



Bus Lane Enforcement Policy

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Introduction

The advice contained within this document is intended to assist both the public when making representations and appeals, and with the assessment of these representations and appeals, with regard to how bus lane restrictions are enforced within Staffordshire.

This Policy will be available on the Staffordshire Web which can be accessed by Staffordshire County Council (SCC) employees and members of the public at www.staffordshire.gov.uk

It is stressed however that this Policy is only guidance; each case will be assessed fairly and reasonably on its merits and it is not appropriate to prescribe a response for every set of circumstances. The Policy does, however, indicate likely responses to typical representations that occur and in doing so will assist the public in understanding how their case will be approached and what evidence they should provide to support their representation.

Bus only restrictions were first introduced into Britain in 1968 and the responsibility for the enforcement of these restrictions has remained with the police since that time. However, enforcement of Traffic Regulation Orders (TRO) can be time consuming and has the potential to divert police resources away from what may be considered to be more important tasks.

The Transport Act 2000 provided local authorities with powers to enforce bus only restrictions alongside the Police but through the use of civil penalties.

The Traffic Management Act 2004 then streamlined the enforcement process bringing it in line with the procedures that are to be used in Civil Parking Enforcement.

The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (Statutory Instrument No. 2757) specify the process by which the council can enforce bus only restrictions.

Throughout this Policy, use of the phrase 'bus lane' should be taken to include 'bus street' and 'bus gateway'.

The adoption of bus lane enforcement within the County of Staffordshire will:

- Maintain and where possible, improve the flow of traffic thereby making the County a more pleasant and environmentally safe place to live, work and visit
- Take into account the needs of local residents, shops and businesses, thereby sustaining the County's economic growth
- Actively support the needs of disabled people bearing in mind that, in some cases, they may be reliant upon public transport and in some cases are unable to use a car. This will ensure that people with disabilities are able to have equal access to all facilities within the County
- Assist in meeting Staffordshire's objective of increasing and improving the provision of sustainable transportation within the County.

SCC will remain responsible for the operational aspects of enforcement and this will be via approved camera devices. The processing of Penalty Charge Notices and initial challenges will be dealt with by Stoke-on-Trent City Council Parking Services on behalf of the County Council.

Staffordshire's Bus Lane Enforcement Policy will be subject to regular review and updated every 3 years. Should important guidance be issued that requires amendments be made to the Policy mid-term, these will be added to the Policy, and the Policy re-issued. This approach will enable bus lane restrictions to be enforced in a clear and consistent manner throughout the County.

The reviews will take into account:

- The accuracy and quality of existing signs
- The levels of compliance that the County considers to be acceptable and the level of enforcement necessary to achieve them
- The views of the public who shall be actively consulted on all matters relating to the extension of bus lane restrictions
- The views of Staffordshire Police
- Consideration of the Council's overall aims with regard to the environment and the sustained economic growth of the County
- Changes to the enforcement regime as a result of changes to legislation, statutory guidance or current best practice nationally.

SECTION 1

Bus Only Restrictions and Penalty Charge Notices – General

Section 1 of the Policy contains information on how bus only restrictions are managed within Staffordshire and covers detection of the contravention, the process of Penalty Charge Notice (PCN) issue and outlines the general exceptions, exemptions and dispensations to the issue of a PCN together with how suspensions to bus only restrictions are managed.

- 1.0 Enforcement by Approved Devices:** Bus lane enforcement regulations give the power to authorities throughout England to issue PCNs for contraventions detected with a camera and associated recording equipment (approved device). The Secretary of State must certify any device used to detect contraventions. Once certified they may be called an 'approved device'.
- 2.0 Exceptions:** It is understood that the Department for Transport holds the general view that exceptions to a TRO need to be signed whereas exemptions do not.

The bus lane exceptions provided for by traffic signs prescribed in the Traffic Signs Regulations and General Directions 2002 (or prescribed by the Secretary of State) are:

- * Buses
- ** Taxis
- Pedal Cycles
- Motor Cycles

So for example a Buses, Pedal Cycles and Motor Cycles Only restriction would include the symbols for those three types of vehicle in white on a blue sign.

