methods of payment for the settlement of PCNs, clamping and removal fees:

* Cash
* Credit/Debit Cards

1. The ability to accept payment by debit and credit card provides a secure payment option, as electronic card readers automatically seek authorisation for values above a limit previously agreed with the card company. *Cheques are not an acceptable form of payment*.
2. Circumstances where a motorist is unable to pay the charges to release the vehicle from a clamping device or pound, for example, the person reclaiming the vehicle is a vulnerable person with no immediate means of payment, at the discretion of the authority, a decision may be made to release the vehicle on strong compassionate grounds. Authorities should have policies in place for such circumstances and they should request the motorist to sign a promissory note for the outstanding debt.
3. In order to minimise bad debts where vehicles are released on compassionate grounds, it is advised to accept part payments on the spot.
4. The arguments for and against the acceptance of part payments should be examined on economic and customer care grounds. Where part payments are accepted, the authority should first seek the settlement for clamping, removal, storage or disposal charges, as outstanding penalty charges can be recovered through other methods.
5. Payment plans can help secure payments, particularly where large amounts are due (for example from several outstanding PCNs). On the other hand, ensuring the debtor continues to pay after the first instalment can be difficult.
6. **CHALLENGES, REPRESENTATIONS AND APPEALS**
7. The person responsible for the vehicle (usually the vehicle owner) may dispute the issuing of a PCN at three stages:

* So-called ‘informal challenges’ or ‘informal representations’ can be made against the PCN before the authority has served an NtO
* Once an NtO ***(see Appendix 1, Sample Document 1.14)*** has been served, the vehicle owner may make a formal representation to the authority
* If a formal representation has been rejected by the authority, the vehicle owner may appeal against the Notice of Rejection (NoR) to an independent adjudicator

1. It is advisable that authorities resolve any disputes with vehicle owners at the earliest possible stage and should always give challenges and representations a fair and impartial consideration.
2. The practice of considering challenges, representations and appeals is a legal process. Authorities should ensure that officers dealing with these aspects are fully trained in the relevant legislation and its application. Where necessary, authorities should consult their legal departments when dealing with complex cases.
3. It is important to have a good quantity of high quality data readily available to staff who are considering challenges to PCNs and representations. This means staff should have access to all original PCN data, any photographic evidence, CEOs notes, updated keeper details, suspension details, TMOs, equipment maintenance records, records of the condition of lines and signs, and any other similar information which could help them. Where necessary, conditions of lines and signs should be checked on-site as soon as any doubts are raised rather than being delayed, for example, until the appeals stage. This means that problems can be dealt with quickly and the findings of such visits can be applied to other PCN cases.
4. Authorities should act fairly and proportionately when exercising their discretionary powers to cancel a PCN at any point throughout this process, if it deems it to be appropriate based on the circumstances of the case.
5. Authorities should ensure that PCNs, NtOs and any other advice given to members of the public is not misleading as to what they may consider in the way of representations and they should formulate and publish their policies on the exercise of discretion.
6. These policies should be applied with some flexibility and an authority should depart from its policies if the circumstance of the case allows it. Similarly, this information should be readily available to those dealing with cases which are subject to an appeal, so the information can be easily supplied to the adjudicator.
7. If systems, procedures and working practices set up by the authorities to consider (and if appropriate, cancel) contested PCNs are efficient, reliable and consistent, the proportion of PCNs which result in an appeal to the adjudicator, should be minimal.
8. In contrast, if the data supplied is unreliable and a large number of PCNs can be cancelled on obvious technical grounds (e.g. invalid PCN, issued out of hours, no suspension signing), both the adjudicator and the public will lose confidence in the authorities' CPE, resulting in an increase in the proportion of PCNs being contested, and taken to and cancelled by the adjudicator.
9. **TRANSFER OF LIABILITY** **(Hired Vehicles):**
10. *General Liability:* The PCN is usually payable by the owner of the vehicle, unless the vehicle was hired at the time of the contravention (see below).
11. *Hired Vehicles:* Where the recipient of a PCN is a vehicle hire firm and the vehicle in question, at the time of issue, was hired from the firm under a vehicle hiring agreement and the person hiring it, had signed a statement of liability acknowledging a legal responsibility, in respect of any PCN served against the hired vehicle.
12. The Secretary of State suggests that the NtO requests supplied by the hire firm should include the name and address of the person hiring the vehicle at the time of the contravention and a copy of the statement of liability.
13. The details that need to be included on the hire agreement in order for liability to be transferable are as follows (from Road Traffic (Owner Liability) Regulations 2000, schedule 2):

*Particulars of person signing statement of liability:*

* Full name
* Date of birth
* Permanent address
* Address at time of hiring (if different from the above and the stay is likely to be more than two months from date of hiring)
* Details of driving licence:
* country where issued (if not UK)
* serial number or driver's number
* date of expiry (which should be no later than date specified in the particulars of hiring agreements stated below)

*Particulars of hiring agreements:*

* Registration mark of vehicle hired under the hiring agreement
* Make and model of vehicle hired under the hiring agreement
* Registration mark of any vehicle substituted for the above during the currency of the hiring agreement
* Make and model of any vehicle substituted for the above during the currency of the hiring agreement
* Time and date of any change of vehicle
* Time and date of commencement of original hiring period
* Expected time and date of expiry of original hiring period
* Time and date of commencement of authorised extension of hiring period**†**
* Expected time and date of expiry of authorised extension of hiring period**†**
* Actual time and date of return of vehicle (or when vehicle returned out of hours’ time and date on which vehicle-hire firm next opened for business)**†**

**†**This requirement applies only to the vehicle hire firm's copy of the hiring agreement.

1. With respect to hire agreements, the hirer is deemed to be the owner (Part 2 {4}{8} The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007) and the authority may issue a second NtO on the hirer, who is liable for payment of the penalty charge due. This only applies in cases where the hire period is for less than six months.
2. In cases where an agreement lasting more than six months is involved, the registered keeper should make representations that they were not the owner at the time and provide evidence to that effect. Although the level of detail required to be produced by the hiring/leasing company is not as high as is in short-term hire agreements.
3. **REASONS FOR CANCELLING PCNs:**
4. A PCN should be cancelled when satisfactory evidence is produced for any of the statutory grounds for representations.
5. The grounds on which representations can be made and stated on the NtO are:

* That the alleged contravention did not occur. This may be where the vehicle was allegedly:
* loading or unloading
* the grace period was not applied by the CEO and the PCN issued too early
* or where a valid permit, voucher, ticket or badge was displayed.
* That the recipient was not the owner of the vehicle in question; had ceased to be the owner prior to the alleged contravention; or became the owner after the date of the alleged contravention. (Legally, the recipient is obliged to provide a statement of the name and address of the person to whom the vehicle was disposed of or acquired from, should they have this information).
* That the vehicle had been permitted to remain at the location in question by a person who was in control of the vehicle without the consent of the owner. This covers stolen vehicles and vehicles that were used without the owner’s consent.
* That the recipient was a vehicle-hire firm (see Transfer of Liability – Hired Vehicles)
* That the PCN exceeded the amount applicable in the circumstances of the case.
* That there has been a procedural impropriety on the part of the enforcement authority. The regulations define procedural impropriety as a failure to observe any requirement imposed on it by the TMA 2004 or in relation to the imposition or recovery of a PCN or other sums. It includes the serving of a document and the purported serving of a Charge Certificate ***(see Appendix 1, Sample Document 1.15)*** in advance of the time scale set out in the regulations.
* That the TMO which is alleged to have been contravened in relation to the vehicle concerned is invalid.
* In the case where the PCN was served by post on the basis that the CEO was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no CEO was so prevented from doing so.
* That the NtO should not have been served because the PCN had already been paid in full or by the amount reduced by any discount applied within the set period.

1. In cases of extenuating circumstances, authorities should establish guidelines under this category to ensure consistency and assist management control. This should include guidance on what evidence would be appropriate in each set of circumstances. Authorities must consider using their discretion on all occasions if none of the statutory grounds apply, but the need to be flexible in considering exceptional circumstances must be balanced with the need to enforce parking controls firmly and fairly.
2. Where there is an element of doubt, an authority may decide to exercise discretion for a first contravention but to be stricter on later occasions. For this reason, it is appropriate to monitor discretionary cancellations carefully to check that the same exceptional circumstances are not being claimed on multiple occasions.
3. Where persisting representations and appeals relating to individual locations are being made, there should be an objective review of the location to ensure that the restrictions are clear and obvious. At all times, each case must be considered on its merits.
4. **CHALLENGES (INFORMAL REPRESENTATIONS)**
5. Statutory representations cannot be made until an NtO or Regulation 10 postal PCN has been served, however motorists are likely to write to authorities before then if they feel that the PCN is not merited. They can be made at any time up to the receipt of the NtO but are likely to be made within the 14 days discounted period. Any informal representations received by an authority must be considered and it is recommended that authorities respond within 14 days.
6. There is no legal requirement for an authority to ensure that informal representations are dealt with by directly employed officers as opposed to staff of the enforcement contractor. However, it may assist the authority to make it transparent and clear that it deals with challenges fairly and independently, if representations are not considered by directly employed officers.
7. Informal representations may be made online or through other more traditional communication methods. Whichever preferred method is used by the member of public, there should be an adequate audit trail of the case and the decisions taken and why.
8. If the authority considers that there are no grounds for cancellation of the PCN, they should inform the correspondent of their decision and make clear that:

* If the PCN is not paid, an NtO will be served which enables the vehicle owner to make formal representations
* The authority must consider any representations even where it has previously concluded that the evidence does not merit cancellation of the PCN
* If the formal representation is rejected by the authority, the vehicle owner will be able to appeal the decision to an independent parking adjudicator who will consider the statutory grounds for appeal
* It is not possible to appeal to a parking adjudicator without making a formal representation to the authority first

1. If an informal representation is received within the discount period and subsequently rejected, the authority should re-offer the discount for a further 14 days to encourage payment of the PCN. Authorities should make clear that the vehicle owner may still make a formal representation if an NtO is served.
2. If an informal representation is received after the 14 day discount period and is rejected, the authority should consider re-offering the discount if circumstances have adversely affected the ability of the motorist to challenge within 14 days.
3. **FORMAL REPRESENTATIONS**
4. Formal representations cannot be made until an NtO Regulation 10 PCN has been served. An authority may serve an NtO to the person who appears to them to have been the owner of the vehicle when the alleged contravention occurred, following the expiry of a period of 28 days specified in the PCN (or notification of an unsuccessful informal challenge) within which the PCN is to be paid and the PCN has not been paid.
5. An NtO may not be served after the expiry of 6 months beginning with the relevant date. The relevant date -

* in a case where an NtO has been cancelled under Regulation 23(5)(c) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, is the date on which the district judge serves notice in accordance with Regulation 23(5)(d)
* in a case where an NtO has been cancelled under Regulation 5 of the Representations and Appeals Regulations, is the date of such a cancellation
* in a case where payment of the penalty was made, or had purportedly been made, before the expiry of a period of 6 months, but the payment or purported payment had been cancelled or withdrawn, is the date on which the enforcement authority is notified that the payment or purported payment has been cancelled or withdrawn
* in any other case, is the date on which the relevant PCN was served under Regulation 9

1. Staff responsible for considering formal representations should be independent of the PCN issuing staff and of financial pressures. This function should not be contracted out – Enforcement Authorities remain wholly responsible for this part of the process, irrespective of whether they contract out part of their enforcement operations or not.
2. Where parking enforcement and other associated operations are carried out by in-house staff, the authority should have a clear separation between the staff that make decisions on the issuing and processing of PCNs (the CEOs) and the staff that deal with representations, to ensure decisions are impartial.
3. Elected members may wish to review their parking representations policies, particularly in the area of discretion to ensure consistency with published policies. However, elected members and unauthorised staff should not, under any circumstances, be involved in the decision making process of individual challenges or representations.
4. There are statutory grounds for representations that can be made to an authority. Authorities are not constrained to these grounds and may exercise discretion as to whether or not to cancel PCNs on other grounds and it is important that authorities exercise their discretionary powers responsibly and reasonably. If the authority rejects their representations, the motorist may appeal to the adjudicator.
5. Representations against parking and traffic enforcement should be made in writing, either by responding and signing the relevant section of the NtO, by signed letter, email, online form or in any other written form. Where a vehicle keeper’s disability prevents them from providing written representations, the authority should accept oral representations provided that an appropriate audit trail giving an irrefutable record of the representations is kept.
6. The relevant grounds for representations against an NtO as specified in Regulation 4 of The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 are as follows:
7. the alleged contravention did not occur
8. the recipient:

* never owned the vehicle in question;
* ceased to be its owner before the alleged contravention occurred;
* became its owner after that date

1. the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner
2. that the recipient is a vehicle hire firm and

* the vehicle in question was at the material time hired from that firm under a hiring agreement and
* the person hiring it, had signed a statement of liability acknowledging his legal responsibility in respect of any PCN served in respect of any parking contravention involving the vehicle during the period of the hiring agreement

1. that the penalty charge exceeded the amount applicable in the circumstances of the case
2. that there has been a procedural impropriety on the part of the enforcement authority
3. the TMO (except where it is an order made under Schedule 9 of the RTRA 1984) which is alleged to have been contravened is invalid
4. a CEO was not prevented from serving the original PCN by affixing it to the vehicle or handing it to the owner or person in charge of the vehicle
5. the NtO should not have been served as the penalty charge had already been paid in full or had been paid within the specified period at the reduced amount.
6. These grounds can be divided into two distinct categories, which result in different action being taken if representations are accepted. The first set of grounds are those which challenge the validity of the PCN itself and are that:

* the contravention did not occur – 59) a)
* the penalty charge exceeded the amount applicable in the circumstances of the case – 59) e)
* that there had been a procedural impropriety on behalf of the enforcement authority – 59) f)
* the TMO was not valid – 59) g)
* the CEO was not prevented from serving the PCN – 59) h)
* the penalty charge had already been paid in full or within the specified discount period – 59) i)

1. The second set of grounds does not challenge the validity of the PCN itself but are raised by the owners as a challenge to their liability. These are that:

* the person to whom the NtO was sent, was not the owner – 59) b)
* the vehicle had been taken without the owner’s consent – 59) c)
* the owner is a vehicle hire firm – 59) d)

1. The distinction between the grounds for representations is important to ensure that the correct action is taken in the case of representations being accepted. Successful representations on grounds that challenge the validity of the PCN should result in cancellation of both the PCN and the NtO.
2. Successful representations on grounds that challenge the liability of the recipient need only result in the cancellation of the NtO. In such cases, the PCN remains a valid notice and authorities may issue a fresh NtO if they have been supplied with suitable information to allow them to believe that liability has been transferred to a new person.
3. Authorities should cancel PCNs in cases where sufficient evidence has been provided as proof that a vehicle has been taken without consent, since there is no provision to serve a second NtO on the person who was in control of the vehicle at the time. Furthermore, if more than one PCN was issued during the time that the vehicle was under that other person’s control, they should all be cancelled without the need for the owner to make representations for each case.
4. Authorities must consider representations made on any grounds. Representations must be made before the end of a period of 28 days, beginning with the date on which the NtO was served.
5. Authorities can apply discretion to late representations and it is advisory that where a vehicle owner provides a valid reason for the delay and has strong grounds for representations, then discretion should be applied.
6. The enforcement authority may disregard any representations which are received after the end of the period of 28 days, beginning with the date on which the relevant NtO was served. However, authorities must respond to such representations, explaining that they have been disregarded and the reason why.
7. Authorities must consider representations and any evidence provided against an NtO and serve notice of its decision within a maximum of 56 days of the service of the representations but should aim to serve all decision notices within 21 days.
8. The need for cancellation policies to cover the use of discretion is recommended. When a motorist accepts that the contravention did occur but argues that the PCN should be cancelled on grounds of extenuating circumstances, individual authorities will have the choice of exercising discretion.
9. Adjudicators may also adjourn cases and refer them back to an authority with a request that they reconsider exercising their discretion to cancel a PCN (or NtO), where they believe they have received further and better information which may warrant such action by the authority, or where it is not apparent that the authority has properly considered the exercise of its discretion in the first place.
10. **RESULTS OF REPRESENTATIONS**
11. If representations against an NtO are accepted, the authority should cancel either the PCN and the NtO or just the NtO (depending on the category of the grounds of representation) and inform in writing, the person who made the representation.
12. If representations are rejected, the authority must issue a Notice of Rejection (NoR) which should:

* state the reason for rejection, dealing with and answering all points raised in the representations and providing a clear explanation for the decision
* state the amount owed and timescales for payment
* state that a Charge Certificate may be served, unless before the end of the period of 28 days, beginning with the date of service of the NoR, either payment is received or an appeal is made to an adjudicator
* advise of general form and manner in which an appeal to the adjudicator should take
* indicate the nature of the adjudicator's power to award costs against either party to an appeal (the circumstances of which are explained on the adjudicators’ forms and London Tribunals website).

1. It must be remembered that the NoR is a letter explaining that representations have not been accepted and should not be, or appear to be intimidating.
2. An appeal application form must be included with each NoR. This is important even when the authority does not believe that the vehicle owner is seeking to establish a formal ground of appeal. This is to allow the appellant to attempt to establish a ground at appeal stage.
3. As requested by London Tribunals, the authority should complete the ‘official use’ box on the back of the appeal application form with the name of the person that the NoR was sent to, the relevant PCN number(s), the vehicle registration mark and the date of rejection, to assist in processing the appeal.
4. If out-of-time representations have been disregarded, it is not necessary to send an appeal application form or to explain the appeals process.
5. London Tribunals allow for appeals to be made online and therefore, authorities may issue verification codes to those appellants wishing to make online appeals.
6. A Charge Certificate may be served unless an appeal has been made to the adjudicator or the penalty charge paid. Appeals should be made to the adjudicator before the end of the period of 28 days, beginning with the date of service of the NoR, although the adjudicator has the discretion to accept out-of-time appeals.

