



Service Specific Enforcement Policy

Parking Enforcement

November 2021

To be read in conjunction with the Cheshire
East Council Corporate Enforcement Policy
September 2019

Aims and Objectives

With the introduction of Civil Parking Enforcement (CPE) under the Traffic Management Act (TMA) 2004, Cheshire East Council took responsibility for enforcing parking restrictions. The Council's aim is for 100% compliance with parking restrictions that are in place through clear, well designed, legal, and enforceable parking controls. This policy contributes to the delivery of Cheshire East's [Local Transport Plan](#), thereby supporting our wider aims to improve our economy, protect our environment and to create safer and more attractive places to live, work and play.

A set of key priorities has been defined for Parking Enforcement. These are a key management tool enabling the council to combat obstructive and illegal parking that can lead to traffic congestion, adversely impact road safety and constrain accessibility. The key priorities for parking enforcement are, as follows:

- **Contributing to road safety** – by taking enforcement action when vehicles are parked in a way that requires others to pass dangerously or obstructs other road users
- **Contributing to community safety** – such as dealing with situations where parked vehicles restrict access for emergency vehicles
- **Contributing to greater accessibility for all** – such as dealing with situations where inconsiderate parking blocks pavements
- **Meeting the needs of people with disabilities**, by providing and managing disabled parking spaces for genuine users
- **Promoting Safer Parking** near our schools by prioritising patrols around schools at pick up and drop off times, to educate drivers and reduce obstruction / conflicts at peak times
- **Ensuring efficient use of available spaces** – such as where a vehicle has taken up more than one space in our car parks, which prevents other users from parking or easily accessing their vehicle to a lack of space.
- **Contributing to management the highway network** to ensure a free flow of traffic including pedestrians and cyclists, in accordance with our [aspirations to be Carbon Neutral by 2025](#), and make a positive contribution to address climate change.
- **Contributing to road safety education**, especially in the vicinity of schools,
- **Contributing to making Cheshire East a great place to live, work and visit** by delivering a clear, transparent and fair approach to parking enforcement
- **Being an efficient and accountable organisation** by ensuring that Civil Enforcement Officers (CEOs) consistently issue Penalty Charge Notice Notices (PCNs) in accordance with the Traffic Management Act 2004

As well as On-Street parking, the Council's Parking Service is responsible for the control, operation and maintenance of the Council's Pay & Display car parking facilities across the borough. There are over 8,700 off-street parking spaces managed by Cheshire East council. Car parks are checked on a quarterly basis for defects, which are then reported for repair in accordance with our asset management procedures.

Contraventions and Penalties

There is a wide range of ways in which enforcement action can be taken against inconsiderate and illegal parking. A full list of [parking contraventions](#) can be found on the Cheshire East website.

The Traffic Management Act 2004 currently allows the PCN rates to be set at £50 (lower rate) and £70 (higher rate). If a PCN is paid within 14 days of issue, a discounted rate of £25 and £35 (50%) respectively will apply.

Fees from on-street parking charges and any penalty charge payments received by the council must be used in accordance with Section 55 (as amended) of the Road Traffic Regulations Act 1984. Cheshire East Council Parking Services account for all income and expenditure and the [published accounts](#) can be found on our website. The Council sets no targets for the number of PCNs issued; instead, it responds to events arising on the highway. Civil Enforcement Officers do not receive incentivised payments, nor do they work on commission. The Council's Parking Service is committed to using Civil Enforcement powers to educate and influence motorists, in addition to recourse to enforcement by fines, to achieve 100% compliance with all parking restrictions.

Penalty Charge Notice Notices issued for parking contraventions are a debt owned by the Authority, enforceable through the civil justice system. Following the valid issue of a PCN, the Council will take appropriate action, in accordance with the outcomes of any subsequent appeals process, to recover payments that are outstanding.

Civil Enforcement Officer (CEOs) duties

Cheshire East Council's CEOs are front line ambassadors, representing the Parking Service and the whole Council. They are often the first point of contact for our visitors, shoppers, residents, businesses, workers, and commuters. Their role is vital to the satisfaction of parking customers, ensuring that the service provides a high quality experience for users. The role of the CEO is a vital contribution to the successful delivery of the service objectives.