* Buses may sometimes be specified as those conducting a local service only and the bus symbol on the associated sign will be amended to include the word local. A local service has the same meaning given in Section 2 of the Transport Act 1985.

** Taxis refer to licenced hackney carriages and not private hire vehicles.

- 3.0 Exemptions:** The following vehicles will receive automatic exemptions from bus lane restrictions in accordance with the provisions of the Traffic Regulation Order (TRO):

- Police, Fire Brigade or Ambulance vehicles
- Vehicles involved in highway maintenance where there is a need for them to enter the restricted area
- Livered council vehicles carrying out statutory authorised duties such as refuse collection, street cleansing and verge maintenance where there is a need for them to enter the restricted area

- Royal Mail and other vehicles engaged in the delivery of postal packets at premises immediately adjacent to the bus lane (i.e. courier companies such as UPS). – This does not include private vehicles used by postmen/women whilst carrying out letter deliveries
- Utilities' vehicles (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus where there is a need for them to enter the restricted area
- Any vehicle under the direction of a police officer in uniform.

4.0 Automatic Dispensations: The following vehicles shall be granted an automatic dispensation from bus lane restrictions in the interests of Health and Safety:

- Plumbers, electricians and gas fitters whilst on **emergency** call-out to premises immediately adjacent to the bus lane
- Bullion vehicles and specially adapted Security vans involved in the delivery or collection of cash and other high value goods to premises immediately adjacent to the bus lane.

All the above exempt vehicles and those granted automatic dispensation should be liveried rather than private cars or unmarked vans. Any PCN's issued will only be revoked with the production of appropriate evidence that an exemption or automatic dispensation was applicable.

5.0 Discretionary Dispensations: These may be granted by the County Council's Nominated Officer for the following:

- Maintenance, building, excavation and demolition work
- Furniture removal
- Any other reason accepted by the Council.

5.1 Applications for dispensations must be received at least 5 working days prior to the required date.

5.2 If granted, dispensations will be issued to the applicant by way of written authority, which must be clearly displayed on the vehicle. The issuing of the permit will be logged upon the PCN processing software to ensure back office staff can verify its validity in the event that a PCN is issued.

5.3 A charge, per vehicle per day, may be made. A full list of charges will be available on application from the County Council's Nominated Officer.

5.4 Discretionary permits will not be issued to members or officers of the Council for routine work or other purposes and will only be issued for the essential statutory or other requirements detailed above.

6.0 Suspensions: Designated bus lane restrictions may be suspended for the following reasons:

- To allow maintenance of adjacent property where highway access is required for deliveries, essential vehicles, skips etc. (Cars will not be considered as “essential vehicles” and will be expected to park in accordance with local parking restrictions)
- Maintenance to the highway, or utility apparatus
- At the request of the police
- For security reasons
- Any other appropriate reasons accepted by SCC.

6.1 Applications for suspensions must be received at least 10 working days prior to the required date and must be made to the County Council’s Nominated Officer.

6.2 If granted, suspensions of bus lane restrictions will be clearly signposted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least five days before the suspension comes into operation. Furthermore, all adjacent properties will receive advanced notice of the suspension.

SECTION 2

Penalty Charge Notices – Administrative and Appeal Process

Section 2 of the Policy provides details of PCN's and how they are processed in accordance with statutory requirements and local arrangements. It also provides information on the appeal process, formal representations and the statutory and additional mitigating grounds for appeal that are considered when dealing with these.

7.0 Administrative Process: All PCN's issued within Staffordshire are dealt with by a single PCN processing centre operated by Stoke-on-Trent City Council. Although the Centre undertakes the majority of the administrative process, the PCN is issued in the name of Staffordshire County Council, therefore SCC will retain responsibility for any formal appeal to the Traffic Penalty Tribunal (TPT) and is involved accordingly.

7.1 Content of a PCN - The PCN must state:

- The date of the PCN, 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 payment methods
- 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, it will be reduced by the amount of any applicable discount – currently by 50%
- That if after the last day of the period of 28 days no representations have been made 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%, and take steps to enforce payment of the charge as so increased
- The amount of the increased penalty charge
- That representations 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 basis on which representations may be made
- The address (including any e-mail address) to which representations must be sent
- The form in which representations must be made.
- That if the representations are not accepted by the enforcement authority the recipient of the PCN may appeal against the authority's decision to an adjudicator.

