

London Councils

Code of Practice on Civil Parking Enforcement

PART 1

On-street Enforcement Activities

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Part 1 – On-street Enforcement Activities

A. INTRODUCTION:

- 1) 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.
- 2) 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.
- 3) Under the terms of the Transport and Environment Committee (TEC) agreement, a non-statutory function of London Councils is to publish and update as necessary a Code of Practice for Parking in London.
- 4) 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.
- 5) 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
- 6) As well as advising authorities, the Code of Practice also informs the public about parking policies and enforcement.
- 7) 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 (which will follow) sets out the procedures that should be followed when processing PCNs through the various stages in the back office.

B. PARKING REGULATIONS, SIGNS AND LINES:

- 8) 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.

- 9) 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.
- 10) 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.
- 11) 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.
- 12) 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 Order is suspended or a draft revocation Order 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.

C. CIVIL ENFORCEMENT OFFICERS (CEOs):

- 13) 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.
- 14) 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.
- 15) 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
- 16) 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:

- 17) 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.
- 18) 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
- 19) 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
- 20) 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
- 21) It is important that these supplementary duties do not compromise the ability of the CEO to perform their principle enforcement duties.
- 22) Under provisions set out in the London Local Authorities and Transport for London Act 2008, CEOs may remove anything which obscures a registration mark or part of a registration mark fixed on a vehicle. This will include covers.

C.2 Discretion:

- 23) 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:

- 24) 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.
- 25) 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.
- 26) 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.
- 27) 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.
- 28) 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.
- 29) 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
- 30) 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 by 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
- 31) 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:

- 32) 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.
- 33) 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)

- 34) 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.
- 35) 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.
- 36) 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 Handbook:

- 37) 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:

- 38) 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>

D. PENALTY CHARGE NOTICES (PCNs):

- 39) A PCN is the prima facie evidence of the parking contravention.
- 40) 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).
- 41) 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 10**).
- 42) A Regulation 10 PCN is served by post. In these situations the PCN also acts as the Notice to Owner (NtO). 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 11**)
 - 2. PCN served by post because the CEO was prevented from serving a Regulation 9 PCN on-street (**see page 13**)
 - 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 9 (**see page 14**)

- 43) 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:

- 44) A PCN must either be fixed to the vehicle or given to the person who appears to be in charge of that vehicle (*see Sample Document 1.1*), although there are some exceptions to this under Regulation 10.
- 45) 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.
- 46) A PCN should be fixed to the windscreen and must be weatherproof or able to fit 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.
- 47) 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.
- 48) 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.
- 49) A PCN served on the vehicle or to the person who appears to be in charge of the vehicle (Regulation 9 and 9A PCN) must contain the 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 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 notwithstanding those representations, representations against the penalty charge must be in the form and manner and at the time specified in the NtO

- 50) 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 (when relevant)
 - vehicle make and colour (if identifiable)
- 51) 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.
- 52) 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.
- 53) 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:

- 54) There are some circumstances in which a PCN (under Regulation 10) may be served by post:
- 1) where the contravention has been detected on the basis of evidence from an approved device (approved devices may only be used in limited circumstances)
 - 2) 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
 - 3) 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
- 55) 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):

- 56) In certain circumstances a PCN may be served by post on the basis of evidence produced by an approved device (*see Sample Document 1.2*).
- 57) The circumstances in which approved devices can be used to serve a PCN by post for parking contraventions are outlined in **Paragraph 93**.

- 58) 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.
- 59) 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 e-mail address or fax telephone number, as well as the postal address) to which representations must be sent
 - the form in which they (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
 - 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 so 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, establish the contravention

- 60) 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 (when relevant)
 - vehicle make and colour (if identifiable)
- 61) 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:

- 62) 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 Sample Document 1.3*)
- 63) 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.
- 64) 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 e-mail address or fax telephone number, as well as the postal address) to which representations must be sent
 - the form in which they (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
- 65) 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 (when relevant)
 - vehicle make and colour (if identifiable)

D.5 Prevention of service by vehicle 'drive-aways':

- 66) 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 Sample Document 1.4**).
- 67) 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 9 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 licence number 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.
- 68) 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 e-mail address or fax telephone number, as well as the postal address) to which representations must be sent
- the form in which they (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

69) 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 (when relevant)
- vehicle make and colour (if identifiable)

D.6 Collection of Information:

70) 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.

71) 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 pocketbook 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 number
- 3) The dashboard showing any permits, vouchers or tickets
- 4) Any lines/nearby signs or time-plates relating to the contravention

72) On paid for bays:

- Whether "feeding" detected & details
- If meter or machine bagged 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)

73) 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)

74) In bays/boxes:

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

75) 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.

- 76) 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:

- 77) 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.
- 78) 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>
- 79) Authorities must only use those codes and suffixes found in the contravention code list and must not use any other codes or suffix variations.
- 80) It is recommended that for certain contravention codes, suffixes should be used to further describe the contravention.

D.8 PCN Format:

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

D.9 Service of Penalty Charge Notices:

- 82) 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 holiday. 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.

E. WORKING PRACTICES:

- 83) 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 for 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 note left in car – 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.