The main objectives of a CEO are to ensure fair and consistent enforcement of Parking Controls. CEO duties also include monitoring signs, lines and parking equipment and providing witness statements. When exercising their prescribed functions, CEOs must wear a uniform that identifies the officer by number, shows the name of the enforcement authority and confirms that the Officer is engaged in parking enforcement. A PCN is valid when the issuing CEO's uniform confirms that the Officer is engaged in parking enforcement. When other elements of the uniform do this, then it is not a requirement for a CEO to wear headgear that fulfils this role.



Penalty Charge Notices (PCN) issued by CEOs can be affixed to the vehicle, handed to the person who appears to be in charge of that vehicle at the time, or issued by post if the CEO is prevented from issuing the PCN.

To protect CEO's from allegations of inconsistency, favouritism, or suspicion of bribery; they do not have any general power to exercise discretion. One exception to this may be a case where a driver returns to the vehicle before a PCN has been issued. In this case, a verbal warning may be issued rather than the PCN.

CEO's do not have access to Driver and Vehicle Licensing Agency (DVLA) records and so do not know who a vehicle belongs to.

Where the CEO has established that legitimate loading or unloading is taking place and there are no safety issues for pedestrians and other road users, they may leave to carry out other tasks and periodically return to observe and reassess the situation (see section on loading and unloading).

All appeals in relation to the issue of a PCN are dealt with by the Council's Notice Processing Team. This ensures consistency and transparency in the approach to enforcing relevant traffic regulations.

There are three circumstances in which a PCN may be served by post:

- i) where the contravention has been detected based on evidence from an approved device e.g. a CCTV camera (this provision is not currently used by Cheshire East Council);
- ii) 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; and

- iii) if the CEO had started to issue the PCN but did not have enough time to complete or serve it before the vehicle was driven away.

In the above circumstances the Notice Processing Team would make enquiries through the DVLA to establish the registered keeper or owner of a vehicle.

Once a PCN has been issued, the Notice can either be paid or disputed by following the appeal process. Details on [how to pay a PCN](#) and/or [how to appeal](#) its issue are documented on the reverse of the PCN itself and on the Cheshire East Council website.

Payment Details

If payment is made within 14 days of issue of a PCN, then the discounted penalty charge fee will apply. The day of service of the PCN is counted as day 1 of the 14-day period. If payment is not made within the 14-day period, the opportunity to pay at the reduced amount is lost and the full charge becomes due.

Payments can be made by:

- Internet - www.cheshireeast.gov.uk/parking
- Automated payment line 0300 123 5036 - 24 hours a day.
- Cheque/postal orders (payable to Cheshire East Council) and posted to: Parking Services, Municipal Buildings, Earle Street, Crewe CW1 2BJ

Penalty Charge Notice (PCN) process

[The Parking Penalty Enforcement Chart](#) can be viewed on the Patrol website.

The Appeals Process

Where a parking contravention occurs, it is the 'owner' of the vehicle involved who is legally obliged to pay the penalty charge. The 'owner' means the person by whom the vehicle is kept, which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 (c.22) is presumed (unless the contrary is proven) to be the person in whose name the vehicle is registered at the DVLA.

The only exception to this is where the vehicle was hired from a firm under a hiring agreement and the person hiring it had a signed statement of liability in respect of any PCN served in relation to the vehicle during the currency of the agreement. If a PCN has been issued to a company owned vehicle, the Notice to Owner (NtO) will be sent to the company listed as the registered keeper of the vehicle.

Vehicle owners may dispute the issuing of a PCN at three stages:**1. Informal**

An informal challenge can be made before the Council issues a NtO. This does not apply in the case of a PCN issued by post, as the postal PCN then also acts as the NtO. As a challenge at this stage will be made by the person who has received the PCN, it may be that the person submitting the challenge was the driver of the vehicle, rather than the vehicle's owner.

Challenges must be made in writing:

- Online through the [Cheshire East website](#)
- By post to Cheshire East Council, Parking Services, Municipal Buildings, Earle Street, Crewe CW1 2BJ

The PCN number which starts with GA, should be included in the challenge along with reasons why the Notice has been incorrectly issued or compelling reasons why the PCN should be cancelled. Where applicable, documentary evidence should be included to enable the challenge to be fully considered.

If the challenge is accepted, the case will be closed and payment will not be required. If the challenge is rejected and it was received within 14 days from the issue of the PCN, a further 14 days in which to make payment at the discounted rate will be granted. After the 14 days have expired, the full charge will be applicable. If the challenge is rejected and it was received after the initial 14-day discount period, the full penalty charge will be due.