7.2 It is recommended that the PCN also provides:

- Vehicle make and colour (if evident)
 - Detailed location of vehicle (full street name)
 - The contravention code
 - PCN number (all PCNs should be uniquely identifiable).
- 7.3 In accordance with guidance all statutory correspondence will be sent by first class post.
- 7.4 Where a vehicle is identified by an approved device contravening a designated bus lane, then a PCN, which also acts as the Notice to Owner (NtO), will generally be issued by the processing centre within 28 days of the detection date to the registered keeper of the vehicle (whose identity is ascertained from the Secretary of State/DVLA).
- 7.5 When a PCN is issued by post, the 'Date of Service' is considered to be two working days after the date the PCN was posted.
- 7.6 At the date of this guidance, the PCN rate is set at £60 for bus lane contraventions. In accordance with statutory requirements, a discount amount of 50% of the penalty charge is available within 14 days of the PCN date of service.
- 7.7 Payment of the PCN is accepted in a variety of ways. The PCN contains information on how to pay via the internet, by telephone or by post. Once full payment is accepted by the Council, the payment details are passed to the central processing unit and the case is closed on that date and all further enforcement action ceases.
- 7.8 As a general rule the processing centre does not offer either extended time in which to pay PCNs nor will they enter into instalment payment arrangements. Allowances are only made in cases of demonstrated, genuine financial hardship agreed with the processing centre manager, although such arrangements will not be considered if a bailiff warrant(s) has been issued for recovery of the amount due. Application must be in writing and will be responded to within 8 working days and the application must contain proposal for payment and be accompanied by any evidence supporting the claim of financial hardship.

For all cases, the following procedures will normally be pursued and detailed in the centre's response:

- Where the debt involves multiple PCNs the Council expects settlement of at least one per month
- Payments will be applied to the oldest PCN first thereby preventing the payment of discounted PCNs first
- A minimum payment of £10 per week
- Wherever possible payment to be made by post-dated cheques to be held by the Council for presentation on the due dates
- Non-payment of any cheque will result in enforcement action being recommenced and all un-banked cheques being returned to the drawer with a letter stating that the arrangement is cancelled

- Where payment by cheque is not available, payments by postal order or credit card will only be accepted at the Council's processing centre
 - The Council will maintain a separate active file for each arrangement reached, which will be reviewed by a senior manager each month.
- 7.9 The penalty charge is usually payable by the registered keeper of the vehicle except if the vehicle was hired at the time of the contravention. The charge is not payable if criminal proceedings have been taken or a Fixed Penalty Notice issued with respect to the contravention.
- 7.10 Details of the registered keeper will be supplied by the DVLA. Included with the PCN will be copies of all evidence relating to the PCN issue to reduce the likelihood of unfounded representations.
- 7.11 Should a PCN be issued on a vehicle with a diplomatic registration plate, then the PCN will not be sent but a record of the fine will be kept and passed to the Foreign and Commonwealth Office annually for pursuit.
- 7.12 If the PCN has not been paid within 28 days of the Date of Service and no representation or appeal is being considered then a Charge Certificate will be issued. This will increase the penalty charge by 50%, from £60 to £90.
- 7.13 14 days after the issue of a Charge Certificate, an informal pre-debt registration letter will be sent informing the registered keeper that the matter will be passed to the Traffic Enforcement Centre for registration as a debt. This is not a legal requirement but is a procedure based on national good practice.
- 7.14 If the penalty charge is not paid within 14 days after the pre-debt registration letter has been issued, the authority will apply to the Traffic Enforcement Centre at Northamptonshire County Court to register the debt. The registration fee will be added to the debt.
- 7.15 If payment continues to be withheld, the debtor is sent an Order for Recovery and Statutory Declaration advising of a further 21 day period to either pay the debt or swear a Statutory Declaration.
- 7.16 A Statutory Declaration must be witnessed by a Justice of the Peace or Commissioner for Oaths. It is a criminal offence to file a false Statutory Declaration knowingly or willingly. There are only 3 grounds for making a Statutory Declaration:
- The PCN was not received. If this is accepted by the Court, the issuing authority must re-issue the PCN and re-set the penalty charge to £60
 - A formal representation was made to the issuing authority but the rejection notice was not received. If accepted, the issuing authority must then treat the case as a formal appeal and forward all relevant paperwork to TPT
 - An appeal was made to TPT but no response has been received. If accepted, all paperwork is to be forwarded to TPT to determine.