1. Authorities will be informed by London Tribunals if late appeals are to be considered in the appropriate circumstances and therefore, they should take steps to cancel any Charge Certificate that may have been issued.
2. When a vehicle owner has made representations or an appeal but accepts either the authorities or, at a later stage, the adjudicator's decision that payment is due, payment would usually be at the full (not discounted) amount.
3. **REPRESENTATIONS AGAINST CLAMPING OR REMOVALS**
4. The TMA 2004 and RTRA 1984 require the PCN to be paid at the same time as the fee for the declamping or the release of a vehicle from a pound.
5. The statutory grounds for representation for vehicles that have been clamped are that:
6. the vehicle had not been permitted to remain at rest, in a civil enforcement area, in circumstances in which a penalty charge was payable under Regulation 4 of the General Regulations
7. the vehicle had been permitted to remain at rest, in the place where it was, by a person who was in control of the vehicle without the owner's consent
8. the place where the vehicle was at rest, was not in a civil enforcement area for parking contraventions
9. in accordance with Regulation 13 (limitations on the power to immobilise vehicles) of the General Regulations, there was in the circumstances of the case, no power under these regulations to immobilise the vehicle at the time it was immobilised or at all
10. the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case
11. there was a procedural impropriety on the part of the enforcement authority
12. The statutory grounds for representations for vehicles that have been removed are that:
13. the vehicle had not been permitted to remain at rest, in a civil enforcement area for parking contraventions, in the circumstances in which a penalty charge was payable by virtue of Regulation 4 of the General Regulations
14. the CEO had not, in accordance with Regulation 9 of the General Regulations, fixed a PCN to the vehicle or handed such a notice to the person appearing to be in charge of the vehicle, before the vehicle was removed
15. the power to remove the vehicle was not exercisable as it had been removed before 30 minutes had passed. This 30-minute period only applies where a vehicle is in contravention as a result of failing to pay a parking charge, failing to display a valid ticket or failing to move the vehicle before the purchased time expired. It should be noted that the 30 minutes is reduced to 15 minutes if the vehicle is classed as a persistent evader.
16. the vehicle had been permitted to remain at rest, in the place where it was by a person who was in control of the vehicle, without the owner's consent
17. the place where the vehicle was at rest, was not in a civil enforcement area for parking contraventions
18. the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case
19. there has been a procedural impropriety on the part of the enforcement authority
20. The TMA 2004 requires that at the time of the release of the vehicle, the owner or person in charge of the vehicle is informed in writing of the right to make representations to the authority concerned. Strict time limits are set out under which the procedure operates as payment has already been made. Where no payment has been made and the vehicle has been released, the person in charge of the vehicle must still be advised of their right to make representations.
21. Representations must be made before the end of a period of 28 days, beginning with the date on which the person making them was informed of this right. Representations that are received after the end of the 28 days may be ignored.
22. Authorities must respond to such representations, explaining that they have been disregarded and the reason why. Authorities can apply discretion to late representations and it is advisory that where a vehicle owner provides a valid reason for the delay and has strong grounds for representations, discretion should be applied.
23. The authority must consider the representations and serve a notice on the person giving its decision before the end of the period of 56 days, beginning with the date on which it receives the representation. Failure to meet this deadline is deemed as an acceptance of the representations and all sums paid, should be refunded.
24. Where the authority accepts the representations it must, at the same time that it serves notice of that decision, refund the charge for the PCN plus any sums either paid by the owner for declamping or removal including any storage fees, or any sums that were deducted from the proceeds of the sale of the vehicle if it has been sold. It is important that the money is refunded as quickly as possible, ideally accompanying the letter advising that a refund is due, but always within 28 days of the decision to refund being taken.
25. Where the authority does not accept the representations, it must inform the appellant of the right to appeal to the adjudicator, giving details in general terms of the form and manner in which such an appeal is required to be made, including details of the power of the adjudicator to award costs against either party.
26. Where the appellant wishes to appeal to the adjudicator, he or she must do so before the end of the period of 28 days, beginning with the date of service of the authority's decision notice. The adjudicator has the power to extend this time limit and accept late appeals, if he/she considers it appropriate to do so.
27. If an appeal is successful, at any stage, authorities or their contractors may be faced with a claim for compensation. Such claims should be resisted unless the authority feels it is clearly at fault, in which case, reasonable compensation covering costs and disbursements should be offered.
28. This does not apply to awards of costs made by an adjudicator, which should be paid as soon as possible after the decision and within 28 days at the most. In order to limit the number of compensation claims and to minimise their validity, it is important to ensure that vehicles are always clamped or removed in accordance with the legislation and following correct procedures.
29. **APPEALS**
30. The Schedule to The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 provides the framework for the process and procedure governing parking appeals in London.
31. If an authority rejects a formal representation, the person who has made the representation has a right to appeal to an adjudicator within the timescales previously outlined above. The grounds for appeal are the same as those identified in ***Part 2, Paragraph 59***for Formal Representations, ***Part 2, Paragraph 82*** for Representations against Clamped Vehicles and ***Part 2, Paragraph 83*** for Representations against Removals.
32. Following the notification of an appeal, the regulations require that authorities in every case, send London Tribunals:

* a copy of the PCN
* a copy of the original representations and
* a copy of the NoR

1. In addition to the evidence required by the regulations, authorities should also send:

* a case summary outlining the details of the case
* a copy of all other correspondence relating to the PCN
* a copy of CEO’s pocket book (or equivalent electronic version)
* details of signing and road markings and the hours of operation
* a summary of the relevant TMO
* evidence to show that the appellant is the person liable for the penalty charge. This must make clear whether the appellant is the registered keeper or someone else whom the authority alleges is the owner. In the latter case, the authority must include evidence to show why they believe the appellant is the owner – *this is not necessary for clamping and removal cases*