2. Formal

If payment is not received within 28 days of the date the PCN is issued, the Council will make an enquiry to the DVLA to obtain the vehicle owner details. A NtO will then be served, requesting payment of the PCN. At this stage the owner has 28 days in which to make formal representations to the Council. The NtO sets out specific grounds on which formal representations may be made. However, representations may also be made on the basis that, in the particular circumstances of the case, there are compelling reasons for the cancellation of the penalty charge.

If the formal representation is accepted the case will be closed and payment will not be required. If the representation is rejected, the full charge will be applicable and a 'Notice of Rejection (NoR)' will be sent.

Statutory grounds on which a formal representation may be made to the Council:

- The contravention did not occur.
- The recipient has never owned the vehicle in question.
- The recipient had ceased to be the owner before the contravention date or, became the owner after that date. Proof of sale or purchase will be required. If the vehicle has

been sold, the name and address of the person buying the vehicle must also be supplied in order that the Council can redirect the Notice and serve a NtO to the new owner. It is not acceptable to simply say the vehicle was sold to somebody else without proof. A letter from the DVLA confirming that a person was not the owner at the date of event may assist the Council in making a decision.

- The vehicle was a hire vehicle, on hire under a formal hire agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hire period. (A copy of a signed hire agreement, which includes the start and end dates will be required).
- The vehicle was parked without the owner's consent (this does not cover cases such as lending the vehicle to a friend who then parks illegally; or to a vehicle which is parked illegally whilst in the hands of a vehicle repair or service business). If the vehicle has been stolen, the Council will require details of the crime reference number and the name of the police station to which the crime was reported or a letter from an insurance company.
- The Penalty Charge exceeded the amount properly due (i.e. the amount is more than you are legally liable to pay – not that you feel the charge is too much).
- The traffic order was invalid (i.e. the Council had not followed the proper statutory steps in making the order).
- There has been a procedural impropriety by the enforcement authority
- The NtO should not have been served because the PCN had already been paid

Each case will therefore be considered on its own merits and all relevant mitigating circumstances will be considered.

Mitigating Circumstances which may apply:

- The person became unwell while driving or whilst parked. Evidence of having a medical condition that is consistent with the symptoms described will be required. This evidence should also indicate at the time the PCN was issued that the condition had prevented safe movement of the vehicle.
- The vehicle had broken down. Evidence of breakdown is required such as an authenticated garage repair/ vehicle recovery bill. This evidence should indicate the timing is relevant to the issue of the PCN.
- You were delayed due to unforeseen circumstances and the parking time purchased had expired. Where appropriate evidence is produced to confirm that delay was caused by unforeseen, unavoidable, and exceptional circumstances.
- The Pay and Display machine was faulty. This is subject to another Pay and Display machine not being available and maintenance records supporting the claim.
- The vehicle was on police, fire brigade or ambulance duties. Supporting evidence by a senior officer on letter headed paper is required.
- The owner liable for payment of the PCN is said to have died or the motorist claims to have been recently bereaved. The circumstances will be explored by making sensitive enquiries.

The above list is not exhaustive, for full [mitigating circumstances](#) – see the Cheshire East Council website.

A PCN is unlikely to be cancelled on the following grounds:

- The parking restrictions are unfair.
- You had not noticed the signs advising of the restrictions
- You displayed the wrong, expired or an invalid permit
- The Blue badge was not on display and/or not properly on display.
- You claim to be unaware of the restriction.
- You had gone to get change for a pay and display machine.
- You had only parked for a few minutes.
- You were not causing an obstruction.
- There was nowhere else to park.
- You ran out of fuel (unless due to a mechanical or electrical fault in which case evidence will be required).
- You are a Council Officer or Elected Member attending Council business.
- You are a Council Officer or Elected Member and the only space available was a disabled parking bay

The above list is by no means exhaustive.

The process of dealing with challenges and representations against the issue of PCN's is well documented and will be carried out in a fair, transparent, unbiased, and consistent manner. These procedures include the ultimate right of all appellants to refer the matter to an independent arbitrator – The Traffic Penalty Tribunal.

To preserve the integrity of these procedures, they will be managed and carried out by the staff in the Notice Processing Team within Parking Services. There is a formal process to be followed by **all** recipients of a PCN and Council employees, Members, MP's, friends, family, or acquaintances have no special exceptions nor are favoured over other motorists. Other than the mitigation described on the website, there is no favouritism or special treatment or consideration. The legislative process will not be influenced unless either the PCN was issued unlawfully, the contravention did not occur or there was a procedural impropriety. The team DO consider all valid mitigation.