- 7.17 Failure to either pay, or complete a Statutory Declaration will result in the authority applying for a Warrant of Execution from the Traffic Enforcement Centre.
- 7.18 Once a Warrant of Execution is issued, the authority will instruct approved bailiffs to collect the debt on their behalf.
- 7.19 The vehicle owner may dispute the issuing of the PCN at two stages:
- After the PCN has been issued, this is known as the formal representation
 - If the formal representation is rejected, the vehicle owner may then appeal to the Traffic Penalty Tribunal.

8.0 Appeal Process: The final section of this Policy contains information on how appeals are considered by the processing centre. This is not prescriptive guidance as it is recognised that each case must be assessed on its own merits. All grounds for cancellation submitted will be considered fairly and objectively. The advice that follows should therefore be regarded as guidance only on the likely grounds for appeal and the type of evidence that would best support each case.

8.1 The Authority that issued the PCN has the power of discretion to cancel the PCN at any point in the process even if it established that a contravention did occur. The County Council has therefore nominated officers with the authority given to them via the scheme of delegation to cancel PCNs. Such discretion will however take into consideration this guidance.

8.2 Formal Representation: When the PCN is issued the registered keeper will be provided with information on the statutory grounds for appeal. Formal representations must be in writing. The six statutory grounds to appeal are as follows:

- That the contravention did not occur
- The same offence has been the subject of a Fixed Penalty Notice or is the subject of criminal proceedings
- You were not the registered keeper of the vehicle at the time of the contravention
- You were not the hirer of the vehicle at the time of the contravention
- You were the registered keeper of the vehicle at the time of the contravention but it was:
 - on hire to a driver who had signed a statement taking liability
 - kept by a motor trader
 - taken without the consent of the owner

- That the Penalty Charge Notice exceeded the relevant amount.

In addition to the six statutory grounds for appeal the Council is also obliged to consider any mitigating circumstances and the registered keeper is required to give full details and supporting evidence of any such circumstances.

Details of these statutory grounds for appeal are given in the next section together with supporting evidence that would be appropriate to the case. Additionally advice on mitigating circumstances for appeal is outlined. As stated above, it is recognised that each case is different and situations occur that are beyond the control of the motorist and in which case it would be unreasonable to pursue the PCN. This cannot be an exhaustive list but it does offer guidance on likely situations that would warrant cancellation of the PCN.

8.3 Traffic Penalty Tribunal Appeal: Within 8 working days of receipt of a formal representation from the keeper of the vehicle a written Notice of Acceptance or Rejection will be sent by the Council:

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

8.4 Should the appellant decide to progress the appeal to TPT, they will be able to decide whether to proceed with a written appeal or attend a hearing to put their case. An independent adjudicator from TPT will consider the case in due course and their decision is considered final. Further information on the appeals procedure can be found on the TPT website at <http://www.trafficpenaltytribunal.gov.uk>

SECTION 3

Statutory Grounds for Appeal

9.0 The Contravention did not occur

- 9.1 The recipient claims that the alleged contravention did not occur. This would mean that the PCN was issued incorrectly because no contravention took place. For example, an appellant may claim that the issuing of a PCN was wrong because:

- 9.2 The relevant designation traffic regulation order is invalid

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

- 9.3 The vehicle is authorised to be in the bus lane

The vehicle is or should have been treated as a bus or other exempted vehicle. In the case of most vehicles this should have been picked up by the reviewing officer but if there is any doubt then the appellant may be asked to provide proof in the form of car registration details or operator licences in the case of a local bus service.