F. GRACE PERIODS

- 84) 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.
- 85) 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.
- 86) 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.
- 87) 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>

G. OBSERVATION TIMES

- 88) 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).

- 89) 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.
- 90) 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.

H. HAND-HELD CAMERAS

- 91) 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
- 92) Enforcement authorities may consider the use of body-worn cameras for health and safety reasons and for training purposes.

I. ENFORCEMENT BY CCTV:

- 93) 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.
- 94) 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
- 95) 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.
- 96) Where enforcement authorities are using camera enforcement, the enforcement policy needs to be well publicised and indicated with on-street lawful traffic signs.
- 97) 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.
- 98) 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 number, 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.
- 99) 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.
- 100) Full details of CCTV enforcement are contained in the London Councils' Transport and Environment Committee 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>

J. PERSISTANT EVADERS

- 101) 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.
- 102) 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.

K. CLAMPING AND REMOVAL

- 103) 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.
- 104) Clamping and removal can be targeted at persistent evaders, in particular those where there are inaccurate keeper details held at DVLA. Without clamping and removal powers, incorrectly registered vehicles can be parked illegally with impunity until such time as the register is brought up to date.

K.1 Primary Objectives:

- 105) 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.)
- 106) 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:

- 107) 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.
- 108) 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.
- 109) 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 as 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:

- 110) Clamping and Removal of vehicles should not be carried out in an ad-hoc or uncontrolled way. Boroughs should clearly advertise their priority for removals on their website.

K.4 Exemptions to clamping and removals:

- 111) 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).
- 112) 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 badge 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 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.
- 113) 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 Sample Document 1.5***).
- 114) 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.
- 115) 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 removal notification system) to avoid any subsequent difficulties over reports of stolen vehicles.

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

- 116) 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.

L. REMOVAL OPERATIONS

- 117) A removal operation consists of these key stages:
- Authorisation
 - Vehicle lift
 - Transfer to pound
 - Payment
 - Return of vehicle to owner/driver
 - Disposal of vehicle
- 118) 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 (i) when a vehicle is lifted, (ii) when it arrives at a pound and (iii) when it is released or disposed of.
- 119) 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:

- 120) 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.
- 121) 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.
- 122) 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 Sticker', (**see 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.

- 123) 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 **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.
- 124) 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.
- 125) 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.
- 126) 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:

- 127) 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.
- 128) It is advisable that removal trucks should be marked clearly with the TRACE telephone number (**0845 206 8602**), TRACE website details and identification of the authority on behalf of which they are being used.
- 129) To provide a good service to the public, it 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.
- 130) 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.
- 131) 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 Sample Document 1.7**). Any damage caused to the vehicle during the removal must be recorded.
- 132) 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).

- 133) 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:

- 134) 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.
- 135) 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:

- 136) A pound must have adequate perimeter fencing and lighting to avoid the possibility of theft from or damage to vehicles.
- 137) 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.
- 138) 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.
- 139) 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.
- 140) 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 RTRA 1984.

- 141) If the authority has any reason to believe that an unclaimed vehicle may be a rented 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:

- 142) 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.)
- 143) 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.
- 144) 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.
- 145) Upon securing the vehicles release, the owner must be provided with a 'Removal Release Fee Receipt' (**see Sample Document 1.8**) and informed of their right to make representations against the issue of the PCN and removal of the vehicle (**see Sample Document 1.9**), and their subsequent rights to appeal against representations that are rejected and provided with all of the relevant paperwork
- 146) 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 of any storage fees incurred. Pound staff should have good knowledge of local policies in this regard.
- 147) 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 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 and registration of the unpaid charges as a debt at the Traffic Enforcement Centre.
- 148) Where a part payment is accepted and a promise to pay note accepted 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.

- 149) 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.
- 150) 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:

- 151) 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 ID 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.
- 152) 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 photo-card 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).
- 153) The pound reserves the right not to release a vehicle if they have any doubt as to the motorist's identity.

M. CLAMPING OPERATIONS

- 154) The clamping process consists of these key stages:
- Identification
 - Clamping van despatch
 - Authorisation
 - Clamping
 - Payment
 - Declamping
- 155) Clamping costs less than removal both in terms of capital costs and staff time. It is also visible, so it acts as a deterrent.
- 156) 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 on-line 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:

- 157) 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 or authorising officer will be responsible for attaching a 'Clamping Authorisation Sticker' to the vehicle (*see Sample Document 1.10*).
- 158) 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.
- 159) 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 **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 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 Sample Document 1.12*).
- 160) 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:

- 161) As in 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.
- 162) 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:

- 163) 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.
- 164) 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.
- 165) 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.
- 166) On-street payments for declamping should not be accepted.
- 167) 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.
- 168) 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.
- 169) 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:

- 170) Payments can be made via the payment centres, online and by telephone by means of 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 Sample Document 1.13*).

N. CONTRACT FOR CLAMPING

- 171) When employing contractors, authorities should seek tenders from companies who comply with the British Parking Association's Code of Practice on wheel clamping and removals and as a condition of contract, should agree to abide by their Code of Practice where relevant.
- 172) 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.