3. Appeal to the Traffic Penalty Tribunal

Following a 'NoR', the owner (or hirer, if the vehicle was on hire when the PCN was issued) may, within 28 days from the date of issue of the 'Notice of Rejection of Representation' appeal to the Traffic Penalty Tribunal. The form to make the appeal is included with the Council's rejection letter. The adjudicators have a judicial position and are appointed with the agreement of the Lord Chancellor. They are independent of the Council and their decision is final (subject to their own power to review a decision).

The appellant has the choice of a postal decision, a personal hearing at the town or city of his/her choice, from the locations listed on the appeal form, or a telephone hearing. If the appeal is accepted the case will be closed and payment will not be required. If the appeal is dismissed the full penalty charge is payable.

Charge Certificate

If payment is not received, a Charge Certificate will be issued which increases the original charge by 50%. It occurs, not less than 28 days beginning with the date on which:

- the NtO is served and no formal representation has been received.
- a Notice of Rejection of Representation is sent, and no appeal is made to the Traffic Penalty Tribunal.
- the adjudicator's decision to dismiss the appeal is served on the appellant.

Debt Registration

If, after 14 days from the issue of the Charge Certificate, payment is not received, the Council will register the debt at County Court. This could ultimately lead to the issue of a warrant which is recoverable through an independent enforcement agent where their fees will also apply.

Annual parking reports

Our annual parking reports give useful information on our parking services and how we are improving our activities and enforcement across the borough for the benefit of the community. The reports also include statistics relating to parking income and expenditure and PCN reasons and numbers. The [annual parking report](#) is located on the Cheshire East website.

Bank Holiday and Sunday parking

Parking restrictions apply on Bank Holidays, unless there are traffic signs/time plates that specifically state otherwise. It is the responsibility of the motorist to ensure they park in compliance with the restrictions in place. Certain parking restrictions apply on Sunday's. You cannot park on double yellow lines, No loading areas, Restricted parking zones, Pedestrian Zones, Taxi bays, Disabled Bays, Bus stops, Ambulance bays, or certain loading bays. These areas of enforcement are 24/7 no parking.

Carbon neutral council – by 2025

Car share – All CEO's are expected to car share if travelling to the same location. We recycle our office waste and from 2020, PCN envelopes are now recyclable. Reports, TRO's, Newsletters are sent out by email which eliminates the need to print. Some of our uniform clothing is made from recycled plastic. LED lighting has been installed on our multi-storey car parks (MSCPs), which reduces our carbon footprint and reduces energy usage. Lights within the MSCPs are all on a timer too.

CEO's encourage vehicles not to idle – particularly outside schools. This supports the Council's aims on air quality. More information on [air quality awareness](#) can be found on the Cheshire East website.

CEO performance monitoring

The Parking Enforcement Supervisor/Seniors undertake regular performance monitoring of the civil enforcement team. Their yearly objectives are set around improving the quality of PCN's issued and reducing those that may have been issued in error. This includes the quality of PCN evidence, which reviews photographs and notes. CEOs performance is also measured on their behaviours when carrying out their duties linked to the Council's Vision, Outcomes, and workplace culture alongside details in complaints, compliments, and service suggestions.

Complaints

The Council's complaints procedure does not apply to challenges or representations against PCNs. The driver or the registered keeper of the vehicle can appeal the PCN. See Appealing parking Penalty Charge Notice (PCN) section for further information

Allegations that a CEO has made an error while issuing a PCN will be investigated under the standard challenge/representation procedure, and a written response will be sent.

However, any allegation of misconduct or rudeness by enforcement staff against a member of the public or specific [complaints](#) around processes will be logged, investigated and responded to by Parking Services. Details can be found on the Cheshire East website.

Enforcement requests

Customers are advised to notify Parking Services of any parking issues they are experiencing using the dedicated mailbox parking.enforcement@cheshireeast.gov.uk. However, we can only enforce if there are parking restrictions in place. If obstruction or dangerous parking is taking place and there are no parking restrictions, this is the responsibility of the police, and they should be contacted on their non-emergency line 101.