- 9.4 The signs/markings were not in the correct position or had been damaged or were not visible

Claims of this nature will be investigated with a site visit and the existing traffic signs and lines will be checked against the appropriate legislation. An assessment will then be made as to the validity of the PCN. Any subsequent cancellation on the grounds of incorrect signs and/or lines will result in prompt rectification of the problem.

- 9.5 The registration number is incorrect

The appellant will be asked to provide a copy of their vehicle registration document. If this is shown to be different, then the PCN is likely to be cancelled.

- 9.6 A PCN was never received by the registered keeper

It is accepted that PCNs very occasionally do not arrive at the address of the registered keeper. The motorist will be given the opportunity to pay at the discounted rate for a period of 14 days from receipt of the notice of rejection.

- 9.7 The motorist was carrying out building works adjacent to the restriction and had a valid dispensation issued from the appropriate local authority

The receipt of a valid waiver that matches the details of the vehicle is likely to result in a cancellation of the PCN.

10.0 Police Involvement

10.1 The contravention is subject to the criminal law process

Bus lane enforcement is subject to both criminal and civil law. Should the Police be pursuing the offence through the criminal justice system either via a Fixed Penalty Notice or via other criminal proceedings, then this is accepted as statutory grounds for appeal.

11.0 Vehicle Ownership

11.1 The recipient has never been the keeper/owner of the vehicle in question

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

11.2 The recipient had ceased to be the keeper/owner before the date of the contravention

Representations are likely to be accepted if the current registered keeper is able to provide proof that the vehicle was sold or otherwise disposed of before the date of the contravention. Such documentation could include a bill of sale, registration or insurance documents, or a letter from the DVLA. The recipient should be able to provide details of the new owner to whom, if verified, a new PCN can be sent.

11.3 The recipient had become the keeper/owner after the date of the contravention

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

12.0 Recipient was not the hirer of the vehicle

12.1 If the registered keeper of the vehicle provides details of a third party who hired the vehicle at the time of the contravention, but the hirer claims they did not hire the vehicle, such representations from the hirer will only be accepted if the registered owner cannot provide a statement accepting liability in respect of any PCN issued, signed by the hirer.

13.0 Recipient was not the user of the vehicle

13.1 Recipient is a vehicle-hire firm:

The vehicle in question was, at the time of the contravention, hired from that firm under a vehicle hiring agreement and the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN issued against the vehicle during the currency of the hiring agreement.

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

13.2 That the vehicle was kept by the motor trade

The vehicle was at the time of the contravention owned by the registered keeper but was in the possession of a licensed motor trader. Such representations will be accepted if it can be proven that the motor trade had possession of the vehicle at the time, for example via an invoice for works taken place at that time.

13.3 That the vehicle was taken without consent:

The vehicle had been driven or parked in the bus lane by a person who was in control of the vehicle without the consent of the owner.

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

14.0 The Penalty Charge Notice exceeded the relevant amount

14.1 Claims that the penalty charge notice is excessive will only be accepted if it is shown that the amount specified is more than the appropriate amount for that stage in the process i.e. a charge certificate increasing the amount by 50% prior to 28 days after the Date of Service.

SECTION 4

Non-Statutory Grounds for Appeal

Although the above six statutory grounds will cover most of the grounds for the cancellation of a PCN, it is recognised that there are other mitigating circumstances that occur when it would be appropriate to consider cancellation of the PCN. Equally, in certain circumstances it would be correct for the authority to continue to claim the penalty charge. The following Section details some of these non-statutory grounds for appeal in alphabetical order; this Section also deals with some general policies and guidance for both enforcement issues and the processing of PCNs.

15.0 Abandoned vehicles

15.1 Where a vehicle remains within a designated bus lane for a period of time, the vehicle will be reported as potentially abandoned and it will be dealt with by the District Council's abandoned vehicle section under the provisions of Refuse Disposal (Amenity) Act 1978.

15.2 Criteria used in identifying abandoned vehicles:

- Untaxed.
- General poor condition.
- No evidence of movement.
- Multiple PCN's attached/issued to vehicle.