1. If appropriate and depending on the circumstances of the case, authorities should also send:

* records of meter/pay and display maintenance/fault checks carried out to verify the meter/pay and display was in operation and accurate
* suspension records: dates of advance warning (if any), start and end of suspension etc
* statement from the CEO
* details of ownership enquiries: when NtOs sent, replies received etc, DVLA enquiries etc
* details of permits: type of permit, when issued, expiry date etc
* clamping: time of clamping, time of PCN issue and fee paid, time of declamping etc
* removal: time of PCN issue, time of removal, time vehicle received at pound, time collected from pound and fee paid etc

1. This list is not exhaustive. Authorities need to send sufficient evidence to prove their case and therefore have to consider what may be necessary in each particular case.
2. Local authorities are able to access listings of new appeals, outcomes of appeals and details of out-of-time appeals on the London Tribunals’ Appeals Portal
3. Authorities must make sure that all necessary information is supplied to London Tribunals as soon as possible after it is requested and always by the specified deadlines. They should also ensure that all information and documentation should reach the London Tribunals service five calendar days prior to the scheduled hearing date and a copy should be sent to the appellant at the same time. Similarly, authorities should receive from the Tribunals service, a copy of any information or documentation submitted by the appellant.
4. The appellant can request that any appeal hearing is held in person or that the hearing is heard in their absence (a postal appeal). Authorities may send representatives to appeal hearings if they wish.
5. Should an appellant send an appeal to an authority by mistake, it should be forwarded immediately to the London Tribunals service.
6. Decisions made by adjudicators should normally be considered as final and any directions given by adjudicators must be complied with immediately. Although the regulations do allow for reviews of decisions to be requested, the grounds for these are often quite limited.
7. In general, a review should only be requested where fresh evidence has become available, which was not available at the time of the original hearing. No further challenges can be made other than on a point of law, through an application to the High Court for judicial review.
8. If an adjudicator allows an appeal, he/she may make such directions to the authority as he/she feels appropriate. Usually this will be to cancel the PCN and NtO and refund any sums paid in relation to the penalty charge.
9. **CASES REFERRED BACK TO THE AUTHORITY BY THE ADJUDICATOR**
10. An adjudicator may only allow an appeal if one of the statutory grounds applies. Where a contravention has taken place but the adjudicator feels that the authority should have used its discretion to cancel the NtO, the adjudicator may refer the case back to the authority to reconsider. This power covers appeals against the clamping or removal of a vehicle, as well as those against NtOs.
11. Such cases should be directed to Chief Executive Office to ensure that proper consideration is given of the facts presented. It should not be dealt with by the same person who considered the original representation.
12. A decision must be reached within the period of 35 days, beginning with the date on which the direction was given. If the authority does not reach a decision within this period, it is deemed to have accepted the adjudicator’s recommendation and must cancel the NtO. Where it does not accept these recommendations, it must notify the adjudicator and the appellant of the reasons for its decision before issuing the Charge Certificate.
13. If the penalty charge is not paid after a period of 28 days, beginning with the date on which the authority notified the appellant that it does not accept the adjudicator’s recommendation, the authority may issue a Charge Certificate.
14. If the authority decides to accept the recommendation of the adjudicator, it must cancel the NtO without delay and refund any sums paid. Refunds must be made within 35 days of the adjudicator’s direction.
15. **ELECTED MEMBERS AND CHALLENGES TO ENFORCEMENT**
16. Consideration of challenges to enforcement is a quasi-judicial function and elected members of authorities should play no part in deciding on individual representations. Their involvement should extend no further than to ask for and receive information about the progress of challenges and about the eventual outcome of any challenge.
17. **CHARGE CERTIFICATES**
18. The Charge Certificate informs the vehicle owner that the penalty charge has increased and action will be taken through the County Court if it is not paid before the end of the period of 14 days, beginning with the date on which the certificate is served. The current applicable surcharge in London has been set at 50%.
19. A Charge Certificate may be served by an authority if the following situations apply:

* the penalty charge has not been paid and no representations have been made to the authority before the end of a period of 28 days, beginning with the date the NtO was served (an allowance of 35 days is recommended)
* where representations have been rejected and neither full payment nor an appeal to the adjudicator has been made before the end of a period of 28 days, beginning with the date on which the NoR was served (an allowance of 35 days is recommended)
* where full payment has not been made before the end of a period of 28 days, beginning with the date on which the adjudicator’s decision rejecting the appeal was served on the appellant (an allowance of 35 days is recommended)
* where full payment has not been made following a period of 14 days, beginning with the date on which a withdrawal of an appeal was made by the appellant (an allowance of 21 days is recommended)

1. A Charge Certificate must not be issued until all processes have been completed. If an authority issues a Charge Certificate before an appeal is decided, the adjudicator may then allow the appeal on the grounds of procedural impropriety. In all cases, if a part payment has been made within the timescales mentioned, a Charge Certificate may be issued in respect of the outstanding balance.
2. The penalty charge cannot be increased until the Charge Certificate is issued.
3. If an owner contacts an authority and says that the Charge Certificate is the first notice received, the authority should consider allowing the owner to make payment of the full PCN charge (without the Charge Certificate increase) or make a challenge. When this is received, the Charge Certificate and preceding NtO should be cancelled. If the challenge is not accepted, the owner’s address should be checked and another NtO served (if within the time allowed) in order to give the owner the opportunity to make representations. If the authority chooses not to allow either of these options, for example, where an owner frequently makes this claim, they should explain the procedure for making a Witness Statement at the next stage of the process.
4. If a penalty charge has not been paid 14 days after the Charge Certificate has been served, the authority may apply to the TEC2 at Northampton County Court to recover the increased charge, as if it were payable under a County Court order.
5. **DEBT RECOVERY AND WITNESS STATEMENTS**
6. The TEC2 processes requests from authorities to register Charge Certificates and requests to enforce orders to recover unpaid penalty charges. A Code of Practice produced by the TEC2 for authorities outlines the correct procedures where penalty charges have not been paid following the service of a Charge Certificate. This code is issued to all authorities who register their intention to enforce PCNs in accordance with Part 75 of the Civil Procedure Rules, its practice and directions.
7. Where a Charge Certificate remains unpaid before the end of the period of 14 days, beginning with the date on which the Charge Certificate is served, the enforcement authority may, if a County Court so orders, recover the increased charge as if it were payable under a County Court order. A fee of £8 is payable for the registration of each Charge Certificate. Once registered, the TEC2 will send the authority a sealed authorisation to issue an Order for Recovery of Unpaid Penalty Charge (Parking) – Form TE3 ***(see Appendix 1, Sample Document 1.16)*** for the outstanding amount. This will include the outstanding penalty charge, the registration fee and any costs awarded by the adjudicator, if applicable.
8. It is recommended that the authority should send an Order for Recovery of Unpaid Penalty Charge within 7 days of receiving the authority from the TEC2. The TEC2 allows 35 days from the acceptance of the request until the last day an in-time Witness Statement can be processed. The date is set on the order but can be taken to be 21 days from the service order for the recipient to either pay the amount outstanding or send a Witness Statement to the TEC2 refuting the need to pay the penalty charge and that the registration should be revoked.
9. The Witness Statement can be made on one of the following grounds:

* that the PCN has been paid in full
* that the NtO/Regulation 10 PCN was not received
* that representations were made to the authority concerned, within the stipulated 28 day period but no NoR was received
* that an appeal was made to an adjudicator against the authorities’ decision to reject the representations but no response to the appeal was received

1. A valid Witness Statement automatically results in an order issued by the TEC2 that revokes the Order for Recovery of Unpaid Penalty Charge and cancels the Charge Certificate, as well as the NtO if submitted on the grounds that the NtO was not received.
2. Where the recipient claims that the penalty charge was paid or representations were made to the enforcement authority about the penalty charge and no NoR was received, the authority should refer the case to a parking adjudicator who may give such direction as he/she considers appropriate. However, depending on the circumstances of the case (e.g. the grounds and case history), there may be scope for the authority to resend the NoR.
3. If the Witness Statement indicates that the motorist did not receive the NtO, the NtO is also deemed to have been cancelled and the authority may serve a fresh NtO. To prevent abuse of the Witness Statement process, it is advisable that a second NtO should be served by recorded delivery (or another means where delivery can be demonstrated), so that a further Witness Statement cannot legitimately be made for the same reason. In the case of any other Witness Statement, the matter should be referred to the court if a challenge is sought. Should a motorist send a Witness Statement to an authority by mistake, it should be forwarded immediately to the TEC2.
4. Where the recipient claims that he/she appealed to the parking adjudicator against the authority’s decision to reject the representation but received no response to the appeal, the authority must refer the case to a parking adjudicator, who may give such direction as he/she considers appropriate.
5. Authorities should note that some of the information contained may change following any review of Part 75 of the Civil Procedure Rules.
6. **OUT OF TIME WITNESS STATEMENTS**
7. If the motorist does not make a Witness Statement – Form TE9 ***(see Appendix 1, Sample Document 1.17)*** within the statutory time scale (35 days from the acceptance of the registration request), they may apply for an extension of the time allowed for making a Witness Statement by completing ‘An Application to file a statement out of time/extension of time (Parking)’ - Form TE7 ***(see Appendix 1, Sample Document 1.18)***. The Respondent must state the reason they are making a Witness Statement outside of the original timescale on the TE7.
8. The Out of Time Witness Statement is sent by the motorist to the TEC2 for consideration by an officer of the Court and the TEC2 will make a decision whether to refuse or allow the submission.
9. All Authorities are notified electronically through CJSM (Criminal Justice Secure Email) accounts of out of time Witness Statement being received. At which point, PCN progression must remain on hold pending the outcome. If the case is at a Certified Enforcement Agents (CEA), enforcement action must be put on hold pending the resulting order.
10. The emailed notification will confirm the response deadline if the authority wish to oppose the submission (that allows 21 days).  The out of time submission will follow in the post.  The authority has the opportunity to oppose the out of time submission and can submit a response to the TEC2 for consideration (usually in the form of a Statement of Truth).  If the authority does not issue a challenge, the TEC2 will issue a revoking order in default.
11. If the authority chooses to oppose an out of time Witness Statement, a Statement of Truth is sent to the TEC2 for consideration by a Court Officer and this must be done within the 21 day timescale. A copy of the Statement of Truth should also be sent to the deponent (the person who submitted the out of time Witness Statement). The Court Officer will make a decision, either refusing or accepting the out of time submission and either a refusal notice or a revoking order will be issued as a result. In the event the submission is refused, PCN progression can continue including post warrant enforcement.
12. **N244 PROCESS**
13. Following the result of an Out of Time Witness Statement, either party can submit to the TEC2 an application to set aside the decision of the Court Officer by completing an N244 Application Notice.
14. Either party has 14 days to file an N244 application with the TEC2. However, the TEC2 may accept N244 applications outside the 14 day time period if a good reason for late submission is given. Upon notification through the CJSM account of the submission of an N244 application, PCN progression (including post warrant enforcement) should be put on hold.

1. Either party can apply to have the application considered either with or without a hearing (at a cost of £100 or £255 respectively). If the application is without a hearing, the case will be considered by a different Judge (District or Circuit) at Northampton County Court. If the application is with a hearing, the case is transferred out to a County Court local to the Defendant (the motorist) and listed for hearing. The applicable County Court will then write to both parties notifying them of the hearing date and time.
2. At either hearing, the District Judge will consider the case presented by both parties, either in writing or in person. Where written representations are made, these should be sent to the other party in advance of the hearing. A decision will then be made on the case. The Court will issue an order to both parties and this should then be sent to the TEC2 (in the event of an application with a hearing) so that the appropriate subsequent order can be produced.

If the Court that considers the application is not the TEC2, the resulting order will either allow the Witness Statement out of time or strike out the application. If the TEC2 consider this, they will either issue a refusal notice or a revoking order directly. Subsequent applications can be made by either party.