How to report illegal parking issues

Illegal parking issues can be reported to the Council using the [online reporting form](#) located on the Cheshire East website or by telephoning the Councils Contact Centre on 0300 123 5020. For the team to deal with these issues effectively we ask for as much information as can be provided, including contact details in case we require additional information.

Key Performance Indicators (KPI)

Parking Services has two key performance indicators whereby the statistical information is extracted from the Taranto System and reported quarterly.

1. The number of PCN's cancelled due to CEO error (this must be below 2% with intervention starting if they reach 1.5%)
2. 100% of correspondence is allocated within 14 days of receipt

Legislation

This policy will be reviewed every three years or following any significant changes in processes and/or legislation

The legal provisions governing parking enforcement include:

- [Traffic Management Act 2004](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General Regulations 2007](#)
- [The Civil Enforcement of Parking Contraventions \(England\) Representations and Appeals Regulations 2007](#)
- [The Civil Enforcement of Parking Contraventions \(Approved Devices\) \(England\) Order 2007](#)
- [The Civil Enforcement Officers \(Wearing of Uniforms\) \(England\) Regulations 2007](#)
- [The Civil Enforcement of Parking Contraventions \(Guidelines on Levels of Charges\) \(England\) Order 2007](#)
- [The Traffic Management Act 2004 \(Commencement No. 5 and Transitional Provisions\) \(England\) Order 2007](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General \(Amendment\) Regulations 2008](#)
- [The Traffic Management Act 2004 \(Commencement No. 5 and Transitional Provisions\) \(England\) \(Amendment\) Order 2008](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General \(Amendment\) Regulations 2009](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General \(Amendment\) Regulations 2015](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General \(Amendment No.2\) Regulations 2015](#)
- [The Civil Enforcement of Parking Contraventions \(England\) General \(Amendment\) Regulations 2020](#)

If the keeper is querying the authority behind a specific restriction, reference should be made to the relevant Traffic Regulation Order (TRO), held by the Council.

Obstruction

Within current civil enforcement legislation, the offence of obstruction cannot be enforced through the process of civil parking enforcement. CEO's can only enforce parking 'contraventions' where there are yellow lines associated with a TRO. Without such restriction's, enforcement associated with vehicles parked in an obstructive manner can only be undertaken by the police ([Section 137 of the Highways Act 1980](#)).

Loading and Unloading

"Loading and Unloading" means the transference from (or to) a vehicle to (or from) premises adjacent to where the vehicle is parked, of heavy or unmanageable Goods that are not designed to be carried by hand other than over a very short distance. Regulations permit a vehicle to be parked on a single/double yellow line whilst loading and/or unloading is taking place. An observation period is permitted to confirm such action, since the activity of loading and/or unloading must be continuous whilst the vehicle is parked on the waiting restriction.

Observation Period

This policy will be reviewed every three years or following any significant changes in processes and/or legislation

The observation period is the time, prior to issue of a PCN, during which a CEO will visually determine whether a specific contravention has occurred or not. The details of the vehicle would be entered into the CEO's handheld device, when first observed, and the device will subsequently prevent the issuance of a PCN until the relevant observation period for the contravention has elapsed. Observation periods can vary. PCN's for some contravention codes can be issued instantly, without any extended observation period being required, however many contraventions do require an observation period.

Proactive joint working

Where resources permit, the CEO's will undertake several joint enforcement activities throughout the year. These may include but are not limited to: -

- Late night enforcement of parking restrictions in areas where the night-time economy is prevalent but adherence to parking restrictions is low – this may be done alongside our Licencing enforcement teams and Cheshire Constabulary
- Marshalling of visitor hotspots – providing an enhanced and concentrated presence alongside United Utilities and Cheshire Constabulary
- Undertaking presentations in school assemblies with Cheshire Fire and Rescue Services and Cheshire Constabulary promoting our Safer Parking around school's education package.

Professional memberships

We are a member of two parking associations that provide good practice advice and guidance:

PATROL - the [Parking and Traffic Regulations Outside London \(PATROL\) Adjudication Joint Committee](#).

BPA - the [British Parking Association](#).

MISG - [Midland Improvement Service Group](#) (Civil Parking Enforcement Task Group)

Restrictions

For rules on waiting and parking, please refer to the [Highway Code](#).

Training and qualifications

All CEOs undertake the City and Guilds level 2 in Parking Enforcement qualification once they have been confirmed in post, following any probation period.

Background information

[Guidance for Local Authorities on enforcing parking restrictions](#)

DRAFT