15.3 An issued PCN will be enforced against the registered keeper of the vehicle in the normal way.

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

16.0 Bailiffs

16.1 Bailiffs, as agents of the court, are court officers. Of the many functions they perform, executing warrants is one that is likely to concern us most. These are court orders for the collection of money and/or goods of sufficient value to recover the required amount. For this purpose the bailiff will always have an appropriate vehicle nearby.

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

16.3 When they are taking goods or high values in cash, we can exercise discretion where it appears reasonable to do so. Bailiffs are not exempt from legislation, however, and an official badge or licence should be displayed on the vehicle, and further, the act of loading/unloading should be observed as taking place. Once

goods have been seized the bailiff is required to list them prior to leaving the premises and this could legitimately take some time. In such circumstances we should ask for a warrant number, identification and confirmation of the nature of goods being seized before the PCN is either issued or subsequently cancelled.

17.0 Broken down vehicles

- 17.1 A note left in the windscreen stating that “the vehicle has broken down” will not be accepted as a reason for not issuing a PCN. The driver will be required to include details of the breakdown within their representation for consideration.

18.0 Complaints against Council Officers

- 18.1 Allegations that a Council officer or staff member has made an error whilst issuing a PCN will be investigated under the normal representations procedures and a formal written Notice of Acceptance / Rejection will be sent within the stipulated timescale.
- 18.2 Any allegation of misconduct or rudeness made against a council officer or staff member will be investigated and dealt with under the formal complaints process.
- 18.3 The Nominated Officer of SCC should be regularly informed of the number of complaints being handled, the basis of the complaint and their current status.

19.0 Council Officers and Members on duty

- 19.1 All Council officers and Members on duty are expected to fully comply with bus lane regulations:
- Request for cancellation of PCN: This will only be considered in case of emergency and must be supported by written confirmation from the relative Corporate Director.

20.0 Incorrectly completed PCN

- 20.1 When issuing a PCN, the make, colour, vehicle registration mark, registered keeper details and the location of the vehicle will all appear on the PCN.
- Incorrect make: Although many manufacturers produce different models that look very similar it would be very difficult to enforce a PCN issued e.g. to a Vauxhall which turned out to be a Ford. In such cases consideration must be given to cancelling the PCN.
 - Incorrect colour: If the colour is incorrectly recorded consideration will be given to cancellation of the PCN as follows:

- Similar colours: People see colours differently especially in poor light with similar colours often mistaken for each other. Metallic colours can be seen differently i.e. silver as light blue or grey, blues can be seen as greens and vice-versa and solid colours such as white differ widely from model to model and can be seen as cream. Where there is a close relationship between the colours then the PCN should be pursued
- Widely differing colours: A blue car recorded as red can, obviously, not be explained by the above and consideration will be given to cancellation of the PCN. This error may, however, indicate a re-spray not advised to DVLA.

20.2 The miss-spelling of the registered keeper's name and/or address on the PCN does not invalidate it or discharge the liability of the person receiving it. The liability still rests with the genuine keeper:

- Such names and addresses are, in most cases, obtained from the DVLA and are supplied by the registered keepers themselves. It is also incumbent upon the registered keeper to ensure that these are correct
- If any misspelling is discovered then alterations must be made immediately to ensure that future PCN's are sent out correctly
- When the misspelling is radically different from the correct spelling, consideration will be given to the cancellation of the PCN.

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

21.0 Diplomatic Vehicles

21.1 These fall into two categories: those with 'D' plates, which indicate that the driver has full diplomatic immunity, and those with 'X' plates, which indicate limited immunity:

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

22.0 Intervention in Challenge and Representation Processes by Members and other Officers

- 22.1 The process of dealing with representations against the issue of PCNs is well documented and will be carried out in a fair, unbiased and equal manner. These procedures include the ultimate right of all appellants to refer the matter to an independent arbitrator (Traffic Penalty Tribunal).
- 22.2 To preserve the integrity of these procedures they will be managed and carried out by the Parking Services Manager, and no undue pressure shall be brought by either Members of the Council or officers designed to unduly influence the decisions by virtue of their position alone.