1. **WARRANT OF CONTROL AND CERTIFIED ENFORCEMENT AGENTS (BAILIFFS)**
2. Where an Order for Recovery of Unpaid Charges has been served and the recipient has either failed to pay the penalty charge or to complete the Witness Statement, the authority can ask the TEC2 for authorisation to prepare a Warrant of Control (the warrant). This authorises a CEA to seize and sell goods belonging to the recipient to the value of the outstanding amount and costs of enforcing the warrant.
3. The authority can ask the TEC2 for authorisation to prepare a Warrant of Control if the following criteria have been met:

* 35 days have elapsed since the registration request was accepted
* full payment has not been received
* no Witness Statement has been filed
* no time extension for making a Witness Statement has been approved
* the recipient lives in England or Wales

1. The authority must produce a warrant within seven days of receiving the authorisation from the TEC2. A copy of the warrant should be given to the CEA and must be made available for viewing by the debtor when the CEA is carrying out their duties. This copy may be a hard paper copy or produced and sent electronically.
2. If the address on the warrant is incorrect and differs from that where the CEA seeks to enforce, the authority would need to get the warrant resealed. This requires the TEC2 to reissue the warrant – with the same expiry date – for the new address.
3. The Warrant of Control has a lifespan of one year and cannot be reissued. If the authority has failed to recover the charge by means of a warrant within this period of time and wishes to pursue this matter further, they may seek an extension of the warrant under the Tribunals, Courts and Enforcement Act 2007. The TEC2 would need to be approached regarding any preparation of another warrant.
4. A motorist’s credit rating will not be affected by enforcement proceedings, as the debts will not be entered onto the Registry of County Court Judgements either when the case is at the TEC2 or transferred out to another County Court.
5. CEAs are acting on behalf of the local authority. The authority remains responsible and accountable for CEAs working on their behalf.
6. CEAs are obliged to follow the code set out in Part 3 and Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 and the associated regulations.
7. Local authorities are encouraged to have regard to the good practice set out in the Taking Control of Goods Regulations, National Standards 2014 and the Guidance to Local Councils on Good Practice in the Collection of Council Tax Arrears (June 2013).
8. **SERVICE OF NOTICES**
9. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 states that any notice (not including a Regulation 9A PCN) or Charge Certificate may be served by first class post but not second class post. Where the person on whom it is to be served is a corporate body, it is duly served if it is sent by first class post to the secretary or clerk of that body. Service of a notice or Charge Certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to be on the second working day after posting**.** Full details defining the working day can be seen in the above regulations.
10. At all stages, it is essential that the authority takes all reasonable steps to ensure that the appropriate notices are, in fact, served on the person to whom they are addressed. If the authority believes that service has not taken place then enforcement action cannot proceed. It is therefore important to have procedures in place for dealing with returned (undelivered) post as items that have not been served.
11. It is recognised that there will be cases where service is not easy. These include cases where service is refused or where the keeper cannot be identified. Where service is denied or refused, the authority should consider taking other steps, such as hand delivery, to give a higher degree of likelihood of service. CEAs may also be able to help in this area.
12. Where the DVLA does not have information on the keeper, it may be that other sources of information may help. The TMA 2004 regulations only make the registered keeper, the presumed keeper and if the authority has better information, this can supplant any DVLA files. Such information may come from resident parking permit applications, CEAs or neighbours (subject to any data protection limitations). Authorities should use all available avenues to identify a keeper, while taking care not to enforce against an innocent party, bearing in mind the possibility of a vehicle being cloned or something similar.
13. It may be the case that some keepers cannot be traced. In these circumstances, the authority should consider writing off the penalty as a bad debt (subject to internal rules about writing off debt), rather than keeping such PCNs open indefinitely.
14. **PUBLIC RELATIONS**
15. Parking enforcement has always suffered from an image problem and the interaction between the motoring public and the enforcing authorities is often described in martial terms. Not only is this undesirable, for what is an essential public service but it also hinders the efficient and effective running of that service. Authorities should therefore do all they can to change public perceptions and to encourage motorists, as well as non-motorists, to see parking enforcement as a beneficial and welcome service. Although it is very unlikely that anyone will be happy to receive and pay for a penalty charge, it will lessen any sense of hostility if they are treated in an efficient and reasonable manner.
16. To this end, authorities should:

* ensure that no unreasonable, unnecessary or unlawful enforcement takes place
* making sure that all parking restrictions are clearly and correctly signed and marked
* ensure that all staff, both on-street and in the back office are trained to a high standard
* avoid delays at any stage of the process
* answer all enquiries and correspondence promptly and fully
* give detailed and clear reasons for any decisions taken

1. Authorities should aim to achieve recognised quality assurance accreditation, such as the ISO 9000 or Charter Mark, to ensure and demonstrate that they have built the necessary customer focus elements into their processes.
2. It is also important to address public perception in a wider context. Every possible opportunity should be taken to remind the public of the reasons for the existence of parking controls and their benefit to the local environment. Any major amendment of new controls or restrictions should be introduced in tandem with a comprehensive publicity campaign, not only explaining the need for them but also promoting their benefits.
3. Authorities should also monitor their enforcement activities and their effectiveness in ensuring compliance with parking regulations. The results of these monitoring programmes should be used in the review process for existing controls, included in the publicity framework and communicated to the public. Sharing the results of the monitoring programmes with other authorities would also provide useful benchmarking data and help develop best practice.
4. In addition to their own monitoring, authorities should regularly consult with road users, residents, local businesses and other interested parties to assess their views on parking controls and the enforcement regime. The results of such consultations should be publicised and made freely available.
5. There should be no secrecy about what happens within an enforcing regime. Details of performance, income and expenditure should be publicised, as should the use of any surplus made to the parking account in accordance with Central Government guidance as outlined in ***paragraphs 5) and 6)*** of this document.

**Glossary of terms**

ADJUDICATION - The second and final stage for motorists to object to a PCN. An adjudicator will consider appeals in writing or at a hearing.

APPEAL - A formal reference by a motorist to an adjudicator appealing against a PCN. An appeal can only be made after the authority that issued the PCN has rejected a representation to them and can only be made on a number of specified grounds.

CANCELLATION - The action taken to cancel a PCN and/or an NtO and the need to pay any associated additional parking charge(s) where the authority has determined that no penalty is payable by that person, or where an adjudicator has directed it.