23.0 Legislation

- 23.1 The statutory Acts governing bus lane enforcement are:
- The Transport Act (2000)
 - The Road Traffic Regulation Act (1984)
 - Traffic Management Act (2004).
- 23.2 If a driver is querying the legislation it should be explained to them as fully as possible. There is no need to supply specific reference unless especially requested.
- 23.3 When such a request is made the Council will make reference to specific, relevant paragraphs and will quote them verbatim within any correspondence. The Council will not supply full copies of the relevant Acts, which can be obtained from the HMSO or accessed via the internet at www.legislation.gov.uk
- 23.4 If the registered keeper is specifically querying the authority behind a specific restriction then reference should be made to the relevant Traffic Regulation Order, held by the Council. Prior to any correspondence with the keeper this Order should be checked to ensure the validity of the PCN. If any doubt exists then the PCN should be cancelled and the decision communicated to the keeper.

24.0 Location – Did not realise that it was a Bus Lane

- 24.1 Claims from registered keepers that they did not see or realise that they were entering or travelling in a bus lane restriction should be dismissed providing that the restrictions are clearly signed and lined.

25.0 Registered Keeper's Liability

- 25.1 Under the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (Statutory Instrument No. 2757) the

responsibility for any PCN rests with the Registered Keeper (owner) of the vehicle as recorded at the Driver & Vehicle Licensing Agency (DVLA).

26.0 Representations Accompanied by Payment

- 26.1 To avoid the loss of the discount period, or to avoid County Court action, registered keepers may opt to enclose settlement of the PCN with a formal representation. In such circumstances SCC must act in good faith and deal with the representation in a fair and equitable manner. At the same time the Council must comply with its own standing orders regarding the banking of cheques.
- 26.2 It is suggested that representations accompanied by a payment will be separately logged, be dealt with as a priority and responded to within a maximum of two working days. If the representation is successful the payment will be returned to the registered keeper with the letter of acceptance. If the representation is unsuccessful the payment will be immediately banked and the keeper duly notified that we have accepted it in full or part settlement as part of the Notice of Rejection.
- 26.3 Where an investigation is required that will take more than two days, a letter should be sent to the registered keeper stating this and informing them that "In accordance with the Council's Financial Procedures" the payment has been banked pending the outcome of the investigation. Should the representation be upheld, the Council would immediately make arrangements for a refund to be issued to the keeper. Any letter of acceptance or rejection sent to the keeper must make specific reference to the fate of the payment.

27.0 Road Markings/Signs – Missing, Obscured or Broken

27.1 Road Markings

- Where it is claimed that the bus lane markings are worn away or has been covered by a highway repair, the area should be inspected and remedial work undertaken as soon as practicable
- Where weather conditions (i.e. snow) have obscured the markings then remedial action to clear them will be taken as soon as practicable
- Where the road markings can be clearly seen, even though they may be partially worn, the PCN should be enforced but remedial action to renew the lines should be undertaken.
- If it is confirmed that the claim is valid the PCN should be cancelled.

27.2 Obscured Signs

- Information signs accompanying bus lane restrictions must be clearly visible at all times. If it is claimed that a sign was obscured and could not be read

(graffiti, weather or overhanging trees etc.) the sign should be inspected as soon as practicable and remedial action taken. If the claim is proved to be correct the PCN should be cancelled

- If the sign can be easily read then the PCN will be enforced but the sign should be returned to a more acceptable condition as soon as practicable if required.

27.3 Missing Signs

- If a sign is claimed to be missing, the location should be inspected as soon as practicable and, if confirmed, arrangements made for its replacement. Where a sign is missing then consideration will be given to cancelling the PCN.

28.0 Vehicle not at scene

28.1 Where a registered keeper receives a PCN and claims that their vehicle was not in the area at the time, a written request should be made to the keeper to confirm the make and colour of the vehicle.

28.2 If these match the recorded CCTV image the PCN should be enforced. If they do not then the PCN should be cancelled.

29.0 Visitor to Britain

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

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

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

30.0 Appeals against non-granting of parking waivers

30.1 Appeals against the non-granting of waivers and suspensions will be dealt with via the Councils Corporate Complaints process.

Reference

Traffic Management Act 2004. Section 78

The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005

The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007

The Transport Act (2000)

The Road Traffic Regulation Act (1984)