CERTIFIED ENFORCEMENT AGENTS (CEAs) (also known as BAILIFFS) - A bailiff who has been certificated as meeting the requirements for recovering parking debts. All the bailiffs in a firm must be certificated if the firm wishes to be registered as a firm of certificated bailiffs.

CHALLENGE – An objection to the issue of a PCN sent to the issuing authority before the time when formal statutory representations can be made.

CHARGE CERTIFICATE - A notice issued to motorists who have received PCNs but have not paid after various stages and time limits have been passed. The notice informs them that the penalty charge has increased by 50% and that they need to pay it within 14 days if registration of the debt is to be avoided.

CIVIL ENFORCEMENT OFFICERS (CEOs) - The name given in the Traffic Management Act 2004 to those engaged by authorities to issue PCNs, whether Council or contractor staff.

CONTRAVENTION - A contravention occurs when a motorist does not comply with decriminalised parking controls i.e. those for permitted parking and those in Civil Enforcement Areas.

DEBT RECOVERY - The process of recording a parking debt with the County Court when a Charge Certificate has been issued but the debt is still unpaid after 14 days from service.

DECRIMINALISATION – Formally, under Road Traffic Act 1991 and now under the Traffic Management Act 2004, the Secretary of State for Transport can make orders such that motorists who do not comply with the parking controls covered by the orders no longer commit a criminal offence subject to a Fixed Penalty Notice. The controls are said to have been decriminalised. Contraventions then have to be enforced through civil procedure using Penalty Charge Notices.

DESPATCH CONTROL CENTRE - The place from which removal and clamping operations are directed and co-ordinated.

DISCOUNT - A reduction in the penalty charge due if the PCN is paid within 14 days. A discount of 50% applies throughout London, as determined by London Councils TEC.

DISPENSATION - A general agreement relaxing parking controls for specified groups. This includes the authorisation to park on single yellow lines and the Health Emergency Badge.

DVLA - Driver and Vehicle Licensing Authority at Swansea.

EXEMPTION - Certain vehicles are exempt from some parking restrictions, often when carrying out activities listed in Traffic Orders. Examples of these vehicles are those of the statutory undertakers when on operational duty, removal lorries, vehicles involved in loading or unloading.

FORMAL REPRESENTATIONS - Formal objection to liability for a penalty charge, provided for in legislation and made to the authority which issued the PCN

GUIDANCE - Traffic Management and Parking Guidance issued by the Secretary of State for Transport.

HAND-HELD COMPUTER (HHC) - A small hand held computer which can be used to register parking contraventions and prepare a PCN for a small printer carried by the warden or attendant.

INFORMAL REPRESENTATIONS – see CHALLENGE

LONDON TRIBUNALS – the independent adjudication service for hearing appeals in London.

MOTORIST - The use of the word 'motorist' throughout the Code of Practice includes driver, owner or keeper of a vehicle depending on the context.

NOTICE OF REJECTION (NoR) – Letter sent in response to representations saying that they have been rejected and advising recipient that the penalty charge should be paid or an appeal made to the adjudicator.

NOTICE TO OWNER (NtO) - The notice served on the likely owner of a vehicle issued with a PCN that remains unpaid after 28 days, which allows them to make formal representations. Failure to pay within another 28 days from service may lead to a Charge Certificate being issued.

PARKING PLACE - Any area of highway designated within a Traffic Order as a place where vehicles may be parked.

PAYMENT CENTRES - Places where motorists can pay the additional parking charges they owe as a result of PCNs being issued.

PENALTY CHARGE NOTICE (PCN) - The notice used to indicate that a contravention is believed to have occurred.

PERMITTED PARKING - Parking that is permitted in designated parking bays.

PERSISTANT EVADERS - Motorists who persistently do not pay PCNs.

POCKET BOOK - A note book used by CEOs to record information while on duty, in particular records of conversations with motorists and details about contraventions additional to those recorded on the PCNs and HHCs as supporting evidence for later use. These may be electronic.

POUND - The place to which removed vehicles are taken for storage until either they are recovered by payment of the appropriate additional charges or they are disposed of.

REMOVAL AUTHORISATION NOTICE - The notice issued by an authorised Civil Enforcement Officer to indicate that a vehicle already issued with a PCN may be clamped or removed.

REGISTERED KEEPER - The person recorded at DVLA as the keeper of the vehicle concerned and who is presumed to be liable for penalty charges, subject to certain exemptions.

TE3 – Order for Recovery of Unpaid Penalty Charge (Parking) form, issued following registration of an unpaid penalty charge at the Traffic Enforcement Centre (TEC) at Northampton County Court

TE7 – Application to file a statement out of time/extension of time (Parking)

TE9 - Witness statement – unpaid penalty charge (Parking)

TRACE - Service operated by London Councils TEC that receives details of removed vehicles and responds to queries from the public.

TRAFFIC ENFORCEMENT CENTRE – Bulk processing section of Northampton County Court where penalty charges are registered as debts.

TRAFFIC MANAGEMENT ORDER (TMO) - An order made under the Road Traffic Regulation Act 1984 for controlling and regulating the movement of traffic in London.

TRANSPORT AND ENVIRONMENT COMMITTEE (TEC1) - Current incarnation of the joint committee, whose functions include the setting of the level of additional parking charges in London and the provision of administrative and physical support to the London Tribunals. \*\*Not to be confused with the Traffic Enforcement Centre at Northampton County Court.

TRAFFIC ENFORCEMENT CENTRE (TEC2) – Bulk processing section of Northampton County Court where penalty charges are registered as debts.

WAIVER - A temporary consent to relax particular parking controls for a specified vehicle or parker.

WARRANT OF CONTROL - The county court authority to enforce an unpaid debt by using certificated bailiffs.

WITNESS STATEMENT - A formal statement from a motorist in response to notice of debt registration to the effect that an earlier stage in the procedure had not been completed and that the motorist was therefore not aware of what they should have done before registration. The Charge Certificate and its registration are cancelled and the correct earlier procedure restarted.

WRITE OFF - When an authority decides that it is unable or unwilling to recover an outstanding penalty charge and it closes the case.